SB 700 by **Simmons**; Florida Statutes

SB 702 by **Simmons**; Florida Statutes

SB 704 by **Simmons**; Florida Statutes

SB 706 by **Simmons**; Florida Statutes

CS/SB 7000 by **GO, CA**; OGSR/Public Transit Provider

The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

RULES
Senator Simmons, Chair
Senator Soto, Vice Chair

MEETING DATE: Thursday, February 19, 2015
TIME: 9:00 —11:00 a.m.
PLACE: *Toni Jennings Committee Room,* 110 Senate Office Building

MEMBERS: Senator Simmons, Chair; Senator Soto, Vice Chair; Senators Benacquisto, Diaz de la Portilla, Gaetz, Galvano, Gibson, Joyner, Latvala, Lee, Montford, Negron, and Richter

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	**SB 700** Simmons	Florida Statutes; Amending provisions adopting the Florida Statutes 2015 and designating the portions thereof that are to constitute the official law of the state; providing that the Florida Statutes 2015 shall be effective immediately upon publication; providing that general laws enacted during the August 7-11, 2014, special session and prior thereto and not included in the Florida Statutes 2015 are repealed; providing that general laws enacted during the 2015 regular session are not repealed by this adoption act, etc. RC 02/19/2015 Favorable	Favorable Yeas 10 Nays 0
2	**SB 702** Simmons	Florida Statutes; Deleting provisions that have expired, have become obsolete, have had their effect, have served their purpose, or have been impliedly repealed or superseded; replacing incorrect cross-references and citations; correcting grammatical, typographical, and like errors; removing inconsistencies, redundancies, and unnecessary repetition in the statutes; improving the clarity of the statutes and facilitating their correct interpretation; and confirming the restoration of provisions unintentionally omitted from republication in the acts of the Legislature during the amendatory process, etc. RC 02/19/2015 Favorable	Favorable Yeas 10 Nays 0
3	**SB 704** Simmons	Florida Statutes; Repealing and amending provisions to delete provisions which have become inoperative by noncurrent repeal or expiration and, pursuant to s. 11.242(5)(b) and (i), F.S., may be omitted from the 2015 Florida Statutes only through a reviser's bill duly enacted by the Legislature, etc. RC 02/19/2015 Favorable	Favorable Yeas 10 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	**SB 706** Simmons	Florida Statutes; Amending provisions and repealing provisions to conform to the directive of the Legislature in section 9 of chapter 2012-116, Laws of Florida, codified as section 11.242(5)(j), Florida Statutes, to prepare a reviser's bill to omit all statutes and laws, or parts thereof, which grant duplicative, redundant, or unused rulemaking authority, etc. RC 02/19/2015 Favorable	Favorable Yeas 10 Nays 0
5	**CS/SB 7000** Governmental Oversight and Accountability / Community Affairs	OGSR/Public Transit Provider; Transferring, renumbering, and amending provisions relating to an exemption from public record requirements for certain information held by a public transit provider; removing superfluous language; removing the scheduled repeal of the exemption, etc. GO 02/03/2015 Fav/CS RC 02/19/2015 Favorable	Favorable Yeas 10 Nays 0
	Other Related Meeting Documents		

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL:	SB 700
INTRODUCER:	Senator Simmons
SUBJECT:	Florida Statutes
DATE:	January 13, 2015
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Pollitz (DLRI)	Phelps	RC	**Favorable**

I. Summary:

SB 700 is drafted by the Division of Law Revision and Information of the Office of Legislative Services to adopt the Florida Statutes 2015 and designate the portions thereof that are to constitute the official statutory law of the state. This adoption act amends ss. 11.2421, 11.2422, 11.2424, and 11.2425, Florida Statutes, and provides a 1-year window for finding errors and making changes before statutory material becomes the best evidence of the law.

II. Present Situation:

The 2015 adoption act will adopt all statutes material passed through the August 7-11, 2014, Special Session and printed in the 2014 edition. Material passed in a session occurring since publication of the 2014 edition must wait 1 more year before being adopted, and the session law form of that material will remain the best evidence of the law for that material.

III. Effect of Proposed Changes:

The adoption act amends ss. 11.2421, 11.2422, 11.2424, and 11.2425, Florida Statutes, and provides a 1-year window for finding errors and making changes before statutory material becomes the best evidence of the law. The 2015 adoption act adopts as the official statute law of the state those portions of the 2015 Florida Statutes edition that are carried forward unchanged from the edition published 1 year previously (2014). Portions carried forward from the 2014 edition are the official law of the state and, therefore, constitute the best evidence of the law. The portions resulting from sessions occurring subsequent to the publication of the 2014 edition are prima facie evidence of the law in all courts of the state; for this material, the enrolled acts stand as the best evidence of the law. Any "statute of a general and permanent nature" enacted before publication of the 2014 Florida Statutes that does not appear in the 2015 edition, or is not recognized and continued in force by reference therein or in s. 11.2423 or s. 11.2424, Florida Statutes, stands repealed, both by the logic of the system and by operation of s. 11.2422, Florida Statutes. *See National Bank v. Williams*, 28 Fla. 305, 20 So. 931 (1896).

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: ss. 11.2421, 11.2422, 11.2424, and 11.2425, F.S.

IX. Additional Information:

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

None.

B. Amendments:

None.

By Senator Simmons

10-00622-15 2015700__

A bill to be entitled

An act relating to the Florida Statutes; amending ss. 11.2421, 11.2422, 11.2424, and 11.2425, F.S.; adopting the Florida Statutes 2015 and designating the portions thereof that are to constitute the official law of the state; providing that the Florida Statutes 2015 shall be effective immediately upon publication; providing that general laws enacted during the August 7-11, 2014, special session and prior thereto and not included in the Florida Statutes 2015 are repealed; providing that general laws enacted during the 2015 regular session are not repealed by this adoption act; providing an effective date.

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

Section 1. Section 11.2421, Florida Statutes, is amended to read:

11.2421 Florida Statutes 2015 ~~2014~~ adopted.—The accompanying revision, consolidation, and compilation of the public statutes of 2014 ~~2013~~ of a general and permanent nature, excepting tables, rules, indexes, and other related matter contained therein, prepared by the Office of Legislative Services under the provisions of s. 11.242, together with corrections, changes, and amendments to and repeals of provisions of Florida Statutes 2014 ~~2013~~ enacted in additional reviser's bill or bills by the 2015 ~~2014~~ Legislature, is adopted and enacted as the official statute law of the state under the title of "Florida Statutes 2015 ~~2014~~" and shall take effect

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10-00622-15 2015700__

immediately upon publication. Said statutes may be cited as "Florida Statutes 2015 ~~2014~~," "Florida Statutes," or "F.S. 2015 ~~2014~~."

Section 2. Section 11.2422, Florida Statutes, is amended to read:

11.2422 Statutes repealed.—Every statute of a general and permanent nature enacted by the State or by the Territory of Florida at or prior to the August 7-11, 2014, special ~~2013 regular~~ legislative session, and every part of such statute, not included in Florida Statutes 2015 ~~2014~~, as adopted by s. 11.2421, as amended, or recognized and continued in force by reference therein or in ss. 11.2423 and 11.2424, as amended, is repealed.

Section 3. Section 11.2424, Florida Statutes, is amended to read:

11.2424 Laws not repealed.—Laws enacted at the 2015 ~~2014~~ regular session are not repealed by the adoption and enactment of the Florida Statutes 2015 ~~2014~~ by s. 11.2421, as amended, but shall have full effect as if enacted after its said adoption and enactment.

Section 4. Section 11.2425, Florida Statutes, is amended to read:

11.2425 Rights reserved under repealed statutes.—The repeal of any statute by the adoption and enactment of Florida Statutes 2015 ~~2014~~, by s. 11.2421, as amended, shall not affect any right accrued before such repeal or any civil remedy where a suit is pending.

Section 5. This act shall take effect on the 60th day after adjournment sine die of the session of the Legislature in which

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enacted.

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

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL:	SB 702
INTRODUCER:	Senator Simmons
SUBJECT:	Florida Statutes
DATE:	February 3, 2015
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Pollitz (DLRI)	Phelps	RC	**Favorable**

I. Summary:

The Division of Law Revision and Information of the Office of Legislative Services is required, by statute, to conduct a systematic and continuing study of the Florida Statutes. The purpose of this study is to recommend to the Legislature changes that will remove inconsistencies, redundancies, and unnecessary repetition from the statutes; improve clarity and facilitate correct interpretation; correct grammatical and typographical errors; and delete obsolete, repealed, or superseded provisions. These recommendations are submitted to the Legislature in the form of technical, nonsubstantive reviser's bills.

This is a general reviser's bill to delete expired or obsolete language; correct cross-references and grammatical or typographical errors; remove inconsistencies and redundancies from the statutes; improve the clarity of the statutes and facilitate their correct interpretation; and confirm the restoration of provisions unintentionally omitted from republication in the acts of the Legislature during the amendatory process. A reviser's bill cannot be amended except to delete a bill section.

II. Present Situation:

The Division of Law Revision and Information, under the authority and requirements of s. 11.242, Florida Statutes, submits reviser's bills to the rules committees of both houses as needed. General reviser's bills to clean up obsolete language, update cross-references, and correct grammatical and typographical errors and the like are submitted every year.

III. Effect of Proposed Changes:

The effect of this bill is of a technical nature only; reviser's bills do not contain substantive changes. The bill will clean up grammatical and similar errors in the Florida Statutes.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: ss. 11.45, 11.9336, 20.255, 27.366, 28.22205, 39.307, 39.524, 40.32, 61.13016, 112.31455, 163.32466, 189.074, 200.065, 212.0606, 285.18, 287.0595, 288.9934, 288.9936, 298.01, 316.545, 322.058, 327.391, 337.403, 339.041, 339.135, 339.2818, 348.753, 348.7546, 365.172, 373.223, 376.3072, 377.6015, 379.2495, 380.06, 381.78, 394.494, 394.495, 394.913, 397.333, 397.754, 397.92, 400.022, 403.067, 408.036, 408.061, 409.1678, 409.906, 409.966, 409.986, 409.987, 456.039, 456.074, 479.03, 479.16, 480.041, 480.043, 482.161, 487.2031, 499.84, 499.91, 499.92, 514.0115, 538.03, 570.07, 570.482, 597.020, 605.0712, 605.0805, 624.523, 625.1212, 626.0428, 627.062, 627.745, 627.797, 662.121, 662.122, 662.1225, 662.130, 662.141, 662.146, 662.147, 680.528, 721.13, 775.0862, 775.21, 775.25, 784.078, 787.02, 787.06, 921.1402, 940.031, 943.0435, 944.275, 960.03, 960.065, 961.06, 985.0301, 985.265, 1002.395, 1003.4203,

1003.4282, 1003.493, 1003.4935, 1003.51, 1003.5716, 1005.33, 1007.271, 1008.22, 1008.25, 1008.34, 1008.44, 1011.80, 1011.81, 1011.905, and 1013.738, F.S.

This bill reenacts and amends the following sections of the Florida Statutes: s. 409.1451, F.S.

IX. Additional Information:

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

None.

B. Amendments:

None.

By Senator Simmons

10-00623-15 2015702__

A reviser's bill to be entitled

An act relating to the Florida Statutes; amending ss. 11.45, 11.9336, 20.255, 27.366, 28.22205, 39.307, 39.524, 40.32, 61.13016, 112.31455, 163.32466, 189.074, 200.065, 212.0606, 285.18, 287.0595, 288.9934, 288.9936, 298.01, 316.545, 322.058, 327.391, 337.403, 339.041, 339.135, 339.2818, 348.753, 348.7546, 365.172, 373.223, 376.3072, 377.6015, 379.2495, 380.06, 381.78, 394.494, 394.495, 394.913, 397.333, 397.754, 397.92, 400.022, 403.067, 408.036, 408.061, 409.1678, 409.906, 409.966, 409.986, 409.987, 456.039, 456.074, 479.03, 479.16, 480.041, 480.043, 482.161, 487.2031, 499.84, 499.91, 499.92, 514.0115, 538.03, 570.07, 570.482, 597.020, 605.0712, 605.0805, 624.523, 625.1212, 626.0428, 627.062, 627.745, 627.797, 662.121, 662.122, 662.1225, 662.130, 662.141, 662.146, 662.147, 680.528, 721.13, 775.0862, 775.21, 775.25, 784.078, 787.02, 787.06, 921.1402, 940.031, 943.0435, 944.275, 960.03, 960.065, 961.06, 985.0301, 985.265, 1002.395, 1003.4203, 1003.4282, 1003.493, 1003.4935, 1003.51, 1003.5716, 1005.33, 1007.271, 1008.22, 1008.25, 1008.34, 1008.44, 1011.80, 1011.81, 1011.905, 1013.738, F.S.; reenacting and amending s. 409.1451, F.S.; reenacting ss. 288.001, 430.502, 509.032, 539.001, and 718.116, F.S.; deleting provisions that have expired, have become obsolete, have had their effect, have served their purpose, or have been impliedly repealed or superseded; replacing incorrect cross-references and citations; correcting

10-00623-15 2015702__

grammatical, typographical, and like errors; removing inconsistencies, redundancies, and unnecessary repetition in the statutes; improving the clarity of the statutes and facilitating their correct interpretation; and confirming the restoration of provisions unintentionally omitted from republication in the acts of the Legislature during the amendatory process; providing effective dates.

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

Section 1. Paragraph (p) of subsection (3) of section 11.45, Florida Statutes, is amended to read:

11.45 Definitions; duties; authorities; reports; rules.—

(3) AUTHORITY FOR AUDITS AND OTHER ENGAGEMENTS.—The Auditor General may, pursuant to his or her own authority, or at the direction of the Legislative Auditing Committee, conduct audits or other engagements as determined appropriate by the Auditor General of:

~~(p) The Florida Special Disability Trust Fund Financing Corporation created pursuant to s. 440.49.~~

Reviser's note.—Amended to conform to the repeal of s. 440.49(14), which created the Florida Special Disability Trust Fund Financing Corporation, by s. 30, ch. 2001-89, Laws of Florida.

Section 2. Section 11.9336, Florida Statutes, is amended to read:

11.9336 Oath.—Each delegate and alternate delegate shall, before exercising any function of the position, execute an oath

in the state and in writing that the delegate or alternate ~~alternative~~ delegate will:

(1) Support the Constitution of the United States and the State Constitution.

(2) Faithfully abide by and execute any instructions to delegates and alternate delegates adopted by the Legislature.

(3) Otherwise faithfully discharge the duties of a delegate or alternate delegate.

Reviser's note.—Amended to confirm the editorial substitution of the word "alternate" for the word "alternative" to conform to context.

Section 3. Subsection (1) of section 20.255, Florida Statutes, is amended to read:

20.255 Department of Environmental Protection.—There is created a Department of Environmental Protection.

(1) The head of the Department of Environmental Protection shall be a secretary, who shall be appointed by the Governor, with the concurrence of three ~~or more~~ members of the Cabinet. The secretary shall be confirmed by the Florida Senate. The secretary shall serve at the pleasure of the Governor.

Reviser's note.—Amended to conform to the current text of s. 4, Art. IV of the Florida Constitution, which provides that the cabinet is composed of an attorney general, a chief financial officer, and a commissioner of agriculture.

Section 4. Section 27.366, Florida Statutes, is amended to read:

27.366 Legislative intent and policy in cases meeting criteria of s. 775.087(2) and (3).—It is the intent of the Legislature that convicted criminal offenders who meet the

criteria in s. 775.087(2) and (3) be sentenced to the minimum mandatory prison terms provided therein ~~herein~~. It is the intent of the Legislature to establish zero tolerance of criminals who use, threaten to use, or avail themselves of firearms in order to commit crimes and thereby demonstrate their lack of value for human life. It is also the intent of the Legislature that prosecutors should appropriately exercise their discretion in those cases in which the offenders' possession of the firearm is incidental to the commission of a crime and not used in furtherance of the crime, used in order to commit the crime, or used in preparation to commit the crime. For every case in which the offender meets the criteria in this act and does not receive the mandatory minimum prison sentence, the state attorney must explain the sentencing deviation in writing and place such explanation in the case file maintained by the state attorney.

Reviser's note.—Amended to conform to context and improve clarity.

Section 5. Section 28.22205, Florida Statutes, is amended to read:

28.22205 Electronic filing process.—Each clerk of court shall implement an electronic filing process. The purpose of the electronic filing process is to reduce judicial costs in the office of the clerk and the judiciary, increase timeliness in the processing of cases, and provide the judiciary with case-related information to allow for improved judicial case management. The Legislature requests that, no later than July 1, 2009, the Supreme Court set statewide standards for electronic filing to be used by the clerks of court to implement electronic filing. The standards should specify the required information

for the duties of the clerks of court and the judiciary for case management. ~~The clerks of court shall begin implementation no later than October 1, 2009.~~ Revenues provided to counties and the clerk of court under s. 28.24(12)(e) for information technology may also be used to implement electronic filing processes.

Reviser's note.—Amended to delete an obsolete provision.

Section 6. Paragraph (c) of subsection (1) of section 39.307, Florida Statutes, is amended to read:

39.307 Reports of child-on-child sexual abuse.—

(1) Upon receiving a report alleging juvenile sexual abuse or inappropriate sexual behavior as defined in s. 39.01, the department shall assist the family, child, and caregiver in receiving appropriate services to address the allegations of the report.

(c) The department shall monitor the occurrence of child sexual abuse and the provision of services to children involved in child sexual abuse or juvenile sexual abuse, or who have displayed inappropriate sexual behavior.

Reviser's note.—Amended to confirm the editorial insertion of the word "or" to improve clarity.

Section 7. Subsection (1) of section 39.524, Florida Statutes, is amended to read:

39.524 Safe-harbor placement.—

(1) Except as provided in s. 39.407 or s. 985.801, a dependent child 6 years of age or older who has been found to be a victim of sexual exploitation as defined in s. 39.01(69)(g) ~~39.01(68)(g)~~ must be assessed for placement in a safe house or safe foster home as provided in s. 409.1678 using the initial

screening and assessment instruments provided in s. 409.1754(1). If such placement is determined to be appropriate for the child as a result of this assessment, the child may be placed in a safe house or safe foster home, if one is available. However, the child may be placed in another setting, if the other setting is more appropriate to the child's needs or if a safe house or safe foster home is unavailable, as long as the child's behaviors are managed so as not to endanger other children served in that setting.

Reviser's note.—Amended to confirm the editorial substitution of a reference to s. 39.01(69)(g) for a reference to s. 39.01(68)(g). Sexual exploitation of a child is defined in s. 39.01(69)(g). "Secretary" is defined in s. 39.01(68), which has no paragraphs.

Section 8. Subsection (2) of section 40.32, Florida Statutes, is amended to read:

40.32 Clerks to disburse money; payments to jurors and witnesses.—

(2) The payment of jurors and the payment of expenses for meals and lodging for jurors under the provisions of this chapter are court-related functions that the clerk of the court shall fund from filing fees, service charges, court costs, and fines ~~as part of the maximum annual budget under ss. 28.35 and 28.36~~.

Reviser's note.—Amended to conform to the deletion of a reference to "maximum annual budgets under ss. 28.35 and 28.36." The references to "maximum annual budget" were deleted from these sections by ss. 3, 4, ch. 2009-204, Laws of Florida.

Section 9. Paragraph (c) of subsection (1) of section 61.13016, Florida Statutes, is amended to read:

61.13016 Suspension of driver licenses and motor vehicle registrations.—

(1) The driver license and motor vehicle registration of a support obligor who is delinquent in payment or who has failed to comply with subpoenas or a similar order to appear or show cause relating to paternity or support proceedings may be suspended. When an obligor is 15 days delinquent making a payment in support or failure to comply with a subpoena, order to appear, order to show cause, or similar order in IV-D cases, the Title IV-D agency may provide notice to the obligor of the delinquency or failure to comply with a subpoena, order to appear, order to show cause, or similar order and the intent to suspend by regular United States mail that is posted to the obligor's last address of record with the Department of Highway Safety and Motor Vehicles. When an obligor is 15 days delinquent in making a payment in support in non-IV-D cases, and upon the request of the obligee, the depository or the clerk of the court must provide notice to the obligor of the delinquency and the intent to suspend by regular United States mail that is posted to the obligor's last address of record with the Department of Highway Safety and Motor Vehicles. In either case, the notice must state:

(c) That notification will be given to the Department of Highway Safety and Motor Vehicles to suspend the obligor's driver license and motor vehicle registration unless, within 20 days after the date that the notice is mailed, the obligor:

1.a. Pays the delinquency in full and any other costs and

fees accrued between the date of the notice and the date the delinquency is paid;

b. Enters into a written agreement for payment with the obligee in non-IV-D cases or with the Title IV-D agency in IV-D cases; or in IV-D cases, complies with a subpoena or order to appear, order to show cause, or a similar order;

c. Files a petition with the circuit court to contest the delinquency action;

d. Demonstrates that he or she receives reemployment assistance or unemployment compensation pursuant to chapter 443;

e. Demonstrates that he or she is disabled and incapable of self-support or that he or she receives benefits under the federal Supplemental Security Income program or Social Security Disability Insurance program ~~programs~~;

f. Demonstrates that he or she receives temporary cash assistance pursuant to chapter 414; or

g. Demonstrates that he or she is making payments in accordance with a confirmed bankruptcy plan under chapter 11, chapter 12, or chapter 13 of the United States Bankruptcy Code, 11 U.S.C. ss. 101 et seq.; and

2. Pays any applicable delinquency fees.

If an obligor in a non-IV-D case enters into a written agreement for payment before the expiration of the 20-day period, the obligor must provide a copy of the signed written agreement to the depository or the clerk of the court. If an obligor seeks to satisfy sub-subparagraph 1.d., sub-subparagraph 1.e., sub-subparagraph 1.f., or sub-subparagraph 1.g. before expiration of the 20-day period, the obligor must provide the applicable

documentation or proof to the depository or the clerk of the court.

Reviser's note.—Amended to improve clarity and to facilitate correct interpretation.

Section 10. Subsections (1) and (2) of section 112.31455, Florida Statutes, are amended to read:

112.31455 Collection methods for unpaid automatic fines for failure to timely file disclosure of financial interests.—

(1) Before referring any unpaid fine accrued pursuant to s. 112.3144(5) or s. 112.3145(7) ~~112.3145(6)~~ to the Department of Financial Services, the commission shall attempt to determine whether the individual owing such a fine is a current public officer or current public employee. If so, the commission may notify the Chief Financial Officer or the governing body of the appropriate county, municipality, or special district of the total amount of any fine owed to the commission by such individual.

(a) After receipt and verification of the notice from the commission, the Chief Financial Officer or the governing body of the county, municipality, or special district shall begin withholding the lesser of 10 percent or the maximum amount allowed under federal law from any salary-related payment. The withheld payments shall be remitted to the commission until the fine is satisfied.

(b) The Chief Financial Officer or the governing body of the county, municipality, or special district may retain an amount of each withheld payment, as provided in s. 77.0305, to cover the administrative costs incurred under this section.

(2) If the commission determines that the individual who is

the subject of an unpaid fine accrued pursuant to s. 112.3144(5) or s. 112.3145(7) ~~112.3145(6)~~ is no longer a public officer or public employee or if the commission is unable to determine whether the individual is a current public officer or public employee, the commission may, 6 months after the order becomes final, seek garnishment of any wages to satisfy the amount of the fine, or any unpaid portion thereof, pursuant to chapter 77. Upon recording the order imposing the fine with the clerk of the circuit court, the order shall be deemed a judgment for purposes of garnishment pursuant to chapter 77.

Reviser's note.—Amended to conform to the redesignation of s. 112.3145(6) as s. 112.3145(7) by s. 4, ch. 2014-183, Laws of Florida.

Section 11. Section 163.32466, Florida Statutes, is amended to read:

163.32466 Readoption by ordinance of plan amendments adopted pursuant to former s. 163.32465, subject to local referendum.—A comprehensive plan amendment adopted pursuant to former s. 163.32465 subject to voter referendum by local charter, and found in compliance before June 2, 2011, may be readopted by ordinance, shall become effective upon approval by the local government, and is not subject to review or challenge pursuant to the provisions of former s. 163.32465 or s. 163.3184.

Reviser's note.—Amended to conform to the repeal of s. 163.32465 by s. 30, ch. 2011-139, Laws of Florida.

Section 12. Subsection (13) of section 189.074, Florida Statutes, is amended to read:

189.074 Voluntary merger of independent special districts.—

Two or more contiguous independent special districts created by special act which have similar functions and elected governing bodies may elect to merge into a single independent district through the act of merging the component independent special districts.

(13) DETERMINATION OF RIGHTS.—If any right, title, interest, or claim arises out of a merger or by reason thereof which is not determinable by reference to this section ~~subsection~~, the joint merger plan or elector-initiated merger plan, as appropriate, or otherwise under the laws of this state, the governing body of the merged independent district may provide therefor in a manner conforming to law.

Reviser's note.—Amended to substitute the word "section" for the word "subsection"; the "subsection" reference predated the transfer of s. 189.4042(5) to s. 189.074 by s. 21, ch. 2014-22, Laws of Florida.

Section 13. Paragraph (b) of subsection (5) and paragraphs (d) and (e) of subsection (13) of section 200.065, Florida Statutes, are amended to read:

200.065 Method of fixing millage.—

(5) In each fiscal year:

(b) The millage rate of a county or municipality, municipal service taxing unit of that county, and any special district dependent to that county or municipality may exceed the maximum millage rate calculated pursuant to this subsection if the total county ad valorem taxes levied or total municipal ad valorem taxes levied do not exceed the maximum total county ad valorem taxes levied or maximum total municipal ad valorem taxes levied respectively. Voted millage and taxes levied by a municipality

or independent special district that has levied ad valorem taxes for less than 5 years are not subject to this limitation. The millage rate of a county authorized to levy a county public hospital surtax under s. 212.055 may exceed the maximum millage rate calculated pursuant to this subsection to the extent necessary to account for the revenues required to be contributed to the county public hospital. Total taxes levied may exceed the maximum calculated pursuant to subsection (6) as a result of an increase in taxable value above that certified in subsection (1) if such increase is less than the percentage amounts contained in subsection (6) or if the administrative adjustment cannot be made because the value adjustment board is still in session at the time the tax roll is extended; otherwise, millage rates subject to this subsection or ~~,~~ s. 200.185~~, or s. 200.186~~ may be reduced so that total taxes levied do not exceed the maximum.

Any unit of government operating under a home rule charter adopted pursuant to ss. 10, 11, and 24, Art. VIII of the State Constitution of 1885, as preserved by s. 6(e), Art. VIII of the State Constitution of 1968, which is granted the authority in the State Constitution to exercise all the powers conferred now or hereafter by general law upon municipalities and which exercises such powers in the unincorporated area shall be recognized as a municipality under this subsection. For a downtown development authority established before the effective date of the 1968 State Constitution which has a millage that must be approved by a municipality, the governing body of that municipality shall be considered the governing body of the downtown development authority for purposes of this subsection.

(13)

(d) If any county or municipality, dependent special district of such county or municipality, or municipal service taxing unit of such county is in violation of subsection (5) or ~~,~~ s. 200.185~~, or s. 200.186~~ because total county or municipal ad valorem taxes exceeded the maximum total county or municipal ad valorem taxes, respectively, that county or municipality shall forfeit the distribution of local government half-cent sales tax revenues during the 12 months following a determination of noncompliance by the Department of Revenue as described in s. 218.63(3) and this subsection. If the executive director of the Department of Revenue determines that any county or municipality, dependent special district of such county or municipality, or municipal service taxing unit of such county is in violation of subsection (5) or ~~,~~ s. 200.185~~, or s. 200.186~~, the Department of Revenue and the county or municipality, dependent special district of such county or municipality, or municipal service taxing unit of such county shall follow the procedures set forth in this paragraph or paragraph (e). During the pendency of any procedure under paragraph (e) or any administrative or judicial action to challenge any action taken under this subsection, the tax collector shall hold in escrow any revenues collected by the noncomplying county or municipality, dependent special district of such county or municipality, or municipal service taxing unit of such county in excess of the amount allowed by subsection (5) or ~~,~~ s. 200.185~~, or s. 200.186~~, as determined by the executive director. Such revenues shall be held in escrow until the process required by paragraph (e) is completed and approved by the department. The

department shall direct the tax collector to so hold such funds. If the county or municipality, dependent special district of such county or municipality, or municipal service taxing unit of such county remedies the noncompliance, any moneys collected in excess of the new levy or in excess of the amount allowed by subsection (5) or ~~,~~ s. 200.185~~, or s. 200.186~~ shall be held in reserve until the subsequent fiscal year and shall then be used to reduce ad valorem taxes otherwise necessary. If the county or municipality, dependent special district of such county or municipality, or municipal service taxing unit of such county does not remedy the noncompliance, the provisions of s. 218.63 shall apply.

(e) The following procedures shall be followed when the executive director notifies any county or municipality, dependent special district of such county or municipality, or municipal service taxing unit of such county that he or she has determined that such taxing authority is in violation of subsection (5) or ~~,~~ s. 200.185~~, or s. 200.186~~:

1. Within 30 days after the deadline for certification of compliance required by s. 200.068, the executive director shall notify any such county or municipality, dependent special district of such county or municipality, or municipal service taxing unit of such county of his or her determination regarding subsection (5) or ~~,~~ s. 200.185~~, or s. 200.186~~ and that such taxing authority is subject to subparagraph 2.

2. Any taxing authority so noticed by the executive director shall repeat the hearing and notice process required by paragraph (2)(d), except that:

a. The advertisement shall appear within 15 days after

notice from the executive director.

b. The advertisement, in addition to meeting the requirements of subsection (3), must contain the following statement in boldfaced type immediately after the heading:

THE PREVIOUS NOTICE PLACED BY THE ...(name of taxing authority)... HAS BEEN DETERMINED BY THE DEPARTMENT OF REVENUE TO BE IN VIOLATION OF THE LAW, NECESSITATING THIS SECOND NOTICE.

c. The millage newly adopted at such hearing shall not be forwarded to the tax collector or property appraiser and may not exceed the rate previously adopted or the amount allowed by subsection (5) or ~~,~~ s. 200.185~~, or s. 200.186~~. Each taxing authority provided notice pursuant to this paragraph shall recertify compliance with this chapter as provided in this section within 15 days after the adoption of a millage at such hearing.

d. The determination of the executive director shall be superseded if the executive director determines that the county or municipality, dependent special district of such county or municipality, or municipal service taxing unit of such county has remedied the noncompliance. Such noncompliance shall be determined to be remedied if any such taxing authority provided notice by the executive director pursuant to this paragraph adopts a new millage that does not exceed the maximum millage allowed for such taxing authority under paragraph (5)(a)or ~~,~~ s. 200.185(1)-(5)~~, or s. 200.186(1)~~, or if any such county or municipality, dependent special district of such county or municipality, or municipal service taxing unit of such county adopts a lower millage sufficient to reduce the total taxes levied such that total taxes levied do not exceed the maximum as

provided in paragraph (5)(b) or ~~,~~ s. 200.185(8)~~, or s. 200.186(3)~~.

e. If any such county or municipality, dependent special district of such county or municipality, or municipal service taxing unit of such county has not remedied the noncompliance or recertified compliance with this chapter as provided in this paragraph, and the executive director determines that the noncompliance has not been remedied or compliance has not been recertified, the county or municipality shall forfeit the distribution of local government half-cent sales tax revenues during the 12 months following a determination of noncompliance by the Department of Revenue as described in s. 218.63(2) and (3) and this subsection.

f. The determination of the executive director is not subject to chapter 120.

Reviser's note.—Amended to delete references to s. 200.186, which was created by s. 28, ch. 2007-321, Laws of Florida, in 2007 Special Session B and appeared with a contingency note. The contingency did not occur; the joint resolution for a constitutional amendment passed, but the ballot language was ruled unconstitutional. The referenced s. 200.186 did not become effective.

Section 14. Subsection (1) of section 212.0606, Florida Statutes, is amended to read:

212.0606 Rental car surcharge.—

(1) Except as provided in subsection (2), a surcharge of $2 per day or any part of a day is imposed upon the lease or rental of a motor vehicle licensed for hire and designed to carry fewer ~~less~~ than nine passengers regardless of whether the motor

vehicle is licensed in this state. The surcharge applies to only the first 30 days of the term of a lease or rental. The surcharge is subject to all applicable taxes imposed by this chapter.

Reviser's note.—Amended to facilitate correct understanding and improve clarity.

Section 15. Paragraph (d) of subsection (3) of section 285.18, Florida Statutes, is amended to read:

285.18 Tribal council as governing body; powers and duties.—

(3) The law enforcement agencies of the Seminole Tribe of Florida and the Miccosukee Tribe of Indians of Florida shall have the authority of "criminal justice agencies" as defined in s. 943.045(11)(e) and shall have the specific authority to negotiate agreements with the Department of Law Enforcement, the United States Department of Justice, and other federal law enforcement agencies for access to criminal history records for the purpose of conducting ongoing criminal investigations and for the following governmental purposes:

(d) Background investigations with respect to all employees, primary management officials, and all persons having a financial interest in a class II Indian tribal gaming enterprise to ensure eligibility as provided in the Indian Gaming Regulatory Act, 25 U.S.C. ss. 2701 et <u>seq</u> ~~al~~.

With regard to those investigations authorized in paragraphs (a), (c), and (d), each such individual shall file a complete set of his or her fingerprints that have been taken by an authorized law enforcement officer, which set of fingerprints

shall be submitted to the Department of Law Enforcement for state processing and to the Federal Bureau of Investigation for federal processing. The cost of processing shall be borne by the applicant.

Reviser's note.—Amended to improve clarity and facilitate correct understanding.

Section 16. Paragraph (a) of subsection (1) of section 287.0595, Florida Statutes, is amended to read:

287.0595 Pollution response action contracts; department rules.—

(1) The Department of Environmental Protection shall establish, by adopting administrative rules as provided in chapter 120:

(a) Procedures for determining the qualifications of responsible potential vendors prior to advertisement for and receipt of bids, proposals, or replies for pollution response action contracts, including procedures for the rejection of unqualified vendors. Response actions are those activities described in s. <u>376.301(37)</u> ~~376.301(39)~~.

Reviser's note.—Amended to conform to the redesignation of s. 376.301(39) as s. 376.301(37) by the editors to conform to the repeal of s. 376.301(4) and (30) by s. 5, ch. 2014-151, Laws of Florida.

Section 17. Subsection (2) of section 288.001, Florida Statutes, is reenacted to read:

288.001 The Florida Small Business Development Center Network.—

(2) DEFINITIONS.—As used in this section, the term:

(a) "Board of Governors" means the Board of Governors of

the State University System.

(b) "Host institution" means the university designated by the Board of Governors to be the recipient organization in accordance with 13 C.F.R. s. 130.200.

(c) "Network" means the Florida Small Business Development Center Network.

Reviser's note.—Section 43, ch. 2014-17, Laws of Florida, purported to amend subsection (2) but did not publish paragraph (c). Absent affirmative evidence of legislative intent to repeal it, subsection (2) is reenacted to confirm that the omission was not intended.

Section 18. Paragraph (a) of subsection (7) of section 288.9934, Florida Statutes, is amended to read:

288.9934 Microfinance Loan Program.—

(7) CONTRACT TERMINATION.—

(a) The loan administrator's contract with the department may be terminated by the department, and the loan administrator required to immediately return all state funds awarded, including any interest, fees, and costs it would otherwise be entitled to retain pursuant to subsection (5) for that fiscal year, upon a finding by the department that:

1. The loan administrator has, within the previous 5 years, participated in a state-funded economic development program in this or any other state and was found to have failed to comply with the requirements of that program;

2. The loan administrator is currently in material noncompliance with any statute, rule, or program administered by the department;

3. The loan administrator or any member of its board of

directors, officers, partners, managers, or shareholders has pled no contest to or been found guilty, regardless of whether adjudication was withheld, of any felony or any misdemeanor involving fraud, misrepresentation, or dishonesty;

4. The loan administrator failed to meet or agree to the terms of the contract with the department or failed to meet this part; or

5. The department finds that the loan administrator provided fraudulent or misleading information to the department.

Reviser's note.—Amended to confirm the editorial insertion of the word "to" to improve clarity.

Section 19. Subsection (2) of section 288.9936, Florida Statutes, is amended to read:

288.9936 Annual report of the Microfinance Loan Program.—

(2) The department shall submit the report provided to the department from Enterprise Florida, Inc., pursuant to s. 288.9935(8) ~~288.9935(7)~~ for inclusion in the department's annual report required under s. 20.60(10).

Reviser's note.—Amended to correct an apparent error and facilitate correct interpretation. The referenced report is in s. 288.9935(8).

Section 20. Section 298.01, Florida Statutes, is amended to read:

298.01 Formation of water control district.—It is the legislative intent that those water control districts established prior to July 1, 1980, pursuant to the process formerly contained in this section ~~ss. 298.01,~~ and former ss. 298.02, and 298.03, may continue to operate as outlined in this chapter. However, on and after that date, no water control

district may be created except pursuant to s. 125.01 or a special act of the Legislature. Upon formation of a water control district by a special act of the Legislature, the circuit court of the county in which a majority of the land within the district is located shall thereafter maintain and have original and exclusive jurisdiction, coextensive with the boundaries and limits of the water control district without regard to county lines, for all purposes of this chapter.

Reviser's note.—Amended to conform to Florida Statutes cite style and to the repeal of ss. 298.02 and 298.03 by s. 7, ch. 80-281, Laws of Florida.

Section 21. Paragraph (d) of subsection (3) of section 316.545, Florida Statutes, is amended to read:

316.545 Weight and load unlawful; special fuel and motor fuel tax enforcement; inspection; penalty; review.—

(3)

(d) A vehicle operating on the highways of this state from a nonmember International Registration Plan jurisdiction ~~nonmember International Registration Plan jurisdictions~~ which is not in compliance with s. 316.605 is subject to the penalties provided in this section.

Reviser's note.—Amended to confirm the editorial substitution of the words "a nonmember International Registration Plan jurisdiction" for the words "nonmember International Registration Plan jurisdictions" to improve clarity.

Section 22. Paragraph (f) of subsection (2) of section 322.058, Florida Statutes, is amended to read:

322.058 Suspension of driving privilege due to support delinquency; reinstatement.—

(2) The department must reinstate the driving privilege and allow registration of a motor vehicle when the Title IV-D agency in IV-D cases or the depository or the clerk of the court in non-IV-D cases provides to the department an affidavit stating that:

(f) The person is disabled and incapable of self-support or receives benefits under the federal Supplemental Security Income program or Social Security Disability Insurance program ~~programs~~;

Reviser's note.—Amended to improve clarity and to facilitate correct interpretation.

Section 23. Subsection (1) of section 327.391, Florida Statutes, is amended to read:

327.391 Airboats regulated.—

(1) The exhaust of every internal combustion engine used on any airboat operated on the waters of this state shall be provided with an automotive-style factory muffler, underwater exhaust, or other manufactured device capable of adequately muffling the sound of the exhaust of the engine as described in s. 327.02(27) ~~327.02(25)~~. The use of cutouts or flex pipe as the sole source of muffling is prohibited, except as provided in subsection (4). Any person who violates this subsection commits a noncriminal infraction punishable as provided in s. 327.73(1).

Reviser's note.—Amended to correct an apparent error. "Muffler" is defined in s. 327.02(27); s. 327.02(25) defines "moored ballooning."

Section 24. Paragraph (h) of subsection (1) of section 337.403, Florida Statutes, is amended to read:

337.403 Interference caused by utility; expenses.—

(1) If a utility that is placed upon, under, over, or along any public road or publicly owned rail corridor is found by the authority to be unreasonably interfering in any way with the convenient, safe, or continuous use, or the maintenance, improvement, extension, or expansion, of such public road or publicly owned rail corridor, the utility owner shall, upon 30 days' written notice to the utility or its agent by the authority, initiate the work necessary to alleviate the interference at its own expense except as provided in paragraphs (a)-(i). The work must be completed within such reasonable time as stated in the notice or such time as agreed to by the authority and the utility owner.

(h) If a municipally owned utility or county-owned utility is located in a rural area of opportunity ~~critical economic concern~~, as defined in s. 288.0656(2), and the department determines that the utility is unable, and will not be able within the next 10 years, to pay for the cost of utility work necessitated by a department project on the State Highway System, the department may pay, in whole or in part, the cost of such utility work performed by the department or its contractor.

Reviser's note.—Amended to conform to provisions in ch. 2014-218, Laws of Florida, which changed references from "rural areas of critical economic concern" to "rural areas of opportunity" with the exception of three sections of the Florida Statutes.

Section 25. Subsection (6) of section 339.041, Florida Statutes, is amended to read:

339.041 Factoring of revenues from leases for wireless communication facilities.—

(6) Subject to annual appropriation, the investors shall collect the lease payments on a schedule and in a manner established in the agreements entered into by the department and the investors pursuant to this section. The agreements may provide for lease payments to be made directly to investors by lessees if the lease agreements entered into by the department and the lessees pursuant to s. 365.172(13)(f) ~~s. 365.172(12)(f)~~ allow direct payment.

Reviser's note.—Amended to conform to the redesignation of s. 365.172(12)(f) as s. 365.172(13)(f) by s. 1, ch. 2014-196, Laws of Florida.

Section 26. Paragraph (c) of subsection (5) of section 339.135, Florida Statutes, is amended to read:

339.135 Work program; legislative budget request; definitions; preparation, adoption, execution, and amendment.—

(5) ADOPTION OF THE WORK PROGRAM.—

(c) Notwithstanding paragraph (a), and for the 2014-2015 fiscal year only, the department may use appropriated funds to pay the costs of strategic and regionally significant transportation projects as provided in paragraph (4)(j) ~~paragraph (4)(i)~~. Funds specifically appropriated for this purpose may not reduce, delete, or defer any existing projects funded as of July 1, 2014, in the department's 5-year work program. This paragraph expires July 1, 2015.

Reviser's note.—Amended to conform to the editorial redesignation of paragraph (4)(i), as created by s. 47, ch. 2014-53, Laws of Florida, as paragraph (4)(j) to conform to the addition of a different paragraph (4)(i) by s. 41, ch. 2014-53.

Section 27. Subsection (7) of section 339.2818, Florida Statutes, is amended to read:

339.2818 Small County Outreach Program.—

(7) Subject to a specific appropriation in addition to funds annually appropriated for projects under this section, a municipality within a rural area of opportunity ~~critical economic concern~~ or a rural area of opportunity ~~critical economic concern~~ community designated under s. 288.0656(7)(a) may compete for the additional project funding using the criteria listed in subsection (4) at up to 100 percent of project costs, excluding capacity improvement projects.

Reviser's note.—Amended to conform to provisions in ch. 2014-218, Laws of Florida, which changed references from "rural areas of critical economic concern" to "rural areas of opportunity" with the exception of three sections of the Florida Statutes.

Section 28. Paragraph (a) of subsection (2) of section 348.753, Florida Statutes, is amended to read:

348.753 Central Florida Expressway Authority.—

(2)(a) Immediately on ~~upon~~ June 20, 2014, the Central Florida Expressway Authority shall assume the governance and control of the Orlando-Orange County Expressway Authority System, including its assets, personnel, contracts, obligations, liabilities, facilities, and tangible and intangible property. Any rights in such property, and other legal rights of the authority, are transferred to the Central Florida Expressway Authority. The Central Florida Expressway Authority shall immediately succeed to and assume the powers, responsibilities, and obligations of the Orlando-Orange County Expressway

Authority.

Reviser's note.—Amended to substitute the word "on" for the word "upon" to improve clarity. As created by s. 3, ch. 2014-171, Laws of Florida, paragraph (2)(a) began with the words "Immediately upon the effective date of this act." Section 21, ch. 2014-171, directed the Division of Law Revision and Information to substitute the date for the new language "the effective date of this act."

Section 29. Subsection (1) of section 348.7546, Florida Statutes, is amended to read:

348.7546 Wekiva Parkway, construction authorized; financing.—

(1) The Central Florida Expressway Authority may exercise its condemnation powers and ~~to~~ construct, finance, operate, own, and maintain those portions of the Wekiva Parkway which are identified by agreement between the authority and the department and which are included as part of the authority's long-range capital improvement plan. The "Wekiva Parkway" means any limited access highway or expressway constructed between State Road 429 and Interstate 4 specifically incorporating the corridor alignment recommended by Recommendation 2 of the Wekiva River Basin Area Task Force final report dated January 15, 2003, and the recommendations of the SR 429 Working Group which were adopted January 16, 2004. This project may be financed with any funds available to the authority for such purpose or revenue bonds issued by the authority under s. 11, Art. VII of the State Constitution and s. 348.755(1)(b). This section does not invalidate the exercise by the authority of its condemnation powers or the acquisition of any property for the Wekiva Parkway

before July 1, 2012.

Reviser's note.—Amended to confirm the editorial deletion of the word "to" preceding the word "construct."

Section 30. Paragraph (c) of subsection (13) of section 365.172, Florida Statutes, is amended to read:

365.172 Emergency communications number "E911."—

(13) FACILITATING E911 SERVICE IMPLEMENTATION.—To balance the public need for reliable E911 services through reliable wireless systems and the public interest served by governmental zoning and land development regulations and notwithstanding any other law or local ordinance to the contrary, the following standards shall apply to a local government's actions, as a regulatory body, in the regulation of the placement, construction, or modification of a wireless communications facility. This subsection shall not, however, be construed to waive or alter the provisions of s. 286.011 or s. 286.0115. For the purposes of this subsection only, "local government" shall mean any municipality or county and any agency of a municipality or county only. The term "local government" does not, however, include any airport, as defined by s. 330.27(2), even if it is owned or controlled by or through a municipality, county, or agency of a municipality or county. Further, notwithstanding anything in this section to the contrary, this subsection does not apply to or control a local government's actions as a property or structure owner in the use of any property or structure owned by such entity for the placement, construction, or modification of wireless communications facilities. In the use of property or structures owned by the local government, however, a local government may not use its regulatory authority

so as to avoid compliance with, or in a manner that does not advance, the provisions of this subsection.

(c) Local governments may not require wireless providers to provide evidence of a wireless communications facility's compliance with federal regulations, except evidence of compliance with applicable Federal Aviation Administration requirements under 14 C.F.R. part 77 ~~14 C.F.R. s. 77~~, as amended, and evidence of proper Federal Communications Commission licensure, or other evidence of Federal Communications Commission authorized spectrum use, but may request the Federal Communications Commission to provide information as to a wireless provider's compliance with federal regulations, as authorized by federal law.

Reviser's note.—Amended to facilitate correct interpretation.

There is no 14 C.F.R. s. 77; there is a 14 C.F.R. part 77.

Section 31. Subsection (5) of section 373.223, Florida Statutes, is amended to read:

373.223 Conditions for a permit.—

(5) In evaluating an application for consumptive use of water which proposes the use of an alternative water supply project as described in the regional water supply plan and provides reasonable assurances of the applicant's capability to design, construct, operate, and maintain the project, the governing board or department shall presume that the alternative water supply use is consistent with the public interest under paragraph (1)(c). However, where the governing board identifies the need for a multijurisdictional water supply entity or regional water supply authority to develop the alternative water supply project pursuant to s. 373.709(2)(a)2., the presumption

shall be accorded only to that use proposed by such entity or authority. This subsection does not affect ~~effect~~ evaluation of the use pursuant to the provisions of paragraphs (1)(a) and (b), subsections (2) and (3), and ss. 373.2295 and 373.233.

Reviser's note.—Amended to conform to context.

Section 32. Paragraph (a) of subsection (2) of section 376.3072, Florida Statutes, is amended to read:

376.3072 Florida Petroleum Liability and Restoration Insurance Program.—

(2)(a) An owner or operator of a petroleum storage system may become an insured in the restoration insurance program at a facility if:

1. A site at which an incident has occurred is eligible for restoration if the insured is a participant in the third-party liability insurance program or otherwise meets applicable financial responsibility requirements. After July 1, 1993, the insured must also provide the required excess insurance coverage or self-insurance for restoration to achieve the financial responsibility requirements of 40 C.F.R. s. 280.97, subpart H, not covered by paragraph (d).

2. A site which had a discharge reported before January 1, 1989, for which notice was given pursuant to s. 376.3071(10) and which is ineligible for the third-party liability insurance program solely due to that discharge is eligible for participation in the restoration program for an incident occurring on or after January 1, 1989, pursuant to subsection (3). Restoration funding for an eligible contaminated site will be provided without participation in the third-party liability insurance program until the site is restored as required by the

department or until the department determines that the site does not require restoration.

3. Notwithstanding paragraph (b), a site where an application is filed with the department before January 1, 1995, where the owner is a small business under s. 288.703(6), a Florida College System institution ~~state community college~~ with less than 2,500 FTE, a religious institution as defined by s. 212.08(7)(m), a charitable institution as defined by s. 212.08(7)(p), or a county or municipality with a population of less than 50,000, is eligible for up to $400,000 of eligible restoration costs, less a deductible of $10,000 for small businesses, eligible Florida College System institutions ~~community colleges~~, and religious or charitable institutions, and $30,000 for eligible counties and municipalities, if:

a. Except as provided in sub-subparagraph e., the facility was in compliance with department rules at the time of the discharge.

b. The owner or operator has, upon discovery of a discharge, promptly reported the discharge to the department, and drained and removed the system from service, if necessary.

c. The owner or operator has not intentionally caused or concealed a discharge or disabled leak detection equipment.

d. The owner or operator proceeds to complete initial remedial action as specified in department rules.

e. The owner or operator, if required and if it has not already done so, applies for third-party liability coverage for the facility within 30 days after receipt of an eligibility order issued by the department pursuant to this subparagraph.

However, the department may consider in-kind services from eligible counties and municipalities in lieu of the $30,000 deductible. The cost of conducting initial remedial action as defined by department rules is an eligible restoration cost pursuant to this subparagraph.

4.a. By January 1, 1997, facilities at sites with existing contamination must have methods of release detection to be eligible for restoration insurance coverage for new discharges subject to department rules for secondary containment. Annual storage system testing, in conjunction with inventory control, shall be considered to be a method of release detection until the later of December 22, 1998, or 10 years after the date of installation or the last upgrade. Other methods of release detection for storage tanks which meet such requirement are:

(I) Interstitial monitoring of tank and integral piping secondary containment systems;

(II) Automatic tank gauging systems; or

(III) A statistical inventory reconciliation system with a tank test every 3 years.

b. For pressurized integral piping systems, the owner or operator must use:

(I) An automatic in-line leak detector with flow restriction meeting the requirements of department rules used in conjunction with an annual tightness or pressure test; or

(II) An automatic in-line leak detector with electronic flow shut-off meeting the requirements of department rules.

c. For suction integral piping systems, the owner or operator must use:

(I) A single check valve installed directly below the

suction pump if there are no other valves between the dispenser and the tank; or

(II) An annual tightness test or other approved test.

d. Owners of facilities with existing contamination that install internal release detection systems pursuant to sub-subparagraph a. shall permanently close their external groundwater and vapor monitoring wells pursuant to department rules by December 31, 1998. Upon installation of the internal release detection system, such wells must be secured and taken out of service until permanent closure.

e. Facilities with vapor levels of contamination meeting the requirements of or below the concentrations specified in the performance standards for release detection methods specified in department rules may continue to use vapor monitoring wells for release detection.

f. The department may approve other methods of release detection for storage tanks and integral piping which have at least the same capability to detect a new release as the methods specified in this subparagraph.

Sites meeting the criteria of this subsection for which a site rehabilitation completion order was issued before June 1, 2008, do not qualify for the 2008 increase in site rehabilitation funding assistance and are bound by the pre-June 1, 2008, limits. Sites meeting the criteria of this subsection for which a site rehabilitation completion order was not issued before June 1, 2008, regardless of whether they have previously transitioned to nonstate-funded cleanup status, may continue state-funded cleanup pursuant to s. 376.3071(6) until a site

rehabilitation completion order is issued or the increased site rehabilitation funding assistance limit is reached, whichever occurs first.

Reviser's note.—Amended to conform references to state community colleges to changes in chs. 2008-52 and 2009-228, Laws of Florida, transitioning references from community colleges to Florida College System institutions.

Section 33. Paragraph (e) of subsection (2) of section 377.6015, Florida Statutes, is amended to read:

377.6015 Department of Agriculture and Consumer Services; powers and duties.—

(2) The department shall:

(e) Administer the provisions of the Florida Energy and Climate Protection Act pursuant to ss. 377.801-377.804 ~~377.801-377.807~~.

Reviser's note.—Amended to conform to the repeal of ss. 377.806 and 377.807 by s. 9, ch. 2014-154, Laws of Florida, and to conform to context. Section 377.801 cites ss. 377.801-377.804 as the Florida Energy and Climate Protection Act; s. 377.805, requiring development of an energy efficiency and conservation clearinghouse, was transferred from s. 570.0741 to s. 377.805 by s. 64, ch. 2014-150, Laws of Florida, and is not technically part of the Florida Energy and Climate Protection Act.

Section 34. Subsection (4) of section 379.2495, Florida Statutes, is amended to read:

379.2495 Florida Ships-2-Reefs Program; matching grant requirements.—

(4) To demonstrate that a local government or nonprofit

corporation meets the required criteria, the local government or nonprofit corporation must submit formal agreements, written pledges, memoranda of understanding, financing arrangements, or other documents demonstrating that nonstate matching funds are available for securing and placing the vessel prior to submission of an application. Matching grant funds shall be released only upon documentation that meets all the criteria established in rules adopted by the commission ~~pursuant to subsection (5)~~.

Reviser's note.—Amended to conform to the repeal of former subsection (5) by s. 2, ch. 2014-21, Laws of Florida.

Section 35. Paragraph (b) of subsection (29) of section 380.06, Florida Statutes, is amended to read:

380.06 Developments of regional impact.—

(29) EXEMPTIONS FOR DENSE URBAN LAND AREAS.—

(b) If a municipality that does not qualify as a dense urban land area pursuant to paragraph (a) designates any of the following areas in its comprehensive plan, any proposed development within the designated area is exempt from the development-of-regional-impact process:

1. Urban infill as defined in s. 163.3164;

2. Community redevelopment areas as defined in s. 163.340;

3. Downtown revitalization areas as defined in s. 163.3164;

4. Urban infill and redevelopment under s. 163.2517; or

5. Urban service areas as defined in s. 163.3164 or areas within a designated urban service boundary under s. 163.3177(14), Florida Statutes (2010).

Reviser's note.—Amended to conform to the repeal of s. 163.3177(14) by s. 12, ch. 2011-139, Laws of Florida, and

to conform to a similar cross-reference in paragraph (24)(l) of this section.

Section 36. Subsection (5) of section 381.78, Florida Statutes, is amended to read:

381.78 Advisory council on brain and spinal cord injuries.—

(5) Members of the advisory council are entitled to reimbursement for per diem and travel expenses for required attendance at council meetings in accordance with s. 112.061. Reasonable expenses for personal assistance services and interpreters needed by members during required attendance at council meetings shall be reimbursed. A member may not receive any compensation for performing duties specified in, or arising out of, her or his duties as a council member under ss. 381.739-381.79 ~~this part~~, except as otherwise specified in ss. 381.739-381.79 ~~this part~~.

Reviser's note.—Amended to conform to the fact that chapter 381 is not divided into parts and to conform to context. An amendment to subsection (7) of this section by s. 8, ch. 2010-161, Laws of Florida, substituted a reference to ss. 381.739-381.79 for a reference to "this part;" ss. 381.739-381.79 constitute the Charlie Mack Overstreet Brain or Spinal Cord Injuries Act.

Section 37. Subsection (2) of section 394.494, Florida Statutes, is amended to read:

394.494 General performance outcomes for the child and adolescent mental health treatment and support system.—

(2) Annually, pursuant to former s. 216.0166, the department shall develop more specific performance outcomes and performance measures to assess the performance of the child and

adolescent mental health treatment and support system in achieving the intent of this section.

Reviser's note.—Amended to conform to the repeal of s. 216.0166 by s. 61, ch. 2000-371, Laws of Florida.

Section 38. Paragraph (p) of subsection (4) of section 394.495, Florida Statutes, is amended to read:

394.495 Child and adolescent mental health system of care; programs and services.—

(4) The array of services may include, but is not limited to:

(p) Trauma-informed services for children who have suffered sexual exploitation as defined in s. 39.01(69)(g) ~~39.01(67)(g)~~.

Reviser's note.—Amended to confirm the editorial substitution of a reference to s. 39.01(69)(g) for a reference to s. 39.01(67)(g) to conform to the renumbering of subunits within s. 39.01 by s. 3, ch. 2014-224, Laws of Florida.

Section 39. Paragraph (e) of subsection (3) of section 394.913, Florida Statutes, is amended to read:

394.913 Notice to state attorney and multidisciplinary team of release of sexually violent predator; establishing multidisciplinary teams; information to be provided to multidisciplinary teams.—

(3)

(e) The multidisciplinary team may consult with law enforcement agencies and victim advocate groups during the assessment and evaluation process. A clinical evaluation of the person may be conducted. A second clinical evaluation must be conducted if a member of the multidisciplinary team questions the conclusion of the first clinical evaluation. All members of

the multidisciplinary team shall review, at a minimum, the information provided in subsection (2) and any clinical evaluation before making a recommendation pursuant to paragraph (g) ~~paragraph (f)~~.

Reviser's note.—Amended to confirm the editorial substitution of a reference to paragraph (g) for a reference to paragraph (f), as referenced in the amendment by s. 3, ch. 2014-2, Laws of Florida. Paragraph (f) was redesignated as paragraph (g) in the compilation of the text pursuant to incorporating amendments made by s. 2, ch. 2014-3, Laws of Florida.

Section 40. Paragraph (c) of subsection (3) of section 397.333, Florida Statutes, is amended to read:

397.333 Statewide Drug Policy Advisory Council.—

(3) The advisory council shall:

(c) Review various substance abuse programs and recommend, where needed, measures that are sufficient to determine program outcomes. The council shall review different methodologies for evaluating programs and determine whether programs within different agencies have common outcomes. The methodologies shall be consistent with those established under former s. 216.0166.

Reviser's note.—Amended to conform to the repeal of s. 216.0166 by s. 61, ch. 2000-371, Laws of Florida.

Section 41. Subsection (6) of section 397.754, Florida Statutes, is amended to read:

397.754 Duties and responsibilities of the Department of Corrections.—The Department of Corrections shall:

(6) In cooperation with other agencies, actively seek to enhance resources for the provision of treatment services for

inmates and to develop partnerships with other state agencies, including but not limited to the Departments of Children and Families, Education, Economic Opportunity ~~Community Affairs~~, and Law Enforcement.

Reviser's note.—Amended to conform to the repeal of s. 20.18, which created the Department of Community Affairs, by s. 478, ch. 2011-142, Laws of Florida, and the transfer of the department's duties to the Department of Economic Opportunity by ch. 2011-142.

Section 42. Subsection (2) of section 397.92, Florida Statutes, is amended to read:

397.92 Children's substance abuse services system; goals.—

(2) Pursuant to former s. 216.0166, the department shall annually develop performance outcomes and performance measures to assess the performance of the children's substance abuse services system in achieving the intent of this section.

Reviser's note.—Amended to conform to the repeal of s. 216.0166 by s. 61, ch. 2000-371, Laws of Florida.

Section 43. Paragraph (v) of subsection (1) of section 400.022, Florida Statutes, is amended to read:

400.022 Residents' rights.—

(1) All licensees of nursing home facilities shall adopt and make public a statement of the rights and responsibilities of the residents of such facilities and shall treat such residents in accordance with the provisions of that statement. The statement shall assure each resident the following:

(v) For residents of Medicaid or Medicare certified facilities, the right to challenge a decision by the facility to discharge or transfer the resident, as required under ~~Title~~ 42

C.F.R. s. 483.12 ~~part 483.13~~.

Reviser's note.—Amended to conform to the fact that there is no part 483.13 in the Code of Federal Regulations; 42 C.F.R. s. 483.12 relates to admission, transfer, and discharge rights; 42 C.F.R. s. 483.13 relates to resident behavior and facility practices.

Section 44. Paragraph (c) of subsection (7) of section 403.067, Florida Statutes, is amended to read:

403.067 Establishment and implementation of total maximum daily loads.—

(7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.—

(c) *Best management practices.*—

1. The department, in cooperation with the water management districts and other interested parties, as appropriate, may develop suitable interim measures, best management practices, or other measures necessary to achieve the level of pollution reduction established by the department for nonagricultural nonpoint pollutant sources in allocations developed pursuant to subsection (6) and this subsection. These practices and measures may be adopted by rule by the department and the water management districts and, where adopted by rule, shall be implemented by those parties responsible for nonagricultural nonpoint source pollution.

2. The Department of Agriculture and Consumer Services may develop and adopt by rule pursuant to ss. 120.536(1) and 120.54 suitable interim measures, best management practices, or other measures necessary to achieve the level of pollution reduction established by the department for agricultural pollutant sources

in allocations developed pursuant to subsection (6) and this subsection or for programs implemented pursuant to paragraph (12)(b) ~~paragraph (13)(b)~~. These practices and measures may be implemented by those parties responsible for agricultural pollutant sources and the department, the water management districts, and the Department of Agriculture and Consumer Services shall assist with implementation. In the process of developing and adopting rules for interim measures, best management practices, or other measures, the Department of Agriculture and Consumer Services shall consult with the department, the Department of Health, the water management districts, representatives from affected farming groups, and environmental group representatives. Such rules must also incorporate provisions for a notice of intent to implement the practices and a system to assure the implementation of the practices, including recordkeeping requirements.

3. Where interim measures, best management practices, or other measures are adopted by rule, the effectiveness of such practices in achieving the levels of pollution reduction established in allocations developed by the department pursuant to subsection (6) and this subsection or in programs implemented pursuant to paragraph (12)(b) ~~paragraph (13)(b)~~ must be verified at representative sites by the department. The department shall use best professional judgment in making the initial verification that the best management practices are reasonably expected to be effective and, where applicable, must notify the appropriate water management district or the Department of Agriculture and Consumer Services of its initial verification before the adoption of a rule proposed pursuant to this

paragraph. Implementation, in accordance with rules adopted under this paragraph, of practices that have been initially verified to be effective, or verified to be effective by monitoring at representative sites, by the department, shall provide a presumption of compliance with state water quality standards and release from the provisions of s. 376.307(5) for those pollutants addressed by the practices, and the department is not authorized to institute proceedings against the owner of the source of pollution to recover costs or damages associated with the contamination of surface water or groundwater caused by those pollutants. Research projects funded by the department, a water management district, or the Department of Agriculture and Consumer Services to develop or demonstrate interim measures or best management practices shall be granted a presumption of compliance with state water quality standards and a release from the provisions of s. 376.307(5). The presumption of compliance and release is limited to the research site and only for those pollutants addressed by the interim measures or best management practices. Eligibility for the presumption of compliance and release is limited to research projects on sites where the owner or operator of the research site and the department, a water management district, or the Department of Agriculture and Consumer Services have entered into a contract or other agreement that, at a minimum, specifies the research objectives, the cost-share responsibilities of the parties, and a schedule that details the beginning and ending dates of the project.

4. Where water quality problems are demonstrated, despite the appropriate implementation, operation, and maintenance of best management practices and other measures required by rules

adopted under this paragraph, the department, a water management district, or the Department of Agriculture and Consumer Services, in consultation with the department, shall institute a reevaluation of the best management practice or other measure. Should the reevaluation determine that the best management practice or other measure requires modification, the department, a water management district, or the Department of Agriculture and Consumer Services, as appropriate, shall revise the rule to require implementation of the modified practice within a reasonable time period as specified in the rule.

5. Agricultural records relating to processes or methods of production, costs of production, profits, or other financial information held by the Department of Agriculture and Consumer Services pursuant to subparagraphs 3. and 4. or pursuant to any rule adopted pursuant to subparagraph 2. are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Upon request, records made confidential and exempt pursuant to this subparagraph shall be released to the department or any water management district provided that the confidentiality specified by this subparagraph for such records is maintained.

6. The provisions of subparagraphs 1. and 2. do not preclude the department or water management district from requiring compliance with water quality standards or with current best management practice requirements set forth in any applicable regulatory program authorized by law for the purpose of protecting water quality. Additionally, subparagraphs 1. and 2. are applicable only to the extent that they do not conflict with any rules adopted by the department that are necessary to

maintain a federally delegated or approved program.

Reviser's note.—Amended to conform to the redesignation of paragraph (13)(b) as paragraph (12)(b) by s. 2, ch. 2013-146, Laws of Florida.

Section 45. Subsection (1) of section 408.036, Florida Statutes, is amended to read:

408.036 Projects subject to review; exemptions.—

(1) APPLICABILITY.—Unless exempt under subsection (3), all health-care-related projects, as described in paragraphs (a)-(f) ~~paragraphs (a)-(g)~~, are subject to review and must file an application for a certificate of need with the agency. The agency is exclusively responsible for determining whether a health-care-related project is subject to review under ss. 408.031-408.045.

(a) The addition of beds in community nursing homes or intermediate care facilities for the developmentally disabled by new construction or alteration.

(b) The new construction or establishment of additional health care facilities, including a replacement health care facility when the proposed project site is not located on the same site as or within 1 mile of the existing health care facility, if the number of beds in each licensed bed category will not increase.

(c) The conversion from one type of health care facility to another, including the conversion from a general hospital, a specialty hospital, or a long-term care hospital.

(d) The establishment of a hospice or hospice inpatient facility, except as provided in s. 408.043.

(e) An increase in the number of beds for comprehensive

rehabilitation.

(f) The establishment of tertiary health services, including inpatient comprehensive rehabilitation services.

Reviser's note.—Amended to confirm the editorial substitution of a reference to paragraphs (a)-(f) for a reference to paragraphs (a)-(g) to conform to the repeal of paragraph (1)(g) by s. 19, ch. 2010-4, Laws of Florida.

Section 46. Subsection (8) of section 408.061, Florida Statutes, is amended to read:

408.061 Data collection; uniform systems of financial reporting; information relating to physician charges; confidential information; immunity.—

(8) The identity of any health care provider, health care facility, or health insurer who submits any data which is proprietary business information to the agency pursuant to the provisions of this section shall remain confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. As used in this section, "proprietary business information" shall include, but not be limited to, information relating to specific provider contract reimbursement information; information relating to security measures, systems, or procedures; and information concerning bids or other contractual data, the disclosure of which would impair efforts to contract for goods or services on favorable terms or would injure the affected entity's ability to compete in the marketplace. Notwithstanding the provisions of this subsection, any information obtained ~~or generated pursuant to the provisions of former s. 407.61~~, either by the former Health Care Cost Containment Board or by the Agency for Health Care

Administration upon transfer to that agency of the duties and functions of the former Health Care Cost Containment Board, is not confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Such proprietary business information may be used in published analyses and reports or otherwise made available for public disclosure in such manner as to preserve the confidentiality of the identity of the provider. This exemption shall not limit the use of any information used in conjunction with investigation or enforcement purposes under the provisions of s. 456.073.

Reviser's note.—Amended to delete an obsolete provision.

Section 47. Subsection (2) of section 409.1451, Florida Statutes, as amended by section 4 of chapter 2014-39, Laws of Florida, and as amended by section 25 of chapter 2014-184, Laws of Florida, effective July 1, 2015, is reenacted and amended to read:

409.1451 The Road-to-Independence Program.—

(2) POSTSECONDARY EDUCATION SERVICES AND SUPPORT.—

(a) A young adult is eligible for services and support under this subsection if he or she:

1. Was living in licensed care on his or her 18th birthday or is currently living in licensed care; or was at least 16 years of age and was adopted from foster care or placed with a court-approved dependency guardian after spending at least 6 months in licensed care within the 12 months immediately preceding such placement or adoption;

2. Spent at least 6 months in licensed care before reaching his or her 18th birthday;

3. Earned a standard high school diploma pursuant to s.

1002.3105(5), s. 1003.4281, or s. 1003.4282, or its equivalent pursuant to s. 1003.435 ~~a special diploma pursuant to~~;

4. Has been admitted for enrollment as a full-time student or its equivalent in an eligible postsecondary educational institution as provided in s. 1009.533. For purposes of this section, the term "full-time" means 9 credit hours or the vocational school equivalent. A student may enroll part-time if he or she has a recognized disability or is faced with another challenge or circumstance that would prevent full-time attendance. A student needing to enroll part-time for any reason other than having a recognized disability must get approval from his or her academic advisor;

5. Has reached 18 years of age but is not yet 23 years of age;

6. Has applied, with assistance from the young adult's caregiver and the community-based lead agency, for any other grants and scholarships for which he or she may qualify;

7. Submitted a Free Application for Federal Student Aid which is complete and error free; and

8. Signed an agreement to allow the department and the community-based care lead agency access to school records.

(b) The amount of the financial assistance shall be as follows:

1. For a young adult who does not remain in foster care and is attending a postsecondary school as provided in s. 1009.533, the amount is $1,256 monthly.

2. For a young adult who remains in foster care, is attending a postsecondary school, as provided in s. 1009.533, and continues to reside in a licensed foster home, the amount is

the established room and board rate for foster parents. This takes the place of the payment provided for in s. 409.145(4).

3. For a young adult who remains in foster care, but temporarily resides away from a licensed foster home for purposes of attending a postsecondary school as provided in s. 1009.533, the amount is $1,256 monthly. This takes the place of the payment provided for in s. 409.145(4).

4. For a young adult who remains in foster care, is attending a postsecondary school as provided in s. 1009.533, and continues to reside in a licensed group home, the amount is negotiated between the community-based care lead agency and the licensed group home provider.

5. For a young adult who remains in foster care, but temporarily resides away from a licensed group home for purposes of attending a postsecondary school as provided in s. 1009.533, the amount is $1,256 monthly. This takes the place of a negotiated room and board rate.

6. The amount of the award may be disregarded for purposes of determining the eligibility for, or the amount of, any other federal or federally supported assistance.

7. A young adult is eligible to receive financial assistance during the months when enrolled in a postsecondary educational institution.

(c) Payment of financial assistance for a young adult who:

1. Has chosen not to remain in foster care and is attending a postsecondary school as provided in s. 1009.533, shall be made to the community-based care lead agency in order to secure housing and utilities, with the balance being paid directly to the young adult until such time the lead agency and the young

adult determine that the young adult can successfully manage the full amount of the assistance.

2. Has remained in foster care under s. 39.6251 and who is attending postsecondary school as provided in s. 1009.533, shall be made directly to the foster parent or group home provider.

3. Community-based care lead agencies or other contracted providers are prohibited from charging a fee associated with administering the Road-to-Independence payments.

(d)1. The department must advertise the availability of the stipend and must provide notification of the criteria and application procedures for the stipend to children and young adults leaving, or who were formerly in, foster care; caregivers; case managers; guidance and family services counselors; principals or other relevant school administrators; and guardians ad litem.

2. If the award recipient transfers from one eligible institution to another and continues to meet eligibility requirements, the award shall be transferred with the recipient.

3. The department, or an agency under contract with the department, shall evaluate each Road-to-Independence award for renewal eligibility on an annual basis. In order to be eligible for a renewal award for the subsequent year, the young adult must:

a. Be enrolled for or have completed the number of hours, or the equivalent, to be considered a full-time student under subparagraph (a)4., unless the young adult qualifies for an exception under subparagraph (a)4.

b. Maintain standards of academic progress as defined by the education institution, except that if the young adult's

progress is insufficient to renew the award at any time during the eligibility period, the young adult may continue to be enrolled for additional terms while attempting to restore eligibility as long as progress towards the required level is maintained.

4. Funds may be terminated during the interim between an award and the evaluation for a renewal award if the department, or an agency under contract with the department, determines that the award recipient is no longer enrolled in an educational institution as described in subparagraph (a)4. or is no longer a resident of this state.

5. The department, or an agency under contract with the department, shall notify a recipient who is terminated and inform the recipient of his or her right to appeal.

6. An award recipient who does not qualify for a renewal award or who chooses not to renew the award may apply for reinstatement. An application for reinstatement must be made before the young adult reaches 23 years of age. In order to be eligible for reinstatement, the young adult must meet the eligibility criteria and the criteria for award renewal for the program.

Reviser's note.—Section 25, ch. 2014-184, Laws of Florida, purported to amend subsection (2), effective July 1, 2015, but did not publish paragraphs (b)-(d). Absent affirmative evidence of legislative intent to repeal paragraphs (b)-(d), subsection (2) is reenacted to confirm that the omission was not intended. Subparagraph (2)(a)3. is amended to confirm the editorial deletion of the words "a special diploma pursuant to," added by s. 4, ch. 2014-39, Laws of

Florida, following the word "or" and preceding a cite to s. 1003.438, which word and cite were deleted by s. 25, ch. 2014-184.

Section 48. Paragraph (c) of subsection (1) of section 409.1678, Florida Statutes, is amended to read:

409.1678 Specialized residential options for children who are victims of sexual exploitation.—

(1) DEFINITIONS.—As used in this section, the term:

(c) "Sexually exploited child" means a child who has suffered sexual exploitation as defined in s. 39.01(69)(g) ~~39.01(68)(g)~~ and is ineligible for relief and benefits under the federal Trafficking Victims Protection Act, 22 U.S.C. ss. 7101 et seq.

Reviser's note.—Amended to confirm the editorial substitution of a reference to s. 39.01(69)(g) for a reference to s. 39.01(68)(g) added by s. 56, ch. 2014-224, Laws of Florida. Sexual exploitation of a child is defined in s. 39.01(69)(g). "Secretary" is defined in s. 39.01(68), which has no paragraphs.

Section 49. Paragraph (d) of subsection (13) of section 409.906, Florida Statutes, is amended to read:

409.906 Optional Medicaid services.—Subject to specific appropriations, the agency may make payments for services which are optional to the state under Title XIX of the Social Security Act and are furnished by Medicaid providers to recipients who are determined to be eligible on the dates on which the services were provided. Any optional service that is provided shall be provided only when medically necessary and in accordance with state and federal law. Optional services rendered by providers

in mobile units to Medicaid recipients may be restricted or prohibited by the agency. Nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. If necessary to safeguard the state's systems of providing services to elderly and disabled persons and subject to the notice and review provisions of s. 216.177, the Governor may direct the Agency for Health Care Administration to amend the Medicaid state plan to delete the optional Medicaid service known as "Intermediate Care Facilities for the Developmentally Disabled." Optional services may include:

(13) HOME AND COMMUNITY-BASED SERVICES.—

(d) The agency shall request federal approval to develop a system to require payment of premiums or other cost sharing by the parents of a child who is being served by a waiver under this subsection if the adjusted household income is greater than 100 percent of the federal poverty level. The amount of the premium or cost sharing shall be calculated using a sliding scale based on the size of the family, the amount of the parent's adjusted gross income, and the federal poverty guidelines. The premium and cost-sharing system developed by the agency shall not adversely affect federal funding to the state. After the agency receives federal approval, the Department of Children and Families may collect income information from parents of children who will be affected by this paragraph. ~~The agency shall prepare a report to include the estimated~~

~~operational cost of implementing the premium and cost-sharing system and the estimated revenues to be collected from parents of children in the waiver program. The report shall be delivered to the President of the Senate and the Speaker of the House of Representatives by June 30, 2012.~~

Reviser's note.—Amended to delete obsolete provisions.

Section 50. Subsection (2) of section 409.966, Florida Statutes, is amended to read:

409.966 Eligible plans; selection.—

(2) ELIGIBLE PLAN SELECTION.—The agency shall select a limited number of eligible plans to participate in the Medicaid program using invitations to negotiate in accordance with s. 287.057(1)(c) ~~287.057(3)(a)~~. At least 90 days before issuing an invitation to negotiate, the agency shall compile and publish a databook consisting of a comprehensive set of utilization and spending data for the 3 most recent contract years consistent with the rate-setting periods for all Medicaid recipients by region or county. The source of the data in the report must include both historic fee-for-service claims and validated data from the Medicaid Encounter Data System. The report must be available in electronic form and delineate utilization use by age, gender, eligibility group, geographic area, and aggregate clinical risk score. Separate and simultaneous procurements shall be conducted in each of the following regions:

(a) Region 1, which consists of Escambia, Okaloosa, Santa Rosa, and Walton Counties.

(b) Region 2, which consists of Bay, Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson, Leon, Liberty, Madison, Taylor, Wakulla, and Washington Counties.

(c) Region 3, which consists of Alachua, Bradford, Citrus, Columbia, Dixie, Gilchrist, Hamilton, Hernando, Lafayette, Lake, Levy, Marion, Putnam, Sumter, Suwannee, and Union Counties.

(d) Region 4, which consists of Baker, Clay, Duval, Flagler, Nassau, St. Johns, and Volusia Counties.

(e) Region 5, which consists of Pasco and Pinellas Counties.

(f) Region 6, which consists of Hardee, Highlands, Hillsborough, Manatee, and Polk Counties.

(g) Region 7, which consists of Brevard, Orange, Osceola, and Seminole Counties.

(h) Region 8, which consists of Charlotte, Collier, DeSoto, Glades, Hendry, Lee, and Sarasota Counties.

(i) Region 9, which consists of Indian River, Martin, Okeechobee, Palm Beach, and St. Lucie Counties.

(j) Region 10, which consists of Broward County.

(k) Region 11, which consists of Miami-Dade and Monroe Counties.

Reviser's note.—Amended to conform to context. Section 287.057(1)(c) relates to invitation to negotiate; s. 287.057(3)(a) provides an exception to receiving competitive sealed bids, competitive sealed proposals, or competitive sealed replies when purchase price exceeds a specified threshold.

Section 51. Paragraph (a) of subsection (3) of section 409.986, Florida Statutes, is amended to read:

409.986 Legislative findings and intent; child protection and child welfare outcomes; definitions.—

(3) DEFINITIONS.—As used in this part, except as otherwise

provided, the term:

(a) "Care" means services of any kind which are designed to facilitate a child remaining safely in his or her own home, returning safely to his or her own home if he or she is removed from the home, or obtaining an alternative permanent home if he or she cannot remain at home or be returned home. The term includes, but is not ~~be~~ limited to, prevention, diversion, and related services.

Reviser's note.—Amended to confirm the editorial deletion of the word "be."

Section 52. Paragraph (b) of subsection (4) of section 409.987, Florida Statutes, is amended to read:

409.987 Lead agency procurement.—

(4) In order to serve as a lead agency, an entity must:

(b) Be governed by a board of directors or a board committee composed of board members. The membership of the board of directors or board committee must be described in the bylaws or articles of incorporation of each lead agency, which must provide that at least 75 percent of the membership of the board of directors or board committee must consist of persons residing in this state, and at least 51 percent of the state residents on the board of directors must reside within the service area of the lead agency. However, for procurements of lead agency contracts initiated on or after July 1, 2014:

1. At least 75 percent of the membership of the board of directors must consist of persons residing in this state, and at least 51 percent of the membership of the board of directors must consist of persons residing within the service area of the lead agency. If a board committee governs the lead agency, 100

percent of its membership must consist of persons residing within the service area of the lead agency.

2. The powers of the board of directors or board committee include, but are not limited to, approving the lead agency's budget and setting the lead agency's operational policy and procedures. A board of directors must additionally have the power to hire the lead agency's executive director, unless a board committee governs the lead agency, in which case the board committee must have the power to confirm the selection of the lead agency's executive director.

Reviser's note.—Amended to confirm the editorial insertion of the word "but."

Section 53. Subsection (1) of section 430.502, Florida Statutes, is reenacted to read:

430.502 Alzheimer's disease; memory disorder clinics and day care and respite care programs.—

(1) There is established:

(a) A memory disorder clinic at each of the three medical schools in this state;

(b) A memory disorder clinic at a major private nonprofit research-oriented teaching hospital, and may fund a memory disorder clinic at any of the other affiliated teaching hospitals;

(c) A memory disorder clinic at the Mayo Clinic in Jacksonville;

(d) A memory disorder clinic at the West Florida Regional Medical Center;

(e) A memory disorder clinic operated by Health First in Brevard County;

(f) A memory disorder clinic at the Orlando Regional Healthcare System, Inc.;

(g) A memory disorder center located in a public hospital that is operated by an independent special hospital taxing district that governs multiple hospitals and is located in a county with a population greater than 800,000 persons;

(h) A memory disorder clinic at St. Mary's Medical Center in Palm Beach County;

(i) A memory disorder clinic at Tallahassee Memorial Healthcare;

(j) A memory disorder clinic at Lee Memorial Hospital created by chapter 63-1552, Laws of Florida, as amended;

(k) A memory disorder clinic at Sarasota Memorial Hospital in Sarasota County;

(l) A memory disorder clinic at Morton Plant Hospital, Clearwater, in Pinellas County; and

(m) A memory disorder clinic at Florida Atlantic University, Boca Raton, in Palm Beach County,

for the purpose of conducting research and training in a diagnostic and therapeutic setting for persons suffering from Alzheimer's disease and related memory disorders. However, memory disorder clinics funded as of June 30, 1995, shall not receive decreased funding due solely to subsequent additions of memory disorder clinics in this subsection.

Reviser's note.—Section 4, ch. 2014-163, Laws of Florida, amended paragraph (1)(e) but did not publish the flush left language at the end of the subsection. Absent affirmative evidence of legislative intent to repeal it, subsection (1)

is reenacted to confirm that the omission was not intended.

Section 54. Paragraph (a) of subsection (4) of section 456.039, Florida Statutes, is amended to read:

456.039 Designated health care professionals; information required for licensure.—

(4)(a) An applicant for initial licensure must submit a set of fingerprints to the Department of Health in accordance with s. 458.311, ~~s. 458.3115, s. 458.3124, s. 458.313,~~ s. 459.0055, s. 460.406, or s. 461.006.

Reviser's note.—Amended to facilitate correct interpretation; ss. 458.3115, 458.3124, and 458.313 do not reference the submission of fingerprints.

Section 55. Paragraphs (h) and (i) of subsection (5) of section 456.074, Florida Statutes, are amended to read:

456.074 Certain health care practitioners; immediate suspension of license.—

(5) The department shall issue an emergency order suspending the license of a massage therapist or establishment as defined in chapter 480 upon receipt of information that the massage therapist, a person with an ownership interest in the establishment, or, for a corporation that has more than $250,000 of business assets in this state, the owner, officer, or individual directly involved in the management of the establishment has been convicted or found guilty of, or has entered a plea of guilty or nolo contendere to, regardless of adjudication, a felony offense under any of the following provisions of state law or a similar provision in another jurisdiction:

(h) Former s. ~~Section~~ 796.03, relating to procuring a

person under the age of 18 for prostitution.

(i) Former s. ~~Section~~ 796.035, relating to the selling or buying of minors into prostitution.

Reviser's note.—Amended to conform to the repeal of ss. 796.03 and 796.035 by s. 10, ch. 2014-160, Laws of Florida.

Section 56. Section 479.03, Florida Statutes, is amended to read:

479.03 Jurisdiction of the Department of Transportation; entry upon privately owned lands.—The territory under the jurisdiction of the department for the purpose of this chapter includes all the state. Employees, agents, or independent contractors working for the department, in the performance of their functions and duties under the provisions of this chapter, may enter into and upon any land upon which a sign is displayed, is proposed to be erected, or is being erected and make such inspections, surveys, and removals as may be relevant. Upon written notice to the landowner, operator, or person in charge of any ~~an~~ intervening privately owned land that the removal of an illegal outdoor advertising sign is necessary and has been authorized by a final order or results from an uncontested notice to the sign owner, the department may enter upon any intervening privately owned lands for the purposes of effectuating removal of illegal signs. The department may enter intervening privately owned lands only in circumstances where it has determined that other legal or economically feasible means of entry to the sign site are not reasonably available. Except as otherwise provided by this chapter, the department is responsible for the repair or replacement in a like manner for any physical damage or destruction of private property, other

than the sign, incidental to the department's entry upon such intervening privately owned lands.

Reviser's note.—Amended to conform to context and facilitate correct interpretation.

Section 57. Subsection (16) of section 479.16, Florida Statutes, as amended by section 18 of chapter 2014-215, Laws of Florida, and section 39 of chapter 2014-223, Laws of Florida, is amended to read:

479.16 Signs for which permits are not required.—The following signs are exempt from the requirement that a permit for a sign be obtained under this chapter but are required to comply with s. 479.11(4)-(8), and the provisions of subsections (15)-(19) may not be implemented or continued if the Federal Government notifies the department that implementation or continuation will adversely affect the allocation of federal funds to the department:

(16) Signs placed by a local tourist-oriented business located within a rural area of opportunity ~~critical economic concern~~ as defined in s. 288.0656(2) which are:

(a) Not more than 8 square feet in size or more than 4 feet in height;

(b) Located only in rural areas on a facility that does not meet the definition of a limited access facility, as defined in s. 334.03;

(c) Located within 2 miles of the business location and at least 500 feet apart;

(d) Located only in two directions leading to the business; and

(e) Not located within the road right-of-way.

A business placing such signs must be at least 4 miles from any other business using this exemption and may not participate in any other directional signage program by the department.

If the exemptions in subsections (15)-(19) are not implemented or continued due to notification from the Federal Government that the allocation of federal funds to the department will be adversely impacted, the department shall provide notice to the sign owner that the sign must be removed within 30 days after receipt of the notice. If the sign is not removed within 30 days after receipt of the notice by the sign owner, the department may remove the sign, and the costs incurred in connection with the sign removal shall be assessed against and collected from the sign owner.

Reviser's note.—Amended to conform to the fact that the term "rural area of critical economic concern" was changed to "rural area of opportunity" in s. 288.0656 by s. 33, ch. 2014-218, Laws of Florida.

Section 58. Subsection (15) of section 479.16, Florida Statutes, as amended by section 11 of chapter 2014-169, Laws of Florida, is amended to read:

479.16 Signs for which permits are not required.—Signs placed on benches, transit shelters, modular news racks, street light poles, public pay telephones, and waste disposal receptacles within the right-of-way, as provided under s. 337.408, are exempt from this chapter. The following signs are exempt from the requirement that a permit be obtained under this chapter but must comply with s. 479.11(4)-(8):

(15) Signs placed by a local tourist-oriented business located within a rural area of opportunity ~~critical economic concern~~ as defined in s. 288.0656(2) which are:

(a) Not more than 8 square feet in size or not more than 4 feet in height;

(b) Located only in rural areas on a facility that does not meet the definition of a limited access facility as defined by department rule;

(c) Located within 2 miles of the business location and at least 500 feet apart;

(d) Located only in two directions leading to the business; and

(e) Not located within the road right-of-way.

A business placing such signs must be at least 4 miles from any other business using this exemption and may not participate in any other directional signage program by the department.

The exemptions in subsections (14)-(18) may not be implemented or continued if the Federal Government notifies the department that implementation or continuation will adversely impact the allocation of federal funds to the department. If the exemptions in subsections (14)-(18) are not implemented or continued due to notification from the Federal Government that the allocation of federal funds to the department will be adversely impacted, the department shall provide notice to the sign owner that the sign must be removed within 30 days. If the sign is not removed within 30 days after receipt of the notice by the sign owner, the department may remove the sign, and the costs incurred in

connection with the sign removal shall be assessed against and collected from the sign owner.

Reviser's note.—Amended to conform to the fact that the term "rural area of critical economic concern" was changed to "rural area of opportunity" in s. 288.0656 by s. 33, ch. 2014-218, Laws of Florida.

Section 59. Paragraphs (h) and (i) of subsection (7) of section 480.041, Florida Statutes, are amended to read:

480.041 Massage therapists; qualifications; licensure; endorsement.—

(7) The board shall deny an application for a new or renewal license if an applicant has been convicted or found guilty of, or enters a plea of guilty or nolo contendere to, regardless of adjudication, a felony offense under any of the following provisions of state law or a similar provision in another jurisdiction:

(h) Former s. ~~Section~~ 796.03, relating to procuring a person under the age of 18 for prostitution.

(i) Former s. ~~Section~~ 796.035, relating to the selling or buying of minors into prostitution.

Reviser's note.—Amended to conform to the repeal of ss. 796.03 and 796.035 by s. 10, ch. 2014-160, Laws of Florida.

Section 60. Paragraphs (h) and (i) of subsection (8) of section 480.043, Florida Statutes, are amended to read:

480.043 Massage establishments; requisites; licensure; inspection.—

(8) The department shall deny an application for a new or renewal license if a person with an ownership interest in the establishment or, for a corporation that has more than $250,000

of business assets in this state, the owner, officer, or individual directly involved in the management of the establishment has been convicted or found guilty of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, a felony offense under any of the following provisions of state law or a similar provision in another jurisdiction:

(h) Former s. ~~Section~~ 796.03, relating to procuring a person under the age of 18 for prostitution.

(i) Former s. ~~Section~~ 796.035, relating to selling or buying of minors into prostitution.

Reviser's note.—Amended to conform to the repeal of ss. 796.03 and 796.035 by s. 10, ch. 2014-160, Laws of Florida.

Section 61. Paragraph (a) of subsection (7) of section 482.161, Florida Statutes, is amended to read:

482.161 Disciplinary grounds and actions; reinstatement.—

(7) The department, pursuant to chapter 120, in addition to or in lieu of any other remedy provided by state or local law, may impose an administrative fine in the Class II category pursuant to s. 570.971 for a violation of this chapter or of the rules adopted pursuant to this chapter. In determining the amount of fine to be levied for a violation, the following factors shall be considered:

(a) The severity of the violation, including the probability that the death, or serious harm to the health or safety, of any person will result or has resulted; the severity of the actual or potential harm; and the extent to which this chapter or ~~of~~ the rules adopted pursuant to this chapter were violated;

Reviser's note.—Amended to confirm the editorial deletion of the word "of."

Section 62. Subsection (7) of section 487.2031, Florida Statutes, is amended to read:

487.2031 Definitions.—For the purposes of this part, the term:

(7) "Retaliatory action" means an action, such as dismissal, demotion, harassment, blacklisting with other employers, reducing pay or work hours, or taking away company housing, that is taken by any agricultural employer against a worker who exercises any right under the provisions of the United States Environmental Protection Agency Worker Protection Standard, 40 C.F.R. s. 170.7(b) ~~40 C.F.R. s. 1707(b)~~, or this part.

Reviser's note.—Amended to conform to context and facilitate correct interpretation; 40 C.F.R. s. 170.7(b) references retaliatory actions, and 40 C.F.R. s. 1707 does not exist.

Section 63. Paragraph (f) of subsection (1) of section 499.84, Florida Statutes, is amended to read:

499.84 Minimum requirements for the storage and handling of medical gases.—

(1) A facility where a medical gas is received, stored, warehoused, handled, held, offered, marketed, displayed, or transported, to avoid any negative effect on the identity, strength, quality, or purity of the medical gas, must:

(f) Be located in a commercial location and not in a personal dwelling or residence location, except for ~~that~~ a personal dwelling location used for on-call delivery of oxygen USP for home care use if the person providing on-call delivery

is employed by or acting under a written contract with an entity that holds a medical oxygen retailer permit;

Reviser's note.—Amended to confirm the editorial substitution of the word "for" for the word "that" to facilitate correct interpretation.

Section 64. Subsection (6) of section 499.91, Florida Statutes, is amended to read:

499.91 Prohibited acts.—A person may not perform or cause the performance of, or aid and abet in, any of the following acts:

(6) The knowing and willful sale or transfer of a medical gas to a recipient who is not legally authorized to receive a medical gas, except that a violation does not exist if a permitted wholesale distributor provides oxygen to a permitted medical oxygen retail establishment that is out of compliance with the notice of location change requirements of s. 499.833(3)(a) ~~499.834~~, provided that the wholesale distributor with knowledge of the violation notifies the department of the transaction by the next business day.

Reviser's note.—Amended to correct a cross-reference. Section 499.833(3)(a) references the change of location notification requirement; s. 499.834 references minimum qualifications for a permit.

Section 65. Paragraph (c) of subsection (1) of section 499.92, Florida Statutes, is amended to read:

499.92 Criminal acts.—

(1) A person commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if he or she:

(c) Knowingly engages in the wholesale distribution of, or sells, barters, brokers, or transfers, a medical gas to a person not legally authorized to purchase or receive medical gas in the jurisdiction in which the person receives the medical gas. A permitted wholesale distributor that provides oxygen to a permitted medical oxygen retail establishment that is out of compliance with only the change of location notice requirement under s. 499.833(3)(a) ~~499.834~~ does not commit a violation of this paragraph if the wholesale distributor notifies the department of the transaction no later than the next business day; or

Reviser's note.—Amended to correct a cross-reference. Section 499.833(3)(a) references the change of location notification requirement; s. 499.834 references minimum qualifications for a permit.

Section 66. Subsection (2) of section 509.032, Florida Statutes, is reenacted to read:

509.032 Duties.—

(2) INSPECTION OF PREMISES.—

(a) The division has jurisdiction and is responsible for all inspections required by this chapter. The division is responsible for quality assurance. The division shall inspect each licensed public lodging establishment at least biannually, except for transient and nontransient apartments, which shall be inspected at least annually. Each establishment licensed by the division shall be inspected at such other times as the division determines is necessary to ensure the public's health, safety, and welfare. The division shall, by no later than July 1, 2014, adopt by rule a risk-based inspection frequency for each

licensed public food service establishment. The rule must require at least one, but not more than four, routine inspections that must be performed annually, and may include guidelines that consider the inspection and compliance history of a public food service establishment, the type of food and food preparation, and the type of service. The division shall annually reassess the inspection frequency of all licensed public food service establishments. Public lodging units classified as vacation rentals or timeshare projects are not subject to this requirement but shall be made available to the division upon request. If, during the inspection of a public lodging establishment classified for renting to transient or nontransient tenants, an inspector identifies vulnerable adults who appear to be victims of neglect, as defined in s. 415.102, or, in the case of a building that is not equipped with automatic sprinkler systems, tenants or clients who may be unable to self-preserve in an emergency, the division shall convene meetings with the following agencies as appropriate to the individual situation: the Department of Health, the Department of Elderly Affairs, the area agency on aging, the local fire marshal, the landlord and affected tenants and clients, and other relevant organizations, to develop a plan that improves the prospects for safety of affected residents and, if necessary, identifies alternative living arrangements such as facilities licensed under part II of chapter 400 or under chapter 429.

(b) For purposes of performing required inspections and the enforcement of this chapter, the division has the right of entry and access to public lodging establishments and public food

service establishments at any reasonable time.

(c) Public food service establishment inspections shall be conducted to enforce provisions of this part and to educate, inform, and promote cooperation between the division and the establishment.

(d) The division shall adopt and enforce sanitation rules consistent with law to ensure the protection of the public from food-borne illness in those establishments licensed under this chapter. These rules shall provide the standards and requirements for obtaining, storing, preparing, processing, serving, or displaying food in public food service establishments, approving public food service establishment facility plans, conducting necessary public food service establishment inspections for compliance with sanitation regulations, cooperating and coordinating with the Department of Health in epidemiological investigations, and initiating enforcement actions, and for other such responsibilities deemed necessary by the division. The division may not establish by rule any regulation governing the design, construction, erection, alteration, modification, repair, or demolition of any public lodging or public food service establishment. It is the intent of the Legislature to preempt that function to the Florida Building Commission and the State Fire Marshal through adoption and maintenance of the Florida Building Code and the Florida Fire Prevention Code. The division shall provide technical assistance to the commission in updating the construction standards of the Florida Building Code which govern public lodging and public food service establishments. Further, the division shall enforce the provisions of the Florida

Building Code which apply to public lodging and public food service establishments in conducting any inspections authorized by this part. The division, or its agent, shall notify the local firesafety authority or the State Fire Marshal of any readily observable violation of a rule adopted under chapter 633 which relates to public lodging establishments or public food establishments, and the identification of such violation does not require any firesafety inspection certification.

(e)1. Relating to facility plan approvals, the division may establish, by rule, fees for conducting plan reviews and may grant variances from construction standards in hardship cases, which variances may be less restrictive than the provisions specified in this section or the rules adopted under this section. A variance may not be granted pursuant to this section until the division is satisfied that:

a. The variance shall not adversely affect the health of the public.

b. No reasonable alternative to the required construction exists.

c. The hardship was not caused intentionally by the action of the applicant.

2. The division's advisory council shall review applications for variances and recommend agency action. The division shall make arrangements to expedite emergency requests for variances, to ensure that such requests are acted upon within 30 days of receipt.

3. The division shall establish, by rule, a fee for the cost of the variance process. Such fee shall not exceed $150 for routine variance requests and $300 for emergency variance

requests.

(f) In conducting inspections of establishments licensed under this chapter, the division shall determine if each coin-operated amusement machine that is operated on the premises of a licensed establishment is properly registered with the Department of Revenue. Each month the division shall report to the Department of Revenue the sales tax registration number of the operator of any licensed establishment that has on location a coin-operated amusement machine and that does not have an identifying certificate conspicuously displayed as required by s. 212.05(1)(h).

(g) In inspecting public food service establishments, the department shall provide each inspected establishment with the food-recovery brochure developed under s. 595.420.

Reviser's note.—Section 2, ch. 2014-133, Laws of Florida, amended paragraph (2)(a) but inadvertently failed to incorporate the amendment made to the paragraph by s. 1, ch. 2013-147, Laws of Florida, which became effective on July 1, 2014. Since there was no intent to set aside the amendment by s. 1, ch. 2013-147, subsection (2) is reenacted to confirm that the omission was not intended.

Section 67. Subsection (5) of section 514.0115, Florida Statutes, is amended to read:

514.0115 Exemptions from supervision or regulation; variances.—

(5) The department may grant variances from any rule adopted under this chapter pursuant to procedures adopted by department rule. The department may also grant, pursuant to procedures adopted by department rule, variances from the

provisions of the Florida Building Code specifically pertaining to public swimming pools and bathing places when requested by the pool owner or the pool owner's ~~their~~ representative to relieve hardship in cases involving deviations from the Florida Building Code provisions, when it is shown that the hardship was not caused intentionally by the action of the applicant, where no reasonable alternative exists, and the health and safety of the pool patrons is not at risk.

Reviser's note.—Amended to conform to the immediately preceding context.

Section 68. Paragraph (h) of subsection (2) of section 538.03, Florida Statutes, is amended to read:

538.03 Definitions; applicability.—

(2) This chapter does not apply to:

(h) Any person who sells household personal property as an agent for the property owner or the property owner's ~~their~~ representative pursuant to a written agreement at that person's residence.

Reviser's note.—Amended to conform to the immediately preceding context.

Section 69. Subsection (8) of section 539.001, Florida Statutes, is reenacted to read:

539.001 The Florida Pawnbroking Act.—

(8) PAWNBROKER TRANSACTION FORM.—

(a) At the time the pawnbroker enters into any pawn or purchase transaction, the pawnbroker shall complete a pawnbroker transaction form for such transaction, including an indication of whether the transaction is a pawn or a purchase, and the pledgor or seller shall sign such completed form. The agency

must approve the design and format of the pawnbroker transaction form, which must be 8 1/2 inches x 11 inches in size and elicit the information required under this section. In completing the pawnbroker transaction form, the pawnbroker shall record the following information, which must be typed or written indelibly and legibly in English.

(b) The front of the pawnbroker transaction form must include:

1. The name and address of the pawnshop.

2. A complete and accurate description of the pledged goods or purchased goods, including the following information, if applicable:

a. Brand name.

b. Model number.

c. Manufacturer's serial number.

d. Size.

e. Color, as apparent to the untrained eye.

f. Precious metal type, weight, and content, if known.

g. Gemstone description, including the number of stones.

h. In the case of firearms, the type of action, caliber or gauge, number of barrels, barrel length, and finish.

i. Any other unique identifying marks, numbers, names, or letters.

Notwithstanding sub-subparagraphs a.-i., in the case of multiple items of a similar nature delivered together in one transaction which do not bear serial or model numbers and which do not include precious metal or gemstones, such as musical or video recordings, books, and hand tools, the description of the items

is adequate if it contains the quantity of items and a description of the type of items delivered.

3. The name, address, home telephone number, place of employment, date of birth, physical description, and right thumbprint of the pledgor or seller.

4. The date and time of the transaction.

5. The type of identification accepted from the pledgor or seller, including the issuing agency and the identification number.

6. In the case of a pawn:

a. The amount of money advanced, which must be designated as the amount financed;

b. The maturity date of the pawn, which must be 30 days after the date of the pawn;

c. The default date of the pawn and the amount due on the default date;

d. The total pawn service charge payable on the maturity date, which must be designated as the finance charge;

e. The amount financed plus the finance charge that must be paid to redeem the pledged goods on the maturity date, which must be designated as the total of payments;

f. The annual percentage rate, computed according to the regulations adopted by the Federal Reserve Board under the federal Truth in Lending Act; and

g. The front or back of the pawnbroker transaction form must include a statement that:

(I) Any personal property pledged to a pawnbroker within this state which is not redeemed within 30 days following the maturity date of the pawn, if the 30th day is not a business

day, then the following business day, is automatically forfeited to the pawnbroker, and absolute right, title, and interest in and to the property vests in and is deemed conveyed to the pawnbroker by operation of law, and no further notice is necessary;

(II) The pledgor is not obligated to redeem the pledged goods; and

(III) If the pawnbroker transaction form is lost, destroyed, or stolen, the pledgor must immediately advise the issuing pawnbroker in writing by certified or registered mail, return receipt requested, or in person evidenced by a signed receipt.

(IV) A pawn may be extended upon mutual agreement of the parties.

7. In the case of a purchase, the amount of money paid for the goods or the monetary value assigned to the goods in connection with the transaction.

8. A statement that the pledgor or seller of the item represents and warrants that it is not stolen, that it has no liens or encumbrances against it, and that the pledgor or seller is the rightful owner of the goods and has the right to enter into the transaction. Any person who knowingly gives false verification of ownership or gives a false or altered identification and who receives money from a pawnbroker for goods sold or pledged commits:

a. If the value of the money received is less than $300, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

b. If the value of the money received is $300 or more, a

felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) A pawnbroker transaction form must provide a space for the imprint of the right thumbprint of the pledgor or seller and a blank line for the signature of the pledgor or seller.

(d) At the time of the pawn or purchase transaction, the pawnbroker shall deliver to the pledgor or seller an exact copy of the completed pawnbroker transaction form.

Reviser's note.—Section 17, ch. 2014-147, Laws of Florida, purported to amend paragraphs (4)(a), (7)(b) and (d), and (8)(b) but did not publish paragraph (8)(b). Absent affirmative evidence of legislative intent to repeal it, subsection (8) is reenacted to confirm that the omission was not intended.

Section 70. Subsection (43) of section 570.07, Florida Statutes, is amended to read:

570.07 Department of Agriculture and Consumer Services; functions, powers, and duties.—The department shall have and exercise the following functions, powers, and duties:

(43) In cooperation with the Institute of Food and Agricultural Sciences at the University of Florida and the College of Agriculture and Food Sciences at the Florida Agricultural and Mechanical University, to annually provide to the State Board of Education and the Department of Education information and industry certifications for farm occupations to be considered for placement on the CAPE Industry Certification Funding List and the CAPE Postsecondary Industry Certification Funding List pursuant to s. 1008.44. Information and industry certifications provided by the department must be based upon the

best available data.

Reviser's note.—Amended to insert the word "CAPE" to conform to the complete names of the funding lists in s. 1008.44 as amended by s. 12, ch. 2014-184, Laws of Florida.

Section 71. Subsection (2) of section 570.482, Florida Statutes, is amended to read:

570.482 Citrus Inspection Trust Fund.—

(2) Funds to be credited to and uses of the trust fund shall be administered in accordance with ss. ~~570.481,~~ 573.118, 581.091, 601.28, 601.281, ~~and~~ 601.59, and 603.011.

Reviser's note.—Amended to conform to the redesignation of s. 570.481 as s. 603.011 by s. 90, ch. 2014-150, Laws of Florida.

Section 72. Paragraph (c) of subsection (1) of section 597.020, Florida Statutes, is amended to read:

597.020 Shellfish processors; regulation.—

(1) The department may:

(c) License or certify, for a fee determined by rule, facilities used for processing oysters, clams, mussels, scallops, and crabs, and may levy an administrative fine in the Class I category pursuant to s. 570.971 for each violation, for each day the violation exists, or ~~to~~ suspend or revoke such licenses or certificates upon satisfactory evidence of a violation of rules adopted pursuant to this section, and ~~to~~ seize and destroy any adulterated or misbranded shellfish products as defined by rule.

Reviser's note.—Amended to confirm the editorial deletions of the word "to" to improve clarity.

Section 73. Subsection (3) of section 605.0712, Florida

Statutes, is amended to read:

605.0712 Other claims against a dissolved limited liability company.—

(3) A claim that is not barred by this section, s. 605.0711 ~~608.0711~~, or another statute limiting actions, may be enforced:

(a) Against a dissolved limited liability company, to the extent of its undistributed assets; and

(b) Except as otherwise provided in s. 605.0713, if assets of the limited liability company have been distributed after dissolution, against a member or transferee to the extent of that person's proportionate share of the claim or of the company's assets distributed to the member or transferee after dissolution, whichever is less, but a person's total liability for all claims under this subsection may not exceed the total amount of assets distributed to the person after dissolution.

Reviser's note.—Amended to correct an apparent error and conform to the fact that chapter 608, the Florida Limited Liability Company Act, repealed by s. 5, ch. 2013-180, Laws of Florida, did not contain a s. 608.0711. Section 2, ch. 2013-180, created the Florida Revised Limited Liability Company Act; s. 605.0711 contains language relating to barred claims.

Section 74. Subsection (2) of section 605.0805, Florida Statutes, is amended to read:

605.0805 Proceeds and expenses.—

(2) If a derivative action under s. 605.0802 ~~608.0802~~ is successful in whole or in part, the court may award the plaintiff reasonable expenses, including reasonable attorney fees and costs, from the recovery of the limited liability

company.

Reviser's note.—Amended to correct an apparent error and conform to the fact that chapter 608, the Florida Limited Liability Company Act, repealed by s. 5, ch. 2013-180, Laws of Florida, did not contain a s. 608.0802. Section 2, ch. 2013-180, created the Florida Revised Limited Liability Company Act; s. 605.0802 contains language relating to derivative actions.

Section 75. Paragraph (e) of subsection (1) of section 624.523, Florida Statutes, is amended to read:

624.523 Insurance Regulatory Trust Fund.—

(1) There is created in the State Treasury a trust fund designated "Insurance Regulatory Trust Fund" to which shall be credited all payments received on account of the following items:

(e) All payments received on account of items provided for under respective provisions of s. 624.501, as follows:

1. Subsection (1) (certificate of authority of insurer).

2. Subsection (2) (charter documents of insurer).

3. Subsection (3) (annual license tax of insurer).

4. Subsection (4) (annual statement of insurer).

5. Subsection (5) (application fee for insurance representatives).

6. The "appointment fee" portion of any appointment provided for under paragraphs (6)(a) and (b) (insurance representatives, property, marine, casualty and surety insurance, and agents).

7. Paragraph (6)(c) (nonresident agents).

8. Paragraph (6)(d) (service representatives).

9. The "appointment fee" portion of any appointment provided for under paragraph (7)(a) (life insurance agents, original appointment, and renewal or continuation of appointment).

10. Paragraph (7)(b) (nonresident agent license).

11. The "appointment fee" portion of any appointment provided for under paragraph (8)(a) (health insurance agents, agent's appointment, and renewal or continuation fee).

12. Paragraph (8)(b) (nonresident agent appointment).

13. The "appointment fee" portion of any appointment provided for under subsections (9) and (10) (limited licenses and fraternal benefit society agents).

~~14. Subsection (11) (vending machines).~~

14.~~15.~~ Subsection (11) ~~(12)~~ (surplus lines agent).

15.~~16.~~ Subsection (12) ~~(13)~~ (adjusters' appointment).

16.~~17.~~ Subsection (13) ~~(14)~~ (examination fee).

17.~~18.~~ Subsection (14) ~~(15)~~ (temporary license and appointment as agent or adjuster).

18.~~19.~~ Subsection (15) ~~(16)~~ (reissuance, reinstatement, etc.).

19.~~20.~~ Subsection (16) ~~(17)~~ (additional license continuation fees).

20.~~21.~~ Subsection (17) ~~(18)~~ (filing application for permit to form insurer).

21.~~22.~~ Subsection (18) ~~(19)~~ (license fee of rating organization).

22.~~23.~~ Subsection (19) ~~(20)~~ (miscellaneous services).

23.~~24.~~ Subsection (20) ~~(21)~~ (insurance agencies).

Reviser's note.—Amended to conform to the repeal of s.

624.501(11) by s. 2, ch. 2001-142, Laws of Florida.

Section 76. Paragraph (g) of subsection (5) of section 625.1212, Florida Statutes, is amended to read:

625.1212 Valuation of policies and contracts issued on or after the operative date of the valuation manual.—

(5) MINIMUM STANDARD OF VALUATION.—

(g) An insurer that adopted a standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard provided under this section may, with the approval of the office, adopt a lower standard of valuation, but such standard may not be lower than the minimum provided in this subsection. For purposes of this subsection, holding additional reserves previously determined by an appointed actuary to be necessary to render the opinion required by subsection (4) ~~(3)~~ may not be deemed to be the adoption of a higher standard of valuation.

Reviser's note.—Amended to correct an apparent error and facilitate correct interpretation. The requirement that each insurer must annually submit the opinion of a qualified actuary is found in subsection (4). Subsection (3) contains information on reserve valuations.

Section 77. Subsection (3) of section 626.0428, Florida Statutes, is amended to read:

626.0428 Agency personnel powers, duties, and limitations.—

(3) An employee or an authorized representative located at a designated branch of an agent or agency may not initiate contact with any person for the purpose of soliciting insurance unless licensed and appointed as an agent or customer representative. As to title insurance, an employee of an agent

or agency may not initiate contact with any individual proposed insured for the purpose of soliciting title insurance unless licensed as a title insurance agent or exempt from such licensure pursuant to s. 626.8417(4) and (5).

Reviser's note.—Amended to conform to the redesignation of s. 626.8417(4), which contained paragraphs (a), (b), and (c), as s. 626.8417(4), (5), and (6), respectively, by s. 7, ch. 2014-112, Laws of Florida, and to conform to context. Former paragraphs (4)(a) and (b), now subsections (4) and (5), contained exemptions; paragraph (4)(c), now subsection (6), did not.

Section 78. Paragraph (d) of subsection (3) of section 627.062, Florida Statutes, is amended to read:

627.062 Rate standards.—

(3)

(d)1. The following categories or kinds of insurance and types of commercial lines risks are not subject to paragraph (2)(a) or paragraph (2)(f):

a. Excess or umbrella.

b. Surety and fidelity.

c. Boiler and machinery and leakage and fire extinguishing equipment.

d. Errors and omissions.

e. Directors and officers, employment practices, fiduciary liability, and management liability.

f. Intellectual property and patent infringement liability.

g. Advertising injury and Internet liability insurance.

h. Property risks rated under a highly protected risks rating plan.

i. General liability.

j. Nonresidential property, except for collateral protection insurance as defined in s. 624.6085.

k. Nonresidential multiperil.

l. Excess property.

m. Burglary and theft.

n. Medical malpractice for a facility that is not a hospital licensed under chapter 395, a nursing home licensed under part II of chapter 400, or an assisted living facility licensed under part I of chapter 429.

o. Medical malpractice for a health care practitioner who is not a dentist licensed under chapter 466, a physician licensed under chapter 458, an osteopathic physician licensed under chapter 459, a chiropractic physician licensed under chapter 460, a podiatric physician licensed under chapter 461, a pharmacist licensed under chapter 465, or a pharmacy technician registered under chapter 465.

p. Any other commercial lines categories or kinds of insurance or types of commercial lines risks that the office determines should not be subject to paragraph (2)(a) or paragraph (2)(f) because of the existence of a competitive market for such insurance or~~,~~ similarity of such insurance to other categories or kinds of insurance not subject to paragraph (2)(a) or paragraph (2)(f), or to improve the general operational efficiency of the office.

2. Insurers or rating organizations shall establish and use rates, rating schedules, or rating manuals to allow the insurer a reasonable rate of return on insurance and risks described in subparagraph 1. which are written in this state.

3. An insurer shall notify the office of any changes to rates for insurance and risks described in subparagraph 1. within 30 days after the effective date of the change. The notice must include the name of the insurer, the type or kind of insurance subject to rate change, and the average statewide percentage change in rates. Actuarial data with regard to rates for such risks must be maintained by the insurer for 2 years after the effective date of changes to those rates and are subject to examination by the office. The office may require the insurer to incur the costs associated with an examination. Upon examination, the office, in accordance with generally accepted and reasonable actuarial techniques, shall consider the rate factors in paragraphs (2)(b), (c), and (d) and the standards in paragraph (2)(e) to determine if the rate is excessive, inadequate, or unfairly discriminatory.

4. A rating organization shall notify the office of any changes to loss cost for insurance and risks described in subparagraph 1. within 30 days after the effective date of the change. The notice must include the name of the rating organization, the type or kind of insurance subject to a loss cost change, loss costs during the immediately preceding year for the type or kind of insurance subject to the loss cost change, and the average statewide percentage change in loss cost. Actuarial data with regard to changes to loss cost for risks not subject to paragraph (2)(a) or paragraph (2)(f) must be maintained by the rating organization for 2 years after the effective date of the change and are subject to examination by the office. The office may require the rating organization to incur the costs associated with an examination. Upon

examination, the office, in accordance with generally accepted and reasonable actuarial techniques, shall consider the rate factors in paragraphs (2)(b)-(d) and the standards in paragraph (2)(e) to determine if the rate is excessive, inadequate, or unfairly discriminatory.

Reviser's note.—Amended to improve clarity.

Section 79. Paragraph (e) of subsection (4) of section 627.745, Florida Statutes, is amended to read:

627.745 Mediation of claims.—

(4) The department shall deny an application, or suspend or revoke its approval, of a mediator to serve in such capacity if the department finds that one or more of the following grounds exist:

(e) Violation of any provision of this code or of a lawful order or rule of the department, violation of the Florida Rules for ~~of~~ Certified and Court-Appointed Mediators, or aiding, instructing, or encouraging another party in committing such a violation.

The department may adopt rules to administer this subsection.

Reviser's note.—Amended to confirm the editorial substitution of the word "for" for the word "of" to conform to the correct name of the Florida Rules for Certified and Court-Appointed Mediators.

Section 80. Subsection (1) of section 627.797, Florida Statutes, is amended to read:

627.797 Exempt agent list.—

(1) Every insurer shall file with the department a list containing the name and address of each appointed agent who is

exempt from licensure under s. 626.8417(4) and (5) and who issues or countersigns binders, commitments, title insurance policies, or guarantees of title.

Reviser's note.—Amended to conform to the redesignation of s. 626.8417(4), which contained paragraphs (a), (b), and (c), as s. 626.8417(4), (5), and (6), respectively, by s. 7, ch. 2014-112, Laws of Florida, and to conform to context. Former paragraphs (4)(a) and (b), now subsections (4) and (5), contained exemptions; paragraph (4)(c), now subsection (6), did not.

Section 81. Effective October 1, 2015, paragraph (c) of subsection (10) of section 662.121, Florida Statutes, is amended to read:

662.121 Application for licensed family trust company; fees.—An applicant seeking to operate as a licensed family trust company must file an application with the office on forms prescribed by the office, accompanied by a nonrefundable $10,000 application fee to be deposited into the Financial Institutions' Regulatory Trust Fund pursuant to s. 655.049 for the purpose of administering this chapter. The application must contain or be accompanied by:

(10) A statement signed by the applicant, or by the individual signing on behalf of the proposed licensed family trust company, under penalty of perjury, affirming that the following statements are true:

(c) No director, officer, manager, or member acting in a managerial capacity has been convicted of, or pled guilty or nolo contendere, regardless of whether adjudication of guilt is entered by the court, to a violation of the financial

institutions codes, including s. 655.50, chapter 896, or similar state or federal law or related rule, or to a crime involving fraud, misrepresentation, or moral turpitude.

Reviser's note.—Amended to confirm the editorial insertion of the word "or."

Section 82. Effective October 1, 2015, subsection (3) of section 662.122, Florida Statutes, is amended to read:

662.122 Registration of a family trust company or a foreign licensed family trust company.—

(3) The registration application required under this section for a family trust company or ~~and~~ a foreign licensed family trust company must be accompanied by a nonrefundable registration fee of $5,000.

Reviser's note.—Amended to conform to context and facilitate correct interpretation.

Section 83. Effective October 1, 2015, subsection (1) of section 662.1225, Florida Statutes, is amended to read:

662.1225 Requirements for a family trust company, licensed family trust company, or ~~and~~ foreign licensed family trust company.—

(1) A family trust company or ~~and~~ a licensed family trust company shall maintain:

(a) A principal office physically located in this state where original or true copies of all records and accounts of the family trust company or licensed family trust company may be accessed and made readily available for examination by the office in accordance with this chapter. A family trust company or licensed family trust company may also maintain one or more branch offices within or outside of this state.

(b) A registered agent who has an office in this state at the street address of the registered agent.

(c) All applicable state and local business licenses, charters, and permits.

(d) A deposit account with a state-chartered or national financial institution that has a principal or branch office in this state.

Reviser's note.—Amended to conform to context and facilitate correct interpretation.

Section 84. Effective October 1, 2015, subsection (1) of section 662.130, Florida Statutes, is amended to read:

662.130 Powers of family trust companies, licensed family trust companies, and foreign licensed family trust companies.—

(1) A family trust company or ~~and~~ a licensed family trust company may, for its eligible members and individuals:

(a) Act as a sole or copersonal representative, executor, or curator for probate estates being administered in a state or jurisdiction other than this state.

(b) Act as an attorney in fact or agent under a power of attorney, other than a power of attorney governed by chapter 709.

(c) Except as provided in s. 662.131, act within or outside this state as a sole fiduciary or cofiduciary, including acting as a trustee, advisory agent, assignee, assignee for the benefit of creditors, authenticating agent, bailee, bond or indenture trustee, conservator, conversion agent, custodian, escrow agent, fiscal or paying agent, financial advisor, guardian, investment advisor or manager, managing agent, purchase agent, receiver, registrar, safekeeping or subscription agent, transfer agent,

except for public companies, warrant agent, or similar capacities generally performed by corporate trustees, and in so acting possess, purchase, sell, invest, reinvest, safekeep, or otherwise manage or administer the real or personal property of eligible members and individuals.

(d) Exercise the powers of a corporation or limited liability company incorporated or organized under the laws of this state, or qualified to transact business as a foreign corporation or limited liability company under the laws of this state, which are reasonably necessary to enable it to fully exercise, in accordance with commonly accepted customs and usages, a power conferred under this chapter.

(e) Delegate duties and powers, including investment functions under s. 518.112, in accordance with the powers granted to a trustee under chapter 736 or other applicable law, and retain agents, attorneys, accountants, investment advisers, or other individuals or entities to advise or assist the family trust company, licensed family trust company, or foreign licensed family trust company in the exercise of its powers and duties under this chapter and chapter 736. Such exercise of power may include, but is not limited to, retaining a bank trust department, or a public trust company, other than another family trust company, licensed family trust company, or foreign licensed family trust company.

(f) Perform all acts necessary for exercising the powers enumerated in this section or authorized by this chapter and other applicable laws of this state.

Reviser's note.—Amended to conform to context and facilitate correct interpretation.

Section 85. Effective October 1, 2015, subsection (1) of section 662.141, Florida Statutes, is amended to read:

662.141 Examination, investigations, and fees.—The office may conduct an examination or investigation of a family trust company, licensed family trust company, or foreign licensed family trust company at any time it deems necessary to determine whether a family trust company, licensed family trust company, foreign licensed family trust company, or family trust company-affiliated person has violated or is about to violate any provision of this chapter or rules adopted by the commission pursuant to this chapter, or any applicable provision of the financial institution codes or rules adopted by the commission pursuant to such codes.

(1) The office shall conduct an examination of a licensed family trust company, family trust company, or ~~and~~ foreign licensed family trust company at least once every 18 months.

Reviser's note.—Amended to conform to context and facilitate correct interpretation.

Section 86. Effective October 1, 2015, subsection (1) of section 662.146, Florida Statutes, is amended to read:

662.146 Confidentiality of books and records.—

(1) The books and records of a family trust company, licensed family trust company, or ~~and~~ foreign licensed family trust company are confidential and shall be made available for inspection and examination only:

(a) To the office or its authorized representative;

(b) To any person authorized to act for the company;

(c) As compelled by a court, pursuant to a subpoena issued pursuant to the Florida Rules of Civil Procedure, the Florida

Rules of Criminal Procedure, or the Federal Rules of Civil Procedure or pursuant to a subpoena issued in accordance with state or federal law. Before the production of the books and records of a family trust company, licensed family trust company, or foreign licensed family trust company, the party seeking production must reimburse the company for the reasonable costs and fees incurred in compliance with the production. If the parties disagree regarding the amount of reimbursement, the party seeking the records may request the court having jurisdiction to set the amount of reimbursement;

(d) Pursuant to a subpoena, to any federal or state law enforcement or prosecutorial instrumentality authorized to investigate suspected criminal activity;

(e) As authorized by the board of directors, if in corporate form, or the managers, if in limited liability company form; or

(f) As provided in subsection (2).

Reviser's note.—Amended to conform to context and facilitate correct interpretation.

Section 87. Effective October 1, 2015, subsection (1) of section 662.147, Florida Statutes, is amended to read:

662.147 Records relating to the office examination; limited restrictions on public access.—

(1) A family trust company, licensed family trust company, or ~~and~~ foreign licensed family trust company shall keep at the office it is required to maintain pursuant to s. 662.1225 full and complete records of the names and residences of all the shareholders or members of the trust company and the number of shares or membership units held by each, as applicable, as well

as the ownership percentage of each shareholder or member, as the case may be. The records are subject to the inspection of all the shareholders or members of the trust company, and the officers authorized to assess taxes under state authority, during the normal business hours of the trust company. A current list of shareholders or members shall be made available to the office's examiners for their inspection and, upon the request of the office, shall be submitted to the office.

Reviser's note.—Amended to conform to context and facilitate correct interpretation.

Section 88. Subsection (1) of section 680.528, Florida Statutes, is amended to read:

680.528 Lessor's damages for nonacceptance or repudiation.—

(1) Except as otherwise provided with respect to damages liquidated in the lease agreement (s. 680.504) or otherwise determined pursuant to agreement of the parties (ss. 671.102(2) and 680.503 ~~580.503~~), if a lessor elects to retain the goods or a lessor elects to dispose of the goods and the disposition is by lease agreement that for any reason does not qualify for treatment under s. 680.527(2), or is by sale or otherwise, the lessor may recover from the lessee as damages a default of the type described in s. 680.523(1) or (3)(a), or if agreed, for other default of the lessee:

(a) Accrued and unpaid rent as of the date of default if the lessee has never taken possession of the goods, or, if the lessee has taken possession of the goods, as of the date the lessor repossesses the goods or an earlier date on which the lessee makes a tender of the goods to the lessor.

(b) The present value as of the date determined under

paragraph (a) of the total rent for the then remaining lease term of the original lease agreement minus the present value as of the same date of the market rent at the place where the goods were located on that date computed for the same lease term.

(c) Any incidental damages allowed under s. 680.53, less expenses saved in consequence of the lessee's default.

Reviser's note.—Amended to correct an erroneous reference.

Section 580.503 does not exist; s. 680.503 relates to modification or impairment of rights and remedies relating to lease agreements.

Section 89. Subsection (6) of section 718.116, Florida Statutes, is reenacted to read:

718.116 Assessments; liability; lien and priority; interest; collection.—

(6)(a) The association may bring an action in its name to foreclose a lien for assessments in the manner a mortgage of real property is foreclosed and may also bring an action to recover a money judgment for the unpaid assessments without waiving any claim of lien. The association is entitled to recover its reasonable attorney's fees incurred in either a lien foreclosure action or an action to recover a money judgment for unpaid assessments.

(b) No foreclosure judgment may be entered until at least 30 days after the association gives written notice to the unit owner of its intention to foreclose its lien to collect the unpaid assessments. The notice must be in substantially the following form:

DELINQUENT ASSESSMENT

This letter is to inform you a Claim of Lien has been filed against your property because you have not paid the ...(type of assessment)... assessment to ...(name of association).... The association intends to foreclose the lien and collect the unpaid amount within 30 days of this letter being provided to you.

You owe the interest accruing from ...(month/year)... to the present. As of the date of this letter, the total amount due with interest is $..... All costs of any action and interest from this day forward will also be charged to your account.

Any questions concerning this matter should be directed to ...(insert name, addresses, and telephone numbers of association representative)....

If this notice is not given at least 30 days before the foreclosure action is filed, and if the unpaid assessments, including those coming due after the claim of lien is recorded, are paid before the entry of a final judgment of foreclosure, the association shall not recover attorney's fees or costs. The notice must be given by delivery of a copy of it to the unit owner or by certified or registered mail, return receipt requested, addressed to the unit owner at his or her last known address; and, upon such mailing, the notice shall be deemed to have been given, and the court shall proceed with the foreclosure action and may award attorney's fees and costs as

permitted by law. The notice requirements of this subsection are satisfied if the unit owner records a notice of contest of lien as provided in subsection (5). The notice requirements of this subsection do not apply if an action to foreclose a mortgage on the condominium unit is pending before any court; if the rights of the association would be affected by such foreclosure; and if actual, constructive, or substitute service of process has been made on the unit owner.

(c) If the unit owner remains in possession of the unit after a foreclosure judgment has been entered, the court, in its discretion, may require the unit owner to pay a reasonable rental for the unit. If the unit is rented or leased during the pendency of the foreclosure action, the association is entitled to the appointment of a receiver to collect the rent. The expenses of the receiver shall be paid by the party which does not prevail in the foreclosure action.

(d) The association has the power to purchase the condominium parcel at the foreclosure sale and to hold, lease, mortgage, or convey it.

Reviser's note.—Section 3, ch. 2014-146, Laws of Florida, purported to amend subsection (6) but did not publish paragraphs (c) and (d). Absent affirmative evidence of legislative intent to repeal them, subsection (6) is reenacted to confirm that the omission was not intended.

Section 90. Subsection (4) of section 721.13, Florida Statutes, is amended to read:

721.13 Management.—

(4) The managing entity shall maintain among its records and provide to the division upon request a complete list of the

names and addresses of all purchasers and owners of timeshare units in the timeshare plan. The managing entity shall update this list no less frequently than quarterly. Pursuant to paragraph (3)(d), the managing entity may not publish this owner's list or provide a copy of it to any purchaser or to any third party other than the division. However, the managing entity shall mail to those persons listed on the owner's list materials provided by any purchaser, upon the written request of that purchaser, if the purpose of the mailing is to advance legitimate owners' association business, such as a proxy solicitation for any purpose, including the recall of one or more board members elected by the owners or the discharge of the manager or management firm. The use of any proxies solicited in this manner must comply with the provisions of the timeshare instrument and this chapter. A mailing requested for the purpose of advancing legitimate owners' association business shall occur within 30 days after receipt of a request from a purchaser. The board of administration of the owners' association shall be responsible for determining the appropriateness of any mailing requested pursuant to this subsection. The purchaser who requests the mailing must reimburse the owners' association in advance for the owners' association's actual costs in performing the mailing. It shall be a violation of this chapter and, if applicable, of part VIII of chapter 468, for the board of administration or the manager or management firm to refuse to mail any material requested by the purchaser to be mailed, provided the sole purpose of the materials is to advance legitimate owners' association business. If the purpose of the mailing is a proxy solicitation to recall one or more board

members elected by the owners or to discharge the manager or management firm and the managing entity does not mail the materials within 30 days after receipt of a request from a purchaser, the circuit court in the county where the timeshare plan is located may, upon application from the requesting purchaser, summarily order the mailing of the materials solely related to the recall of one or more board members elected by the owners or the discharge of the manager or management firm. The court shall dispose of an application on an expedited basis. In the event of such an order, the court may order the managing entity to pay the purchaser's costs, including attorney's fees reasonably incurred to enforce the purchaser's rights, unless the managing entity can prove it refused the mailing in good faith because of a reasonable basis for doubt about the legitimacy of the mailing.

Reviser's note.—Amended to correct an apparent error and facilitate correct interpretation. This section was amended by s. 20 of Committee Substitute for Committee Substitute for House Bill 593, which became ch. 2000-302, Laws of Florida. Committee Substitute for Senate Bill 908, a similar bill that did not pass during the 2000 Regular Session, also amended this section. Both bills struck the phrase "initiate a mailing" after the word "shall," but only Committee Substitute for Senate Bill 908 added the word "mail" to replace the phrase. That change was not carried over to Committee Substitute for Committee Substitute for House Bill 593, which became ch. 2000-302.

Section 91. Paragraph (b) of subsection (1) and subsection (2) of section 775.0862, Florida Statutes, are amended to read:

775.0862 Sexual offenses against students by authority figures; reclassification.—

(1) As used in this section, the term:

(b) "School" has the same meaning as provided in s. 1003.01 and includes a private school as defined in s. 1002.01, a voluntary prekindergarten education program as described in s. 1002.53(3), early learning programs, a public school as described in s. 402.3025(1), the Florida School for the Deaf and the Blind, and the Florida Virtual School established under s. 1002.37~~, and a K-8 Virtual School established under s. 1002.415~~. The term does not include facilities dedicated exclusively to the education of adults.

(2) The felony degree of a violation of an offense listed in s. 943.0435(1)(a)1.a., unless the offense is a violation of s. 794.011(4)(e)7. ~~794.011(4)(g)~~ or s. 810.145(8)(a)2., shall be reclassified as provided in this section if the offense is committed by an authority figure of a school against a student of the school.

Reviser's note.—Paragraph (1)(b) is amended to conform to the repeal of s. 1002.415 by s. 29, ch. 2014-39, Laws of Florida. Subsection (2) is amended to conform to the redesignation of s. 794.011(4)(g) as s. 794.011(4)(e)7. by s. 3, ch. 2014-4, Laws of Florida.

Section 92. Paragraph (d) of subsection (10) of section 775.21, Florida Statutes, is amended to read:

775.21 The Florida Sexual Predators Act.—

(10) PENALTIES.—

(d) A sexual predator who commits any act or omission in violation of this section may be prosecuted for the act or

omission in the county in which the act or omission was committed, in the county of the last registered address of the sexual predator, in the county in which the conviction occurred for the offense or offenses that meet the criteria for designating a person as a sexual predator, in the county where the sexual predator was released from incarceration, or in the county of the intended address of the sexual predator as reported by the predator prior to his or her release from incarceration. In addition, a sexual predator may be prosecuted for any such act or omission in the county in which he or she was designated a sexual predator.

Reviser's note.—Amended to conform to context.

Section 93. Section 775.25, Florida Statutes, is amended to read:

775.25 Prosecutions for acts or omissions.—A sexual predator or sexual offender who commits any act or omission in violation of s. 775.21, s. 943.0435, s. 944.605, s. 944.606, s. 944.607, or former s. 947.177 may be prosecuted for the act or omission in the county in which the act or omission was committed, in the county of the last registered address of the sexual predator or sexual offender, in the county in which the conviction occurred for the offense or offenses that meet the criteria for designating a person as a sexual predator or sexual offender, in the county where the sexual predator or sexual offender was released from incarceration, or in the county of the intended address of the sexual predator or sexual offender as reported by the predator or offender prior to his or her release from incarceration. In addition, a sexual predator may be prosecuted for any such act or omission in the county in

which he or she was designated a sexual predator.

Reviser's note.—Amended to conform to context.

Section 94. Subsection (1) of section 784.078, Florida Statutes, is amended to read:

784.078 Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.—

(1) As used in this section, the term "facility" means a state correctional institution defined in s. 944.02(8) ~~944.02(6)~~; a private correctional facility defined in s. 944.710 or under chapter 957; a county, municipal, or regional jail or other detention facility of local government under chapter 950 or chapter 951; or a secure facility operated and maintained by the Department of Corrections or the Department of Juvenile Justice.

Reviser's note.—Amended to correct an erroneous reference.

Section 944.02(8) defines "state correctional institution;" s. 944.02(6) defines "prisoner."

Section 95. Paragraph (a) of subsection (3) of section 787.02, Florida Statutes, is amended to read:

787.02 False imprisonment; false imprisonment of child under age 13, aggravating circumstances.—

(3)(a) A person who commits the offense of false imprisonment upon a child under the age of 13 and who, in the course of committing the offense, commits any offense enumerated in subparagraphs 1.-5., commits a felony of the first degree, punishable by imprisonment for a term of years not exceeding life or as provided in s. 775.082, s. 775.083, or s. 775.084.

1. Aggravated child abuse, as defined in s. 827.03;

2. Sexual battery, as defined in chapter 794, against the

child;

3. Lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct, or lewd or lascivious exhibition, in violation of s. 800.04 or s. 847.0135(5);

4. A violation of former s. 796.03 or s. 796.04, relating to prostitution, upon the child;

5. Exploitation of the child or allowing the child to be exploited, in violation of s. 450.151; or

6. A violation of s. 787.06(3)(g) ~~878.06(3)(g)~~ relating to human trafficking.

Reviser's note.—Amended to correct an apparent typographical error and conform to context. Section 20, ch. 2014-160, Laws of Florida, added subparagraph 6. with the cross-reference to s. 878.06(3)(g); s. 878.06 does not exist. Section 19, ch. 2014-160, amended s. 787.01(3)(a) to add a subparagraph 6., with similar language and context as subparagraph 6. in this section, relating to human trafficking with a cross-reference to s. 787.06(3)(g); s. 787.06 relates to human trafficking.

Section 96. Paragraph (g) of subsection (3) of section 787.06, Florida Statutes, is amended to read:

787.06 Human trafficking.—

(3) Any person who knowingly, or in reckless disregard of the facts, engages in human trafficking, or attempts to engage in human trafficking, or benefits financially by receiving anything of value from participation in a venture that has subjected a person to human trafficking:

(g) For commercial sexual activity in which any child under the age of 18, or in which any person who is mentally defective

or mentally incapacitated as those terms are defined in s. 794.011(1), is involved commits a life felony, punishable as provided in s. 775.082(3)(a)6. ~~775.082(3)(a)5.~~, s. 775.083, or s. 775.084.

For each instance of human trafficking of any individual under this subsection, a separate crime is committed and a separate punishment is authorized.

Reviser's note.—Amended to conform to the editorial substitution of a reference to s. 775.082(3)(a)6. for a reference to s. 775.082(3)(a)5. Section 1, ch. 2014-220, Laws of Florida, and s. 8, ch. 2014-160, Laws of Florida, added new subparagraph 5. language to paragraph (a); the added language by the two acts was different in substance, and the subparagraph 5. added by s. 8, ch. 2014-160, which is the same law that added the reference to s. 775.082(3)(a)5. here, was redesignated as subparagraph 6. by the editors.

Section 97. Paragraph (g) of subsection (6) of section 921.1402, Florida Statutes, is amended to read:

921.1402 Review of sentences for persons convicted of specified offenses committed while under the age of 18 years.—

(6) Upon receiving an application from an eligible juvenile offender, the court of original sentencing jurisdiction shall hold a sentence review hearing to determine whether the juvenile offender's sentence should be modified. When determining if it is appropriate to modify the juvenile offender's sentence, the court shall consider any factor it deems appropriate, including all of the following:

(g) Whether the juvenile offender has successfully obtained

a high school equivalency diploma ~~general educational development certificate~~ or completed another educational, technical, work, vocational, or self-rehabilitation program, if such a program is available.

Reviser's note.—Amended to conform to the fact that the term "general educational development certificate" was changed to "high school equivalency diploma" in existing Florida Statutes text by ch. 2014-20, Laws of Florida, pursuant to s. 38, ch. 2013-51, Laws of Florida.

Section 98. Subsection (2) of section 940.031, Florida Statutes, is amended to read:

940.031 Clemency counsel when sentence of death imposed.—

(2) The appointed attorney shall be compensated by the board, not to exceed $10,000, for attorney fees and costs incurred in representing the person for relief by executive clemency, with compensation to be paid out of the General Revenue Fund from funds budgeted to the Florida ~~Parole~~ Commission on Offender Review.

Reviser's note.—Amended to conform to the renaming of the Parole Commission as the Florida Commission on Offender Review by ch. 2014-191, Laws of Florida.

Section 99. Paragraph (b) of subsection (9) of section 943.0435, Florida Statutes, is amended to read:

943.0435 Sexual offenders required to register with the department; penalty.—

(9)

(b) A sexual offender who commits any act or omission in violation of this section may be prosecuted for the act or omission in the county in which the act or omission was

committed, in the county of the last registered address of the sexual offender, in the county in which the conviction occurred for the offense or offenses that meet the criteria for designating a person as a sexual offender, in the county where the sexual offender was released from incarceration, or in the county of the intended address of the sexual offender as reported by the offender prior to his or her release from incarceration.

Reviser's note.—Amended to conform to context.

Section 100. Paragraph (b) of subsection (4) of section 944.275, Florida Statutes, is amended to read:

944.275 Gain-time.—

(4)

(b) For each month in which an inmate works diligently, participates in training, uses time constructively, or otherwise engages in positive activities, the department may grant incentive gain-time in accordance with this paragraph. The rate of incentive gain-time in effect on the date the inmate committed the offense which resulted in his or her incarceration shall be the inmate's rate of eligibility to earn incentive gain-time throughout the period of incarceration and shall not be altered by a subsequent change in the severity level of the offense for which the inmate was sentenced.

1. For sentences imposed for offenses committed prior to January 1, 1994, up to 20 days of incentive gain-time may be granted. If granted, such gain-time shall be credited and applied monthly.

2. For sentences imposed for offenses committed on or after January 1, 1994, and before October 1, 1995:

a. For offenses ranked in offense severity levels 1 through 7, under former s. 921.0012 or former s. 921.0013, up to 25 days of incentive gain-time may be granted. If granted, such gain-time shall be credited and applied monthly.

b. For offenses ranked in offense severity levels 8, 9, and 10, under former s. 921.0012 or former s. 921.0013, up to 20 days of incentive gain-time may be granted. If granted, such gain-time shall be credited and applied monthly.

3. 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. For purposes of this subparagraph, credits awarded by the court for time physically incarcerated shall be credited toward satisfaction of 85 percent of the sentence imposed. Except as provided by this section, a prisoner shall not accumulate further gain-time awards at any point when the tentative release date is the same as that date at which the prisoner will have served 85 percent of the sentence imposed. State prisoners sentenced to life imprisonment shall be incarcerated for the rest of their natural lives, unless granted pardon or clemency.

Reviser's note.—Amended to provide clarity and facilitate correct interpretation. Sections 921.0012 and 921.0013 were repealed by s. 21, ch. 2009-20, Laws of Florida.

Section 101. Paragraph (b) of subsection (3) of section 960.03, Florida Statutes, is amended to read:

960.03 Definitions; ss. 960.01-960.28.—As used in ss. 960.01-960.28, unless the context otherwise requires, the term:

(3) "Crime" means:

(b) A violation of s. 316.193, s. 316.027(2) ~~316.027(1)~~, s. 327.35(1), s. 782.071(1)(b), or s. 860.13(1)(a) which results in physical injury or death; however, an act involving the operation of a motor vehicle, boat, or aircraft which results in injury or death does not constitute a crime for the purpose of this chapter unless the injury or death was intentionally inflicted through the use of the vehicle, boat, or aircraft.

Reviser's note.—Amended to conform to the redesignation of s. 316.027(1) as s. 316.027(2) by s. 2, ch. 2014-225, Laws of Florida.

Section 102. Subsection (5) of section 960.065, Florida Statutes, is amended to read:

960.065 Eligibility for awards.—

(5) A person is not ineligible for an award pursuant to paragraph (2)(a), paragraph (2)(b), or paragraph (2)(c) if that person is a victim of sexual exploitation of a child as defined in s. 39.01(69)(g) ~~39.01(68)(g)~~.

Reviser's note.—Amended to confirm the editorial substitution of a reference to s. 39.01(69)(g) for a reference to s. 39.01(68)(g). Sexual exploitation of a child is defined in s. 39.01(69)(g). "Secretary" is defined in s. 39.01(68), which has no paragraphs.

Section 103. Paragraph (b) of subsection (1) of section 961.06, Florida Statutes, is amended to read:

961.06 Compensation for wrongful incarceration.—

(1) Except as otherwise provided in this act and subject to

the limitations and procedures prescribed in this section, a person who is found to be entitled to compensation under the provisions of this act is entitled to:

(b) A waiver of tuition and fees for up to 120 hours of instruction at any career center established under s. 1001.44, any Florida College System institution ~~community college~~ as defined in s. 1000.21(3), or any state university as defined in s. 1000.21(6), if the wrongfully incarcerated person meets and maintains the regular admission requirements of such career center, Florida College System institution ~~community college~~, or state university; remains registered at such educational institution; and makes satisfactory academic progress as defined by the educational institution in which the claimant is enrolled;

The total compensation awarded under paragraphs (a), (c), and (d) may not exceed $2 million. No further award for attorney's fees, lobbying fees, costs, or other similar expenses shall be made by the state.

Reviser's note.—Amended to conform to context. Referenced s. 1000.21(3) defines "Florida College System institution," not "community college." Chapters 2008-52 and 2009-228, Laws of Florida, transitioned references from community colleges to Florida College System institutions.

Section 104. Paragraph (a) of subsection (5) of section 985.0301, Florida Statutes, is amended to read:

985.0301 Jurisdiction.—

(5)(a) Notwithstanding s. 743.07, and except as provided in paragraph (b), when the jurisdiction of any child who is alleged

to have committed a delinquent act or violation of law is obtained, the court shall retain jurisdiction to dispose of a case, unless relinquished by its order, until the child reaches 19 years of age, with the same power over the child which the court had before the child became an adult.

Reviser's note.—Amended to confirm the editorial insertion of the word "of."

Section 105. Subsection (5) of section 985.265, Florida Statutes, is amended to read:

985.265 Detention transfer and release; education; adult jails.—

(5) The court shall order the delivery of a child to a jail or other facility intended or used for the detention of adults:

(a) When the child has been transferred or indicted for criminal prosecution as an adult under part X, except that the court may not order or allow a child alleged to have committed a misdemeanor who is being transferred for criminal prosecution pursuant to either s. 985.556 or s. 985.557 to be detained or held in a jail or other facility intended or used for the detention of adults; however, such child may be held temporarily in a detention facility; or

(b) When a child taken into custody in this state is wanted by another jurisdiction for prosecution as an adult.

The child shall be housed separately from adult inmates to prohibit a child from having regular contact with incarcerated adults, including trusties ~~trustees~~. "Regular contact" means sight and sound contact. Separation of children from adults shall permit no more than haphazard or accidental contact. The

receiving jail or other facility shall contain a separate section for children and shall have an adequate staff to supervise and monitor the child's activities at all times. Supervision and monitoring of children includes physical observation and documented checks by jail or receiving facility supervisory personnel at intervals not to exceed 10 minutes. This subsection does not prohibit placing two or more children in the same cell. Under no circumstances shall a child be placed in the same cell with an adult.

Reviser's note.—Amended to confirm the editorial substitution of the word "trusties" for the word "trustees" to conform to context.

Section 106. Paragraph (h) of subsection (2) of section 1002.395, Florida Statutes, is amended to read:

1002.395 Florida Tax Credit Scholarship Program.—

(2) DEFINITIONS.—As used in this section, the term:

(h) "Household income" has the same meaning as the term "income" as ~~is~~ defined in the Income Eligibility Guidelines for free and reduced price meals under the National School Lunch Program in 7 C.F.R. part 210 as published in the Federal Register by the United States Department of Agriculture.

Reviser's note.—Amended to confirm the editorial substitution of the word "as" for the word "is."

Section 107. Paragraph (b) of subsection (8) of section 1003.4203, Florida Statutes, is amended to read:

1003.4203 Digital materials, CAPE Digital Tool certificates, and technical assistance.—

(8) PARTNERSHIPS.—

(b) Third-party assessment providers and career and

professional academy curricula providers are encouraged to provide annual training to staff of the Department of Education, staff of school district offices, instructional staff of public schools, including charter schools, and other appropriate administrative staff through face-to-face training models; through online, video conferencing training models; and through state, regional, or conference presentations.

Reviser's note.—Amended to confirm the editorial insertion of the word "through" to improve clarity.

Section 108. Paragraph (c) of subsection (10) of section 1003.4282, Florida Statutes, is amended to read:

1003.4282 Requirements for a standard high school diploma.—

(10) COHORT TRANSITION TO NEW GRADUATION REQUIREMENTS.—The requirements of this section, in addition to applying to students entering grade 9 in the 2013-2014 school year and thereafter, shall also apply to students entering grade 9 before the 2013-2014 school year, except as otherwise provided in this subsection.

(c) A student entering grade 9 in the 2011-2012 school year must earn:

1. Four credits in English/ELA. A student must pass the statewide, standardized grade 10 Reading assessment, or earn a concordant score, in order to graduate with a standard high school diploma.

2. Four credits in mathematics, which must include Algebra I and Geometry. A student who takes Algebra I after the 2010-2011 school year must pass the statewide, standardized Algebra I EOC assessment, or earn a comparative score, in order to earn a standard high school diploma. A student who takes Algebra I or

Geometry after the 2010-2011 school year must take the statewide, standardized EOC assessment but is not required to pass the Algebra I or Geometry EOC assessment in order to earn course credit. A student's performance on the Algebra I or Geometry EOC assessment is not required to constitute 30 percent of the student's final course grade. A student who earns an industry certification for which there is a statewide college credit articulation agreement approved by the State Board of Education may substitute the certification for one mathematics credit. Substitution may occur for up to two mathematics credits, except for Algebra I and Geometry.

3. Three credits in science, two of which must have a laboratory component. One of the science credits must be Biology I. A student who takes Biology I after the 2010-2011 school year must take the statewide, standardized Biology I EOC assessment but is not required to pass the assessment in order to earn course credit. A student's performance on the assessment is not required to constitute 30 percent of the student's final course grade. A student who earns an industry certification for which there is a statewide college credit articulation agreement approved by the State Board of Education may substitute the certification for one science credit, except for Biology I.

4. Three credits in social studies of which one credit in World History, one credit in United States History, one-half credit in United States Government, and one-half credit in economics are required. A student who takes United States History after the 2011-2012 school year ~~student~~ must take the statewide, standardized United States History EOC assessment, but the student's performance on the assessment is not required

to constitute 30 percent of the student's final course grade.

5. One credit in fine or performing arts, speech and debate, or practical arts as provided in paragraph (3)(e).

6. One credit in physical education as provided in paragraph (3)(f).

7. Eight credits in electives.

8. One online course as provided in subsection (4).

Reviser's note.—Amended to confirm the editorial deletion of the word "student."

Section 109. Paragraph (b) of subsection (1) of section 1003.493, Florida Statutes, is amended to read:

1003.493 Career and professional academies and career-themed courses.—

(1)

(b) A "career-themed course" is a course, or a course in a series of courses, that leads to an industry certification identified in the CAPE Industry Certification Funding List pursuant to rules adopted by the State Board of Education. Career-themed courses have industry-specific curriculum aligned directly to priority workforce needs established by the regional workforce board or the Department of Economic Opportunity. School districts shall offer at least two career-themed courses, and each secondary school is encouraged to offer at least one career-themed course. The Florida Virtual School is encouraged to develop and offer rigorous career-themed courses as appropriate. Students completing a career-themed course must be provided opportunities to earn postsecondary credit if the credit for the career-themed course can be articulated to a postsecondary institution approved to operate in the state.

Reviser's note.—Amended to conform to the complete name of the CAPE Industry Certification Funding List authorized by s. 1008.44; s. 1008.44 was amended by s. 12, ch. 2014-184, Laws of Florida, to add the word "CAPE" to the name of the Industry Certification Funding List.

Section 110. Paragraph (a) of subsection (2) of section 1003.4935, Florida Statutes, is amended to read:

1003.4935 Middle grades career and professional academy courses and career-themed courses.—

(2) Each middle grades career and professional academy or career-themed course must be aligned with at least one high school career and professional academy or career-themed course offered in the district and maintain partnerships with local business and industry and economic development boards. Middle grades career and professional academies and career-themed courses must:

(a) Lead to careers in occupations designated as high-skill, high-wage, and high-demand in the CAPE Industry Certification Funding List approved under rules adopted by the State Board of Education;

Reviser's note.—Amended to conform to the complete name of the CAPE Industry Certification Funding List authorized by s. 1008.44; s. 1008.44 was amended by s. 12, ch. 2014-184, Laws of Florida, to add the word "CAPE" to the name of the Industry Certification Funding List.

Section 111. Paragraph (j) of subsection (2) of section 1003.51, Florida Statutes, is amended to read:

1003.51 Other public educational services.—

(2) The State Board of Education shall adopt rules

articulating expectations for effective education programs for students in Department of Juvenile Justice programs, including, but not limited to, education programs in juvenile justice prevention, day treatment, residential, and detention programs. The rule shall establish policies and standards for education programs for students in Department of Juvenile Justice programs and shall include the following:

(j) Qualifications of instructional staff, procedures for the selection of instructional staff, and procedures for consistent instruction and qualified staff year round. Qualifications shall include those for instructors of CAPE courses, standardized across the state, and shall be based on state certification, local school district approval, and industry-recognized certifications as identified on the CAPE Industry Certification Funding List. Procedures for the use of noncertified instructional personnel who possess expert knowledge or experience in their fields of instruction shall be established.

Reviser's note.—Amended to conform to the complete name of the CAPE Industry Certification Funding List authorized by s. 1008.44; s. 1008.44 was amended by s. 12, ch. 2014-184, Laws of Florida, to add the word "CAPE" to the name of the Industry Certification Funding List.

Section 112. Paragraph (b) of subsection (2) of section 1003.5716, Florida Statutes, is amended to read:

1003.5716 Transition to postsecondary education and career opportunities.—All students with disabilities who are 3 years of age to 21 years of age have the right to a free, appropriate public education. As used in this section, the term "IEP" means

individual education plan.

(2) Beginning not later than the first IEP to be in effect when the student attains the age of 16, or younger if determined appropriate by the parent and the IEP team, the IEP must include the following statements that must be updated annually:

(b) A statement of intent to receive a standard high school diploma before the student attains the age of 22 and a description of how the student will fully meet the requirements in ~~s. 1003.428 or~~ s. 1003.4282, ~~as applicable,~~ including, but not limited to, a portfolio pursuant to s. 1003.4282(11)(b) which meets the criteria specified in State Board of Education rule. The IEP must also specify the outcomes and additional benefits expected by the parent and the IEP team at the time of the student's graduation.

Reviser's note.—Amended to conform to the repeal of s. 1003.428 by s. 38, ch. 2014-39, Laws of Florida.

Section 113. Subsection (3) of section 1005.33, Florida Statutes, is amended to read:

1005.33 License period and renewal.—

~~(3) On the effective date of this act, an institution that, in 2002, held the status of "Permission to Operate" under s. 246.093, Florida Statutes 2001, has 90 days to seek and obtain licensure from the commission. Ninety days after this act takes effect, that status no longer authorizes an institution to operate in Florida.~~

Reviser's note.—Amended to delete an obsolete provision.

Section 114. Subsection (11) of section 1007.271, Florida Statutes, is amended to read:

1007.271 Dual enrollment programs.—

(11) Career early admission is a form of career dual enrollment through which eligible secondary students enroll full time in a career center or a Florida College System institution in postsecondary programs leading to industry certifications, as listed in the CAPE Postsecondary Industry Certification Funding List pursuant to s. 1008.44, which are creditable toward the high school diploma and the certificate or associate degree. Participation in the career early admission program is limited to students who have completed a minimum of 4 semesters of full-time secondary enrollment, including studies undertaken in the ninth grade. Students enrolled pursuant to this section are exempt from the payment of registration, tuition, and laboratory fees.

Reviser's note.—Amended to conform to the complete name of the CAPE Postsecondary Industry Certification Funding List authorized by s. 1008.44; s. 1008.44 was amended by s. 12, ch. 2014-184, Laws of Florida, to add the word "CAPE" to the name of the Postsecondary Industry Certification Funding List.

Section 115. Paragraph (b) of subsection (3) of section 1008.22, Florida Statutes, is amended to read:

1008.22 Student assessment program for public schools.—

(3) STATEWIDE, STANDARDIZED ASSESSMENT PROGRAM.—The Commissioner of Education shall design and implement a statewide, standardized assessment program aligned to the core curricular content established in the Next Generation Sunshine State Standards. The commissioner also must develop or select and implement a common battery of assessment tools that will be used in all juvenile justice education programs in the state.

These tools must accurately measure the core curricular content established in the Next Generation Sunshine State Standards. Participation in the assessment program is mandatory for all school districts and all students attending public schools, including adult students seeking a standard high school diploma under s. 1003.4282 and students in Department of Juvenile Justice education programs, except as otherwise provided by law. If a student does not participate in the assessment program, the school district must notify the student's parent and provide the parent with information regarding the implications of such nonparticipation. The statewide, standardized assessment program shall be designed and implemented as follows:

(b) *End-of-course (EOC) assessments.*—EOC assessments must be statewide, standardized, and developed or approved by the Department of Education as follows:

1. Statewide, standardized EOC assessments in mathematics shall be administered according to this subparagraph. Beginning with the 2010-2011 school year, all students enrolled in Algebra I must take the Algebra I EOC assessment. Except as otherwise provided in paragraph (c), beginning with students entering grade 9 in the 2011-2012 school year, a student who is enrolled in Algebra I must earn a passing score on the Algebra I EOC assessment or attain a comparative score as authorized under subsection (8) in order to earn a standard high school diploma. In order to earn a standard high school diploma, a student who has not earned a passing score on the Algebra I EOC assessment must earn a passing score on the assessment retake or a comparative score as authorized under subsection (8). Beginning with the 2011-2012 school year, all students enrolled in

Geometry must take the Geometry EOC assessment. Middle grades students enrolled in Algebra I, Geometry, or Biology I must take the statewide, standardized EOC assessment for those courses and shall not take the corresponding subject and grade-level statewide, standardized assessment. When a statewide, standardized EOC assessment in Algebra II is administered, all students enrolled in Algebra II must take the EOC assessment. Pursuant to the commissioner's implementation schedule, student performance on the Algebra II EOC assessment constitutes 30 percent of a student's final course grade.

2. Statewide, standardized EOC assessments in science shall be administered according to this subparagraph. Beginning with the 2011-2012 school year, all students enrolled in Biology I must take the Biology I EOC assessment. Beginning with students entering grade 9 in the 2013-2014 school year, performance on the Biology I EOC assessment constitutes 30 percent of the student's final course grade.

3. Beginning with the 2013-2014 school year, each student's performance on the statewide, standardized middle grades Civics EOC assessment constitutes 30 percent of the student's final course grade in civics education.

4. The commissioner may select one or more nationally developed comprehensive examinations, which may include examinations for a College Board Advanced Placement course, International Baccalaureate course, or Advanced International Certificate of Education course, or industry-approved examinations to earn national industry certifications identified in the CAPE Industry Certification Funding List, for use as EOC assessments under this paragraph if the commissioner determines

that the content knowledge and skills assessed by the examinations meet or exceed the grade-level expectations for the core curricular content established for the course in the Next Generation Sunshine State Standards. Use of any such examination as an EOC assessment must be approved by the state board in rule.

5. Contingent upon funding provided in the General Appropriations Act, including the appropriation of funds received through federal grants, the commissioner may establish an implementation schedule for the development and administration of additional statewide, standardized EOC assessments that must be approved by the state board in rule. If approved by the state board, student performance on such assessments constitutes 30 percent of a student's final course grade.

6. All statewide, standardized EOC assessments must be administered online except as otherwise provided in paragraph (c).

Reviser's note.—Amended to conform to the complete name of the CAPE Industry Certification Funding List authorized by s. 1008.44; s. 1008.44 was amended by s. 12, ch. 2014-184, Laws of Florida, to add the word "CAPE" to the name of the Industry Certification Funding List.

Section 116. Paragraph (b) of subsection (6) of section 1008.25, Florida Statutes, is amended to read:

1008.25 Public school student progression; remedial instruction; reporting requirements.—

(6) ELIMINATION OF SOCIAL PROMOTION.—

(b) The district school board may only exempt students from

mandatory retention, as provided in paragraph (5)(b), for good cause. A student who is promoted to grade 4 with a good cause exemption shall be provided intensive reading instruction and intervention that include specialized diagnostic information and specific reading strategies to meet the needs of each student so promoted. The school district shall assist schools and teachers with the implementation of reading strategies for students promoted with a good cause exemption which research has shown to be successful in improving reading among students who ~~that~~ have reading difficulties. Good cause exemptions are limited to the following:

1. Limited English proficient students who have had less than 2 years of instruction in an English for Speakers of Other Languages program.

2. Students with disabilities whose individual education plan indicates that participation in the statewide assessment program is not appropriate, consistent with the requirements of s. 1008.212.

3. Students who demonstrate an acceptable level of performance on an alternative standardized reading or English Language Arts assessment approved by the State Board of Education.

4. A student who demonstrates through a student portfolio that he or she is performing at least at Level 2 on the statewide, standardized Reading assessment or, upon implementation, the English Language Arts assessment.

5. Students with disabilities who take the statewide, standardized Reading assessment or, upon implementation, the English Language Arts assessment and who have an individual

education plan or a Section 504 plan that reflects that the student has received intensive remediation in reading or English Language Arts for more than 2 years but still demonstrates a deficiency and was previously retained in kindergarten, grade 1, grade 2, or grade 3.

6. Students who have received intensive reading intervention for 2 or more years but still demonstrate a deficiency in reading and who were previously retained in kindergarten, grade 1, grade 2, or grade 3 for a total of 2 years. A student may not be retained more than once in grade 3.

7. Students who have received intensive remediation in reading or English Language Arts for 2 or more years but still demonstrate a deficiency and who were previously retained in kindergarten, grade 1, grade 2, or grade 3 for a total of 2 years. Intensive instruction for students so promoted must include an altered instructional day that includes specialized diagnostic information and specific reading strategies for each student. The district school board shall assist schools and teachers to implement reading strategies that research has shown to be successful in improving reading among low-performing readers.

Reviser's note.—Amended to confirm the editorial substitution of the word "who" for the word "that."

Section 117. Paragraphs (b) and (d) of subsection (3) of section 1008.34, Florida Statutes, are amended to read:

1008.34 School grading system; school report cards; district grade.—

(3) DESIGNATION OF SCHOOL GRADES.—

(b)1. Beginning with the 2014-2015 school year, a school's

grade shall be based on the following components, each worth 100 points:

a. The percentage of eligible students passing statewide, standardized assessments in English Language Arts under s. 1008.22(3).

b. The percentage of eligible students passing statewide, standardized assessments in mathematics under s. 1008.22(3).

c. The percentage of eligible students passing statewide, standardized assessments in science under s. 1008.22(3).

d. The percentage of eligible students passing statewide, standardized assessments in social studies under s. 1008.22(3).

e. The percentage of eligible students who make Learning Gains in English Language Arts as measured by statewide, standardized assessments administered under s. 1008.22(3).

f. The percentage of eligible students who make Learning Gains in mathematics as measured by statewide, standardized assessments administered under s. 1008.22(3).

g. The percentage of eligible students in the lowest 25 percent in English Language Arts, as identified by prior year performance on statewide, standardized assessments, who make Learning Gains as measured by statewide, standardized English Language Arts assessments administered under s. 1008.22(3).

h. The percentage of eligible students in the lowest 25 percent in mathematics, as identified by prior year performance on statewide, standardized assessments, who make Learning Gains as measured by statewide, standardized mathematics assessments administered under s. 1008.22(3).

i. For schools comprised of middle grades 6 through 8 or grades 7 and 8, the percentage of eligible students passing high

school level statewide, standardized end-of-course assessments or attaining national industry certifications identified in the CAPE Industry Certification Funding List pursuant to rules adopted by the State Board of Education.

In calculating Learning Gains for the components listed in sub-subparagraphs e.-h., the State Board of Education shall require that learning growth toward achievement levels 3, 4, and 5 is demonstrated by students who scored below each of those levels in the prior year. In calculating the components in sub-subparagraphs a.-d., the state board shall include the performance of English language learners only if they have been enrolled in a school in the United States for more than 2 years.

2. For a school comprised of grades 9, 10, 11, and 12, or grades 10, 11, and 12, the school's grade shall also be based on the following components, each worth 100 points:

a. The 4-year high school graduation rate of the school as defined by state board rule.

b. The percentage of students who were eligible to earn college and career credit through College Board Advanced Placement examinations, International Baccalaureate examinations, dual enrollment courses, or Advanced International Certificate of Education examinations; or who, at any time during high school, earned national industry certification identified in the CAPE Industry Certification Funding List, pursuant to rules adopted by the state board.

(d) The performance of students attending alternative schools and students designated as hospital or homebound shall be factored into a school grade as follows:

1. The student performance data for eligible students attending alternative schools that provide dropout prevention and academic intervention services pursuant to s. 1003.53 shall be included in the calculation of the home school's grade. The term "eligible students" in this subparagraph does not include students attending an alternative school who are subject to district school board policies for expulsion for repeated or serious offenses, who are in dropout retrieval programs serving students who have officially been designated as dropouts, or who are in programs operated or contracted by the Department of Juvenile Justice. As used in this subparagraph ~~and s. 1008.341~~, the term "home school" means the school to which the student would be assigned if the student were not assigned to an alternative school. If an alternative school chooses to be graded under this section, student performance data for eligible students identified in this subparagraph shall not be included in the home school's grade but shall be included only in the calculation of the alternative school's grade. A school district that fails to assign statewide, standardized end-of-course assessment scores of each of its students to his or her home school or to the alternative school that receives a grade shall forfeit Florida School Recognition Program funds for one fiscal year. School districts must require collaboration between the home school and the alternative school in order to promote student success. This collaboration must include an annual discussion between the principal of the alternative school and the principal of each student's home school concerning the most appropriate school assignment of the student.

2. Student performance data for students designated as

hospital or homebound shall be assigned to their home school for the purposes of school grades. As used in this subparagraph, the term "home school" means the school to which a student would be assigned if the student were not assigned to a hospital or homebound program.

Reviser's note.—Paragraph (3)(b) amended to conform to the complete name of the CAPE Industry Certification Funding List authorized in s. 1008.44; s. 1008.44 was amended by s. 12, ch. 2014-184, Laws of Florida, to add the word "CAPE" to the name of the Industry Certification Funding List. Paragraph (3)(d) amended to conform to the fact that references to "home school" were deleted from s. 1008.341 by s. 7, ch. 2014-23, Laws of Florida.

Section 118. Paragraph (c) of subsection (4) of section 1008.44, Florida Statutes, is amended to read:

1008.44 CAPE Industry Certification Funding List and CAPE Postsecondary Industry Certification Funding List.—

(4)

(c) The Articulation Coordinating Committee shall review statewide articulation agreement proposals for industry certifications and make recommendations to the State Board of Education for approval. After an industry certification is adopted by the State Board of Education for inclusion on the CAPE Industry Certification Funding List, the Chancellor of Career and Adult Education, within 90 days, must provide to the Articulation Coordinating Committee recommendations for articulation of postsecondary credit for related degrees for the approved certifications.

Reviser's note.—Amended to conform to the complete name of the

CAPE Industry Certification Funding List, as amended elsewhere in this section by s. 12, ch. 2014-184, Laws of Florida.

Section 119. Paragraph (b) of subsection (6) of section 1011.80, Florida Statutes, is amended to read:

1011.80 Funds for operation of workforce education programs.—

(6)

(b) Performance funding for industry certifications for school district workforce education programs is contingent upon specific appropriation in the General Appropriations Act and shall be determined as follows:

1. Occupational areas for which industry certifications may be earned, as established in the General Appropriations Act, are eligible for performance funding. Priority shall be given to the occupational areas emphasized in state, national, or corporate grants provided to Florida educational institutions.

2. The Chancellor of Career and Adult Education shall identify the industry certifications eligible for funding on the CAPE Postsecondary Industry Certification Funding List approved by the State Board of Education pursuant to s. 1008.44, based on the occupational areas specified in the General Appropriations Act.

3. Each school district shall be provided $1,000 for each industry certification earned by a workforce education student. The maximum amount of funding appropriated for performance funding pursuant to this paragraph shall be limited to $15 million annually. If funds are insufficient to fully fund the calculated total award, such funds shall be prorated.

Reviser's note.—Amended to conform to the complete name of the CAPE Postsecondary Industry Certification Funding List authorized in s. 1008.44; s. 1008.44 was amended by s. 12, ch. 2014-184, Laws of Florida, to add the word "CAPE" to the name of the Postsecondary Industry Certification Funding List.

Section 120. Paragraph (b) of subsection (2) of section 1011.81, Florida Statutes, is amended to read:

1011.81 Florida College System Program Fund.—

(2) Performance funding for industry certifications for Florida College System institutions is contingent upon specific appropriation in the General Appropriations Act and shall be determined as follows:

(b) The Chancellor of the Florida College System shall identify the industry certifications eligible for funding on the CAPE Postsecondary Industry Certification Funding List approved by the State Board of Education pursuant to s. 1008.44, based on the occupational areas specified in the General Appropriations Act.

Reviser's note.—Amended to conform to the complete name of the CAPE Postsecondary Industry Certification Funding List authorized in s. 1008.44; s. 1008.44 was amended by s. 12, ch. 2014-184, Laws of Florida, to add the word "CAPE" to the name of the Postsecondary Industry Certification Funding List.

Section 121. Paragraph (b) of subsection (1) of section 1011.905, Florida Statutes, is amended to read:

1011.905 Performance funding for state universities.—

(1) State performance funds for the State University System

shall be based on indicators of system and institutional attainment of performance expectations. For the 2012-2013 through at least the 2016-2017 fiscal year, the Board of Governors shall review and rank each state university that applies for performance funding, as provided in the General Appropriations Act, based on the following formula:

(b) Twenty-five percent of a state university's score shall be based on the percentage of graduates who have earned baccalaureate degrees in the programs in paragraph (a) and who have earned industry certifications identified on the CAPE Postsecondary Industry Certification Funding List approved by the State Board of Education pursuant to s. 1008.44 in a related field from a Florida College System institution or state university prior to graduation.

Reviser's note.—Amended to conform to the complete name of the CAPE Postsecondary Industry Certification Funding List authorized by s. 1008.44; s. 1008.44 was amended by s. 12, ch. 2014-184, Laws of Florida, to add the word "CAPE" to the name of the Postsecondary Industry Certification Funding List.

Section 122. Paragraph (a) of subsection (2) of section 1013.738, Florida Statutes, is amended to read:

1013.738 High Growth District Capital Outlay Assistance Grant Program.—

(2) In order to qualify for a grant, a school district must meet the following criteria:

(a) The district must have levied the full 1.5 ~~2~~ mills of nonvoted discretionary capital outlay millage authorized in s. 1011.71(2) for each of the past 4 fiscal years.

Reviser's note.—Amended to conform to context and facilitate correct interpretation. Section 1011.71(2) provides a maximum of 1.5 mills that the school board may levy.

Section 123. Except as otherwise provided in this act, this act shall take effect on the 60th day after adjournment sine die of the session of the Legislature in which enacted.

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL:	SB 704
INTRODUCER:	Senator Simmons
SUBJECT:	Florida Statutes
DATE:	February 3, 2015
REVISED:	

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Pollitz (DLRI)	Phelps	RC	**Favorable**

I. Summary:

The Division of Law Revision and Information of the Office of Legislative Services is required, by statute, to conduct a systematic and continuing study of the Florida Statutes. The purpose of this study is to recommend to the Legislature changes that will remove inconsistencies, redundancies, and unnecessary repetition from the statutes; improve clarity and facilitate correct interpretation; correct grammatical and typographical errors; and delete obsolete, repealed, or superseded provisions. These recommendations are submitted to the Legislature in the form of technical, nonsubstantive reviser's bills. A reviser's bill cannot be amended except to delete a bill section.

This bill deletes statutes provisions that have been repealed by a noncurrent (past-year) session of the Legislature where that repeal or expiration date has now occurred, rendering the provision of no effect (an example would be a repeal set for October 1, 2014, by the 2013 Regular Session of the Legislature).

II. Present Situation:

The Division of Law Revision and Information, under the authority and requirements of s. 11.242(5)(b) and (i), Florida Statutes, must remove repealed statutory provisions from the statutes text where the repeal was voted by the Legislature sitting in the current year; sections effectively repealed but where that repeal was passed by a past-year session of the Legislature can only be omitted from the statutes text through a reviser's bill pursuant to s. 11.242(5)(i).

III. Effect of Proposed Changes:

This bill will delete sections that have already been repealed by the Legislature by substantive legislation that the Division of Law Revision and Information could not remove from the statutes text without the required inclusion in a reviser's bill.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: ss. 110.123, 218.077, 220.33, 253.01, 288.106, 339.08, 339.135, 403.709, 409.911, 409.91195, 409.91196, 409.912, 409.9122, 409.962, 430.04, 430.502, 443.131, 576.061, 626.2815, 636.0145, 641.19, 641.225, 641.386, 828.27, and 1002.32, F.S.

This bill repeals the following sections of the Florida Statutes: ss. 88.7011, 120.745, 163.336, 381.0407, 409.91211, 624.351, and 624.352, F.S.

IX. Additional Information:

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

None.

B. Amendments:

None.

By Senator Simmons

10-00624A-15 2015704__

A reviser's bill to be entitled

An act relating to the Florida Statutes; repealing ss. 88.7011, 120.745, 163.336, 218.077(5), 220.33(7), 253.01(2)(b), 288.106(4)(f), 339.08(1)(n), 381.0407, 403.709(1)(f), 409.911(10), 409.91211, 430.04(15), 430.502(10)-(12), 443.131(5), 624.351, 624.352, and 626.2815(7), F.S., and amending ss. 110.123, 339.135, 409.912, 409.9122, 576.061, 828.27, and 1002.32, F.S., to delete provisions which have become inoperative by noncurrent repeal or expiration and, pursuant to s. 11.242(5)(b) and (i), F.S., may be omitted from the 2015 Florida Statutes only through a reviser's bill duly enacted by the Legislature; amending ss. 409.91195, 409.91196, 409.962, 636.0145, 641.19, 641.225, and 641.386, F.S., to conform cross-references; providing an effective date.

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

Section 1. Section 88.7011, Florida Statutes, is repealed.

Reviser's note.—Repealed to conform to s. 58, ch. 2011-92, Laws of Florida, which repealed s. 88.7011 effective on a date contingent upon the provisions of s. 81, ch. 2011-92. Section 81, ch. 2011-92, provides that "[e]xcept as otherwise expressly provided in this act, this act shall take effect upon the earlier of 90 days following Congress amending 42 U.S.C. s. 666(f) to allow or require states to adopt the 2008 version of the Uniform Interstate Family Support Act, or 90 days following the state obtaining a

10-00624A-15 2015704__

waiver of its state plan requirement under Title IV-D of the Social Security Act." Public Law No. 113-183 was signed by the President on September 29, 2014; a portion of that law requires that the 2008 version of the Uniform Interstate Family Support Act is required.

Section 2. Paragraph (g) of subsection (3) of section 110.123, Florida Statutes, is amended to read:

110.123 State group insurance program.—

(3) STATE GROUP INSURANCE PROGRAM.—

(g) Participation by individuals in the program is available to all state officers, full-time state employees, and part-time state employees and is voluntary. Participation in the program is also available to retired state officers and employees who elect at the time of retirement to continue coverage under the program, but may elect to continue all or only part of the coverage they had at the time of retirement. A surviving spouse may elect to continue coverage only under a state group health insurance plan, a TRICARE supplemental insurance plan, or a health maintenance organization plan.

~~1. Full-time state employees described in subparagraph (2)(c)1. are eligible for health insurance coverage in calendar year 2014 as long as they remain employed by an employer participating in the state group insurance program during the year. This subparagraph expires December 31, 2014.~~

~~2. Employees paid from other-personal-services (OPS) funds are not eligible for coverage before January 1, 2014.~~

Reviser's note.—Amended to delete subparagraph (3)(g)1., which expired pursuant to its own terms, effective December 31, 2014, and to delete subparagraph (3)(g)2. to repeal a

provision that has served its purpose.

Section 3. Section 120.745, Florida Statutes, is repealed.

Reviser's note.—The cited section, which relates to legislative review of agency rules in effect on or before November 16, 2010, was repealed pursuant to its own terms, effective July 1, 2014.

Section 4. Section 163.336, Florida Statutes, is repealed.

Reviser's note.—The cited section, which relates to the coastal resort area redevelopment pilot project, expired pursuant to its own terms, effective December 31, 2014.

Section 5. Subsection (5) of section 218.077, Florida Statutes, is repealed.

Reviser's note.—The cited subsection, which relates to the Employer-Sponsored Benefits Study Task Force, was repealed pursuant to its own terms, effective June 30, 2014.

Section 6. Subsection (7) of section 220.33, Florida Statutes, is repealed.

Reviser's note.—The cited subsection, which relates to payment of estimated tax due no later than Sunday, June 30, 2013, by June 28, 2013, expired pursuant to its own terms, effective July 1, 2014.

Section 7. Paragraph (b) of subsection (2) of section 253.01, Florida Statutes, is repealed.

Reviser's note.—The cited paragraph, which relates to transfer of moneys, for the 2013-2014 fiscal year only, from the Internal Improvement Trust Fund to the Save Our Everglades Trust Fund for Everglades restoration pursuant to s. 216.181(12), expired pursuant to its own terms, effective July 1, 2014.

Section 8. Paragraph (f) of subsection (4) of section 288.106, Florida Statutes, is repealed.

Reviser's note.—The cited paragraph, which permits reduction of local financial support requirements of s. 288.106 by one-half for a qualified target industry business located in one of a specified list of counties under certain circumstances, expired pursuant to its own terms, effective June 30, 2014.

Section 9. Paragraph (n) of subsection (1) of section 339.08, Florida Statutes, is repealed.

Reviser's note.—The cited paragraph, which relates to expenditure of funds to pay administrative expenses incurred in accordance with applicable laws by the multicounty transportation authority created under chapter 343 where jurisdiction for the authority includes a portion of the State Highway System and the expenses are in furtherance of the provisions of chapter 2012-174, Laws of Florida, to provide a financial analysis of the cost savings to be achieved by the consolidation of transit authorities within the region, expired pursuant to its own terms, effective July 1, 2014.

Section 10. Paragraph (a) of subsection (4) of section 339.135, Florida Statutes, is amended to read:

339.135 Work program; legislative budget request; definitions; preparation, adoption, execution, and amendment.—

(4) FUNDING AND DEVELOPING A TENTATIVE WORK PROGRAM.—

(a)1. To assure that no district or county is penalized for local efforts to improve the State Highway System, the department shall, for the purpose of developing a tentative work

program, allocate funds for new construction to the districts, except for the turnpike enterprise, based on equal parts of population and motor fuel tax collections. Funds for resurfacing, bridge repair and rehabilitation, bridge fender system construction or repair, public transit projects except public transit block grants as provided in s. 341.052, and other programs with quantitative needs assessments shall be allocated based on the results of these assessments. The department may not transfer any funds allocated to a district under this paragraph to any other district except as provided in subsection (7). Funds for public transit block grants shall be allocated to the districts pursuant to s. 341.052. Funds for the intercity bus program provided for under s. 5311(f) of the federal nonurbanized area formula program shall be administered and allocated directly to eligible bus carriers as defined in s. 341.031(12) at the state level rather than the district. In order to provide state funding to support the intercity bus program provided for under provisions of the federal 5311(f) program, the department shall allocate an amount equal to the federal share of the 5311(f) program from amounts calculated pursuant to s. 206.46(3).

2. Notwithstanding the provisions of subparagraph 1., the department shall allocate at least 50 percent of any new discretionary highway capacity funds to the Florida Strategic Intermodal System created pursuant to s. 339.61. Any remaining new discretionary highway capacity funds shall be allocated to the districts for new construction as provided in subparagraph 1. For the purposes of this subparagraph, the term "new discretionary highway capacity funds" means any funds available

to the department above the prior year funding level for capacity improvements, which the department has the discretion to allocate to highway projects.

~~3. Notwithstanding subparagraphs 1. and 2. and ss. 206.46(3) and 334.044(26), and for fiscal years 2009-2010 through 2013-2014 only, the department shall annually allocate up to $15 million of the first proceeds of the increased revenues estimated by the November 2009 Revenue Estimating Conference to be deposited into the State Transportation Trust Fund to provide for the portion of the transfer of funds included in s. 343.58(4)(a)1.a. or 2.a., as applicable. The transfer of funds included in s. 343.58(4) shall not negatively impact projects included in fiscal years 2009-2010 through 2013-2014 of the work program as of July 1, 2009, as amended pursuant to subsection (7). This subparagraph expires July 1, 2014.~~

Reviser's note.—Amended to delete subparagraph (4)(a)3., which expired pursuant to its own terms, effective July 1, 2014.

Section 11. Section 381.0407, Florida Statutes, is repealed.

Reviser's note.—The cited section, the Managed Care and Publicly Funded Primary Care Program Coordination Act, was repealed by s. 51, ch. 2012-184, effective October 1, 2014. Since the section was not repealed by a "current session" of the Legislature, it may be omitted from the 2015 Florida Statutes only through a reviser's bill duly enacted by the Legislature. See s. 11.242(5)(b) and (i).

Section 12. Paragraph (f) of subsection (1) of section 403.709, Florida Statutes, is repealed.

Reviser's note.—The cited paragraph, which relates to transfer

of moneys, for the 2013-2014 fiscal year only, from the Solid Waste Management Trust Fund to the Save Our Everglades Trust Fund for Everglades restoration pursuant to s. 216.181(12), expired pursuant to its own terms, effective July 1, 2014.

Section 13. Subsection (10) of section 409.911, Florida Statutes, is repealed.

Reviser's note.—The cited subsection, which relates to the Medicaid Low-Income Pool Council, expired pursuant to its own terms, effective October 1, 2014.

Section 14. Section 409.912, Florida Statutes, is amended to read:

409.912 Cost-effective purchasing of health care.—The agency shall purchase goods and services for Medicaid recipients in the most cost-effective manner consistent with the delivery of quality medical care. To ensure that medical services are effectively utilized, the agency may, in any case, require a confirmation or second physician's opinion of the correct diagnosis for purposes of authorizing future services under the Medicaid program. This section does not restrict access to emergency services or poststabilization care services as defined in 42 C.F.R. s. 438.114. Such confirmation or second opinion shall be rendered in a manner approved by the agency. The agency shall maximize the use of prepaid per capita and prepaid aggregate fixed-sum basis services when appropriate and other alternative service delivery and reimbursement methodologies, including competitive bidding pursuant to s. 287.057, designed to facilitate the cost-effective purchase of a case-managed continuum of care. The agency shall also require providers to

minimize the exposure of recipients to the need for acute inpatient, custodial, and other institutional care and the inappropriate or unnecessary use of high-cost services. The agency shall contract with a vendor to monitor and evaluate the clinical practice patterns of providers in order to identify trends that are outside the normal practice patterns of a provider's professional peers or the national guidelines of a provider's professional association. The vendor must be able to provide information and counseling to a provider whose practice patterns are outside the norms, in consultation with the agency, to improve patient care and reduce inappropriate utilization. The agency may mandate prior authorization, drug therapy management, or disease management participation for certain populations of Medicaid beneficiaries, certain drug classes, or particular drugs to prevent fraud, abuse, overuse, and possible dangerous drug interactions. The Pharmaceutical and Therapeutics Committee shall make recommendations to the agency on drugs for which prior authorization is required. The agency shall inform the Pharmaceutical and Therapeutics Committee of its decisions regarding drugs subject to prior authorization. The agency is authorized to limit the entities it contracts with or enrolls as Medicaid providers by developing a provider network through provider credentialing. The agency may competitively bid single-source-provider contracts if procurement of goods or services results in demonstrated cost savings to the state without limiting access to care. The agency may limit its network based on the assessment of beneficiary access to care, provider availability, provider quality standards, time and distance standards for access to care, the cultural competence of the

provider network, demographic characteristics of Medicaid beneficiaries, practice and provider-to-beneficiary standards, appointment wait times, beneficiary use of services, provider turnover, provider profiling, provider licensure history, previous program integrity investigations and findings, peer review, provider Medicaid policy and billing compliance records, clinical and medical record audits, and other factors. Providers are not entitled to enrollment in the Medicaid provider network. The agency shall determine instances in which allowing Medicaid beneficiaries to purchase durable medical equipment and other goods is less expensive to the Medicaid program than long-term rental of the equipment or goods. The agency may establish rules to facilitate purchases in lieu of long-term rentals in order to protect against fraud and abuse in the Medicaid program as defined in s. 409.913. The agency may seek federal waivers necessary to administer these policies.

(1) ~~The agency shall work with the Department of Children and Families to ensure access of children and families in the child protection system to needed and appropriate mental health and substance abuse services. This subsection expires October 1, 2014.~~

~~(2)~~ The agency may enter into agreements with appropriate agents of other state agencies or of any agency of the Federal Government and accept such duties in respect to social welfare or public aid as may be necessary to implement the provisions of Title XIX of the Social Security Act and ss. 409.901-409.920. This subsection expires October 1, 2016.

~~(3) The agency may contract with health maintenance organizations certified pursuant to part I of chapter 641 for~~

~~the provision of services to recipients. This subsection expires October 1, 2014.~~

(2)~~(4)~~ The agency may contract with~~:~~

~~(a) An entity that provides no prepaid health care services other than Medicaid services under contract with the agency and which is owned and operated by a county, county health department, or county-owned and operated hospital to provide health care services on a prepaid or fixed-sum basis to recipients, which entity may provide such prepaid services either directly or through arrangements with other providers. Such prepaid health care services entities must be licensed under parts I and III of chapter 641. An entity recognized under this paragraph which demonstrates to the satisfaction of the Office of Insurance Regulation of the Financial Services Commission that it is backed by the full faith and credit of the county in which it is located may be exempted from s. 641.225. This paragraph expires October 1, 2014.~~

~~(b) An entity that is providing comprehensive behavioral health care services to certain Medicaid recipients through a capitated, prepaid arrangement pursuant to the federal waiver provided for by s. 409.905(5). Such entity must be licensed under chapter 624, chapter 636, or chapter 641, or authorized under paragraph (c) or paragraph (d), and must possess the clinical systems and operational competence to manage risk and provide comprehensive behavioral health care to Medicaid recipients. As used in this paragraph, the term "comprehensive behavioral health care services" means covered mental health and substance abuse treatment services that are available to Medicaid recipients. The secretary of the Department of Children~~

~~and Families shall approve provisions of procurements related to children in the department's care or custody before enrolling such children in a prepaid behavioral health plan. Any contract awarded under this paragraph must be competitively procured. In developing the behavioral health care prepaid plan procurement document, the agency shall ensure that the procurement document requires the contractor to develop and implement a plan to ensure compliance with s. 394.4574 related to services provided to residents of licensed assisted living facilities that hold a limited mental health license. Except as provided in subparagraph 5., and except in counties where the Medicaid managed care pilot program is authorized pursuant to s. 409.91211, the agency shall seek federal approval to contract with a single entity meeting these requirements to provide comprehensive behavioral health care services to all Medicaid recipients not enrolled in a Medicaid managed care plan authorized under s. 409.91211, a provider service network authorized under paragraph (d), or a Medicaid health maintenance organization in an AHCA area. In an AHCA area where the Medicaid managed care pilot program is authorized pursuant to s. 409.91211 in one or more counties, the agency may procure a contract with a single entity to serve the remaining counties as an AHCA area or the remaining counties may be included with an adjacent AHCA area and are subject to this paragraph. Each entity must offer a sufficient choice of providers in its network to ensure recipient access to care and the opportunity to select a provider with whom they are satisfied. The network shall include all public mental health hospitals. To ensure unimpaired access to behavioral health care services by Medicaid~~

~~recipients, all contracts issued pursuant to this paragraph must require 80 percent of the capitation paid to the managed care plan, including health maintenance organizations and capitated provider service networks, to be expended for the provision of behavioral health care services. If the managed care plan expends less than 80 percent of the capitation paid for the provision of behavioral health care services, the difference shall be returned to the agency. The agency shall provide the plan with a certification letter indicating the amount of capitation paid during each calendar year for behavioral health care services pursuant to this section. The agency may reimburse for substance abuse treatment services on a fee-for-service basis until the agency finds that adequate funds are available for capitated, prepaid arrangements.~~

~~1. The agency shall modify the contracts with the entities providing comprehensive inpatient and outpatient mental health care services to Medicaid recipients in Hillsborough, Highlands, Hardee, Manatee, and Polk Counties, to include substance abuse treatment services.~~

~~2. Except as provided in subparagraph 5., the agency and the Department of Children and Families shall contract with managed care entities in each AHCA area except area 6 or arrange to provide comprehensive inpatient and outpatient mental health and substance abuse services through capitated prepaid arrangements to all Medicaid recipients who are eligible to participate in such plans under federal law and regulation. In AHCA areas where eligible individuals number less than 150,000, the agency shall contract with a single managed care plan to provide comprehensive behavioral health services to all~~

~~recipients who are not enrolled in a Medicaid health maintenance organization, a provider service network authorized under paragraph (d), or a Medicaid capitated managed care plan authorized under s. 409.91211. The agency may contract with more than one comprehensive behavioral health provider to provide care to recipients who are not enrolled in a Medicaid capitated managed care plan authorized under s. 409.91211, a provider service network authorized under paragraph (d), or a Medicaid health maintenance organization in AHCA areas where the eligible population exceeds 150,000. In an AHCA area where the Medicaid managed care pilot program is authorized pursuant to s. 409.91211 in one or more counties, the agency may procure a contract with a single entity to serve the remaining counties as an AHCA area or the remaining counties may be included with an adjacent AHCA area and shall be subject to this paragraph. Contracts for comprehensive behavioral health providers awarded pursuant to this section shall be competitively procured. Both for-profit and not-for-profit corporations are eligible to compete. Managed care plans contracting with the agency under subsection (3) or paragraph (d) shall provide and receive payment for the same comprehensive behavioral health benefits as provided in AHCA rules, including handbooks incorporated by reference. In AHCA area 11, the agency shall contract with at least two comprehensive behavioral health care providers to provide behavioral health care to recipients in that area who are enrolled in, or assigned to, the MediPass program. One of the behavioral health care contracts must be with the existing provider service network pilot project, as described in paragraph (d), for the purpose of demonstrating the cost-~~

~~effectiveness of the provision of quality mental health services through a public hospital-operated managed care model. Payment shall be at an agreed-upon capitated rate to ensure cost savings. Of the recipients in area 11 who are assigned to MediPass under s. 409.9122(2)(k), a minimum of 50,000 of those MediPass-enrolled recipients shall be assigned to the existing provider service network in area 11 for their behavioral care.~~

~~3. Children residing in a statewide inpatient psychiatric program, or in a Department of Juvenile Justice or a Department of Children and Families residential program approved as a Medicaid behavioral health overlay services provider may not be included in a behavioral health care prepaid health plan or any other Medicaid managed care plan pursuant to this paragraph.~~

~~4. Traditional community mental health providers under contract with the Department of Children and Families pursuant to part IV of chapter 394, child welfare providers under contract with the Department of Children and Families in areas 1 and 6, and inpatient mental health providers licensed pursuant to chapter 395 must be offered an opportunity to accept or decline a contract to participate in any provider network for prepaid behavioral health services.~~

~~5. All Medicaid-eligible children, except children in area 1 and children in Highlands County, Hardee County, Polk County, or Manatee County of area 6, which are open for child welfare services in the statewide automated child welfare information system, shall receive their behavioral health care services through a specialty prepaid plan operated by community-based lead agencies through a single agency or formal agreements among several agencies. The agency shall work with the specialty plan~~

~~to develop clinically effective, evidence-based alternatives as a downward substitution for the statewide inpatient psychiatric program and similar residential care and institutional services. The specialty prepaid plan must result in savings to the state comparable to savings achieved in other Medicaid managed care and prepaid programs. Such plan must provide mechanisms to maximize state and local revenues. The specialty prepaid plan shall be developed by the agency and the Department of Children and Families. The agency may seek federal waivers to implement this initiative. Medicaid-eligible children whose cases are open for child welfare services in the statewide automated child welfare information system and who reside in AHCA area 10 shall be enrolled in a capitated provider service network or other capitated managed care plan, which, in coordination with available community-based care providers specified in s. 409.987, shall provide sufficient medical, developmental, and behavioral health services to meet the needs of these children.~~

~~Effective July 1, 2012, in order to ensure continuity of care, the agency is authorized to extend or modify current contracts based on current service areas or on a regional basis, as determined appropriate by the agency, with comprehensive behavioral health care providers as described in this paragraph during the period prior to its expiration. This paragraph expires October 1, 2014.~~

~~(c) A federally qualified health center or an entity owned by one or more federally qualified health centers or an entity owned by other migrant and community health centers receiving non-Medicaid financial support from the Federal Government to~~

~~provide health care services on a prepaid or fixed-sum basis to recipients. A federally qualified health center or an entity that is owned by one or more federally qualified health centers and is reimbursed by the agency on a prepaid basis is exempt from parts I and III of chapter 641, but must comply with the solvency requirements in s. 641.2261(2) and meet the appropriate requirements governing financial reserve, quality assurance, and patients' rights established by the agency. This paragraph expires October 1, 2014.~~

~~(d)1.~~ a provider service network, which may be reimbursed on a fee-for-service or prepaid basis. Prepaid provider service networks shall receive per-member, per-month payments. A provider service network that does not choose to be a prepaid plan shall receive fee-for-service rates with a shared savings settlement. The fee-for-service option shall be available to a provider service network only for the first 2 years of the plan's operation or until the contract year beginning September 1, 2014, whichever is later. The agency shall annually conduct cost reconciliations to determine the amount of cost savings achieved by fee-for-service provider service networks for the dates of service in the period being reconciled. Only payments for covered services for dates of service within the reconciliation period and paid within 6 months after the last date of service in the reconciliation period shall be included. The agency shall perform the necessary adjustments for the inclusion of claims incurred but not reported within the reconciliation for claims that could be received and paid by the agency after the 6-month claims processing time lag. The agency shall provide the results of the reconciliations to the fee-for-

service provider service networks within 45 days after the end of the reconciliation period. The fee-for-service provider service networks shall review and provide written comments or a letter of concurrence to the agency within 45 days after receipt of the reconciliation results. This reconciliation shall be considered final.

(a) ~~2.~~ A provider service network which is reimbursed by the agency on a prepaid basis shall be exempt from parts I and III of chapter 641, but must comply with the solvency requirements in s. 641.2261(2) and meet appropriate financial reserve, quality assurance, and patient rights requirements as established by the agency.

~~3. Medicaid recipients assigned to a provider service network shall be chosen equally from those who would otherwise have been assigned to prepaid plans and MediPass. The agency is authorized to seek federal Medicaid waivers as necessary to implement the provisions of this section. This subparagraph expires October 1, 2014.~~

(b) ~~4.~~ A provider service network is a network established or organized and operated by a health care provider, or group of affiliated health care providers, ~~including minority physician networks and emergency room diversion programs that meet the requirements of s. 409.91211,~~ which provides a substantial proportion of the health care items and services under a contract directly through the provider or affiliated group of providers and may make arrangements with physicians or other health care professionals, health care institutions, or any combination of such individuals or institutions to assume all or part of the financial risk on a prospective basis for the

provision of basic health services by the physicians, by other health professionals, or through the institutions. The health care providers must have a controlling interest in the governing body of the provider service network organization.

~~(c) An entity that provides only comprehensive behavioral health care services to certain Medicaid recipients through an administrative services organization agreement. Such an entity must possess the clinical systems and operational competence to provide comprehensive health care to Medicaid recipients. As used in this paragraph, the term "comprehensive behavioral health care services" means covered mental health and substance abuse treatment services that are available to Medicaid recipients. Any contract awarded under this paragraph must be competitively procured. The agency must ensure that Medicaid recipients have available the choice of at least two managed care plans for their behavioral health care services. This paragraph expires October 1, 2014.~~

~~(f) An entity authorized in s. 430.205 to contract with the agency and the Department of Elderly Affairs to provide health care and social services on a prepaid or fixed-sum basis to elderly recipients. Such prepaid health care services entities are exempt from the provisions of part I of chapter 641 for the first 3 years of operation. An entity recognized under this paragraph that demonstrates to the satisfaction of the Office of Insurance Regulation that it is backed by the full faith and credit of one or more counties in which it operates may be exempted from s. 641.225. This paragraph expires October 1, 2013.~~

~~(g) A Children's Medical Services Network, as defined in s.~~

~~391.021. This paragraph expires October 1, 2014.~~

~~(5) The agency may contract with any public or private entity otherwise authorized by this section on a prepaid or fixed-sum basis for the provision of health care services to recipients. An entity may provide prepaid services to recipients, either directly or through arrangements with other entities, if each entity involved in providing services:~~

~~(a) Is organized primarily for the purpose of providing health care or other services of the type regularly offered to Medicaid recipients;~~

~~(b) Ensures that services meet the standards set by the agency for quality, appropriateness, and timeliness;~~

~~(c) Makes provisions satisfactory to the agency for insolvency protection and ensures that neither enrolled Medicaid recipients nor the agency will be liable for the debts of the entity;~~

~~(d) Submits to the agency, if a private entity, a financial plan that the agency finds to be fiscally sound and that provides for working capital in the form of cash or equivalent liquid assets excluding revenues from Medicaid premium payments equal to at least the first 3 months of operating expenses or $200,000, whichever is greater;~~

~~(e) Furnishes evidence satisfactory to the agency of adequate liability insurance coverage or an adequate plan of self-insurance to respond to claims for injuries arising out of the furnishing of health care;~~

~~(f) Provides, through contract or otherwise, for periodic review of its medical facilities and services, as required by the agency; and~~

~~(g) Provides organizational, operational, financial, and other information required by the agency.~~

~~This subsection expires October 1, 2014.~~

~~(6) The agency may contract on a prepaid or fixed-sum basis with any health insurer that:~~

~~(a) Pays for health care services provided to enrolled Medicaid recipients in exchange for a premium payment paid by the agency;~~

~~(b) Assumes the underwriting risk; and~~

~~(c) Is organized and licensed under applicable provisions of the Florida Insurance Code and is currently in good standing with the Office of Insurance Regulation.~~

~~This subsection expires October 1, 2014.~~

~~(7) The agency may contract on a prepaid or fixed-sum basis with an exclusive provider organization to provide health care services to Medicaid recipients provided that the exclusive provider organization meets applicable managed care plan requirements in this section, ss. 409.9122, 409.9123, 409.9128, and 627.6472, and other applicable provisions of law. This subsection expires October 1, 2014.~~

~~(8) The Agency for Health Care Administration may provide cost-effective purchasing of chiropractic services on a fee-for-service basis to Medicaid recipients through arrangements with a statewide chiropractic preferred provider organization incorporated in this state as a not-for-profit corporation. The agency shall ensure that the benefit limits and prior authorization requirements in the current Medicaid program shall~~

~~apply to the services provided by the chiropractic preferred provider organization. This subsection expires October 1, 2014.~~

~~(9) The agency shall not contract on a prepaid or fixed-sum basis for Medicaid services with an entity which knows or reasonably should know that any officer, director, agent, managing employee, or owner of stock or beneficial interest in excess of 5 percent common or preferred stock, or the entity itself, has been found guilty of, regardless of adjudication, or entered a plea of nolo contendere, or guilty, to:~~

~~(a) Fraud;~~

~~(b) Violation of federal or state antitrust statutes, including those proscribing price fixing between competitors and the allocation of customers among competitors;~~

~~(c) Commission of a felony involving embezzlement, theft, forgery, income tax evasion, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, or obstruction of justice; or~~

~~(d) Any crime in any jurisdiction which directly relates to the provision of health services on a prepaid or fixed-sum basis.~~

~~This subsection expires October 1, 2014.~~

(3) ~~(10)~~ The agency, after notifying the Legislature, may apply for waivers of applicable federal laws and regulations as necessary to implement more appropriate systems of health care for Medicaid recipients and reduce the cost of the Medicaid program to the state and federal governments and shall implement such programs, after legislative approval, within a reasonable

period of time after federal approval. These programs must be designed primarily to reduce the need for inpatient care, custodial care and other long-term or institutional care, and other high-cost services. Prior to seeking legislative approval of such a waiver as authorized by this subsection, the agency shall provide notice and an opportunity for public comment. Notice shall be provided to all persons who have made requests of the agency for advance notice and shall be published in the Florida Administrative Register not less than 28 days prior to the intended action. This subsection expires October 1, 2016.

~~(11) The agency shall establish a postpayment utilization control program designed to identify recipients who may inappropriately overuse or underuse Medicaid services and shall provide methods to correct such misuse. This subsection expires October 1, 2014.~~

~~(12) The agency shall develop and provide coordinated systems of care for Medicaid recipients and may contract with public or private entities to develop and administer such systems of care among public and private health care providers in a given geographic area. This subsection expires October 1, 2014.~~

~~(13) The agency shall operate or contract for the operation of utilization management and incentive systems designed to encourage cost-effective use of services and to eliminate services that are medically unnecessary. The agency shall track Medicaid provider prescription and billing patterns and evaluate them against Medicaid medical necessity criteria and coverage and limitation guidelines adopted by rule. Medical necessity determination requires that service be consistent with symptoms~~

~~or confirmed diagnosis of illness or injury under treatment and not in excess of the patient's needs. The agency shall conduct reviews of provider exceptions to peer group norms and shall, using statistical methodologies, provider profiling, and analysis of billing patterns, detect and investigate abnormal or unusual increases in billing or payment of claims for Medicaid services and medically unnecessary provision of services. Providers that demonstrate a pattern of submitting claims for medically unnecessary services shall be referred to the Medicaid program integrity unit for investigation. In its annual report, required in s. 409.913, the agency shall report on its efforts to control overutilization as described in this subsection. This subsection expires October 1, 2014.~~

~~(14)(a) The agency shall operate the Comprehensive Assessment and Review for Long-Term Care Services (CARES) nursing facility preadmission screening program to ensure that Medicaid payment for nursing facility care is made only for individuals whose conditions require such care and to ensure that long-term care services are provided in the setting most appropriate to the needs of the person and in the most economical manner possible. The CARES program shall also ensure that individuals participating in Medicaid home and community-based waiver programs meet criteria for those programs, consistent with approved federal waivers.~~

~~(b) The agency shall operate the CARES program through an interagency agreement with the Department of Elderly Affairs. The agency, in consultation with the Department of Elderly Affairs, may contract for any function or activity of the CARES program, including any function or activity required by 42~~

~~C.F.R. s. 483.20, relating to preadmission screening and resident review.~~

~~(c) Prior to making payment for nursing facility services for a Medicaid recipient, the agency must verify that the nursing facility preadmission screening program has determined that the individual requires nursing facility care and that the individual cannot be safely served in community-based programs. The nursing facility preadmission screening program shall refer a Medicaid recipient to a community-based program if the individual could be safely served at a lower cost and the recipient chooses to participate in such program. For individuals whose nursing home stay is initially funded by Medicare and Medicare coverage is being terminated for lack of progress towards rehabilitation, CARES staff shall consult with the person making the determination of progress toward rehabilitation to ensure that the recipient is not being inappropriately disqualified from Medicare coverage. If, in their professional judgment, CARES staff believes that a Medicare beneficiary is still making progress toward rehabilitation, they may assist the Medicare beneficiary with an appeal of the disqualification from Medicare coverage. The use of CARES teams to review Medicare denials for coverage under this section is authorized only if it is determined that such reviews qualify for federal matching funds through Medicaid. The agency shall seek or amend federal waivers as necessary to implement this section.~~

~~(d) For the purpose of initiating immediate prescreening and diversion assistance for individuals residing in nursing homes and in order to make families aware of alternative long-~~

~~term care resources so that they may choose a more cost-effective setting for long-term placement, CARES staff shall conduct an assessment and review of a sample of individuals whose nursing home stay is expected to exceed 20 days, regardless of the initial funding source for the nursing home placement. CARES staff shall provide counseling and referral services to these individuals regarding choosing appropriate long-term care alternatives. This paragraph does not apply to continuing care facilities licensed under chapter 651 or to retirement communities that provide a combination of nursing home, independent living, and other long-term care services.~~

~~(e) By January 15 of each year, the agency shall submit a report to the Legislature describing the operations of the CARES program. The report must describe:~~

~~1. Rate of diversion to community alternative programs;~~

~~2. CARES program staffing needs to achieve additional diversions;~~

~~3. Reasons the program is unable to place individuals in less restrictive settings when such individuals desired such services and could have been served in such settings;~~

~~4. Barriers to appropriate placement, including barriers due to policies or operations of other agencies or state-funded programs; and~~

~~5. Statutory changes necessary to ensure that individuals in need of long-term care services receive care in the least restrictive environment.~~

~~(f) The Department of Elderly Affairs shall track individuals over time who are assessed under the CARES program and who are diverted from nursing home placement. By January 15 of each year, the department shall submit to the Legislature a longitudinal study of the individuals who are diverted from nursing home placement. The study must include:~~

~~1. The demographic characteristics of the individuals assessed and diverted from nursing home placement, including, but not limited to, age, race, gender, frailty, caregiver status, living arrangements, and geographic location;~~

~~2. A summary of community services provided to individuals for 1 year after assessment and diversion;~~

~~3. A summary of inpatient hospital admissions for individuals who have been diverted; and~~

~~4. A summary of the length of time between diversion and subsequent entry into a nursing home or death.~~

~~This subsection expires October 1, 2013.~~

~~(15)(a) The agency shall identify health care utilization and price patterns within the Medicaid program which are not cost-effective or medically appropriate and assess the effectiveness of new or alternate methods of providing and monitoring service, and may implement such methods as it considers appropriate. Such methods may include disease management initiatives, an integrated and systematic approach for managing the health care needs of recipients who are at risk of or diagnosed with a specific disease by using best practices, prevention strategies, clinical-practice improvement, clinical interventions and protocols, outcomes research, information technology, and other tools and resources to reduce overall costs and improve measurable outcomes.~~

~~(b) The responsibility of the agency under this subsection~~

~~includes the development of capabilities to identify actual and optimal practice patterns; patient and provider educational initiatives; methods for determining patient compliance with prescribed treatments; fraud, waste, and abuse prevention and detection programs; and beneficiary case management programs.~~

~~1. The practice pattern identification program shall evaluate practitioner prescribing patterns based on national and regional practice guidelines, comparing practitioners to their peer groups. The agency and its Drug Utilization Review Board shall consult with the Department of Health and a panel of practicing health care professionals consisting of the following: the Speaker of the House of Representatives and the President of the Senate shall each appoint three physicians licensed under chapter 458 or chapter 459, and the Governor shall appoint two pharmacists licensed under chapter 465 and one dentist licensed under chapter 466 who is an oral surgeon. Terms of the panel members shall expire at the discretion of the appointing official. The advisory panel shall be responsible for evaluating treatment guidelines and recommending ways to incorporate their use in the practice pattern identification program. Practitioners who are prescribing inappropriately or inefficiently, as determined by the agency, may have their prescribing of certain drugs subject to prior authorization or may be terminated from all participation in the Medicaid program.~~

~~2. The agency shall also develop educational interventions designed to promote the proper use of medications by providers and beneficiaries.~~

~~3. The agency shall implement a pharmacy fraud, waste, and~~

~~abuse initiative that may include a surety bond or letter of credit requirement for participating pharmacies, enhanced provider auditing practices, the use of additional fraud and abuse software, recipient management programs for beneficiaries inappropriately using their benefits, and other steps that eliminate provider and recipient fraud, waste, and abuse. The initiative shall address enforcement efforts to reduce the number and use of counterfeit prescriptions.~~

~~4. The agency may contract with an entity in the state to provide Medicaid providers with electronic access to Medicaid prescription refill data and information relating to the Medicaid preferred drug list. The initiative shall be designed to enhance the agency's efforts to reduce fraud, abuse, and errors in the prescription drug benefit program and to otherwise further the intent of this paragraph.~~

~~5. The agency shall contract with an entity to design a database of clinical utilization information or electronic medical records for Medicaid providers. The database must be web-based and allow providers to review on a real-time basis the utilization of Medicaid services, including, but not limited to, physician office visits, inpatient and outpatient hospitalizations, laboratory and pathology services, radiological and other imaging services, dental care, and patterns of dispensing prescription drugs in order to coordinate care and identify potential fraud and abuse.~~

~~6. The agency may apply for any federal waivers needed to administer this paragraph.~~

~~This subsection expires October 1, 2014.~~

~~(16) An entity contracting on a prepaid or fixed-sum basis shall meet the surplus requirements of s. 641.225. If an entity's surplus falls below an amount equal to the surplus requirements of s. 641.225, the agency shall prohibit the entity from engaging in marketing and preenrollment activities, shall cease to process new enrollments, and may not renew the entity's contract until the required balance is achieved. The requirements of this subsection do not apply:~~

~~(a) Where a public entity agrees to fund any deficit incurred by the contracting entity; or~~

~~(b) Where the entity's performance and obligations are guaranteed in writing by a guaranteeing organization which:~~

~~1. Has been in operation for at least 5 years and has assets in excess of $50 million; or~~

~~2. Submits a written guarantee acceptable to the agency which is irrevocable during the term of the contracting entity's contract with the agency and, upon termination of the contract, until the agency receives proof of satisfaction of all outstanding obligations incurred under the contract.~~

~~This subsection expires October 1, 2014.~~

(4) ~~(17)~~ (a) The agency may require an entity contracting on a prepaid or fixed-sum basis to establish a restricted insolvency protection account with a federally guaranteed financial institution licensed to do business in this state. The entity shall deposit into that account 5 percent of the capitation payments made by the agency each month until a maximum total of 2 percent of the total current contract amount is reached. The restricted insolvency protection account may be

drawn upon with the authorized signatures of two persons designated by the entity and two representatives of the agency. If the agency finds that the entity is insolvent, the agency may draw upon the account solely with the two authorized signatures of representatives of the agency, and the funds may be disbursed to meet financial obligations incurred by the entity under the prepaid contract. If the contract is terminated, expired, or not continued, the account balance must be released by the agency to the entity upon receipt of proof of satisfaction of all outstanding obligations incurred under this contract.

(b) The agency may waive the insolvency protection account requirement in writing when evidence is on file with the agency of adequate insolvency insurance and reinsurance that will protect enrollees if the entity becomes unable to meet its obligations.

~~(18) An entity that contracts with the agency on a prepaid or fixed-sum basis for the provision of Medicaid services shall reimburse any hospital or physician that is outside the entity's authorized geographic service area as specified in its contract with the agency, and that provides services authorized by the entity to its members, at a rate negotiated with the hospital or physician for the provision of services or according to the lesser of the following:~~

~~(a) The usual and customary charges made to the general public by the hospital or physician; or~~

~~(b) The Florida Medicaid reimbursement rate established for the hospital or physician.~~

~~This subsection expires October 1, 2014.~~

~~(19) When a merger or acquisition of a Medicaid prepaid contractor has been approved by the Office of Insurance Regulation pursuant to s. 628.4615, the agency shall approve the assignment or transfer of the appropriate Medicaid prepaid contract upon request of the surviving entity of the merger or acquisition if the contractor and the other entity have been in good standing with the agency for the most recent 12-month period, unless the agency determines that the assignment or transfer would be detrimental to the Medicaid recipients or the Medicaid program. To be in good standing, an entity must not have failed accreditation or committed any material violation of the requirements of s. 641.52 and must meet the Medicaid contract requirements. For purposes of this section, a merger or acquisition means a change in controlling interest of an entity, including an asset or stock purchase. This subsection expires October 1, 2014.~~

(5)~~(20)~~ Any entity contracting with the agency pursuant to this section to provide health care services to Medicaid recipients is prohibited from engaging in any of the following practices or activities:

(a) Practices that are discriminatory, including, but not limited to, attempts to discourage participation on the basis of actual or perceived health status.

(b) Activities that could mislead or confuse recipients, or misrepresent the organization, its marketing representatives, or the agency. Violations of this paragraph include, but are not limited to:

1. False or misleading claims that marketing representatives are employees or representatives of the state or

county, or of anyone other than the entity or the organization by whom they are reimbursed.

2. False or misleading claims that the entity is recommended or endorsed by any state or county agency, or by any other organization which has not certified its endorsement in writing to the entity.

3. False or misleading claims that the state or county recommends that a Medicaid recipient enroll with an entity.

4. Claims that a Medicaid recipient will lose benefits under the Medicaid program, or any other health or welfare benefits to which the recipient is legally entitled, if the recipient does not enroll with the entity.

(c) Granting or offering of any monetary or other valuable consideration for enrollment~~, except as authorized by subsection (23)~~.

(d) Door-to-door solicitation of recipients who have not contacted the entity or who have not invited the entity to make a presentation.

(e) Solicitation of Medicaid recipients by marketing representatives stationed in state offices unless approved and supervised by the agency or its agent and approved by the affected state agency when solicitation occurs in an office of the state agency. The agency shall ensure that marketing representatives stationed in state offices shall market their managed care plans to Medicaid recipients only in designated areas and in such a way as to not interfere with the recipients' activities in the state office.

(f) Enrollment of Medicaid recipients.

(6)~~(21)~~ The agency may impose a fine for a violation of

this section or the contract with the agency by a person or entity that is under contract with the agency. With respect to any nonwillful violation, such fine shall not exceed $2,500 per violation. In no event shall such fine exceed an aggregate amount of $10,000 for all nonwillful violations arising out of the same action. With respect to any knowing and willful violation of this section or the contract with the agency, the agency may impose a fine upon the entity in an amount not to exceed $20,000 for each such violation. In no event shall such fine exceed an aggregate amount of $100,000 for all knowing and willful violations arising out of the same action.

~~(22) A health maintenance organization or a person or entity exempt from chapter 641 that is under contract with the agency for the provision of health care services to Medicaid recipients may not use or distribute marketing materials used to solicit Medicaid recipients, unless such materials have been approved by the agency. The provisions of this subsection do not apply to general advertising and marketing materials used by a health maintenance organization to solicit both non-Medicaid subscribers and Medicaid recipients. This subsection expires October 1, 2014.~~

~~(23) Upon approval by the agency, health maintenance organizations and persons or entities exempt from chapter 641 that are under contract with the agency for the provision of health care services to Medicaid recipients may be permitted within the capitation rate to provide additional health benefits that the agency has found are of high quality, are practicably available, provide reasonable value to the recipient, and are provided at no additional cost to the state. This subsection expires October 1, 2014.~~

~~(24) The agency shall utilize the statewide health maintenance organization complaint hotline for the purpose of investigating and resolving Medicaid and prepaid health plan complaints, maintaining a record of complaints and confirmed problems, and receiving disenrollment requests made by recipients. This subsection expires October 1, 2014.~~

~~(25) The agency shall require the publication of the health maintenance organization's and the prepaid health plan's consumer services telephone numbers and the "800" telephone number of the statewide health maintenance organization complaint hotline on each Medicaid identification card issued by a health maintenance organization or prepaid health plan contracting with the agency to serve Medicaid recipients and on each subscriber handbook issued to a Medicaid recipient. This subsection expires October 1, 2014.~~

(7) ~~(26)~~ The agency shall establish a health care quality improvement system for those entities contracting with the agency pursuant to this section, incorporating all the standards and guidelines developed by the Centers for Medicare and Medicaid Services ~~Bureau of the Health Care Financing Administration~~ as a part of the quality assurance reform initiative. The system shall include, but need not be limited to, the following:

(a) Guidelines for internal quality assurance programs, including standards for:

1. Written quality assurance program descriptions.

2. Responsibilities of the governing body for monitoring, evaluating, and making improvements to care.

3. An active quality assurance committee.

4. Quality assurance program supervision.

5. Requiring the program to have adequate resources to effectively carry out its specified activities.

6. Provider participation in the quality assurance program.

7. Delegation of quality assurance program activities.

8. Credentialing and recredentialing.

9. Enrollee rights and responsibilities.

10. Availability and accessibility to services and care.

11. Ambulatory care facilities.

12. Accessibility and availability of medical records, as well as proper recordkeeping and process for record review.

13. Utilization review.

14. A continuity of care system.

15. Quality assurance program documentation.

16. Coordination of quality assurance activity with other management activity.

17. Delivering care to pregnant women and infants; to elderly and disabled recipients, especially those who are at risk of institutional placement; to persons with developmental disabilities; and to adults who have chronic, high-cost medical conditions.

(b) Guidelines which require the entities to conduct quality-of-care studies which:

1. Target specific conditions and specific health service delivery issues for focused monitoring and evaluation.

2. Use clinical care standards or practice guidelines to objectively evaluate the care the entity delivers or fails to deliver for the targeted clinical conditions and health services

delivery issues.

3. Use quality indicators derived from the clinical care standards or practice guidelines to screen and monitor care and services delivered.

(c) Guidelines for external quality review of each contractor which require: focused studies of patterns of care; individual care review in specific situations; and followup activities on previous pattern-of-care study findings and individual-care-review findings. In designing the external quality review function and determining how it is to operate as part of the state's overall quality improvement system, the agency shall construct its external quality review organization and entity contracts to address each of the following:

1. Delineating the role of the external quality review organization.

2. Length of the external quality review organization contract with the state.

3. Participation of the contracting entities in designing external quality review organization review activities.

4. Potential variation in the type of clinical conditions and health services delivery issues to be studied at each plan.

5. Determining the number of focused pattern-of-care studies to be conducted for each plan.

6. Methods for implementing focused studies.

7. Individual care review.

8. Followup activities.

This subsection expires October 1, 2016.

~~(27) In order to ensure that children receive health care~~

~~services for which an entity has already been compensated, an entity contracting with the agency pursuant to this section shall achieve an annual Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Service screening rate of at least 60 percent for those recipients continuously enrolled for at least 8 months. The agency shall develop a method by which the EPSDT screening rate shall be calculated. For any entity which does not achieve the annual 60 percent rate, the entity must submit a corrective action plan for the agency's approval. If the entity does not meet the standard established in the corrective action plan during the specified timeframe, the agency is authorized to impose appropriate contract sanctions. At least annually, the agency shall publicly release the EPSDT Services screening rates of each entity it has contracted with on a prepaid basis to serve Medicaid recipients. This subsection expires October 1, 2014.~~

~~(28) The agency shall perform enrollments and disenrollments for Medicaid recipients who are eligible for MediPass or managed care plans. Notwithstanding the prohibition contained in paragraph (20)(f), managed care plans may perform preenrollments of Medicaid recipients under the supervision of the agency or its agents. For the purposes of this section, the term "preenrollment" means the provision of marketing and educational materials to a Medicaid recipient and assistance in completing the application forms, but does not include actual enrollment into a managed care plan. An application for enrollment may not be deemed complete until the agency or its agent verifies that the recipient made an informed, voluntary choice. The agency, in cooperation with the Department of~~

~~Children and Families, may test new marketing initiatives to inform Medicaid recipients about their managed care options at selected sites. The agency may contract with a third party to perform managed care plan and MediPass enrollment and disenrollment services for Medicaid recipients and may adopt rules to administer such services. The agency may adjust the capitation rate only to cover the costs of a third-party enrollment and disenrollment contract, and for agency supervision and management of the managed care plan enrollment and disenrollment contract. This subsection expires October 1, 2014.~~

~~(29) Any lists of providers made available to Medicaid recipients, MediPass enrollees, or managed care plan enrollees shall be arranged alphabetically showing the provider's name and specialty and, separately, by specialty in alphabetical order. This subsection expires October 1, 2014.~~

~~(30) The agency shall establish an enhanced managed care quality assurance oversight function, to include at least the following components:~~

~~(a) At least quarterly analysis and followup, including sanctions as appropriate, of managed care participant utilization of services.~~

~~(b) At least quarterly analysis and followup, including sanctions as appropriate, of quality findings of the Medicaid peer review organization and other external quality assurance programs.~~

~~(c) At least quarterly analysis and followup, including sanctions as appropriate, of the fiscal viability of managed care plans.~~

~~(d) At least quarterly analysis and followup, including sanctions as appropriate, of managed care participant satisfaction and disenrollment surveys.~~

~~(c) The agency shall conduct regular and ongoing Medicaid recipient satisfaction surveys.~~

~~The analyses and followup activities conducted by the agency under its enhanced managed care quality assurance oversight function shall not duplicate the activities of accreditation reviewers for entities regulated under part III of chapter 641, but may include a review of the finding of such reviewers. This subsection expires October 1, 2014.~~

~~(31) Each managed care plan that is under contract with the agency to provide health care services to Medicaid recipients shall annually conduct a background check with the Department of Law Enforcement of all persons with ownership interest of 5 percent or more or executive management responsibility for the managed care plan and shall submit to the agency information concerning any such person who has been found guilty of, regardless of adjudication, or has entered a plea of nolo contendere or guilty to, any of the offenses listed in s. 435.04. This subsection expires October 1, 2014.~~

~~(32) The agency shall, by rule, develop a process whereby a Medicaid managed care plan enrollee who wishes to enter hospice care may be disenrolled from the managed care plan within 24 hours after contacting the agency regarding such request. The agency rule shall include a methodology for the agency to recoup managed care plan payments on a pro rata basis if payment has been made for the enrollment month when disenrollment occurs.~~

~~This subsection expires October 1, 2014.~~

~~(33) The agency and entities that contract with the agency to provide health care services to Medicaid recipients under this section or ss. 409.91211 and 409.9122 must comply with the provisions of s. 641.513 in providing emergency services and care to Medicaid recipients and MediPass recipients. Where feasible, safe, and cost-effective, the agency shall encourage hospitals, emergency medical services providers, and other public and private health care providers to work together in their local communities to enter into agreements or arrangements to ensure access to alternatives to emergency services and care for those Medicaid recipients who need nonemergent care. The agency shall coordinate with hospitals, emergency medical services providers, private health plans, capitated managed care networks as established in s. 409.91211, and other public and private health care providers to implement the provisions of ss. 395.1041(7), 409.91255(3)(g), 627.6405, and 641.31097 to develop and implement emergency department diversion programs for Medicaid recipients. This subsection expires October 1, 2014.~~

~~(34) All entities providing health care services to Medicaid recipients shall make available, and encourage all pregnant women and mothers with infants to receive, and provide documentation in the medical records to reflect, the following:~~

~~(a) Healthy Start prenatal or infant screening.~~

~~(b) Healthy Start care coordination, when screening or other factors indicate need.~~

~~(c) Healthy Start enhanced services in accordance with the prenatal or infant screening results.~~

~~(d) Immunizations in accordance with recommendations of the~~

~~Advisory Committee on Immunization Practices of the United States Public Health Service and the American Academy of Pediatrics, as appropriate.~~

~~(c) Counseling and services for family planning to all women and their partners.~~

~~(f) A scheduled postpartum visit for the purpose of voluntary family planning, to include discussion of all methods of contraception, as appropriate.~~

~~(g) Referral to the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC).~~

~~This subsection expires October 1, 2014.~~

~~(35) Any entity that provides Medicaid prepaid health plan services shall ensure the appropriate coordination of health care services with an assisted living facility in cases where a Medicaid recipient is both a member of the entity's prepaid health plan and a resident of the assisted living facility. If the entity is at risk for Medicaid targeted case management and behavioral health services, the entity shall inform the assisted living facility of the procedures to follow should an emergent condition arise. This subsection expires October 1, 2014.~~

~~(36) The agency shall enter into agreements with not-for-profit organizations based in this state for the purpose of providing vision screening. This subsection expires October 1, 2014.~~

(8) ~~(37)~~ (a) The agency shall implement a Medicaid prescribed-drug spending-control program that includes the following components:

1. A Medicaid preferred drug list, which shall be a listing

of cost-effective therapeutic options recommended by the Medicaid Pharmacy and Therapeutics Committee established pursuant to s. 409.91195 and adopted by the agency for each therapeutic class on the preferred drug list. At the discretion of the committee, and when feasible, the preferred drug list should include at least two products in a therapeutic class. The agency may post the preferred drug list and updates to the list on an Internet website without following the rulemaking procedures of chapter 120. Antiretroviral agents are excluded from the preferred drug list. The agency shall also limit the amount of a prescribed drug dispensed to no more than a 34-day supply unless the drug products' smallest marketed package is greater than a 34-day supply, or the drug is determined by the agency to be a maintenance drug in which case a 100-day maximum supply may be authorized. The agency may seek any federal waivers necessary to implement these cost-control programs and to continue participation in the federal Medicaid rebate program, or alternatively to negotiate state-only manufacturer rebates. The agency may adopt rules to administer this subparagraph. The agency shall continue to provide unlimited contraceptive drugs and items. The agency must establish procedures to ensure that:

a. There is a response to a request for prior consultation by telephone or other telecommunication device within 24 hours after receipt of a request for prior consultation; and

b. A 72-hour supply of the drug prescribed is provided in an emergency or when the agency does not provide a response within 24 hours as required by sub-subparagraph a.

2. Reimbursement to pharmacies for Medicaid prescribed

drugs shall be set at the lowest of: the average wholesale price (AWP) minus 16.4 percent, the wholesaler acquisition cost (WAC) plus 1.5 percent, the federal upper limit (FUL), the state maximum allowable cost (SMAC), or the usual and customary (UAC) charge billed by the provider.

3. The agency shall develop and implement a process for managing the drug therapies of Medicaid recipients who are using significant numbers of prescribed drugs each month. The management process may include, but is not limited to, comprehensive, physician-directed medical-record reviews, claims analyses, and case evaluations to determine the medical necessity and appropriateness of a patient's treatment plan and drug therapies. The agency may contract with a private organization to provide drug-program-management services. The Medicaid drug benefit management program shall include initiatives to manage drug therapies for HIV/AIDS patients, patients using 20 or more unique prescriptions in a 180-day period, and the top 1,000 patients in annual spending. The agency shall enroll any Medicaid recipient in the drug benefit management program if he or she meets the specifications of this provision and is not enrolled in a Medicaid health maintenance organization.

4. The agency may limit the size of its pharmacy network based on need, competitive bidding, price negotiations, credentialing, or similar criteria. The agency shall give special consideration to rural areas in determining the size and location of pharmacies included in the Medicaid pharmacy network. A pharmacy credentialing process may include criteria such as a pharmacy's full-service status, location, size,

patient educational programs, patient consultation, disease management services, and other characteristics. The agency may impose a moratorium on Medicaid pharmacy enrollment if it is determined that it has a sufficient number of Medicaid-participating providers. The agency must allow dispensing practitioners to participate as a part of the Medicaid pharmacy network regardless of the practitioner's proximity to any other entity that is dispensing prescription drugs under the Medicaid program. A dispensing practitioner must meet all credentialing requirements applicable to his or her practice, as determined by the agency.

5. The agency shall develop and implement a program that requires Medicaid practitioners who prescribe drugs to use a counterfeit-proof prescription pad for Medicaid prescriptions. The agency shall require the use of standardized counterfeit-proof prescription pads by Medicaid-participating prescribers or prescribers who write prescriptions for Medicaid recipients. The agency may implement the program in targeted geographic areas or statewide.

6. The agency may enter into arrangements that require manufacturers of generic drugs prescribed to Medicaid recipients to provide rebates of at least 15.1 percent of the average manufacturer price for the manufacturer's generic products. These arrangements shall require that if a generic-drug manufacturer pays federal rebates for Medicaid-reimbursed drugs at a level below 15.1 percent, the manufacturer must provide a supplemental rebate to the state in an amount necessary to achieve a 15.1-percent rebate level.

7. The agency may establish a preferred drug list as

described in this subsection, and, pursuant to the establishment of such preferred drug list, negotiate supplemental rebates from manufacturers that are in addition to those required by Title XIX of the Social Security Act and at no less than 14 percent of the average manufacturer price as defined in 42 U.S.C. s. 1936 on the last day of a quarter unless the federal or supplemental rebate, or both, equals or exceeds 29 percent. There is no upper limit on the supplemental rebates the agency may negotiate. The agency may determine that specific products, brand-name or generic, are competitive at lower rebate percentages. Agreement to pay the minimum supplemental rebate percentage guarantees a manufacturer that the Medicaid Pharmaceutical and Therapeutics Committee will consider a product for inclusion on the preferred drug list. However, a pharmaceutical manufacturer is not guaranteed placement on the preferred drug list by simply paying the minimum supplemental rebate. Agency decisions will be made on the clinical efficacy of a drug and recommendations of the Medicaid Pharmaceutical and Therapeutics Committee, as well as the price of competing products minus federal and state rebates. The agency may contract with an outside agency or contractor to conduct negotiations for supplemental rebates. For the purposes of this section, the term "supplemental rebates" means cash rebates. Value-added programs as a substitution for supplemental rebates are prohibited. The agency may seek any federal waivers to implement this initiative.

8. The agency shall expand home delivery of pharmacy products. The agency may amend the state plan and issue a procurement, as necessary, in order to implement this program. The procurements must include agreements with a pharmacy or

pharmacies located in the state to provide mail order delivery services at no cost to the recipients who elect to receive home delivery of pharmacy products. The procurement must focus on serving recipients with chronic diseases for which pharmacy expenditures represent a significant portion of Medicaid pharmacy expenditures or which impact a significant portion of the Medicaid population. The agency may seek and implement any federal waivers necessary to implement this subparagraph.

9. The agency shall limit to one dose per month any drug prescribed to treat erectile dysfunction.

10.a. The agency may implement a Medicaid behavioral drug management system. The agency may contract with a vendor that has experience in operating behavioral drug management systems to implement this program. The agency may seek federal waivers to implement this program.

b. The agency, in conjunction with the Department of Children and Families, may implement the Medicaid behavioral drug management system that is designed to improve the quality of care and behavioral health prescribing practices based on best practice guidelines, improve patient adherence to medication plans, reduce clinical risk, and lower prescribed drug costs and the rate of inappropriate spending on Medicaid behavioral drugs. The program may include the following elements:

(I) Provide for the development and adoption of best practice guidelines for behavioral health-related drugs such as antipsychotics, antidepressants, and medications for treating bipolar disorders and other behavioral conditions; translate them into practice; review behavioral health prescribers and

compare their prescribing patterns to a number of indicators that are based on national standards; and determine deviations from best practice guidelines.

(II) Implement processes for providing feedback to and educating prescribers using best practice educational materials and peer-to-peer consultation.

(III) Assess Medicaid beneficiaries who are outliers in their use of behavioral health drugs with regard to the numbers and types of drugs taken, drug dosages, combination drug therapies, and other indicators of improper use of behavioral health drugs.

(IV) Alert prescribers to patients who fail to refill prescriptions in a timely fashion, are prescribed multiple same-class behavioral health drugs, and may have other potential medication problems.

(V) Track spending trends for behavioral health drugs and deviation from best practice guidelines.

(VI) Use educational and technological approaches to promote best practices, educate consumers, and train prescribers in the use of practice guidelines.

(VII) Disseminate electronic and published materials.

(VIII) Hold statewide and regional conferences.

(IX) Implement a disease management program with a model quality-based medication component for severely mentally ill individuals and emotionally disturbed children who are high users of care.

11. The agency shall implement a Medicaid prescription drug management system.

a. The agency may contract with a vendor that has

experience in operating prescription drug management systems in order to implement this system. Any management system that is implemented in accordance with this subparagraph must rely on cooperation between physicians and pharmacists to determine appropriate practice patterns and clinical guidelines to improve the prescribing, dispensing, and use of drugs in the Medicaid program. The agency may seek federal waivers to implement this program.

b. The drug management system must be designed to improve the quality of care and prescribing practices based on best practice guidelines, improve patient adherence to medication plans, reduce clinical risk, and lower prescribed drug costs and the rate of inappropriate spending on Medicaid prescription drugs. The program must:

(I) Provide for the adoption of best practice guidelines for the prescribing and use of drugs in the Medicaid program, including translating best practice guidelines into practice; reviewing prescriber patterns and comparing them to indicators that are based on national standards and practice patterns of clinical peers in their community, statewide, and nationally; and determine deviations from best practice guidelines.

(II) Implement processes for providing feedback to and educating prescribers using best practice educational materials and peer-to-peer consultation.

(III) Assess Medicaid recipients who are outliers in their use of a single or multiple prescription drugs with regard to the numbers and types of drugs taken, drug dosages, combination drug therapies, and other indicators of improper use of prescription drugs.

(IV) Alert prescribers to recipients who fail to refill prescriptions in a timely fashion, are prescribed multiple drugs that may be redundant or contraindicated, or may have other potential medication problems.

12. The agency may contract for drug rebate administration, including, but not limited to, calculating rebate amounts, invoicing manufacturers, negotiating disputes with manufacturers, and maintaining a database of rebate collections.

13. The agency may specify the preferred daily dosing form or strength for the purpose of promoting best practices with regard to the prescribing of certain drugs as specified in the General Appropriations Act and ensuring cost-effective prescribing practices.

14. The agency may require prior authorization for Medicaid-covered prescribed drugs. The agency may prior-authorize the use of a product:

a. For an indication not approved in labeling;

b. To comply with certain clinical guidelines; or

c. If the product has the potential for overuse, misuse, or abuse.

The agency may require the prescribing professional to provide information about the rationale and supporting medical evidence for the use of a drug. The agency shall post prior authorization, step-edit criteria and protocol, and updates to the list of drugs that are subject to prior authorization on the agency's Internet website within 21 days after the prior authorization and step-edit criteria and protocol and updates are approved by the agency. For purposes of this subparagraph,

the term "step-edit" means an automatic electronic review of certain medications subject to prior authorization.

15. The agency, in conjunction with the Pharmaceutical and Therapeutics Committee, may require age-related prior authorizations for certain prescribed drugs. The agency may preauthorize the use of a drug for a recipient who may not meet the age requirement or may exceed the length of therapy for use of this product as recommended by the manufacturer and approved by the Food and Drug Administration. Prior authorization may require the prescribing professional to provide information about the rationale and supporting medical evidence for the use of a drug.

16. The agency shall implement a step-therapy prior authorization approval process for medications excluded from the preferred drug list. Medications listed on the preferred drug list must be used within the previous 12 months before the alternative medications that are not listed. The step-therapy prior authorization may require the prescriber to use the medications of a similar drug class or for a similar medical indication unless contraindicated in the Food and Drug Administration labeling. The trial period between the specified steps may vary according to the medical indication. The step-therapy approval process shall be developed in accordance with the committee as stated in s. 409.91195(7) and (8). A drug product may be approved without meeting the step-therapy prior authorization criteria if the prescribing physician provides the agency with additional written medical or clinical documentation that the product is medically necessary because:

a. There is not a drug on the preferred drug list to treat

the disease or medical condition which is an acceptable clinical alternative;

b. The alternatives have been ineffective in the treatment of the beneficiary's disease; or

c. Based on historic evidence and known characteristics of the patient and the drug, the drug is likely to be ineffective, or the number of doses have been ineffective.

The agency shall work with the physician to determine the best alternative for the patient. The agency may adopt rules waiving the requirements for written clinical documentation for specific drugs in limited clinical situations.

17. The agency shall implement a return and reuse program for drugs dispensed by pharmacies to institutional recipients, which includes payment of a $5 restocking fee for the implementation and operation of the program. The return and reuse program shall be implemented electronically and in a manner that promotes efficiency. The program must permit a pharmacy to exclude drugs from the program if it is not practical or cost-effective for the drug to be included and must provide for the return to inventory of drugs that cannot be credited or returned in a cost-effective manner. The agency shall determine if the program has reduced the amount of Medicaid prescription drugs which are destroyed on an annual basis and if there are additional ways to ensure more prescription drugs are not destroyed which could safely be reused.

(b) The agency shall implement this subsection to the extent that funds are appropriated to administer the Medicaid

prescribed-drug spending-control program. The agency may contract all or any part of this program to private organizations.

(c) The agency shall submit quarterly reports to the Governor, the President of the Senate, and the Speaker of the House of Representatives which must include, but need not be limited to, the progress made in implementing this subsection and its effect on Medicaid prescribed-drug expenditures.

(9) ~~(38)~~ Notwithstanding the provisions of chapter 287, the agency may, at its discretion, renew a contract or contracts for fiscal intermediary services one or more times for such periods as the agency may decide; however, all such renewals may not combine to exceed a total period longer than the term of the original contract.

~~(39) The agency shall establish a demonstration project in Miami-Dade County of a long-term-care facility and a psychiatric facility licensed pursuant to chapter 395 to improve access to health care for a predominantly minority, medically underserved, and medically complex population and to evaluate alternatives to nursing home care and general acute care for such population. Such project is to be located in a health care condominium and collocated with licensed facilities providing a continuum of care. These projects are not subject to the provisions of s. 408.036 or s. 408.039. This subsection expires October 1, 2013.~~

~~(40) The agency shall develop and implement a utilization management program for Medicaid-eligible recipients for the management of occupational, physical, respiratory, and speech therapies. The agency shall establish a utilization program that may require prior authorization in order to ensure medically~~

~~necessary and cost-effective treatments. The program shall be operated in accordance with a federally approved waiver program or state plan amendment. The agency may seek a federal waiver or state plan amendment to implement this program. The agency may also competitively procure these services from an outside vendor on a regional or statewide basis. This subsection expires October 1, 2014.~~

~~(41)(a) The agency shall contract on a prepaid or fixed-sum basis with appropriately licensed prepaid dental health plans to provide dental services. This paragraph expires October 1, 2014.~~

~~(b) Notwithstanding paragraph (a) and for the 2012-2013 fiscal year only, the agency is authorized to provide a Medicaid prepaid dental health program in Miami-Dade County. For all other counties, the agency may not limit dental services to prepaid plans and must allow qualified dental providers to provide dental services under Medicaid on a fee-for-service reimbursement methodology. The agency may seek any necessary revisions or amendments to the state plan or federal waivers in order to implement this paragraph. The agency shall terminate existing contracts as needed to implement this paragraph. This paragraph expires July 1, 2013.~~

~~(42) The Agency for Health Care Administration shall ensure that any Medicaid managed care plan as defined in s. 409.9122(2)(f), whether paid on a capitated basis or a shared savings basis, is cost-effective. For purposes of this subsection, the term "cost-effective" means that a network's per member, per month costs to the state, including, but not limited to, fee-for-service costs, administrative costs, and case-management fees, if any, must be no greater than the~~

~~state's costs associated with contracts for Medicaid services established under subsection (3), which may be adjusted for health status. The agency shall conduct actuarially sound adjustments for health status in order to ensure such cost-effectiveness and shall annually publish the results on its Internet website. Contracts established pursuant to this subsection which are not cost-effective may not be renewed. This subsection expires October 1, 2014.~~

~~(43) Subject to the availability of funds, the agency shall mandate a recipient's participation in a provider lock-in program, when appropriate, if a recipient is found by the agency to have used Medicaid goods or services at a frequency or amount not medically necessary, limiting the receipt of goods or services to medically necessary providers after the 21-day appeal process has ended, for a period of not less than 1 year. The lock-in programs shall include, but are not limited to, pharmacies, medical doctors, and infusion clinics. The limitation does not apply to emergency services and care provided to the recipient in a hospital emergency department. The agency shall seek any federal waivers necessary to implement this subsection. The agency shall adopt any rules necessary to comply with or administer this subsection. This subsection expires October 1, 2014.~~

(10)~~(44)~~ The agency shall seek a federal waiver for permission to terminate the eligibility of a Medicaid recipient who has been found to have committed fraud, through judicial or administrative determination, two times in a period of 5 years.

(11)~~(45)~~(a) A provider is not entitled to enrollment in the Medicaid provider network. The agency may implement a Medicaid

fee-for-service provider network controls, including, but not limited to, competitive procurement and provider credentialing. If a credentialing process is used, the agency may limit its provider network based upon the following considerations: beneficiary access to care, provider availability, provider quality standards and quality assurance processes, cultural competency, demographic characteristics of beneficiaries, practice standards, service wait times, provider turnover, provider licensure and accreditation history, program integrity history, peer review, Medicaid policy and billing compliance records, clinical and medical record audit findings, and such other areas that are considered necessary by the agency to ensure the integrity of the program.

(b) The agency shall limit its network of durable medical equipment and medical supply providers. For dates of service after January 1, 2009, the agency shall limit payment for durable medical equipment and supplies to providers that meet all the requirements of this paragraph.

1. Providers must be accredited by a Centers for Medicare and Medicaid Services deemed accreditation organization for suppliers of durable medical equipment, prosthetics, orthotics, and supplies. The provider must maintain accreditation and is subject to unannounced reviews by the accrediting organization.

2. Providers must provide the services or supplies directly to the Medicaid recipient or caregiver at the provider location or recipient's residence or send the supplies directly to the recipient's residence with receipt of mailed delivery. Subcontracting or consignment of the service or supply to a third party is prohibited.

3. Notwithstanding subparagraph 2., a durable medical equipment provider may store nebulizers at a physician's office for the purpose of having the physician's staff issue the equipment if it meets all of the following conditions:

a. The physician must document the medical necessity and need to prevent further deterioration of the patient's respiratory status by the timely delivery of the nebulizer in the physician's office.

b. The durable medical equipment provider must have written documentation of the competency and training by a Florida-licensed registered respiratory therapist of any durable medical equipment staff who participate in the training of physician office staff for the use of nebulizers, including cleaning, warranty, and special needs of patients.

c. The physician's office must have documented the training and competency of any staff member who initiates the delivery of nebulizers to patients. The durable medical equipment provider must maintain copies of all physician office training.

d. The physician's office must maintain inventory records of stored nebulizers, including documentation of the durable medical equipment provider source.

e. A physician contracted with a Medicaid durable medical equipment provider may not have a financial relationship with that provider or receive any financial gain from the delivery of nebulizers to patients.

4. Providers must have a physical business location and a functional landline business phone. The location must be within the state or not more than 50 miles from the Florida state line. The agency may make exceptions for providers of durable medical

equipment or supplies not otherwise available from other enrolled providers located within the state.

5. Physical business locations must be clearly identified as a business that furnishes durable medical equipment or medical supplies by signage that can be read from 20 feet away. The location must be readily accessible to the public during normal, posted business hours and must operate at least 5 hours per day and at least 5 days per week, with the exception of scheduled and posted holidays. The location may not be located within or at the same numbered street address as another enrolled Medicaid durable medical equipment or medical supply provider or as an enrolled Medicaid pharmacy that is also enrolled as a durable medical equipment provider. A licensed orthotist or prosthetist that provides only orthotic or prosthetic devices as a Medicaid durable medical equipment provider is exempt from this paragraph.

6. Providers must maintain a stock of durable medical equipment and medical supplies on site that is readily available to meet the needs of the durable medical equipment business location's customers.

7. Providers must provide a surety bond of $50,000 for each provider location, up to a maximum of 5 bonds statewide or an aggregate bond of $250,000 statewide, as identified by Federal Employer Identification Number. Providers who post a statewide or an aggregate bond must identify all of their locations in any Medicaid durable medical equipment and medical supply provider enrollment application or bond renewal. Each provider location's surety bond must be renewed annually and the provider must submit proof of renewal even if the original bond is a

continuous bond. A licensed orthotist or prosthetist that provides only orthotic or prosthetic devices as a Medicaid durable medical equipment provider is exempt from the provisions in this paragraph.

8. Providers must obtain a level 2 background screening, in accordance with chapter 435 and s. 408.809, for each provider employee in direct contact with or providing direct services to recipients of durable medical equipment and medical supplies in their homes. This requirement includes, but is not limited to, repair and service technicians, fitters, and delivery staff. The provider shall pay for the cost of the background screening.

9. The following providers are exempt from subparagraphs 1. and 7.:

a. Durable medical equipment providers owned and operated by a government entity.

b. Durable medical equipment providers that are operating within a pharmacy that is currently enrolled as a Medicaid pharmacy provider.

c. Active, Medicaid-enrolled orthopedic physician groups, primarily owned by physicians, which provide only orthotic and prosthetic devices.

~~(46) The agency shall contract with established minority physician networks that provide services to historically underserved minority patients. The networks must provide cost-effective Medicaid services, comply with the requirements to be a MediPass provider, and provide their primary care physicians with access to data and other management tools necessary to assist them in ensuring the appropriate use of services, including inpatient hospital services and pharmaceuticals.~~

~~(a) The agency shall provide for the development and expansion of minority physician networks in each service area to provide services to Medicaid recipients who are eligible to participate under federal law and rules.~~

~~(b) The agency shall reimburse each minority physician network as a fee-for-service provider, including the case management fee for primary care, if any, or as a capitated rate provider for Medicaid services. Any savings shall be shared with the minority physician networks pursuant to the contract.~~

~~(c) For purposes of this subsection, the term "cost-effective" means that a network's per-member, per-month costs to the state, including, but not limited to, fee-for-service costs, administrative costs, and case management fees, if any, must be no greater than the state's costs associated with contracts for Medicaid services established under subsection (3), which shall be actuarially adjusted for case mix, model, and service area. The agency shall conduct actuarially sound audits adjusted for case mix and model in order to ensure such cost-effectiveness and shall annually publish the audit results on its Internet website. Contracts established pursuant to this subsection which are not cost-effective may not be renewed.~~

~~(d) The agency may apply for any federal waivers needed to implement this subsection.~~

~~This subsection expires October 1, 2014.~~

(12) ~~(47)~~ To the extent permitted by federal law and as allowed under s. 409.906, the agency shall provide reimbursement for emergency mental health care services for Medicaid recipients in crisis stabilization facilities licensed under s.

394.875 as long as those services are less expensive than the same services provided in a hospital setting.

(13) ~~(48)~~ The agency shall work with the Agency for Persons with Disabilities to develop a home and community-based waiver to serve children and adults who are diagnosed with familial dysautonomia or Riley-Day syndrome caused by a mutation of the IKBKAP gene on chromosome 9. The agency shall seek federal waiver approval and implement the approved waiver subject to the availability of funds and any limitations provided in the General Appropriations Act. The agency may adopt rules to implement this waiver program.

(14) ~~(49)~~ The agency shall implement a program of all-inclusive care for children. The program of all-inclusive care for children shall be established to provide in-home hospice-like support services to children diagnosed with a life-threatening illness and enrolled in the Children's Medical Services network to reduce hospitalizations as appropriate. The agency, in consultation with the Department of Health, may implement the program of all-inclusive care for children after obtaining approval from the Centers for Medicare and Medicaid Services.

(15) ~~(50)~~ Before seeking an amendment to the state plan for purposes of implementing programs authorized by the Deficit Reduction Act of 2005, the agency shall notify the Legislature.

(16) ~~(51)~~ The agency may not pay for psychotropic medication prescribed for a child in the Medicaid program without the express and informed consent of the child's parent or legal guardian. The physician shall document the consent in the child's medical record and provide the pharmacy with a signed

attestation of this documentation with the prescription. The express and informed consent or court authorization for a prescription of psychotropic medication for a child in the custody of the Department of Children and Families shall be obtained pursuant to s. 39.407.

Reviser's note.—Amended to conform to the repeals of numerous subunits pursuant to their own terms, effective at various dates in 2013 and 2014. Material in existing s. 409.912(4)(d)4. referencing s. 409.91211 was deleted to conform to the repeal of that section effective October 1, 2014, by s. 20, ch. 2011-135, Laws of Florida, and confirmation of that repeal by this reviser's bill. The reference in subsection (26), redesignated here as subsection (7), to the Medicaid Bureau of the Health Care Financing Administration was redesignated as the Centers for Medicare and Medicaid Services to conform to the renaming of the federal agency.

Section 15. Section 409.91211, Florida Statutes, is repealed.

Reviser's note.—The cited section, which relates to the Medicaid managed care pilot program, was repealed by s. 20, ch. 2011-135, Laws of Florida, effective October 1, 2014. Since the section was not repealed by a "current session" of the Legislature, it may be omitted from the 2015 Florida Statutes only through a reviser's bill duly enacted by the Legislature. See s. 11.242(5)(b) and (i).

Section 16. Section 409.9122, Florida Statutes, is amended to read:

409.9122 Mandatory Medicaid managed care enrollment;

programs and procedures.—

(1) ~~It is the intent of the Legislature that the MediPass program be cost-effective, provide quality health care, and improve access to health services, and that the program be statewide. This subsection expires October 1, 2014.~~

~~(2)(a) The agency shall enroll in a managed care plan or MediPass all Medicaid recipients, except those Medicaid recipients who are: in an institution; enrolled in the Medicaid medically needy program; or eligible for both Medicaid and Medicare. Upon enrollment, individuals will be able to change their managed care option during the 90-day opt out period required by federal Medicaid regulations. The agency is authorized to seek the necessary Medicaid state plan amendment to implement this policy. However, to the extent permitted by federal law, the agency may enroll in a managed care plan or MediPass a Medicaid recipient who is exempt from mandatory managed care enrollment, provided that:~~

~~1. The recipient's decision to enroll in a managed care plan or MediPass is voluntary;~~

~~2. If the recipient chooses to enroll in a managed care plan, the agency has determined that the managed care plan provides specific programs and services which address the special health needs of the recipient; and~~

~~3. The agency receives any necessary waivers from the federal Centers for Medicare and Medicaid Services.~~

~~School districts participating in the certified school match program pursuant to ss. 409.908(21) and 1011.70 shall be reimbursed by Medicaid, subject to the limitations of s.~~

~~1011.70(1), for a Medicaid-eligible child participating in the services as authorized in s. 1011.70, as provided for in s. 409.9071, regardless of whether the child is enrolled in MediPass or a managed care plan. Managed care plans shall make a good faith effort to execute agreements with school districts regarding the coordinated provision of services authorized under s. 1011.70. County health departments delivering school-based services pursuant to ss. 381.0056 and 381.0057 shall be reimbursed by Medicaid for the federal share for a Medicaid-eligible child who receives Medicaid-covered services in a school setting, regardless of whether the child is enrolled in MediPass or a managed care plan. Managed care plans shall make a good faith effort to execute agreements with county health departments regarding the coordinated provision of services to a Medicaid-eligible child. To ensure continuity of care for Medicaid patients, the agency, the Department of Health, and the Department of Education shall develop procedures for ensuring that a student's managed care plan or MediPass provider receives information relating to services provided in accordance with ss. 381.0056, 381.0057, 409.9071, and 1011.70.~~

~~(b) A Medicaid recipient may not be enrolled in or assigned to a managed care plan or MediPass unless the managed care plan or MediPass has complied with the quality-of-care standards specified in paragraphs (4)(a) and (b), respectively.~~

~~(c) Medicaid recipients shall have a choice of managed care plans or MediPass. The Agency for Health Care Administration, the Department of Health, the Department of Children and Families, and the Department of Elderly Affairs shall cooperate to ensure that each Medicaid recipient receives clear and easily~~

~~understandable information that meets the following requirements:~~

~~1. Explains the concept of managed care, including MediPass.~~

~~2. Provides information on the comparative performance of managed care plans and MediPass in the areas of quality, credentialing, preventive health programs, network size and availability, and patient satisfaction.~~

~~3. Explains where additional information on each managed care plan and MediPass in the recipient's area can be obtained.~~

~~4. Explains that recipients have the right to choose their managed care coverage at the time they first enroll in Medicaid and again at regular intervals set by the agency. However, if a recipient does not choose a managed care plan or MediPass, the agency will assign the recipient to a managed care plan or MediPass according to the criteria specified in this section.~~

~~5. Explains the recipient's right to complain, file a grievance, or change managed care plans or MediPass providers if the recipient is not satisfied with the managed care plan or MediPass.~~

~~(d) The agency shall develop a mechanism for providing information to Medicaid recipients for the purpose of making a managed care plan or MediPass selection. Examples of such mechanisms may include, but not be limited to, interactive information systems, mailings, and mass marketing materials. Managed care plans and MediPass providers are prohibited from providing inducements to Medicaid recipients to select their plans or from prejudicing Medicaid recipients against other managed care plans or MediPass providers.~~

~~(c) Medicaid recipients who are already enrolled in a managed care plan or MediPass shall be offered the opportunity to change managed care plans or MediPass providers on a staggered basis, as defined by the agency. All Medicaid recipients shall have 30 days in which to make a choice of managed care plans or MediPass providers. Those Medicaid recipients who do not make a choice shall be assigned in accordance with paragraph (f). To facilitate continuity of care, for a Medicaid recipient who is also a recipient of Supplemental Security Income (SSI), prior to assigning the SSI recipient to a managed care plan or MediPass, the agency shall determine whether the SSI recipient has an ongoing relationship with a MediPass provider or managed care plan, and if so, the agency shall assign the SSI recipient to that MediPass provider or managed care plan. Those SSI recipients who do not have such a provider relationship shall be assigned to a managed care plan or MediPass provider in accordance with paragraph (f).~~

~~(f) If a Medicaid recipient does not choose a managed care plan or MediPass provider, the agency shall assign the Medicaid recipient to a managed care plan or MediPass provider. Medicaid recipients eligible for managed care plan enrollment who are subject to mandatory assignment but who fail to make a choice shall be assigned to managed care plans until an enrollment of 35 percent in MediPass and 65 percent in managed care plans, of all those eligible to choose managed care, is achieved. Once this enrollment is achieved, the assignments shall be divided in order to maintain an enrollment in MediPass and managed care plans which is in a 35 percent and 65 percent proportion, respectively. Thereafter, assignment of Medicaid recipients who fail to make a choice shall be based proportionally on the preferences of recipients who have made a choice in the previous period. Such proportions shall be revised at least quarterly to reflect an update of the preferences of Medicaid recipients. The agency shall disproportionately assign Medicaid-eligible recipients who are required to but have failed to make a choice of managed care plan or MediPass to the Children's Medical Services Network as defined in s. 391.021, exclusive provider organizations, provider service networks, minority physician networks, and pediatric emergency department diversion programs authorized by this chapter or the General Appropriations Act, in such manner as the agency deems appropriate, until the agency has determined that the networks and programs have sufficient numbers to be operated economically. For purposes of this paragraph, when referring to assignment, the term "managed care plans" includes health maintenance organizations, exclusive provider organizations, provider service networks, minority physician networks, Children's Medical Services Network, and pediatric emergency department diversion programs authorized by this chapter or the General Appropriations Act. When making assignments, the agency shall take into account the following criteria:~~

~~1. A managed care plan has sufficient network capacity to meet the need of members.~~

~~2. The managed care plan or MediPass has previously enrolled the recipient as a member, or one of the managed care plan's primary care providers or MediPass providers has previously provided health care to the recipient.~~

~~3. The agency has knowledge that the member has previously~~

~~expressed a preference for a particular managed care plan or MediPass provider as indicated by Medicaid fee-for-service claims data, but has failed to make a choice.~~

~~4. The managed care plan's or MediPass primary care providers are geographically accessible to the recipient's residence.~~

~~(g) When more than one managed care plan or MediPass provider meets the criteria specified in paragraph (f), the agency shall make recipient assignments consecutively by family unit.~~

~~(h) The agency may not engage in practices that are designed to favor one managed care plan over another or that are designed to influence Medicaid recipients to enroll in MediPass rather than in a managed care plan or to enroll in a managed care plan rather than in MediPass. This subsection does not prohibit the agency from reporting on the performance of MediPass or any managed care plan, as measured by performance criteria developed by the agency.~~

~~(i) After a recipient has made his or her selection or has been enrolled in a managed care plan or MediPass, the recipient shall have 90 days to exercise the opportunity to voluntarily disenroll and select another managed care plan or MediPass. After 90 days, no further changes may be made except for good cause. Good cause includes, but is not limited to, poor quality of care, lack of access to necessary specialty services, an unreasonable delay or denial of service, or fraudulent enrollment. The agency shall develop criteria for good cause disenrollment for chronically ill and disabled populations who are assigned to managed care plans if more appropriate care is~~

~~available through the MediPass program. The agency must make a determination as to whether cause exists. However, the agency may require a recipient to use the managed care plan's or MediPass grievance process prior to the agency's determination of cause, except in cases in which immediate risk of permanent damage to the recipient's health is alleged. The grievance process, when utilized, must be completed in time to permit the recipient to disenroll by the first day of the second month after the month the disenrollment request was made. If the managed care plan or MediPass, as a result of the grievance process, approves an enrollee's request to disenroll, the agency is not required to make a determination in the case. The agency must make a determination and take final action on a recipient's request so that disenrollment occurs no later than the first day of the second month after the month the request was made. If the agency fails to act within the specified timeframe, the recipient's request to disenroll is deemed to be approved as of the date agency action was required. Recipients who disagree with the agency's finding that cause does not exist for disenrollment shall be advised of their right to pursue a Medicaid fair hearing to dispute the agency's finding.~~

~~(j) The agency shall apply for a federal waiver from the Centers for Medicare and Medicaid Services to lock eligible Medicaid recipients into a managed care plan or MediPass for 12 months after an open enrollment period. After 12 months' enrollment, a recipient may select another managed care plan or MediPass provider. However, nothing shall prevent a Medicaid recipient from changing primary care providers within the managed care plan or MediPass program during the 12-month~~

~~period.~~

~~(k) When a Medicaid recipient does not choose a managed care plan or MediPass provider, the agency shall assign the Medicaid recipient to a managed care plan, except in those counties in which there are fewer than two managed care plans accepting Medicaid enrollees, in which case assignment shall be to a managed care plan or a MediPass provider. Medicaid recipients in counties with fewer than two managed care plans accepting Medicaid enrollees who are subject to mandatory assignment but who fail to make a choice shall be assigned to managed care plans until an enrollment of 35 percent in MediPass and 65 percent in managed care plans, of all those eligible to choose managed care, is achieved. Once that enrollment is achieved, the assignments shall be divided in order to maintain an enrollment in MediPass and managed care plans which is in a 35 percent and 65 percent proportion, respectively. For purposes of this paragraph, when referring to assignment, the term "managed care plans" includes exclusive provider organizations, provider service networks, Children's Medical Services Network, minority physician networks, and pediatric emergency department diversion programs authorized by this chapter or the General Appropriations Act. When making assignments, the agency shall take into account the following criteria:~~

~~1. A managed care plan has sufficient network capacity to meet the need of members.~~

~~2. The managed care plan or MediPass has previously enrolled the recipient as a member, or one of the managed care plan's primary care providers or MediPass providers has previously provided health care to the recipient.~~

~~3. The agency has knowledge that the member has previously expressed a preference for a particular managed care plan or MediPass provider as indicated by Medicaid fee-for-service claims data, but has failed to make a choice.~~

~~4. The managed care plan's or MediPass primary care providers are geographically accessible to the recipient's residence.~~

~~5. The agency has authority to make mandatory assignments based on quality of service and performance of managed care plans.~~

~~(l) Notwithstanding chapter 287, the agency may renew cost-effective contracts for choice counseling services once or more for such periods as the agency may decide. However, all such renewals may not combine to exceed a total period longer than the term of the original contract.~~

~~This subsection expires October 1, 2014.~~

~~(3)~~ Notwithstanding s. 409.961, if a Medicaid recipient is diagnosed with HIV/AIDS, the agency shall assign the recipient to a managed care plan that is a health maintenance organization authorized under chapter 641, that is under contract with the agency as an HIV/AIDS specialty plan as of January 1, 2013, and that offers a delivery system through a university-based teaching and research-oriented organization that specializes in providing health care services and treatment for individuals diagnosed with HIV/AIDS. This subsection applies to recipients who are subject to mandatory managed care enrollment and have failed to choose a managed care option.

~~(4)(a) The agency shall establish quality-of-care standards~~

~~for managed care plans. These standards shall be based upon, but are not limited to:~~

~~1. Compliance with the accreditation requirements as provided in s. 641.512.~~

~~2. Compliance with Early and Periodic Screening, Diagnosis, and Treatment screening requirements.~~

~~3. The percentage of voluntary disenrollments.~~

~~4. Immunization rates.~~

~~5. Standards of the National Committee for Quality Assurance and other approved accrediting bodies.~~

~~6. Recommendations of other authoritative bodies.~~

~~7. Specific requirements of the Medicaid program, or standards designed to specifically assist the unique needs of Medicaid recipients.~~

~~8. Compliance with the health quality improvement system as established by the agency, which incorporates standards and guidelines developed by the Medicaid Bureau of the Health Care Financing Administration as part of the quality assurance reform initiative.~~

~~(b) For the MediPass program, the agency shall establish standards which are based upon, but are not limited to:~~

~~1. Quality-of-care standards which are comparable to those required of managed care plans.~~

~~2. Credentialing standards for MediPass providers.~~

~~3. Compliance with Early and Periodic Screening, Diagnosis, and Treatment screening requirements.~~

~~4. Immunization rates.~~

~~5. Specific requirements of the Medicaid program, or standards designed to specifically assist the unique needs of~~

~~Medicaid recipients.~~

~~This subsection expires October 1, 2014.~~

~~(5)(a) Each female recipient may select as her primary care provider an obstetrician/gynecologist who has agreed to participate as a MediPass primary care case manager.~~

~~(b) The agency shall establish a complaints and grievance process to assist Medicaid recipients enrolled in the MediPass program to resolve complaints and grievances. The agency shall investigate reports of quality-of-care grievances which remain unresolved to the satisfaction of the enrollee.~~

~~This subsection expires October 1, 2014.~~

~~(6)(a) The agency shall work cooperatively with the Social Security Administration to identify beneficiaries who are jointly eligible for Medicare and Medicaid and shall develop cooperative programs to encourage these beneficiaries to enroll in a Medicare participating health maintenance organization or prepaid health plans.~~

~~(b) The agency shall work cooperatively with the Department of Elderly Affairs to assess the potential cost-effectiveness of providing MediPass to beneficiaries who are jointly eligible for Medicare and Medicaid on a voluntary choice basis. If the agency determines that enrollment of these beneficiaries in MediPass has the potential for being cost-effective for the state, the agency shall offer MediPass to these beneficiaries on a voluntary choice basis in the counties where MediPass operates.~~

~~This subsection expires October 1, 2014.~~

~~(7) MediPass enrolled recipients may receive up to 10 visits of reimbursable services by participating Medicaid physicians licensed under chapter 460 and up to four visits of reimbursable services by participating Medicaid physicians licensed under chapter 461. Any further visits must be by prior authorization by the MediPass primary care provider. However, nothing in this subsection may be construed to increase the total number of visits or the total amount of dollars per year per person under current Medicaid rules, unless otherwise provided for in the General Appropriations Act. This subsection expires October 1, 2014.~~

~~(8)(a) The agency shall develop and implement a comprehensive plan to ensure that recipients are adequately informed of their choices and rights under all Medicaid managed care programs and that Medicaid managed care programs meet acceptable standards of quality in patient care, patient satisfaction, and financial solvency.~~

~~(b) The agency shall provide adequate means for informing patients of their choice and rights under a managed care plan at the time of eligibility determination.~~

~~(c) The agency shall require managed care plans and MediPass providers to demonstrate and document plans and activities, as defined by rule, including outreach and followup, undertaken to ensure that Medicaid recipients receive the health care service to which they are entitled.~~

~~This subsection expires October 1, 2014.~~

~~(9) The agency shall consult with Medicaid consumers and their representatives on an ongoing basis regarding measurements~~

~~of patient satisfaction, procedures for resolving patient grievances, standards for ensuring quality of care, mechanisms for providing patient access to services, and policies affecting patient care. This subsection expires October 1, 2014.~~

~~(10) The agency may extend eligibility for Medicaid recipients enrolled in licensed and accredited health maintenance organizations for the duration of the enrollment period or for 6 months, whichever is earlier, provided the agency certifies that such an offer will not increase state expenditures. This subsection expires October 1, 2013.~~

~~(11) A managed care plan that has a Medicaid contract shall at least annually review each primary care physician's active patient load and shall ensure that additional Medicaid recipients are not assigned to physicians who have a total active patient load of more than 3,000 patients. As used in this subsection, the term "active patient" means a patient who is seen by the same primary care physician, or by a physician assistant or advanced registered nurse practitioner under the supervision of the primary care physician, at least three times within a calendar year. Each primary care physician shall annually certify to the managed care plan whether or not his or her patient load exceeds the limits established under this subsection and the managed care plan shall accept such certification on face value as compliance with this subsection. The agency shall accept the managed care plan's representations that it is in compliance with this subsection based on the certification of its primary care physicians, unless the agency has an objective indication that access to primary care is being compromised, such as receiving complaints or grievances relating~~

~~to access to care. If the agency determines that an objective indication exists that access to primary care is being compromised, it may verify the patient load certifications submitted by the managed care plan's primary care physicians and that the managed care plan is not assigning Medicaid recipients to primary care physicians who have an active patient load of more than 3,000 patients. This subsection expires October 1, 2014.~~

~~(12) Effective July 1, 2003, the agency shall adjust the enrollee assignment process of Medicaid managed prepaid health plans for those Medicaid managed prepaid plans operating in Miami-Dade County which have executed a contract with the agency for a minimum of 8 consecutive years in order for the Medicaid managed prepaid plan to maintain a minimum enrollment level of 15,000 members per month. When assigning enrollees pursuant to this subsection, the agency shall give priority to providers that initially qualified under this subsection until such providers reach and maintain an enrollment level of 15,000 members per month. A prepaid health plan that has a statewide Medicaid enrollment of 25,000 or more members is not eligible for enrollee assignments under this subsection. This subsection expires October 1, 2014.~~

(2) ~~(13)~~ The agency shall include in its calculation of the hospital inpatient component of a Medicaid health maintenance organization's capitation rate any special payments, including, but not limited to, upper payment limit or disproportionate share hospital payments, made to qualifying hospitals through the fee-for-service program. The agency may seek federal waiver approval or state plan amendment as needed to implement this

adjustment.

(3) ~~(14)~~ The agency shall develop a process to enable any recipient with access to employer-sponsored health care coverage to opt out of all eligible plans in the Medicaid program and to use Medicaid financial assistance to pay for the recipient's share of cost in any such employer-sponsored coverage. Contingent on federal approval, the agency shall also enable recipients with access to other insurance or related products that provide access to health care services created pursuant to state law, including any plan or product available pursuant to the Florida Health Choices Program or any health exchange, to opt out. The amount of financial assistance provided for each recipient may not exceed the amount of the Medicaid premium that would have been paid to a plan for that recipient.

(4) ~~(15)~~ The agency shall maintain and operate the Medicaid Encounter Data System to collect, process, store, and report on covered services provided to all Florida Medicaid recipients enrolled in prepaid managed care plans.

(a) Prepaid managed care plans shall submit encounter data electronically in a format that complies with the Health Insurance Portability and Accountability Act provisions for electronic claims and in accordance with deadlines established by the agency. Prepaid managed care plans must certify that the data reported is accurate and complete.

(b) The agency is responsible for validating the data submitted by the plans. The agency shall develop methods and protocols for ongoing analysis of the encounter data that adjusts for differences in characteristics of prepaid plan enrollees to allow comparison of service utilization among plans

and against expected levels of use. The analysis shall be used to identify possible cases of systemic underutilization or denials of claims and inappropriate service utilization such as higher-than-expected emergency department encounters. The analysis shall provide periodic feedback to the plans and enable the agency to establish corrective action plans when necessary. One of the focus areas for the analysis shall be the use of prescription drugs.

(5) ~~(16)~~ The agency may establish a per-member, per-month payment for Medicare Advantage Special Needs members that are also eligible for Medicaid as a mechanism for meeting the state's cost-sharing obligation. The agency may also develop a per-member, per-month payment only for Medicaid-covered services for which the state is responsible. The agency shall develop a mechanism to ensure that such per-member, per-month payment enhances the value to the state and enrolled members by limiting cost sharing, enhances the scope of Medicare supplemental benefits that are equal to or greater than Medicaid coverage for select services, and improves care coordination.

(6) ~~(17)~~ The agency shall establish, and managed care plans shall use, a uniform method of accounting for and reporting medical and nonmedical costs.

(a) Managed care plans shall submit financial data electronically in a format that complies with the uniform accounting procedures established by the agency. Managed care plans must certify that the data reported is accurate and complete.

(b) The agency is responsible for validating the financial data submitted by the plans. The agency shall develop methods

and protocols for ongoing analysis of data that adjusts for differences in characteristics of plan enrollees to allow comparison among plans and against expected levels of expenditures. The analysis shall be used to identify possible cases of overspending on administrative costs or underspending on medical services.

(7) ~~(18)~~ The agency shall establish and maintain an information system to make encounter data, financial data, and other measures of plan performance available to the public and any interested party.

(a) Information submitted by the managed care plans shall be available online as well as in other formats.

(b) Periodic agency reports shall be published that include summary as well as plan specific measures of financial performance and service utilization.

(c) Any release of the financial and encounter data submitted by managed care plans shall ensure the confidentiality of personal health information.

(8) ~~(19)~~ The agency may, on a case-by-case basis, exempt a recipient from mandatory enrollment in a managed care plan when the recipient has a unique, time-limited disease or condition-related circumstance and managed care enrollment will interfere with ongoing care because the recipient's provider does not participate in the managed care plans available in the recipient's area.

~~(20) The agency shall contract with a single provider service network to function as a managing entity for the MediPass program in all counties with fewer than two prepaid plans. The contractor shall be responsible for implementing~~

~~precautionary procedures, case management programs, and utilization management initiatives in order to improve care coordination and patient outcomes while reducing costs. The contractor may earn an administrative fee if the fee is less than any savings as determined by the reconciliation process under s. 409.912(4)(d)1. This subsection expires October 1, 2014, or upon full implementation of the managed medical assistance program, whichever is sooner.~~

~~(21) Subject to federal approval, the agency shall contract with a single provider service network to function as a third-party administrator and managing entity for the Medically Needy program in all counties. The contractor shall provide care coordination and utilization management in order to achieve more cost-effective services for Medically Needy enrollees. To facilitate the care management functions of the provider service network, enrollment in the network shall be for a continuous 6-month period or until the end of the contract between the provider service network and the agency, whichever is sooner. Beginning the second month after the determination of eligibility, the contractor may collect a monthly premium from each Medically Needy recipient provided the premium does not exceed the enrollee's share of cost as determined by the Department of Children and Families. The contractor must provide a 90-day grace period before disenrolling a Medically Needy recipient for failure to pay premiums. The contractor may earn an administrative fee, if the fee is less than any savings determined by the reconciliation process pursuant to s. 409.912(4)(d)1. Premium revenue collected from the recipients shall be deducted from the contractor's earned savings. This~~

~~subsection expires October 1, 2014, or upon full implementation of the managed medical assistance program, whichever is sooner.~~

(9) ~~(22)~~ If required as a condition of a waiver, the agency may calculate a medical loss ratio for managed care plans. The calculation shall utilize uniform financial data collected from all plans and shall be computed for each plan on a statewide basis. The method for calculating the medical loss ratio shall meet the following criteria:

(a) Except as provided in paragraphs (b) and (c), expenditures shall be classified in a manner consistent with 45 C.F.R. part 158.

(b) Funds provided by plans to graduate medical education institutions to underwrite the costs of residency positions shall be classified as medical expenditures, provided the funding is sufficient to sustain the positions for the number of years necessary to complete the residency requirements and the residency positions funded by the plans are active providers of care to Medicaid and uninsured patients.

(c) Prior to final determination of the medical loss ratio for any period, a plan may contribute to a designated state trust fund for the purpose of supporting Medicaid and indigent care and have the contribution counted as a medical expenditure for the period.

Reviser's note.—Amended to conform to the repeals of numerous subunits pursuant to their own terms, effective at various dates in 2013 and 2014.

Section 17. Subsection (15) of section 430.04, Florida Statutes, is repealed.

Reviser's note.—The cited subsection, which relates to

authorization of the Department of Elderly Affairs to administer all Medicaid waivers and programs relating to elders and their appropriations, expired pursuant to its own terms, effective October 1, 2014.

Section 18. Subsections (10), (11), and (12) of section 430.502, Florida Statutes, are repealed.

Reviser's note.—The cited subsections relate to seeking of a federal waiver to implement a Medicaid home and community-based waiver targeted to persons with Alzheimer's disease to test the effectiveness of Alzheimer's specific interventions to delay or to avoid institutional placement. Subsection (12) provides that authority to continue the waiver program is automatically eliminated at the close of the 2010 Regular Session of the Legislature unless further action is taken to continue it before such time.

Section 19. Subsection (5) of section 443.131, Florida Statutes, is repealed.

Reviser's note.—The cited subsection, which relates to an additional rate for interest on federal advances received by the Unemployment Compensation Trust Fund, expired pursuant to its own terms, effective July 1, 2014.

Section 20. Subsection (1) of section 576.061, Florida Statutes, is amended to read:

576.061 Plant nutrient investigational allowances, deficiencies, and penalties.—

(1) A commercial fertilizer is deemed deficient if the analysis of any nutrient is below the guarantee by an amount exceeding the investigational allowances. The department shall adopt rules, which shall take effect on July 1, 2014, that

establish the investigational allowances used to determine whether a fertilizer is deficient in plant food.

~~(a) Effective July 1, 2014, this paragraph and paragraphs (b)-(f) are repealed. Until July 1, 2014, investigational allowances shall be set as provided in paragraphs (b)-(f).~~

~~(b) *Primary plant nutrients; investigational allowances.*—~~

~~Guaranteed Percent~~	~~Total Nitrogen Percent~~	~~Available Phosphate Percent~~	~~Potash Percent~~
~~04 or less~~	~~0.49~~	~~0.67~~	~~0.41~~
~~05~~	~~0.51~~	~~0.67~~	~~0.43~~
~~06~~	~~0.52~~	~~0.67~~	~~0.47~~
~~07~~	~~0.54~~	~~0.68~~	~~0.53~~
~~08~~	~~0.55~~	~~0.68~~	~~0.60~~
~~09~~	~~0.57~~	~~0.68~~	~~0.65~~
~~10~~	~~0.58~~	~~0.69~~	~~0.70~~
~~12~~	~~0.61~~	~~0.69~~	~~0.79~~

14	0.63	0.70	0.87
16	0.67	0.70	0.94
18	0.70	0.71	1.01
20	0.73	0.72	1.08
22	0.75	0.72	1.15
24	0.78	0.73	1.21
26	0.81	0.73	1.27
28	0.83	0.74	1.33
30	0.86	0.75	1.39
32 or more	0.88	0.76	1.44

For guarantees not listed, calculate the appropriate value by interpolation.

(c) *Nitrogen investigational allowances.*—

Nitrogen Breakdown	Investigational Allowances Percent

Nitrate nitrogen	0.40
Ammoniacal nitrogen	0.40
Water soluble nitrogen or urea nitrogen	0.40
Water insoluble nitrogen	0.30

In no case may the investigational allowance exceed 50 percent of the amount guaranteed.

(d) *Secondary and micro plant nutrients, total or soluble.*—

Element	Investigational Allowances Percent
Calcium	0.2 unit + 5 percent of guarantee
Magnesium	0.2 unit + 5 percent of guarantee

~~Sulfur (free and combined) 0.2 unit + 5 percent of guarantee~~

~~Boron 0.003 unit + 15 percent of guarantee~~

~~Cobalt 0.0001 unit + 30 percent of guarantee~~

~~Chlorine 0.005 unit + 10 percent of guarantee~~

~~Copper 0.005 unit + 10 percent of guarantee~~

~~Iron 0.005 unit + 10 percent of guarantee~~

~~Manganese 0.005 unit + 10 percent of guarantee~~

~~Molybdenum 0.0001 unit + 30 percent of guarantee~~

~~Sodium 0.005 unit + 10 percent of guarantee~~

~~Zinc 0.005 unit + 10 percent of guarantee~~

~~The maximum allowance for secondary and minor elements when calculated in accordance with this section is 1 unit (1 percent). In no case, however, may the investigational allowance exceed 50 percent of the amount guaranteed.~~

~~(c) *Liming materials and gypsum.*—~~

~~Range Percent~~	~~Investigational Allowances Percent~~
~~0-10~~	~~0.30~~
~~Over 10-25~~	~~0.40~~
~~Over 25~~	~~0.50~~

~~(f) *Pesticides in fertilizer mixtures.*—An investigational allowance of 25 percent of the guarantee shall be allowed on all pesticides when added to custom blend fertilizers.~~

Reviser's note.—The cited paragraphs, which relate to investigational allowances for fertilizer, were repealed pursuant to their own terms, effective July 1, 2014.

Section 21. Section 624.351, Florida Statutes, is repealed.

Reviser's note.—The cited section, which relates to the Medicaid and Public Assistance Fraud Strike Force, was repealed pursuant to its own terms, effective June 30, 2014.

Section 22. Section 624.352, Florida Statutes, is repealed.

Reviser's note.—The cited section, which relates to interagency agreements to detect and deter Medicaid and public assistance fraud, was repealed pursuant to its own terms, effective June 30, 2014.

Section 23. Subsection (7) of section 626.2815, Florida Statutes, is repealed.

Reviser's note.—The cited subsection, which relates to a requirement that persons holding a license to solicit or sell life insurance must complete a minimum of 3 hours in continuing education on the subject of suitability in annuity and life insurance transactions, was deleted from s. 626.2815 by s. 11, ch. 2012-209, Laws of Florida, effective October 1, 2014. Since the subsection was not repealed by a "current session" of the Legislature, it may be omitted from the 2015 Florida Statutes only through a reviser's bill duly enacted by the Legislature. See s. 11.242(5)(b) and (i).

Section 24. Paragraph (b) of subsection (4) of section 828.27, Florida Statutes, is amended to read:

828.27 Local animal control or cruelty ordinances; penalty.—

(4)

(b)~~1.~~ The governing body of a county or municipality may impose and collect a surcharge of up to $5 upon each civil penalty imposed for violation of an ordinance relating to animal control or cruelty. The proceeds from such surcharges shall be used to pay the costs of training for animal control officers.

~~2. In addition to the uses set forth in subparagraph 1., a county, as defined in s. 125.011, may use the proceeds specified in that subparagraph and any carryover or fund balance from such proceeds for animal shelter operating expenses. This subparagraph expires July 1, 2014.~~

Reviser's note.—Amended to delete subparagraph (4)(b)2., which

expired pursuant to its own terms, effective July 1, 2014.

Section 25. Paragraph (e) of subsection (9) of section 1002.32, Florida Statutes, is amended to read:

1002.32 Developmental research (laboratory) schools.—

(9) FUNDING.—Funding for a lab school, including a charter lab school, shall be provided as follows:

(e)~~1.~~ Each lab school shall receive funds for capital improvement purposes in an amount determined as follows: multiply the maximum allowable nonvoted discretionary millage for capital improvements pursuant to s. 1011.71(2) by 96 percent of the current year's taxable value for school purposes for the district in which each lab school is located; divide the result by the total full-time equivalent membership of the district; and multiply the result by the full-time equivalent membership of the lab school. The amount obtained shall be discretionary capital improvement funds and shall be appropriated from state funds in the General Appropriations Act to the Lab School Educational Facility Trust Fund.

~~2. Notwithstanding the provisions of subparagraph 1., for the 2013-2014 fiscal year, funds appropriated for capital improvement purposes shall be divided between lab schools based on full-time equivalent student membership. This subparagraph expires July 1, 2014.~~

Reviser's note.—Amended to delete subparagraph (9)(e)2., which

expired pursuant to its own terms, effective July 1, 2014.

Section 26. Subsection (4) of section 409.91195, Florida Statutes, is amended to read:

409.91195 Medicaid Pharmaceutical and Therapeutics Committee.—There is created a Medicaid Pharmaceutical and

Therapeutics Committee within the agency for the purpose of developing a Medicaid preferred drug list.

(4) Upon recommendation of the committee, the agency shall adopt a preferred drug list as described in s. 409.912(8) ~~409.912(37)~~. To the extent feasible, the committee shall review all drug classes included on the preferred drug list every 12 months, and may recommend additions to and deletions from the preferred drug list, such that the preferred drug list provides for medically appropriate drug therapies for Medicaid patients which achieve cost savings contained in the General Appropriations Act.

Reviser's note.—Amended to conform to the redesignation of subunits of s. 409.912 by this act.

Section 27. Subsection (1) of section 409.91196, Florida Statutes, is amended to read:

409.91196 Supplemental rebate agreements; public records and public meetings exemption.—

(1) The rebate amount, percent of rebate, manufacturer's pricing, and supplemental rebate, and other trade secrets as defined in s. 688.002 that the agency has identified for use in negotiations, held by the Agency for Health Care Administration under s. 409.912(8)(a)7. ~~409.912(37)(a)7.~~ are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

Reviser's note.—Amended to conform to the redesignation of subunits of s. 409.912 by this act.

Section 28. Subsections (1), (6), (12), and (13) of section 409.962, Florida Statutes, are amended to read:

409.962 Definitions.—As used in this part, except as

otherwise specifically provided, the term:

(1) "Accountable care organization" means an entity qualified as an accountable care organization in accordance with federal regulations, and which meets the requirements of a provider service network as described in s. 409.912(2) ~~409.912(4)(d)~~.

(6) "Eligible plan" means a health insurer authorized under chapter 624, an exclusive provider organization authorized under chapter 627, a health maintenance organization authorized under chapter 641, or a provider service network authorized under s. 409.912(2) ~~409.912(4)(d)~~ or an accountable care organization authorized under federal law. For purposes of the managed medical assistance program, the term also includes the Children's Medical Services Network authorized under chapter 391 and entities qualified under 42 C.F.R. part 422 as Medicare Advantage Preferred Provider Organizations, Medicare Advantage Provider-sponsored Organizations, Medicare Advantage Health Maintenance Organizations, Medicare Advantage Coordinated Care Plans, and Medicare Advantage Special Needs Plans, and the Program of All-inclusive Care for the Elderly.

(12) "Prepaid plan" means a managed care plan that is licensed or certified as a risk-bearing entity, or qualified pursuant to s. 409.912(2) ~~409.912(4)(d)~~, in the state and is paid a prospective per-member, per-month payment by the agency.

(13) "Provider service network" means an entity qualified pursuant to s. 409.912(2) ~~409.912(4)(d)~~ of which a controlling interest is owned by a health care provider, or group of affiliated providers, or a public agency or entity that delivers health services. Health care providers include Florida-licensed

health care professionals or licensed health care facilities, federally qualified health care centers, and home health care agencies.

Reviser's note.—Amended to conform to the redesignation of subunits of s. 409.912 by this act.

Section 29. Section 636.0145, Florida Statutes, is amended to read:

636.0145 Certain entities contracting with Medicaid.— ~~Notwithstanding the requirements of s. 409.912(4)(b),~~ An entity that is providing comprehensive inpatient and outpatient mental health care services to certain Medicaid recipients in Hillsborough, Highlands, Hardee, Manatee, and Polk Counties through a capitated, prepaid arrangement pursuant to the federal waiver provided for in s. 409.905(5) must become licensed under this chapter by December 31, 1998. Any entity licensed under this chapter which provides services solely to Medicaid recipients under a contract with Medicaid is exempt from ss. 636.017, 636.018, 636.022, 636.028, 636.034, and 636.066(1).

Reviser's note.—Amended to conform to the deletion of s. 409.912(4)(b) by this act to conform to its expiration pursuant to its own terms, effective October 1, 2014.

Section 30. Subsection (22) of section 641.19, Florida Statutes, is amended to read:

641.19 Definitions.—As used in this part, the term:

(22) "Provider service network" means a network authorized under s. 409.912(2) ~~409.912(4)(d)~~, reimbursed on a prepaid basis, operated by a health care provider or group of affiliated health care providers, and which directly provides health care services under a Medicare, Medicaid, or Healthy Kids contract.

Reviser's note.—Amended to conform to the redesignation of subunits of s. 409.912 by this act.

Section 31. Subsection (3) of section 641.225, Florida Statutes, is amended to read:

641.225 Surplus requirements.—

~~(3)(a) An entity providing prepaid capitated services which is authorized under s. 409.912(4)(a) and which applies for a certificate of authority is subject to the minimum surplus requirements set forth in subsection (1), unless the entity is backed by the full faith and credit of the county in which it is located.~~

~~(b) An entity providing prepaid capitated services which is authorized under s. 409.912(4)(b) or (c), and which applies for a certificate of authority is subject to the minimum surplus requirements set forth in s. 409.912.~~

Reviser's note.—Amended to conform to the expiration of paragraphs (4)(a)-(c) of s. 409.912 pursuant to their own terms, effective October 1, 2014, and confirmation of the expiration by this act.

Section 32. Subsection (4) of section 641.386, Florida Statutes, is amended to read:

641.386 Agent licensing and appointment required; exceptions.—

(4) All agents and health maintenance organizations shall comply with and be subject to the applicable provisions of ss. 641.309 and 409.912(5) ~~409.912(20)~~, and all companies and entities appointing agents shall comply with s. 626.451, when marketing for any health maintenance organization licensed pursuant to this part, including those organizations under

contract with the Agency for Health Care Administration to provide health care services to Medicaid recipients or any private entity providing health care services to Medicaid recipients pursuant to a prepaid health plan contract with the Agency for Health Care Administration.

Reviser's note.—Amended to conform to the redesignation of subunits of s. 409.912 by this act.

Section 33. This act shall take effect on the 60th day after adjournment sine die of the session of the Legislature in which enacted.

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL:	SB 706
INTRODUCER:	Senator Simmons
SUBJECT:	Florida Statutes
DATE:	February 3, 2015
REVISED:	

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Pollitz (DLRI)	Phelps	RC	**Favorable**

I. Summary:

The Division of Law Revision and Information of the Office of Legislative Services is required, by statute, to conduct a systematic and continuing study of the Florida Statutes. The purpose of this study is to recommend to the Legislature changes that will remove inconsistencies, redundancies, and unnecessary repetition from the statutes; improve clarity and facilitate correct interpretation; correct grammatical and typographical errors; and delete obsolete, repealed, or superseded provisions. These recommendations are submitted to the Legislature in the form of technical, nonsubstantive reviser's bills. Responses to directives from the Legislature to make specific changes in the statutes, such as renaming a department, are also submitted to the Legislature via reviser's bills.

Section 9, ch. 2012-116, Laws of Florida, created s. 11.242(5)(j), Florida Statutes, requiring the Division of Law Revision and Information to omit statutory provisions granting duplicative, redundant, or unused rulemaking authority from the Florida Statutes as part of the reviser's bill process for each regular session.

II. Present Situation:

Section 9, ch. 2012-116, Laws of Florida, created s. 11.242(5)(j), Florida Statutes, requiring the Division of Law Revision and Information to prepare reviser's bills each regular session to omit all statutory provisions granting duplicative, redundant, or unused rulemaking authority from the Florida Statutes. Rulemaking authority is deemed unused if the statutory provision "has been in effect for more than 5 years and no rule has been promulgated in reliance thereon."

III. Effect of Proposed Changes:

The bill revises Florida Statutes text to conform to the directive in s. 9, ch. 2012-116, Laws of Florida, codified as s. 11.242(5)(j), Florida Statutes, to omit statutory provisions granting duplicative, redundant, or unused rulemaking authority from the Florida Statutes.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: ss. 257.171, 257.193, 257.43, 393.0651, 393.066, 394.4789, 394.495, 394.496, 394.497, 397.406, 397.407, 397.427, 397.471, 397.901, 397.96, 400.147, 401.113, 401.252, 401.34, 402.04, 402.47, 403.414, 403.510, 403.7061, 403.763, 403.871, 403.873, 403.874, 403.876, 403.942, 406.11, 409.2598, 409.9102, 415.112, 420.526, 420.527, 429.44, 467.0125, 467.013, 467.019, 468.1165, 468.307, 468.3851, 468.3852, 468.404, 468.435, 468.532, 468.8312, 468.8317, 468.8412, 476.214, 477.022, 479.07, 481.205, 502.121, and 509.035, F.S.

This bill repeals the following sections of the Florida Statutes: s. 415.112, F.S.

IX. Additional Information:

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

None.

B. Amendments:

None.

By Senator Simmons

10-00625-15 2015706__

A reviser's bill to be entitled

An act relating to the Florida Statutes; amending ss. 257.171, 257.193, 257.43, 393.0651, 393.066, 394.4789, 394.495, 394.496, 394.497, 397.406, 397.407, 397.427, 397.471, 397.901, 397.96, 400.147, 401.113, 401.252, 401.34, 402.04, 402.47, 403.414, 403.510, 403.7061, 403.763, 403.871, 403.873, 403.874, 403.876, 403.942, 406.11, 409.2598, 409.9102, 415.112, 420.526, 420.527, 429.44, 467.0125, 467.013, 467.019, 468.1165, 468.307, 468.3851, 468.3852, 468.404, 468.435, 468.532, 468.8312, 468.8317, 468.8412, 476.214, 477.022, 479.07, 481.205, 502.121, and 509.035, F.S., and repealing s. 415.112, F.S., to conform to the directive of the Legislature in section 9 of chapter 2012-116, Laws of Florida, codified as section 11.242(5)(j), Florida Statutes, to prepare a reviser's bill to omit all statutes and laws, or parts thereof, which grant duplicative, redundant, or unused rulemaking authority; providing an effective date.

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

Section 1. Section 257.171, Florida Statutes, is amended to read:

257.171 Multicounty libraries.—Units of local government may establish a multicounty library. ~~The Division of Library and Information Services may establish operating standards and rules under which a multicounty library is eligible to receive state moneys.~~ For a multicounty library, a local government may pay

10-00625-15 2015706__

moneys in advance in lump sum from its public funds for the provision of library services only.

Section 2. Subsection (5) of section 257.193, Florida Statutes, is amended to read:

257.193 Community Libraries in Caring Program.—

~~(5) The Department of State may adopt rules to administer this section.~~

Section 3. Paragraph (b) of subsection (2) of section 257.43, Florida Statutes, is amended to read:

257.43 Citizen support organization; use of state administrative services and property; audit.—

(2) USE OF ADMINISTRATIVE SERVICES AND PROPERTY.—

~~(b) The division may prescribe by rule any condition with which a citizen support organization shall comply in order to use division administrative services, property, or facilities.~~

Section 4. Subsection (1) of section 393.0651, Florida Statutes, is amended to read:

393.0651 Family or individual support plan.—The agency shall provide directly or contract for the development of a family support plan for children ages 3 to 18 years of age and an individual support plan for each client. The client, if competent, the client's parent or guardian, or, when appropriate, the client advocate, shall be consulted in the development of the plan and shall receive a copy of the plan. Each plan must include the most appropriate, least restrictive, and most cost-beneficial environment for accomplishment of the objectives for client progress and a specification of all services authorized. The plan must include provisions for the most appropriate level of care for the client. Within the

specification of needs and services for each client, when residential care is necessary, the agency shall move toward placement of clients in residential facilities based within the client's community. The ultimate goal of each plan, whenever possible, shall be to enable the client to live a dignified life in the least restrictive setting, be that in the home or in the community. For children under 6 years of age, the family support plan shall be developed within the 45-day application period as specified in s. 393.065(1); for all applicants 6 years of age or older, the family or individual support plan shall be developed within the 60-day period as specified in that subsection.

~~(1) The agency shall develop and specify by rule the core components of support plans.~~

Section 5. Subsection (8) of section 393.066, Florida Statutes, is amended to read:

393.066 Community services and treatment.—

~~(8) The agency may adopt rules providing definitions, eligibility criteria, and procedures for the purchase of services provided pursuant to this section.~~

Section 6. Section 394.4789, Florida Statutes, is amended to read:

394.4789 Establishment of referral process and eligibility determination.—

(1) ~~The department shall adopt by rule a referral process which shall provide each participating specialty psychiatric hospital with a system for accepting into the hospital's care indigent mentally ill persons referred by the department.~~ It is the intent of the Legislature that a hospital which seeks payment under s. 394.4788 shall accept referrals from the

department. However, a hospital shall have the right to refuse the admission of a patient due to lack of functional bed space or lack of services appropriate to a patient's specific treatment and no hospital shall be required to accept referrals if the costs for treating the referred patient are no longer reimbursable because the hospital has reached the level of contribution made to the PMATF in the previous fiscal year. Furthermore, a hospital that does not seek compensation for indigent mentally ill patients under the provisions of this act shall not be obliged to accept department referrals, notwithstanding any agreements it may have entered into with the department. The right of refusal in this subsection shall not affect a hospital's requirement to provide emergency care pursuant to s. 395.1041 or other statutory requirements related to the provision of emergency care.

(2) The department shall adopt ~~by rule~~ a patient eligibility form and shall be responsible for eligibility determination. However, The department may contract with participating psychiatric hospitals for eligibility determination. The eligibility form shall provide the mechanism for determining a patient's eligibility according to the requirements of s. 394.4788(1).

(a) A specialty psychiatric hospital shall be eligible for reimbursement only when an eligibility form has been completed for each indigent mentally ill person for whom reimbursement is sought.

(b) As part of eligibility determination, every effort shall be made by the hospital to determine if any third party insurance coverage is available.

Section 7. Subsection (3) of section 394.495, Florida Statutes, is amended to read:

394.495 Child and adolescent mental health system of care; programs and services.—

(3) Assessments must be performed by:

(a) A professional as defined in s. 394.455(2), (4), (21), (23), or (24);

(b) A professional licensed under chapter 491; or

(c) A person who is under the direct supervision of a professional as defined in s. 394.455(2), (4), (21), (23), or (24) or a professional licensed under chapter 491.

~~The department shall adopt by rule statewide standards for mental health assessments, which must be based on current relevant professional and accreditation standards.~~

Section 8. Subsection (5) of section 394.496, Florida Statutes, is amended to read:

394.496 Service planning.—

~~(5) The department shall adopt by rule criteria for determining when a child or adolescent who receives mental health services under ss. 394.490-394.497 must have an individualized services plan.~~

Section 9. Subsection (2) of section 394.497, Florida Statutes, is amended to read:

394.497 Case management services.—

(2) ~~The department shall adopt by rule criteria that define the target population who shall be assigned case managers.~~ The department shall develop standards for case management services and procedures for appointing case managers. It is the intent of

the Legislature that case management services not be duplicated or fragmented and that such services promote the continuity and stability of a case manager assigned to a child or adolescent and his or her family.

Section 10. Section 397.406, Florida Statutes, is amended to read:

397.406 Licensure and regulation of government-operated substance abuse programs.—Substance abuse programs operated directly or under contract by the department, the Department of Corrections, the Department of Juvenile Justice, any other state agency, or any local correctional agency or authority, which programs constitute any service provider licensable components as defined in this chapter, are subject to licensure and regulation in accordance with rules jointly developed by the department and the state or local agency operating the program. The department has authority to exempt ~~promulgate rules exempting~~ such government-operated programs from specific licensure provisions of this part, including, but not limited to, licensure fees and personnel background checks, and to enforce the regulatory requirements governing such programs.

Section 11. Subsections (1), (5), and (7) of section 397.407, Florida Statutes, are amended to read:

397.407 Licensure process; fees.—

(1) The department shall establish ~~by rule~~ the licensure process to include fees and categories of licenses and~~.The rule~~ must prescribe a fee range that is based, at least in part, on the number and complexity of programs listed in s. 397.311(18) which are operated by a licensee. The fees from the licensure of service components are sufficient to cover at least 50 percent

of the costs of regulating the service components. The department shall specify ~~by rule~~ a fee range for public and privately funded licensed service providers. Fees for privately funded licensed service providers must exceed the fees for publicly funded licensed service providers. ~~During adoption of the rule governing the licensure process and fees, the department shall carefully consider the potential adverse impact on small, not-for-profit service providers.~~

(5) The department may issue probationary, regular, and interim licenses. ~~After adopting the rule governing the licensure process and fees,~~ The department shall issue one license for each service component that is operated by a service provider and defined ~~in rule~~ pursuant to s. 397.311(18). The license is valid only for the specific service components listed for each specific location identified on the license. The licensed service provider shall apply for a new license at least 60 days before the addition of any service components or 30 days before the relocation of any of its service sites. Provision of service components or delivery of services at a location not identified on the license may be considered an unlicensed operation that authorizes the department to seek an injunction against operation as provided in s. 397.401, in addition to other sanctions authorized by s. 397.415. Probationary and regular licenses may be issued only after all required information has been submitted. A license may not be transferred. As used in this subsection, the term "transfer" includes, but is not limited to, the transfer of a majority of the ownership interest in the licensed entity or transfer of responsibilities under the license to another entity by

contractual arrangement.

(7) A regular license may be issued to:

(a) A new applicant at the end of the probationary period.

(b) A licensed applicant that holds a regular license and is seeking renewal.

(c) An applicant for a service component operating under an interim license upon successful satisfaction of the requirements for a regular license.

In order to be issued a regular license, the applicant must be in compliance with statutory and regulatory requirements. ~~Standards and timeframes for the issuance of a regular license must be established by rule.~~ An application for renewal of a regular license must be submitted to the department at least 60 days before the license expires.

Section 12. Paragraph (b) of subsection (2) and subsections (3) and (8) of section 397.427, Florida Statutes, are amended to read:

397.427 Medication-assisted treatment service providers; rehabilitation program; needs assessment and provision of services; persons authorized to issue takeout medication; unlawful operation; penalty.—

(2) The department shall determine the need for establishing providers of medication-assisted treatment services for opiate addiction.

(b) ~~The department shall prescribe by rule the types of medication-assisted treatment services for opiate addiction for which it is necessary to conduct annual assessments of need.~~ If needs assessment is required, the department shall annually

conduct the assessment and publish a statement of findings which identifies each substate entity's need.

~~(3) The department shall adopt rules necessary to administer this section, including, but not limited to, rules prescribing criteria and procedures for:~~

~~(a) Determining the need for additional medication-assisted treatment services for opiate addiction.~~

~~(b) Selecting providers for medication-assisted treatment services for opiate addiction when the number of responses to a publication of need exceeds the determined need.~~

~~(c) Administering any federally required rules, regulations, or procedures.~~

~~(8) The department shall adopt rules necessary to administer medication-assisted treatment services, including, but not limited to, rules prescribing criteria and procedures for:~~

~~(a) Determining the need for medication-assisted treatment services within the publicly funded system.~~

~~(b) Selecting medication-assisted service providers within the publicly funded system.~~

~~(c) Administering any federally required rules, regulations, or procedures related to the provision of medication-assisted treatment.~~

Section 13. Section 397.471, Florida Statutes, is amended to read:

397.471 Service provider facility standards.—

~~(1)~~ Each service provider must ensure:

(1)~~(a)~~ Sufficient numbers and types of qualified personnel on duty and available to provide necessary and adequate safety

and care.

(2)~~(b)~~ Adequate space for each individual served within a residential facility.

(3)~~(c)~~ Adequate infection control, housekeeping, and sanitation.

(4)~~(d)~~ Adequate disaster planning policies and procedures.

~~(2) The State Fire Marshal shall, in cooperation with the department, establish and enforce minimum firesafety standards, which standards must be included in the rules adopted by the department.~~

Section 14. Subsection (4) of section 397.901, Florida Statutes, is amended to read:

397.901 Prototype juvenile addictions receiving facilities.—

~~(4) The department shall adopt rules necessary to implement this section. The rules must be written by the department's Substance Abuse Program Office and must specify criteria for staffing and services delineated for the provision of graduated levels of care from nonintensive to environmentally secure for the handling of aggressive and difficult-to-manage behavior and the prevention of elopement.~~

Section 15. Subsection (5) of section 397.96, Florida Statutes, is amended to read:

397.96 Case management for complex substance abuse cases.—

(5) ~~The department shall establish by rule standards to coordinate case management activities from various referral points, in order to minimize fragmentation and duplication and promote stability of case managers assigned to a child and family.~~ In the attempt to minimize duplication, it is the intent

of the Legislature that a child have no more than one case manager.

Section 16. Subsection (12) of section 400.147, Florida Statutes, is amended to read:

400.147 Internal risk management and quality assurance program.—

~~(12) The agency may adopt rules to administer this section.~~

Section 17. Subsection (3) of section 401.113, Florida Statutes, is amended to read:

401.113 Department; powers and duties.—

~~(3) The department shall adopt rules to administer this section.~~

Section 18. Subsection (4) of section 401.252, Florida Statutes, is amended to read:

401.252 Interfacility transfer.—

~~(4) The department shall adopt and enforce rules to carry out this section, including rules for permitting, equipping, and staffing transport ambulances and that govern the medical direction under which interfacility transfers take place.~~

Section 19. Subsections (5) and (6) of section 401.34, Florida Statutes, are amended to read:

401.34 Fees.—

(5) The department may provide same-day grading of the examination for an applicant for emergency medical technician or paramedic certification. ~~The department must provide procedures for implementing same-day grading in its rules.~~

(6) The department may ~~by rule~~ offer walk-in eligibility determination and examination to applicants for emergency medical technician or paramedic certification who pay to the

department a nonrefundable fee to be set by the department not to exceed $65. The fee is in addition to the certification fee and examination fee. The department must establish locations and times for eligibility determination and examination.

Section 20. Section 402.04, Florida Statutes, is amended to read:

402.04 Award of scholarships and stipends; disbursement of funds; administration.—The award of scholarships or stipends provided for herein shall be made by the Department of Children and Families, hereinafter referred to as the department. The department shall handle the administration of the scholarship or stipend and the Department of Education shall, for and on behalf of the department, handle the notes issued for the payment of the scholarships or stipends provided for herein and the collection of same. ~~The department shall prescribe regulations governing the payment of scholarships or stipends to the school, college, or university for the benefit of the scholarship or stipend holders.~~ All scholarship awards, expenses and costs of administration shall be paid from moneys appropriated by the Legislature and shall be paid upon vouchers approved by the department and properly certified by the Chief Financial Officer.

Section 21. Subsection (3) of section 402.47, Florida Statutes, is amended to read:

402.47 Foster grandparent and retired senior volunteer services to high-risk and handicapped children.—

~~(3) The department may adopt rules necessary to implement the provisions of this section.~~

Section 22. Subsection (3) of section 403.414, Florida

Statutes, is amended to read:

403.414 Environmental award program.—

(3) ~~The department shall adopt rules to govern administration of the program.~~ An agency, municipality, county, or other governmental unit; a private organization, institution, or industry; the communications media; or an individual may submit a nomination for an award to the department at any time. A nomination must be submitted on a form adopted by the department and must include information required by the department to consider that nomination.

Section 23. Subsection (3) of section 403.510, Florida Statutes, is amended to read:

403.510 Superseded laws, regulations, and certification power.—

~~(3) The board shall have the power to adopt reasonable procedural rules to carry out its duties under this act and to give effect to the legislative intent that this act is to provide an efficient, simplified, centrally coordinated, one-stop licensing process.~~

Section 24. Subsection (2) of section 403.7061, Florida Statutes, is amended to read:

403.7061 Requirements for review of new waste-to-energy facility capacity by the Department of Environmental Protection.—

(2) Notwithstanding any other provisions of state law, the department shall not issue a construction permit or certification to build a waste-to-energy facility or expand an existing waste-to-energy facility unless the facility meets the requirements set forth in subsection (3). Any construction

permit issued by the department between January 1, 1993, and May 12, 1993, which does not address these new requirements is invalid. These new requirements do not apply to the issuance of permits or permit modifications to retrofit existing facilities with new or improved pollution control equipment to comply with state or federal law. ~~The department may initiate rulemaking to incorporate the criteria in subsection (3) into its permit review process.~~

Section 25. Subsection (4) of section 403.763, Florida Statutes, is amended to read:

403.763 Grants to local governments.—

~~(4) The department shall initiate rules on or before January 1, 1989, necessary to carry out the purposes of this section.~~

Section 26. Section 403.871, Florida Statutes, is amended to read:

403.871 Fees.—The department shall~~, by rule,~~ establish fees to be paid by persons seeking licensure or license renewal to cover the entire cost to the department of administering ss. 403.865-403.876, including, but not limited to, the costs associated with application review and examination, reexamination, licensing and renewal, renewal of an inactive license, reactivation of an inactive license, recordmaking, and recordkeeping, and the costs of ensuring compliance with ss. 403.865-403.876. The fees for license application and license renewal shall be nonrefundable. The department shall establish fees adequate to administer and implement ss. 403.865-403.876.

(1) The application fee may not exceed $100 and is not refundable.

(2) The renewal fee may not exceed $100 and is not refundable.

(3) All fees collected under this section must be deposited into the Water Quality Assurance Trust Fund. The fees shall be used exclusively to implement the provisions of ss. 403.865-403.876.

Section 27. Subsection (2) of section 403.873, Florida Statutes, is amended to read:

403.873 Renewal of license.—

(2) The department shall adopt ~~rules establishing~~ a procedure for the biennial renewal of licenses, including the requirements for continuing education.

Section 28. Subsection (2) of section 403.874, Florida Statutes, is amended to read:

403.874 Inactive status.—

(2) The department shall adopt ~~rules relating to licenses that have become inactive and for the reactivation of inactive licenses, and~~ procedures for null and void licenses and how to obtain a new license after a license has become null and void.

Section 29. Subsection (1) of section 403.876, Florida Statutes, is amended to read:

403.876 Grounds for disciplinary action.—

(1) The department shall establish~~, by rule,~~ the grounds for taking disciplinary action, including suspending or revoking a valid license, placing a licensee on probation, refusing to issue a license, refusing to renew a license, or refusing to reactivate a license, and the imposition of an administrative fine, not to exceed $1,000 per count or offense. The fines collected under this section shall be deposited into the Water

Quality Assurance Trust Fund.

Section 30. Subsection (3) of section 403.942, Florida Statutes, is amended to read:

403.942 Superseded laws, regulations, and certification power.—

~~(3) The board shall have the power to adopt reasonable procedural rules to carry out its duties under ss. 403.9401-403.9425 and to give effect to the legislative intent that this act provide an efficient, centrally coordinated, one-stop licensing process.~~

Section 31. Subsection (3) of section 406.11, Florida Statutes, is amended to read:

406.11 Examinations, investigations, and autopsies.—

~~(3) The Medical Examiners Commission may adopt rules incorporating by reference parameters or guidelines of practice or standards of conduct relating to examinations, investigations, or autopsies performed by medical examiners.~~

Section 32. Subsection (8) of section 409.2598, Florida Statutes, is amended to read:

409.2598 License suspension proceeding to enforce support order.—

~~(8) RULEMAKING AUTHORITY.—The Department of Revenue may adopt rules to implement and enforce the requirements of this section.~~

Section 33. Subsections (3) and (4) of section 409.9102, Florida Statutes, are amended to read:

409.9102 A qualified state Long-Term Care Insurance Partnership Program in Florida.—The Agency for Health Care Administration, in consultation with the Office of Insurance

Regulation and the Department of Children and Families, is directed to establish a qualified state Long-Term Care Insurance Partnership Program in Florida, in compliance with the requirements of s. 1917(b) of the Social Security Act, as amended.

(3) ~~The Agency for Health Care Administration is authorized to amend the Medicaid state plan and adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this section.~~

~~(4)~~ The Department of Children and Families, when determining eligibility for Medicaid long-term care services for an individual who is the beneficiary of an approved long-term care partnership program policy, shall reduce the total countable assets of the individual by an amount equal to the insurance benefit payments that are made to or on behalf of the individual. ~~The department is authorized to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this subsection.~~

Section 34. Section 415.112, Florida Statutes, is repealed.

Section 35. Subsections (3) and (6) of section 420.526, Florida Statutes, are amended to read:

420.526 Predevelopment Loan Program; loans and grants authorized; activities eligible for support.—

(3) ~~The corporation shall establish rules for the equitable distribution of the funds in a manner that meets the need and demand for housing for the target population.~~ Funds shall be made available under the program on a first-come, first-served basis, unless otherwise established by corporation rule. Sponsors of farmworker housing, if any, shall receive first priority under this program.

(6) Terms and conditions of housing predevelopment loan

agreements shall be established ~~by rule~~ and shall include:

(a) Provision for interest, which shall be set at between 0 and 3 percent per year, as established by the corporation.

(b) Provision of a schedule for the repayment of principal and interest for a term not to exceed 3 years or initiation of permanent financing, whichever event occurs first. However, the corporation may extend the term of a loan for an additional period if extraordinary circumstances exist and if such extension would not jeopardize the corporation's security interest.

(c) Provision of reasonable security for the housing predevelopment loan to ensure the repayment of the principal and any interest accrued within the term specified.

(d) Provisions to ensure that the land acquired will be used for the development of housing and related services for the target population.

(e) Provisions to ensure, to the extent possible, that any accrued savings in cost due to the availability of these funds will be passed on to the target population in the form of lower land prices. The corporation shall ensure that such savings in land prices shall be passed on in the form of lower prices or rents for dwellings constructed on such land.

(f) Provisions to ensure that any land acquired through assistance under ss. 420.521-420.529 for housing for the target population shall not be disposed of or alienated in a manner that violates Title VII of the 1968 Civil Rights Act, which specifically prohibits discrimination based on race, sex, color, religion, or national origin or that violates other applicable federal or state laws.

Section 36. Section 420.527, Florida Statutes, is amended to read:

420.527 Application procedure.—

(1) ~~Applications shall be submitted to the corporation in a form that it establishes by rule.~~

~~(2) By rule,~~ The corporation shall establish the criteria for determining threshold compliance with corporation objectives. Final decisions regarding funding shall be approved by the corporation board. The corporation board shall determine the tentative loan or grant amount available to each program participant. The actual loan or grant amount shall be determined pursuant to rule specifying credit underwriting procedures.

(2) ~~(3)~~ The criteria to be used to determine threshold compliance shall include, but are not limited to, the following:

(a) Income target objectives of the corporation.

(b) Sponsor's agreement to reserve more than the minimum number of units for low-income households and very-low-income households.

(c) Projects requiring the least amount of predevelopment funds compared to total predevelopment costs.

(d) Sponsor's prior experience.

(e) Commitments of other financing.

(f) Sponsor's ability to proceed.

(g) Project's consistency with the local government comprehensive plan.

Section 37. Subsection (3) of section 429.44, Florida Statutes, is amended to read:

429.44 Construction and renovation; requirements.—

~~(3) The department may adopt rules to establish procedures~~

~~and specify the documentation necessary to implement this section.~~

Section 38. Paragraph (b) of subsection (1) of section 467.0125, Florida Statutes, is amended to read:

467.0125 Licensure by endorsement.—

(1) The department shall issue a license by endorsement to practice midwifery to an applicant who, upon applying to the department, demonstrates to the department that she or he:

(b) Has completed a 4-month prelicensure course conducted by an approved program and has submitted documentation to the department of successful completion. ~~The department shall determine by rule the content of the prelicensure course.~~

Section 39. Subsection (1) of section 467.013, Florida Statutes, is amended to read:

467.013 Inactive status.—A licensee may request that his or her license be placed in an inactive status by making application to the department and paying a fee.

(1) An inactive license may be renewed for one additional biennium upon application to the department and payment of the applicable biennium renewal fee. The department shall establish ~~by rule~~ procedures and fees for applying to place a license on inactive status, renewing an inactive license, and reactivating an inactive license. The fee for any of these procedures may not exceed the biennial renewal fee established by the department.

Section 40. Subsections (4) and (6) of section 467.019, Florida Statutes, are amended to read:

467.019 Records and reports.—

(4) ~~The department shall adopt rules requiring that~~ A midwife shall keep a record of each patient served. Such record

must document, but need not be limited to, each consultation, referral, transport, transfer of care, and emergency care rendered by the midwife and must include all subsequent updates and copy of the birth certificate. These records shall be kept on file for a minimum of 5 years following the date of the last entry in the records.

(6) ~~The department shall adopt rules to provide for maintaining~~ Patient records of a deceased midwife or a midwife who terminates or relocates a private practice shall be maintained pursuant to department requirements.

Section 41. Section 468.1165, Florida Statutes, is amended to read:

468.1165 Professional employment experience requirement.—Every applicant for licensure as a speech-language pathologist must demonstrate, prior to licensure, a minimum of 9 months of full-time professional employment, or the equivalent in part-time professional employment. Each applicant for licensure as an audiologist must demonstrate, prior to licensure, a minimum of 11 months of full-time professional employment, or the equivalent in part-time professional employment. ~~The board, by rule, shall establish standards for obtaining and verifying the required professional employment experience.~~

Section 42. Subsection (1) of section 468.307, Florida Statutes, is amended to read:

468.307 Certificate; issuance; display.—

(1) The department shall issue a certificate to each candidate who has met the requirements of ss. 468.304 and 468.306 or has qualified under s. 468.3065. The department may ~~by rule~~ establish a subcategory of a certificate issued under

this part limiting the certificateholder to a specific procedure or specific type of equipment. The first regular certificate issued to a new certificateholder expires on the last day of the certificateholder's birth month and shall be valid for at least 12 months but no more than 24 months. However, if the new certificateholder already holds a regular, active certificate in a different category under this part, the new certificate shall be combined with and expire on the same date as the existing certificate.

Section 43. Subsection (2) of section 468.3851, Florida Statutes, is amended to read:

468.3851 Renewal of license.—

(2) The department shall adopt ~~rules establishing~~ a procedure for the biennial renewal of licenses.

Section 44. Section 468.3852, Florida Statutes, is amended to read:

468.3852 Reactivation of license; fee.—The board shall prescribe ~~by rule~~ a fee not to exceed $250 for the reactivation of an inactive license. The fee shall be in addition to the current biennial renewal fee.

Section 45. Subsection (1) of section 468.404, Florida Statutes, is amended to read:

468.404 License; fees; renewals.—

(1) The department ~~by rule~~ shall establish biennial fees for initial licensing, renewal of license, and reinstatement of license, none of which fees shall exceed $400. The department may ~~by rule~~ establish a delinquency fee of no more than $50. The fees shall be adequate to proportionately fund the expenses of the department which are allocated to the regulation of talent

agencies and shall be based on the department's estimate of the revenue required to administer this part.

Section 46. Subsections (1) and (2) of section 468.435, Florida Statutes, are amended to read:

468.435 Fees; establishment; disposition.—

(1) The council shall~~, by rule,~~ establish fees for the described purposes and within the ranges specified in this section:

(a) Application fee: not less than $25, or more than $50.

(b) Examination fee: not less than $25, or more than $100.

(c) Initial license fee: not less than $25, or more than $100.

(d) Renewal of license fee: not less than $25, or more than $100.

(e) Delinquent license fee: not less than $25, or more than $50.

(f) Inactive license fee: not less than $10, or more than $25.

(2) Until the council establishes ~~adopts rules establishing~~ fees under subsection (1), the lower amount in each range shall apply.

Section 47. Subsection (4) of section 468.532, Florida Statutes, is amended to read:

468.532 Discipline.—

(4) The board shall specify ~~by rule~~ the penalties for any violation of this part.

Section 48. Subsection (1) of section 468.8312, Florida Statutes, is amended to read:

468.8312 Fees.—

(1) The department~~, by rule,~~ may establish fees to be paid for applications, examination, reexamination, licensing and renewal, inactive status application and reactivation of inactive licenses, recordkeeping, and applications for providers of continuing education. The department may also establish ~~by rule~~ a delinquency fee. Fees shall be based on department estimates of the revenue required to implement the provisions of this part. All fees shall be remitted with the appropriate application, examination, or license.

Section 49. Subsection (2) of section 468.8317, Florida Statutes, is amended to read:

468.8317 Inactive license.—

(2) A license that becomes inactive may be reactivated upon application to the department. ~~The department may prescribe by rule continuing education requirements as a condition of reactivating a license. The rules may not require more than one renewal cycle of continuing education to reactivate a license.~~

Section 50. Subsection (1) of section 468.8412, Florida Statutes, is amended to read:

468.8412 Fees.—

(1) The department~~, by rule,~~ may establish fees to be paid for application, examination, reexamination, licensing and renewal, inactive status application and reactivation of inactive licenses, and application for providers of continuing education. The department may also establish ~~by rule~~ a delinquency fee. Fees shall be based on department estimates of the revenue required to implement the provisions of this part. All fees shall be remitted with the application, examination, reexamination, licensing and renewal, inactive status

application and reactivation of inactive licenses, and application for providers of continuing education.

Section 51. Subsection (2) of section 476.214, Florida Statutes, is amended to read:

476.214 Grounds for suspending, revoking, or refusing to grant license or certificate.—

~~(2) The board shall adopt rules relating to the suspension or revocation of licenses or certificates of registration under this section pursuant to the provisions of chapter 120.~~

Section 52. Subsections (1) and (4) of section 477.022, Florida Statutes, are amended to read:

477.022 Examinations.—

(1) ~~The board shall specify by rule the general areas of competency to be covered by examinations for the licensing under this chapter of cosmetologists. The rules shall include the relative weight assigned in grading each area, the grading criteria to be used by the examiner, and the score necessary to achieve a passing grade.~~ The board shall ensure that examinations adequately measure both an applicant's competency and her or his knowledge of related statutory requirements. Professional testing services may be utilized to formulate the examinations. The board may~~, by rule,~~ offer a written clinical examination or a performance examination, or both, in addition to a written theory examination.

~~(4) The board shall adopt rules providing for reexamination of applicants who have failed the examinations.~~

Section 53. Paragraph (c) of subsection (3), paragraph (b) of subsection (5), paragraph (a) of subsection (8), and subsection (10) of section 479.07, Florida Statutes, are amended

to read:

479.07 Sign permits.—

(3)

(c) The annual permit fee for each sign facing shall be established by the department ~~by rule~~ in an amount sufficient to offset the total cost to the department for the program, but may not be greater than $100. The first-year fee may be prorated by payment of an amount equal to one-fourth of the annual fee for each remaining whole quarter or partial quarter of the permit year. Applications received after the end of the third quarter of the permit year must include fees for the last quarter of the current year and fees for the succeeding year.

(5)

(b) If a permit tag is lost, stolen, or destroyed, the permittee to whom the tag was issued must apply to the department for a replacement tag. The department shall establish ~~adopt a rule establishing~~ a service fee for replacement tags in an amount that will recover the actual cost of providing the replacement tag. Upon receipt of the application accompanied by the service fee, the department shall issue a replacement permit tag.

(8)(a) In order to reduce peak workloads, the department may provide ~~adopt rules providing~~ for staggered expiration dates for licenses and permits. Unless otherwise provided for by rule, All licenses and permits expire annually on January 15. All license and permit renewal fees are required to be submitted to the department by no later than the expiration date. At least 105 days before the expiration date of licenses and permits, the department shall send to each permittee a notice of fees due for

all licenses and permits that were issued to him or her before the date of the notice. Such notice must list the permits and the permit fees due for each sign facing. The permittee shall, no later than 45 days before the expiration date, advise the department of any additions, deletions, or errors contained in the notice. Permit tags that are not renewed shall be returned to the department for cancellation by the expiration date. Permits that are not renewed or are canceled shall be certified in writing at that time as canceled or not renewed by the permittee, and permit tags for such permits shall be returned to the department or shall be accounted for by the permittee in writing, which writing shall be submitted with the renewal fee payment or the cancellation certification. However, failure of a permittee to submit a permit cancellation does not affect the nonrenewal of a permit. Before cancellation of a permit, the permittee shall provide written notice to all persons or entities having a right to advertise on the sign that the permittee intends to cancel the permit.

(10) Commercial or industrial zoning that is not comprehensively enacted or that is enacted primarily to permit signs may not be recognized as commercial or industrial zoning for purposes of this provision, and permits may not be issued for signs in such areas. ~~The department shall adopt rules that provide criteria to determine whether such zoning is comprehensively enacted or enacted primarily to permit signs.~~

Section 54. Subsection (4) of section 481.205, Florida Statutes, is amended to read:

481.205 Board of Architecture and Interior Design.—

(4) The board may establish ~~by rule~~ minimum procedures,

documentation, and other requirements for indicating evidence of the exercise of responsible supervising control by a person licensed under this part in connection with work performed both inside and outside the licensee's office.

Section 55. Subsection (1) of section 502.121, Florida Statutes, is amended to read:

502.121 Future dairy farms and milk and frozen dessert plants.—

(1) All future construction or extensive alteration of milk houses, milking barns, stables, parlors, transfer stations, and milk and frozen dessert plants regulated under this chapter must meet certain minimum specifications and requirements which the department shall establish ~~by rule~~.

Section 56. Subsection (4) of section 509.035, Florida Statutes, is amended to read:

509.035 Immediate closure due to severe public health threat.—The division shall, upon proper finding, immediately issue an order to close an establishment licensed under this chapter in the instance of a severe and immediate public health or safety or welfare threat as follows:

~~(4) The division may further adopt rules for issuing emergency orders after business hours and on weekends and holidays in order to ensure the timely closure of an establishment under this section.~~

Reviser's note.—Amends or repeals provisions of the Florida Statutes pursuant to the directive of the Legislature in s. 9, ch. 2012-116, Laws of Florida, codified as s. 11.242(5)(j), Florida Statutes, to prepare a reviser's bill to omit all statutes and laws, or parts thereof, which

grant duplicative, redundant, or unused rulemaking authority.

Section 57. This act shall take effect on the 60th day after adjournment sine die of the session of the Legislature in which enacted.

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/SB 7000

INTRODUCER: Governmental Oversight and Accountability Committee and Community Affairs Committee

SUBJECT: OGSR/Public Transit Provider

DATE: February 3, 2015 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Stearns	Yeatman		**CA SPB 7000 as introduced**
1.	Kim	McVaney	GO	**Fav/CS**
2.	Stearns	Phelps	RC	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 7000 reenacts an exemption from the public records access requirements of Art. I, s. 24(a) of the State Constitution and s. 119.07(1), F.S., for personal identifying information held by public transit providers[1] for the purpose of prepaying transit fares or acquiring a prepaid transit fare card. The bill deletes the requirement that the exemption be reviewed pursuant to the Open Government Sunset Review Act.

The CS makes technical changes by transferring and renumbering s. 341.3026, F.S., to s. 341.0521, F.S., and deleting a cross-reference to a definition.

II. Present Situation:

Public Records and Open Meetings Requirements

The Florida Constitution provides that the public has the right to access government records and meetings. The public may inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or of persons acting on their behalf.[2] The public also has a right to be afforded notice and access to meetings of any

[1] As defined in s. 341.031, F.S.

[2] FLA. CONST., art. I, s. 24(a).

collegial public body of the executive branch of state government or of any local government.[3] The Legislature's meetings must also be open and noticed to the public, unless there is an exception provided by the Constitution.[4]

In addition to the Florida Constitution, the Florida Statutes specify conditions under which public access must be provided to government records and meetings. The Public Records Act[5] guarantees every person's right to inspect and copy any state or local government public record.[6] The Sunshine Law[7] requires all meetings of any board or commission of any state or local agency or authority at which official acts are to be taken to be noticed and open to the public.[8]

The Legislature may create an exemption to public records or open meetings requirements.[9] An exemption must specifically state the public necessity justifying the exemption[10] and must be tailored to accomplish the stated purpose of the law.[11]

Open Government Sunset Review Act

The Open Government Sunset Review Act (referred to hereafter as the "OGSR") prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions.[12] The OGSR provides that an exemption automatically repeals on October

[3] FLA. CONST., art. I, s. 24(b).
[4] FLA. CONST., art. I, s. 24(b).
[5] Chapter 119, F.S.
[6] Section 119.011(12), F.S., defines "public record" to mean "all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency." Section 119.011(2), F.S., defines "agency" to mean "any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency." The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So.2d 32 (Fla. 1992). The Legislature's records are public pursuant to s. 11.0431, F.S.
[7] Section 286.011, F.S.
[8] Section 286.011(1)-(2), F.S. The Sunshine Law does not apply to the Legislature; rather, open meetings requirements for the Legislature are set out in the Florida Constitution. Article III, s. 4(e) of the Florida Constitution provides that legislative committee meetings must be open and noticed to the public. In addition, prearranged gatherings, between more than two members of the Legislature, or between the Governor, the President of the Senate, or the Speaker of the House of Representatives, the purpose of which is to agree upon or to take formal legislative action, must be reasonably open to the public.
[9] FLA. CONST., art. I, s. 24(c). There is a difference between records the Legislature designates as exempt from public records requirements and those the Legislature designates *confidential* and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48 (Fla. 5th DCA 2004).
[10] FLA. CONST., art. I, s. 24(c).
[11] FLA. CONST., art. I, s. 24(c).
[12] Section 119.15, F.S. Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it is expanded to include more information or to include meetings. The OGSR does not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System pursuant to s. 119.15(2), F.S.

2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption.[13]

The OGSR provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.[14] An exemption serves an identifiable purpose if it meets one of the following criteria:

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;[15]
- Releasing sensitive personal information would be defamatory or would jeopardize an individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;[16] or
- It protects trade or business secrets.[17]

In addition, the Legislature must find that the identifiable public purpose is compelling enough to override Florida's open government public policy and that the purpose of the exemption cannot be accomplished without the exemption.[18]

The OGSR also requires specified questions to be considered during the review process.[19] In examining an exemption, the OGSR asks the Legislature to carefully question the purpose and necessity of reenacting the exemption.

If, in reenacting an exemption, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.[20] If the exemption is reenacted without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless provided for by law.[21]

Personal Identifying Information Held by a Public Transit Provider

Section 341.3026, F.S., provides a public records exemption for personal identifying information held by a public transit provider[22] for the purpose of facilitating the prepayment of transit fares or

[13] Section 119.15(3), F.S.
[14] Section 119.15(6)(b), F.S.
[15] Section 119.15(6)(b)1., F.S.
[16] Section 119.15(6)(b)2., F.S.
[17] Section 119.15(6)(b)3., F.S.
[18] Section 119.15(6)(b), F.S.
[19] Section 119.15(6)(a), F.S. The specified questions are:
- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

[20] FLA. CONST., art. I, s. 24(c).
[21] Section 119.15(7), F.S.
[22] As defined in s. 341.031, F.S, which states that "public transit provider" means a public agency providing public transit service, including rail authorities created in Chapter 343, F.S.

the acquisition of a prepaid transit fare card or similar device. According to survey responses[23] from public transit providers obtained by the Community Affairs Committee, such information frequently includes the full names of transit riders, their personal or business addresses, phone numbers, email addresses, Social Security numbers, credit card information, driver's license numbers, and dates of birth.

Of those entities that responded to the survey, none recommended that the exemption be repealed.

The current exemption will expire on October 2, 2015, pursuant to the OGSR, unless saved by the Legislature through reenactment.

III. Effect of Proposed Changes:

Section 1 transfers s. 341.3026, F.S., and renumbers it as s. 341.0521, F.S. By relocating the exemption, the definition of "public transit provider" will be applicable.[24] Thus, the cross-reference to "s. 341.031" will no longer be necessary.

This section also deletes the scheduled repeal of the public records exemption. As a result, the covered records will remain exempt from disclosure.

Section 2 provides the act shall take effect on October 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public records exemption. The bill does not create or expand a public records exemption, therefore it does not require a two-thirds vote for final passage.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

[23] Survey results are on file with the Senate Community Affairs Committee.
[24] Section 341.031, F.S., provides that definitions relating to the Florida Public Transit Act are limited to s. 341.011, F.S. through s. 341.061, F.S.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 341.3026 of the Florida Statutes.

IX. Additional Information:

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

CS/SB 7000 by Governmental Oversight and Accountability:
CS/SB 7000 makes several technical changes to s. 341.3026, F.S., by renumbering this section as s. 341.0521, F.S. By relocating the exemption, the definition of "public transit provider" will be applicable. As a result, the cross-reference to "s. 341.031" will no longer be necessary.

B. Amendments:

None.

By the Committees on Governmental Oversight and Accountability; and Community Affairs

585-01471-15 20157000c1

A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act; transferring, renumbering, and amending s. 341.3026, F.S., relating to an exemption from public record requirements for certain information held by a public transit provider; removing superfluous language; removing the scheduled repeal of the exemption; providing an effective date.

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

Section 1. Section 341.3026, Florida Statutes, is transferred, renumbered as section 341.0521, Florida Statutes, and amended to read:

341.0521 ~~341.3026~~ Public records exemption.—

~~(1)~~ Personal identifying information held by a public transit provider~~, as defined in s. 341.031,~~ for the purpose of facilitating the prepayment of transit fares or the acquisition of a prepaid transit fare card or similar device is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

~~(2) This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2015, unless reviewed and saved from repeal through reenactment by the Legislature.~~

Section 2. This act shall take effect October 1, 2015.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Judiciary, *Chair*
Appropriations Subcommittee on Transportation, Tourism, and Economic Development
Community Affairs
Finance and Tax
Regulated Industries
Rules

SENATOR MIGUEL DIAZ de la PORTILLA
40th District

2/19/15
O.K.

February 18, 2015

The Honorable David Simmons
Chairman
Rules Committee

Dear Chair Simmons:

Due to a change in my flight tomorrow, I respectfully request that I be excused from the February 19th meeting of the Rules Committee.

Thank you for your consideration.

Sincerely,

Miguel Diaz de la Portilla

Mr. John Phelps, Staff Director; Ms. Cissy DuBose, Administrative Assistant

REPLY TO:
❒ 2100 Coral Way, Suite 505, Miami, Florida 33145 (305) 643-7200
❒ 406 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5040

Senate's Website: *www.flsenate.gov*

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations, *Vice Chair*
Appropriations Subcommittee on Education
Appropriations Subcommittee on Health and Human Services
Banking and Insurance
Education
Ethics and Elections
Gaming
Governmental Oversight and Accountability
Rules

SENATOR LIZBETH BENACQUISTO
Majority Leader
30th District

2/19/15
O.K.
MHS

February 19, 2015

The Honorable David Simmons, Chair
Senate Rules Committee
400 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Simmons,

Please excuse me from attending the Senate Committee on Rules on February 19th. I unfortunately must miss committee due to being under the weather. Please contact me if you have any questions.

Sincerely,

Lizbeth Benacquisto

Lizbeth Benacquisto
Senate District 30

REPLY TO:
❒ 1926 Victoria Ave, 2nd Floor, Fort Myers, Florida 33901 (239) 338-2570
❒ 330 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5030

Senate's Website: *www.flsenate.gov*

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on Criminal and Civil Justice, *Vice Chair*
Appropriations
Health Policy
Higher Education
Judiciary
Rules

JOINT COMMITTEE:
Joint Legislative Budget Commission

SENATOR ARTHENIA L. JOYNER
Democratic Leader
19th District

February 17, 2015 2/19/15 O.K. AHS

Senator David Simmons, Chair
Senate Committee on Rules
402 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Senator Simmons:

This letter is to request to be excused from the Committee on Rules meeting on Thursday, February 19. Having two bills to present to the Committee on Fiscal Policy, I may not be able to attend the Committee on Rules prior to its adjournment. Thank you for your consideration.

Sincerely,

Arthenia L. Joyner

Arthenia L. Joyner
State Senator, District 19

REPLY TO:
☐ 508 W. Dr. Martin Luther King, Jr. Blvd., Suite C, Tampa, Florida 33603-3415 (813) 233-4277
☐ 200 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5019 FAX: (813) 233-4280

Senate's Website: *www.flsenate.gov*

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

CourtSmart Tag Report

Room: EL 110 **Case:** **Type:**
Caption: Senate Rules Committee **Judge:**

Started: 2/19/2015 9:01:58 AM
Ends: 2/19/2015 9:15:01 AM Length: 00:13:04

9:02:03 AM Senator Simmons calls the meeting to order
9:02:21 AM Roll call - quorum present
9:03:00 AM Senator Simmons introduces the Rules Committee staff
9:06:34 AM Chair is turned over to Senator Soto
9:06:44 AM SB 700
9:06:51 AM Senator Simmons welcomes Linda Jessen, Staff Director of the Division of Law Revision and Information and Edith Pollitz, Chief Attorney from the Division of Law Revision and Information
9:07:10 AM Senator Simmons explains SB 700
9:08:14 AM Senator Simmons waives close
9:08:22 AM Roll call - SB 700 reported favorably
9:08:49 AM SB 702
9:08:56 AM Senator Simmons explains the bill
9:09:16 AM Senator Simmons waives close
9:09:22 AM Roll call - SB 702 reported favorably
9:09:48 AM SB 704
9:09:56 AM Senator Simmons explains the bill
9:10:09 AM Senator Simmons waives close
9:10:19 AM Roll call - SB 704 reported favorably
9:10:47 AM SB 706
9:10:53 AM Senator Simmons explains the bill
9:11:13 AM Senator Simmons waives close
9:11:26 AM Roll call - SB 706 reported favorably
9:11:58 AM Chair returned to Senator Simmons
9:12:07 AM CS/SB 7000
9:12:21 AM Ben Stearns, Attorney for the Community Affairs Committee, explains the bill
9:12:46 AM Ben Stearns waives close
9:13:19 AM Roll call - CS/SB 7000 reported favorably
9:14:38 AM Senator Gaetz moves we rise
9:14:40 AM Meeting Adjourned