

By the Committee on Rules & Calendar and Representative
 Arnall

1 A reviser's bill to be entitled
 2 An act relating to the Florida Statutes;
 3 amending ss. 238.06, 240.1161, 240.1201,
 4 240.147, 240.156, 240.20941, 240.2605, 240.275,
 5 240.283, 240.285, 240.311, 240.319, 240.3195,
 6 240.324, 240.331, 240.3315, 240.383, 240.4063,
 7 240.408, 240.414, 240.4145, 240.498, 240.514,
 8 240.551, 240.6054, 240.632, 242.3305, 246.041,
 9 250.46, 252.939, 253.025, 255.05, 259.032,
 10 259.101, 260.016, 270.10, 280.09, 280.11,
 11 281.05, 281.06, 281.07, 281.08, 282.003,
 12 282.005, 282.101, 282.20, 282.22, 282.3031,
 13 282.3041, 282.310, 284.31, 287.059, 287.0595,
 14 287.064, 287.09431, 287.133, 287.151, 287.16,
 15 288.039, 288.041, 288.052, 288.1066, 288.108,
 16 288.1169, 288.1185, 288.770, 288.776, 288.853,
 17 288.905, 288.9512, 288.9605, 288.9607,
 18 288.9620, 290.0058, 290.0065, 290.009, 295.07,
 19 295.085, 295.09, 295.14, 296.33, 298.225,
 20 316.003, 316.072, 316.0747, 316.1955, 316.2126,
 21 316.2399, 316.302, 318.13, 318.14, 318.21,
 22 319.33, 320.03, 320.055, 320.08056, 320.08058,
 23 320.0848, 320.1325, 322.12, 322.121, 322.292,
 24 322.34, 322.57, 323.001, 325.202, 325.212,
 25 327.25, 327.28, 331.303, 331.305, 331.308,
 26 334.03, 336.01, 337.023, 337.407, 338.22,
 27 338.221, 338.222, 338.223, 338.225, 338.227,
 28 338.228, 338.229, 338.231, 338.232, 338.239,
 29 339.0805, 339.135, 341.321, 348.0005, 348.242,
 30 349.21, 350.031, 350.0605, 354.01, 364.509,
 31 366.072, 368.061, 370.06, 370.0605, 370.063,

1 370.0821, 370.12, 370.14, 370.142, 370.1535,
2 370.154, 372.023, 372.561, 372.57, 372.573,
3 372.661, 373.036, 373.0691, 373.213, 373.246,
4 373.414, 373.421, 373.4592, 373.59, 373.591,
5 374.976, 374.983, 375.041, 376.3071, 376.3072,
6 376.3078, 376.30781, 376.82, 378.901, 380.0555,
7 380.20, 380.205, 380.22, 381.0014, 381.0035,
8 381.004, 381.0065, 381.0068, 381.0203, 381.732,
9 381.733, 382.003, 382.356, 388.4111, 388.46,
10 390.0111, 390.0112, 393.063, 393.067, 394.4787,
11 395.002, 395.605, 400.0067, 400.051, 400.063,
12 400.417, 400.4174, 400.4256, 400.426, 400.427,
13 400.447, 400.471, 400.6085, 400.618, 400.6196,
14 402.161, 402.3055, 402.3057, 402.308, and
15 402.3115, Florida Statutes; reenacting and
16 amending ss. 341.051(5) and 397.405, Florida
17 Statutes; and reenacting ss. 240.2011,
18 266.0016, 295.11(2), 320.0848(9) and (10),
19 320.20(2), 328.17(1), 351.03, 351.034, 351.35,
20 351.36, 351.37, 354.01, 354.02, 354.03, 354.04,
21 354.05, 354.07, 361.025, 373.197(2), (3),
22 376.30711(2)(b), (c), and 377.703(3)(b), (c),
23 (d), (e), (h), (i), (j), (k), (l), and (m),
24 Florida Statutes, pursuant to s. 11.242,
25 Florida Statutes; deleting provisions which
26 have expired, have become obsolete, have had
27 their effect, have served their purpose, or
28 have been impliedly repealed or superseded;
29 replacing incorrect cross-references and
30 citations; correcting grammatical,
31 typographical, and like errors; removing

1 inconsistencies, redundancies, and unnecessary
2 repetition in the statutes; improving the
3 clarity of the statutes and facilitating their
4 correct interpretation; and confirming the
5 restoration of provisions unintentionally
6 omitted from republication in the acts of the
7 Legislature during the amendatory process.

8

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

10

11 Section 1. Subsection (10) of section 238.06, Florida
12 Statutes, is amended to read:

13 238.06 Membership application, creditable service, and
14 time for making contributions.--

15 (10) A member of the retirement system created by this
16 chapter who has been eligible or becomes eligible to receive
17 workers' compensation payments for an injury or illness
18 occurring during his or her employment while a member of any
19 state retirement system shall, upon his or her return to
20 active employment with a covered employer for 1 calendar month
21 or upon his or her approval for disability retirement in
22 accordance with s. 238.07, receive full retirement credit for
23 the period prior to such return to active employment or
24 disability retirement for which the workers' compensation
25 payments were received. However, no member may receive
26 retirement credit for any such period occurring after the
27 earlier of the date maximum medical improvement has been
28 attained as defined in s. 440.02(9)~~440.02(8)~~ or the date
29 termination has occurred as defined in s. 121.021(39). The
30 employer of record at the time of the worker's compensation
31 injury or illness shall make the required employee and

1 employer retirement contributions based on the member's rate
2 of monthly compensation immediately prior to his or her
3 receiving workers' compensation payments.

4
5 Reviser's note.--Amended to conform to the
6 redesignation of subunits of s. 440.02 by s. 1,
7 ch. 98-174, Laws of Florida.

8
9 Section 2. Subsection (5) of section 240.1161, Florida
10 Statutes, is amended to read:

11 240.1161 District interinstitutional articulation
12 agreements.--

13 (5) School districts and community colleges may enter
14 into additional interinstitutional articulation agreements
15 with state universities for the purposes of this section.
16 School districts may also enter into interinstitutional
17 articulation agreements with eligible independent colleges and
18 universities pursuant to s. 236.081(1)(g)~~236.081(1)(j)~~.
19 State universities and community colleges may enter into
20 interinstitutional articulation agreements with nonpublic
21 secondary schools pursuant to s. 240.116.

22
23 Reviser's note.--Amended to conform to the
24 redesignation of subunits of s. 236.081(1) by
25 s. 43, ch. 97-307, Laws of Florida.

26
27 Section 3. Paragraph (b) of subsection (1) of section
28 240.1201, Florida Statutes, 1998 Supplement, is amended to
29 read:

30 240.1201 Determination of resident status for tuition
31 purposes.--Students shall be classified as residents or

1 nonresidents for the purpose of assessing tuition fees in
2 public community colleges and universities.

3 (1) As defined under this section:

4 (b) The term "institution of higher education" means
5 any of the constituent institutions under the jurisdiction of
6 the State University System or the Florida State Community
7 College System.

8

9 Reviser's note.--Amended to conform to the
10 redesignation of the State Community College
11 System as the Florida Community College System
12 by s. 15, ch. 98-58, Laws of Florida.

13

14 Section 4. Subsections (15) and (16) of section
15 240.147, Florida Statutes, 1998 Supplement, are amended to
16 read:

17 240.147 Powers and duties of the commission.--The
18 commission shall:

19 (15) In consultation with the Independent Colleges and
20 Universities of Florida, recommend to the Legislature
21 accountability measures and an accountability process for
22 independent institutions that participate in the William L.
23 Boyd, IV, Florida Resident Access Grant Program. The process
24 shall make use of existing information submitted to the
25 federal and state governments. The process shall provide for
26 an assessment of the benefits and cost-effectiveness of the
27 William L. Boyd, IV, Florida Resident Access Grant Program in
28 providing state residents with access to 4-year college
29 programs and with the successful completion of a baccalaureate
30 degree. The commission shall provide oversight of this
31 accountability process.

1 (16) Periodically review the design and implementation
2 of the accountability processes and reports of the State
3 University System, Florida State Community College System, and
4 public and independent postsecondary institutions. At least
5 every 5 years, evaluate the extent to which each plan is
6 contributing to the achievement of state goals for
7 postsecondary education and report to the State Board of
8 Education, the President of the Senate, and the Speaker of the
9 House of Representatives with recommendations on any changes
10 needed in the accountability process or plans.

11
12 Reviser's note.--Subsection (15) is amended to
13 conform to the redesignation of the Florida
14 Resident Access Grant Program as the William L.
15 Boyd, IV, Florida Resident Access Grant Program
16 by s. 9, ch. 98-71, Laws of Florida, and s. 14,
17 ch. 98-398, Laws of Florida. Subsection (16) is
18 amended to conform to the redesignation of the
19 State Community College System as the Florida
20 Community College System by s. 15, ch. 98-58,
21 Laws of Florida.

22
23 Section 5. Section 240.156, Florida Statutes, is
24 amended to read:

25 240.156 State University System Concurrency Trust
26 Fund.--Notwithstanding any other provision of law, the general
27 revenue service charge deducted pursuant to s. 215.20 on
28 revenues raised by any local option motor fuel tax levied
29 pursuant to s. 336.025(1)(b), as created by chapter 93-206,
30 Laws of Florida, ~~CS/CS/HB 2315 (1993) or similar legislation,~~
31 shall be deposited in the State University System Concurrency

1 Trust Fund, which is hereby created. Moneys in such trust fund
2 shall be for the purpose of funding State University System
3 offsite improvements required to meet concurrency standards
4 adopted under part II of chapter 163.

5
6 Reviser's note.--Amended to conform to the
7 chapter law designation of C.S. for C.S. for
8 H.B. 2315, 1993 regular legislative session.

9
10 Section 6. Section 240.2011, Florida Statutes, is
11 reenacted to read:

12 240.2011 State University System defined.--The State
13 University System shall consist of the following:

14 (1) The Board of Regents of the Division of
15 Universities of the Department of Education, with a central
16 office located in Leon County.

17 (2) The University of Florida, with a main campus
18 located in Alachua County.

19 (3) The Florida State University, with a main campus
20 located in Leon County.

21 (4) The Florida Agricultural and Mechanical
22 University, with a main campus located in Leon County.

23 (5) The University of South Florida, with a main
24 campus located in Hillsborough County.

25 (6) The Florida Atlantic University, with partner
26 campuses located in Palm Beach County and Broward County.

27 (7) The University of West Florida, with a main campus
28 located in Escambia County.

29 (8) The University of Central Florida, with a main
30 campus located in Orange County.

31

1 (9) The University of North Florida, with a main
2 campus located in Duval County.

3 (10) The Florida International University, with a main
4 campus located in Dade County.

5 (11) The Florida Gulf Coast University, with a main
6 campus located in Fort Myers.

7
8 Reviser's note.--Section 1, ch. 94-248, Laws of
9 Florida, purported to amend subsection (11) of
10 s. 240.2011, but failed to republish the
11 introductory paragraph to the section. In the
12 absence of affirmative evidence that the
13 Legislature intended to repeal the introductory
14 paragraph, s. 240.2011 is reenacted to confirm
15 that the omission was not intended.

16
17 Section 7. Section 240.20941, Florida Statutes, is
18 amended to read:

19 240.20941 Vacant faculty positions.--Notwithstanding
20 the provisions of s. 216.181(7), (8), and (9)~~216.181(3), (4),~~
21 ~~and (5)~~, and pursuant to the provisions of s. 216.351, actions
22 to reduce positions, rate, or salaries and benefits, excluding
23 salary lapse calculations, taken by the Legislature, by the
24 Executive Office of the Governor, or by the Administration
25 Commission which relate specifically to vacant positions, and
26 which are applied on a uniform basis to all state employee
27 positions, may affect the positions within the faculty pay
28 plan approved and administered by the Board of Regents only to
29 the extent that they do so by express reference to this
30 section.

31

1 Reviser's note.--Amended to conform to the
2 redesignation of subunits of s. 216.181 by s.
3 60, ch. 92-142, Laws of Florida, and s. 6, ch.
4 97-286, Laws of Florida.

5
6 Section 8. Subsection (1) of section 240.2605, Florida
7 Statutes, 1998 Supplement, is amended to read:

8 240.2605 Trust Fund for Major Gifts.--

9 (1) There is established a Trust Fund for Major Gifts.
10 The purpose of the trust fund is to enable the Board of
11 Regents Foundation, each university, and New College to
12 provide donors with an incentive in the form of matching
13 grants for donations for the establishment of permanent
14 endowments, which must be invested, with the proceeds of the
15 investment used to support libraries and instruction and
16 research programs, as defined by procedure of the Board of
17 Regents. All funds appropriated for the challenge grants, new
18 donors, major gifts, or eminent scholars program must be
19 deposited into the trust fund and invested pursuant to s.
20 18.125 until the Board of Regents allocates the funds to
21 universities to match private donations. Notwithstanding s.
22 216.301 and pursuant to s. 216.351, any undisbursed balance
23 remaining in the trust fund and interest income accruing to
24 the portion of the trust fund which is not matched and
25 distributed to universities must remain in the trust fund and
26 be used to increase the total funds available for challenge
27 grants. The Board of Regents may authorize any university to
28 encumber the state matching portion of a challenge grant from
29 funds available under s. 240.272.

30
31 Reviser's note.--Amended to improve clarity.

1 Section 9. Subsection (4) of section 240.275, Florida
2 Statutes, is amended to read:

3 240.275 Law libraries of certain institutions of
4 higher learning designated as state legal depositories.--

5 (4) The libraries of all community colleges in the
6 Florida state Community College System as defined in s.
7 240.301 are designated as state depositories for the Florida
8 Statutes and supplements published by or under the authority
9 of the state; these depositories each may receive upon request
10 one copy of each volume without charge, except for payment of
11 shipping costs.

12
13 Reviser's note.--Amended to conform to the
14 redesignation of the State Community College
15 System as the Florida Community College System
16 by s. 15, ch. 98-58, Laws of Florida.

17
18 Section 10. Section 240.283, Florida Statutes, is
19 amended to read:

20 240.283 Extra compensation for State University System
21 employees.--Notwithstanding the provisions of s. 216.262(1)(e)
22 ~~216.262(1)(d)~~, the presidents of the several universities and
23 the Chancellor are authorized to approve additional
24 compensation for university employees and employees of the
25 Board of Regents, respectively, as provided by rules adopted
26 by the Board of Regents.

27
28 Reviser's note.--Amended to conform to the
29 redesignation of subunits of s. 216.262(1) by
30 s. 68, ch. 92-142, Laws of Florida.

1 Section 11. Section 240.285, Florida Statutes, is
2 amended to read:

3 240.285 Transfer of funds.--Notwithstanding the
4 limitations of s. 216.292(3)(a)~~216.292(2)(a)~~, the State
5 University System is authorized to transfer up to 15 percent
6 from salaries to other personal services; however, such
7 actions shall be shown in the legislative budget request which
8 includes actual expenditures for the preceding fiscal year.

9
10 Reviser's note.--Amended to conform to the
11 redesignation of subunits of s. 216.292 by s.
12 14, ch. 94-249, Laws of Florida.

13
14 Section 12. Subsections (4) and (7) of section
15 240.311, Florida Statutes, 1998 Supplement, are amended to
16 read:

17 240.311 State Board of Community Colleges; powers and
18 duties.--

19 (4) The State Board of Community Colleges shall
20 appoint, and may suspend or dismiss, an executive director of
21 the community college system. The board shall fix the
22 compensation for the executive director and for all other
23 professional, administrative, and clerical employees necessary
24 to assist the board and the executive director in the
25 performance of their duties. The executive director shall
26 serve as executive officer and as secretary to the board;
27 shall attend, but not vote at, all meetings of the board
28 except when on authorized leave; shall be in charge of the
29 offices of the board, including appointment and termination of
30 staff; and shall be responsible for the preparation of reports
31 and the collection and dissemination of data and other public

1 information relating to the Florida ~~State~~ Community College
2 System. The executive director shall conduct systemwide
3 program reviews for board approval; prepare the legislative
4 budget request for the system; and, upon the request of the
5 board, represent the system before the Legislature and the
6 State Board of Education, including representation in the
7 presentation of proposed rules to the State Board of
8 Education. The board may, by rule, delegate to the executive
9 director any of the powers and duties vested in or imposed
10 upon it by this part. Under the supervision of the board, the
11 executive director shall administer the provisions of this
12 part and the rules established hereunder and all other
13 applicable laws of the state.

14 (7) The State Board of Community Colleges shall adopt
15 rules and procedures to be followed by district boards of
16 trustees for the recruitment, consideration, and selection
17 process for presidents of the community colleges. The rules or
18 procedures shall address, at a minimum, the following: the
19 composition of a search committee that provides for membership
20 representing the gender and ethnic diversity of the community,
21 faculty, students, and staff; the program mix of the community
22 college and priorities of the community and board of trustees;
23 and a recruitment and consideration process that provides a
24 candidate pool with ethnic and gender diversity appropriate
25 for the community college district. The district board of
26 trustees is responsible for the appointment of the community
27 college president, pursuant to s. 240.319(4)(a)~~240.319(3)(a)~~.
28 Upon selection of a president by a board of trustees, the
29 board of trustees shall submit a report to the State Board of
30 Community Colleges documenting compliance with this
31 subsection.

1 Reviser's note.--Subsection (4) is amended to
2 conform to the redesignation of the State
3 Community College System as the Florida
4 Community College System by s. 15, ch. 98-58,
5 Laws of Florida. Subsection (7) is amended to
6 conform to the redesignation of subunits of s.
7 240.319 by s. 12, ch. 97-246, Laws of Florida.

8
9 Section 13. Subsection (2) and paragraph (t) of
10 subsection (4) of section 240.319, Florida Statutes, 1998
11 Supplement, are amended to read:

12 240.319 Community college district boards of trustees;
13 duties and powers.--

14 (2) The board of trustees, after considering
15 recommendations submitted by the community college president,
16 has authority to adopt rules pursuant to ss. 120.536(1) and
17 120.54 to implement the provisions of law conferring duties
18 upon it. These rules may supplement those prescribed by the
19 State Board of Education and the State Board of Community
20 Colleges if they will contribute to the more orderly and
21 efficient operation of the Florida State Community College
22 System.

23 (4) Such rules, procedures, and policies for the
24 boards of trustees include, but are not limited to, the
25 following:

26 (t) Each board of trustees is authorized to borrow
27 funds and incur debt, including the issuance of revenue bonds
28 as specifically authorized in ss. 239.117(17) and 240.35(14)
29 ~~240.35(13)~~, only for the new construction and equipment,
30 renovation, or remodeling of educational facilities. At the
31 option of the board of trustees, bonds may be issued which are

1 secured by a combination of revenues authorized to be pledged
2 to bonds pursuant to ss. 239.117(17) and 240.35(14)
3 ~~240.35(13)~~.

4
5 Reviser's note.--Subsection (2) is amended to
6 conform to the redesignation of the State
7 Community College System as the Florida
8 Community College System by s. 15, ch. 98-58,
9 Laws of Florida. Paragraph (4)(t) is amended to
10 conform to the redesignation of subunits of s.
11 240.35 by s. 10, ch. 98-421, Laws of Florida.

12
13 Section 14. Section 240.3195, Florida Statutes, is
14 amended to read:

15 240.3195 State Community College System Optional
16 Retirement Program.--Each community college may implement an
17 optional retirement program, if such program is established
18 therefor pursuant to s. 240.319(4)(r)~~240.319(3)(r)~~, under
19 which annuity contracts providing retirement and death
20 benefits may be purchased by, and on behalf of, eligible
21 employees who participate in the program. Except as otherwise
22 provided herein, this retirement program, which shall be known
23 as the State Community College System Optional Retirement
24 Program, may be implemented and administered only by an
25 individual community college or by a consortium of community
26 colleges.

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

28 (a) "Activation" means the date upon which an optional
29 retirement program is first made available by the program
30 administrator to eligible employees.

31

1 (b) "College" means public community colleges that are
2 members of the Florida State Community College System.

3 (c) "Division" means the Division of Retirement of the
4 Department of Management Services.

5 (d) "Program administrator" means the individual
6 college or consortium of colleges responsible for implementing
7 and administering an optional retirement program.

8 (e) "Program participant" means an eligible employee
9 who has elected to participate in an available optional
10 retirement program as authorized by this section.

11 (2) Participation in the optional retirement program
12 provided by this section is limited to employees who satisfy
13 the criteria set forth in s. 121.051(2)(c).

14 (3)(a) With respect to any employee who is eligible to
15 participate in the optional retirement program by reason of
16 qualifying employment commencing before the program's
17 activation:

18 1. The employee may elect to participate in the
19 optional retirement program in lieu of participation in the
20 Florida Retirement System. To become a program participant,
21 the employee must file with the personnel officer of the
22 college, within 60 days after the program's activation, both a
23 written election on a form provided by the division and a
24 completed application for an individual contract or
25 certificate.

26 2. An employee's participation in the optional
27 retirement program commences on the first day of the next full
28 calendar month following the filing of the election and
29 completed application with the program administrator and
30 receipt of such election by the division. An employee's
31

1 membership in the Florida Retirement System terminates on this
2 same date.

3 3. Any such employee who fails to make an election to
4 participate in the optional retirement program within 60 days
5 after its activation has elected to retain membership in the
6 Florida Retirement System.

7 (b) With respect to any employee who becomes eligible
8 to participate in an optional retirement program by reason of
9 qualifying employment commencing on or after the program's
10 activation:

11 1. The employee may elect to participate in the
12 optional retirement program in lieu of participation in the
13 Florida Retirement System. To become a program participant,
14 the employee must file with the personnel officer of the
15 college, within 60 days after commencing qualifying
16 employment, both a written election on a form provided by the
17 division and a completed application for an individual
18 contract or certificate.

19 2. An employee's participation in the optional
20 retirement program commences on the first day of the next full
21 calendar month following the filing of the election and
22 completed application with the program administrator and
23 receipt of such election by the division. An employee's
24 membership in the Florida Retirement System terminates on this
25 same date.

26 3. If the employee makes an election to participate in
27 the optional retirement program before the community college
28 submits its initial payroll for the employee, participation in
29 the optional retirement program commences on the first date of
30 employment.

31

1 4. Any such employee who fails to make an election to
2 participate in the optional retirement program within 60 days
3 after commencing qualifying employment has elected to retain
4 membership in the Florida Retirement System.

5 (c) Any employee who, on or after an optional
6 retirement program's activation, becomes eligible to
7 participate in the program by reason of a change in status due
8 to the subsequent designation of the employee's position as
9 one of those referenced in subsection (2), or due to the
10 employee's appointment, promotion, transfer, or
11 reclassification to a position referenced in subsection (2),
12 must be notified by the community college of the employee's
13 eligibility to participate in the optional retirement program
14 in lieu of participation in the Florida Retirement System.
15 These eligible employees are subject to the provisions of
16 paragraph (b) and may elect to participate in the optional
17 retirement program in the same manner as those employees
18 described in paragraph (b), except that the 60-day election
19 period commences upon the date notice of eligibility is
20 received by the employee.

21 (d) Program participants must be fully and immediately
22 vested in the optional retirement program.

23 (e) The election by an eligible employee to
24 participate in the optional retirement program is irrevocable
25 for so long as the employee continues to meet the eligibility
26 requirements set forth in this section and in s.
27 121.051(2)(c), except as provided in paragraph (i).

28 (f) If a program participant becomes ineligible to
29 continue participating in the optional retirement program
30 pursuant to the criteria referenced in subsection (2), the
31 employee becomes a member of the Florida Retirement System if

1 eligible. The college must notify the Division of Retirement
2 of an employee's change in eligibility status within 30 days
3 after the event that makes the employee ineligible to continue
4 participation in the optional retirement program.

5 (g) An eligible employee who is a member of the
6 Florida Retirement System at the time of election to
7 participate in the optional retirement program retains all
8 retirement service credit earned under the Florida Retirement
9 System at the rate earned. Additional service credit in the
10 Florida Retirement System may not be earned while the employee
11 participates in the optional retirement program, nor is the
12 employee eligible for disability retirement under the Florida
13 Retirement System.

14 (h) A program participant may not simultaneously
15 participate in any other state-administered retirement system,
16 plan, or class.

17 (i) Except as provided in s. 121.052(6)(d), a program
18 participant who is or who becomes dually employed in two or
19 more positions covered by the Florida Retirement System, one
20 of which is eligible for an optional retirement program
21 pursuant to this section and one of which is not, is subject
22 to the dual employment provisions of chapter 121.

23 (4)(a) Each college must contribute on behalf of each
24 program participant an amount equal to the normal cost portion
25 of the employer retirement contribution which would be
26 required if the program participant were a member of the
27 Regular Class of the Florida Retirement System as provided in
28 s. 121.071, plus the portion of the contribution rate required
29 in s. 112.363(8) that would otherwise be assigned to the
30 Retiree Health Insurance Subsidy Trust Fund, and less an
31 amount approved by the community college to provide for the

1 administration of the optional retirement program. Payment of
2 this contribution must be made either directly by the
3 community college or through the program administrator to the
4 designated company contracting for payment of benefits to the
5 program participant.

6 (b) Each community college must contribute on behalf
7 of each program participant an amount equal to the unfunded
8 actuarial accrued liability portion of the employer
9 contribution which would be required if the program
10 participant were a member of the Regular Class of the Florida
11 Retirement System. Payment of this contribution must be made
12 directly by the college to the division for deposit in the
13 Florida Retirement System Trust Fund.

14 (c) Each program participant who has executed an
15 annuity contract may contribute by way of salary reduction or
16 deduction a percentage of the program participant's gross
17 compensation, but this percentage may not exceed the
18 corresponding percentage contributed by the community college
19 to the optional retirement program. Payment of this
20 contribution may be made either directly by the college or
21 through the program administrator to the designated company
22 contracting for payment of benefits to the program
23 participant.

24 (d) Contributions to an optional retirement program by
25 a college or a program participant are in addition to, and
26 have no effect upon, contributions required now or in future
27 by the federal Social Security Act.

28 (5)(a) The benefits to be provided to program
29 participants must be provided through individual contracts or
30 group annuity contracts, which may be fixed, variable, or
31 both. Each individual contract or certificate must state the

1 type of annuity contract on its face page, and must include at
2 least a statement of ownership, the contract benefits, annuity
3 income options, limitations, expense charges, and surrender
4 charges, if any.

5 (b) Benefits are payable under the optional retirement
6 program to program participants or their beneficiaries, and
7 the benefits must be paid only by the designated company in
8 accordance with the terms of the annuity contracts applicable
9 to the program participant, provided that benefits funded by
10 employer contributions are payable only as a lifetime annuity
11 to the program participant, except for:

12 1. A lump-sum payment to the program participant's
13 beneficiary or estate upon the death of the program
14 participant; or

15 2. A cash-out of a de minimis account upon the request
16 of a former program participant who has been terminated for a
17 minimum of 6 months from the employment that caused the
18 participant to be eligible for participation. A de minimis
19 account is an account with a designated company containing
20 employer contributions and accumulated earnings of not more
21 than \$3,500. The cash-out must be a complete liquidation of
22 the account balance with that designated company and is
23 subject to the provisions of the Internal Revenue Code.

24 (c) The benefits payable to any person under the
25 optional retirement program, and any contribution accumulated
26 under the program, are not subject to assignment, execution,
27 attachment, or to any legal process whatsoever.

28 (6)(a) The optional retirement program authorized by
29 this section must be implemented and administered by the
30 program administrator under s. 403(b) of the Internal Revenue
31 Code. The program administrator has the express authority to

1 contract with a third party to fulfill any of the program
2 administrator's duties.

3 (b) The program administrator shall solicit
4 competitive bids or issue a request for proposal and select no
5 more than four companies from which annuity contracts may be
6 purchased under the optional retirement program. In making
7 these selections, the program administrator shall consider the
8 following factors:

9 1. The financial soundness of the company.

10 2. The extent of the company's experience in providing
11 annuity contracts to fund retirement programs.

12 3. The nature and extent of the rights and benefits
13 provided to program participants in relation to the premiums
14 paid.

15 4. The suitability of the rights and benefits provided
16 to the needs of eligible employees and the interests of the
17 college in the recruitment and retention of employees.

18

19 In lieu of soliciting competitive bids or issuing a request
20 for proposals, the program administrator may authorize the
21 purchase of annuity contracts under the optional retirement
22 program from those companies currently selected by the
23 Division of Retirement to offer such contracts through the
24 State University System Optional Retirement Program, as set
25 forth in s. 121.35.

26 (c) Optional retirement program annuity contracts must
27 be approved in form and content by the program administrator
28 in order to qualify. The program administrator may use the
29 same annuity contracts currently used within the State
30 University System Optional Retirement Program, as set forth in
31 s. 121.35.

1 (d) The provision of each annuity contract applicable
2 to a program participant must be contained in a written
3 program description that includes a report of pertinent
4 financial and actuarial information on the solvency and
5 actuarial soundness of the program and the benefits applicable
6 to the program participant. The company must furnish the
7 description annually to the program administrator, and to each
8 program participant upon commencement of participation in the
9 program and annually thereafter.

10 (e) The program administrator must ensure that each
11 program participant is provided annually with an accounting of
12 the total contributions and the annual contributions made by
13 and on the behalf of the program participant.

14
15 Reviser's note.--Section 240.3195 is amended to
16 conform to the redesignation of subunits of s.
17 240.319 by s. 12, ch. 97-246, Laws of Florida.
18 Paragraph (1)(b) was amended to conform to the
19 redesignation of the State Community College
20 System as the Florida Community College System
21 by s. 15, ch. 98-58, Laws of Florida.

22
23 Section 15. Subsection (1) of section 240.324, Florida
24 Statutes, 1998 Supplement, is amended to read:

25 240.324 Community college accountability process.--

26 (1) It is the intent of the Legislature that a
27 management and accountability process be implemented which
28 provides for the systematic, ongoing improvement and
29 assessment of the improvement of the quality and efficiency of
30 the Florida State Community College System. Accordingly, the
31 State Board of Community Colleges and the community college

1 boards of trustees shall develop and implement an
2 accountability plan to improve and evaluate the instructional
3 and administrative efficiency and effectiveness of the Florida
4 ~~State~~ Community College System. This plan shall be designed
5 in consultation with staff of the Governor and the Legislature
6 and must address the following issues:

7 (a) Graduation rates of A.A. and A.S. degree-seeking
8 students compared to first-time-enrolled students seeking the
9 associate degree.

10 (b) Minority student enrollment and retention rates.

11 (c) Student performance, including student performance
12 in college-level academic skills, mean grade point averages
13 for community college A.A. transfer students, and community
14 college student performance on state licensure examinations.

15 (d) Job placement rates of community college
16 vocational students.

17 (e) Student progression by admission status and
18 program.

19 (f) Vocational accountability standards identified in
20 s. 239.229.

21 (g) Institutional assessment efforts related to the
22 requirements of s. III in the Criteria for Accreditation of
23 the Commission on Colleges of the Southern Association of
24 Colleges and Schools.

25 (h) Other measures as identified by the Postsecondary
26 Education Planning Commission and approved by the State Board
27 of Community Colleges.

28

29 Reviser's note.--Amended to conform to the
30 redesignation of the State Community College

31

1 System as the Florida Community College System
2 by s. 15, ch. 98-58, Laws of Florida.

3

4 Section 16. Subsection (2) of section 240.331, Florida
5 Statutes, 1998 Supplement, is amended to read:

6 240.331 Community college direct-support
7 organizations.--

8 (2) BOARD OF DIRECTORS.--The chair ~~chairperson~~ of the
9 board of trustees shall appoint a representative to the board
10 of directors and the executive committee of each
11 direct-support organization established under this section,
12 including those established before July 1, 1998. The president
13 of the community college for which the direct-support
14 organization is established, or the president's designee,
15 shall also serve on the board of directors and the executive
16 committee of the direct-support organization, including any
17 direct-support organization established before July 1, 1998.

18

19 Reviser's note.--Amended to conform to the
20 title of the position as provided in s.
21 240.313(5).

22

23 Section 17. Subsection (2) of section 240.3315,
24 Florida Statutes, 1998 Supplement, is amended to read:

25 240.3315 Statewide community college direct-support
26 organizations.--

27 (2) BOARD OF DIRECTORS.--The chair ~~chairperson~~ of the
28 State Board of Community Colleges may appoint a representative
29 to the board of directors and the executive committee of any
30 statewide, direct-support organization established under this
31 section or s. 240.331. The chair ~~chairperson~~ of the State

1 Board of Community Colleges, or the chair's ~~chairperson's~~
2 designee, shall also serve on the board of directors and the
3 executive committee of any direct-support organization
4 established to benefit the Florida ~~State~~ Community College
5 System.

6
7 Reviser's note.--Amended to conform to the
8 title of the chair of the State Board of
9 Community Colleges as provided in s. 240.309(1)
10 and to conform to the redesignation of the
11 State Community College System as the Florida
12 Community College System by s. 15, ch. 98-58,
13 Laws of Florida.

14
15 Section 18. Subsections (1), (2), (3), (4), and (11)
16 of section 240.383, Florida Statutes, are amended to read:

17 240.383 State Community College System Facility
18 Enhancement Challenge Grant Program.--

19 (1) The Legislature recognizes that the State
20 Community College System does not have sufficient physical
21 facilities to meet the current demands of its instructional
22 and community programs. It further recognizes that, to
23 strengthen and enhance the Florida ~~State~~ Community College
24 System, it is necessary to provide facilities in addition to
25 those currently available from existing revenue sources. It
26 further recognizes that there are sources of private support
27 that, if matched with state support, can assist in
28 constructing much needed facilities and strengthen the
29 commitment of citizens and organizations in promoting
30 excellence throughout the state community colleges.
31 Therefore, it is the intent of the Legislature to establish a

1 program to provide the opportunity for each community college
2 through its direct-support organization to receive and match
3 challenge grants for instructional and community-related
4 capital facilities within the community college.

5 (2) There is established the State Community College
6 System Facility Enhancement Challenge Grant Program for the
7 purpose of assisting the Florida State Community College
8 System in building high priority instructional and
9 community-related capital facilities consistent with s.
10 240.301, including common areas connecting such facilities.
11 The direct-support organizations that serve the community
12 colleges shall solicit gifts from private sources to provide
13 matching funds for capital facilities. For the purposes of
14 this section, private sources of funds shall not include any
15 federal or state government funds that a community college may
16 receive.

17 (3) The Community College Capital Facilities Matching
18 Trust Fund, ~~if created by law, otherwise the General Revenue~~
19 ~~Fund,~~ shall provide funds to match private contributions for
20 the development of high priority instructional and
21 community-related capital facilities, including common areas
22 connecting such facilities, within the Florida State Community
23 College System. All appropriated funds deposited in the trust
24 fund, ~~if created by law, otherwise the General Revenue Fund,~~
25 shall be invested pursuant to the provisions of s. 18.125.
26 Interest income accruing to that portion of the trust fund, ~~if~~
27 ~~created by law, otherwise the General Revenue Fund,~~ shall
28 increase the total funds available for the challenge grant
29 program. Interest income accruing from the private donations
30 shall be returned to the participating direct-support
31 organization upon completion of the project.

1 (4) Within the direct-support organization of each
2 community college there must be established a separate capital
3 facilities matching account for the purpose of providing
4 matching funds from the direct-support organization's
5 unrestricted donations or other private contributions for the
6 development of high priority instructional and
7 community-related capital facilities, including common areas
8 connecting such facilities. The Legislature shall appropriate
9 funds to be transferred to the Community College Capital
10 Facilities Matching Trust Fund, ~~if created by law, otherwise~~
11 ~~the General Revenue Fund~~, for distribution to a community
12 college after matching funds are certified by the
13 direct-support organization and community college. The Public
14 Education Capital Outlay and Debt Service Trust Fund shall not
15 be used as the source of the state match for private
16 contributions.

17 (11) Any project funds that are unexpended after a
18 project is completed shall revert to the community college's
19 direct-support organization capital facilities matching
20 account. Fifty percent of such unexpended funds shall be
21 reserved for the community college which originally received
22 the private contribution for the purpose of providing private
23 matching funds for future facility construction projects as
24 provided in this section. The balance of such unexpended
25 funds shall be returned to the Community College Capital
26 Facilities Matching Trust Fund, ~~if created by law, otherwise~~
27 ~~the General Revenue Fund~~, and be available to any community
28 college for future facility construction projects conducted
29 pursuant to this section.

30
31

1 Reviser's note.--Subsections (1), (2), and (3)
2 are amended to conform to the redesignation of
3 the State Community College System as the
4 Florida Community College System by s. 15, ch.
5 98-58, Laws of Florida. Subsections (3), (4),
6 and (11) are amended to conform to the creation
7 of the Community College Capital Facilities
8 Matching Trust Fund in s. 240.3835.
9

10 Section 19. Paragraph (c) of subsection (3) of section
11 240.4063, Florida Statutes, is amended to read:

12 240.4063 Florida Teacher Scholarship and Forgivable
13 Loan Program.--

14 (3)

15 (c) A graduate forgivable loan may be awarded for 2
16 graduate years, not to exceed \$8,000 per year. In addition to
17 meeting criteria specified in paragraph (a), a loan recipient
18 at the graduate level shall:

19 1. Hold a bachelor's degree from any college or
20 university accredited by a regional accrediting association as
21 defined by State Board of Education rule 6A-4003 ~~6A-4.003~~.

22 2. Not already hold a teaching certificate resulting
23 from an undergraduate degree in education in an area of
24 critical teacher shortage as designated by the State Board of
25 Education.

26 3. Not have received an undergraduate forgivable loan
27 as provided for in paragraph (b).

28

29 Reviser's note.--Amended to conform to the
30 citation of the rule as it appears in the
31 Florida Administrative Code.

1 Section 20. Subsections (1) and (2) of section
2 240.408, Florida Statutes, are amended to read:

3 240.408 Challenger Astronauts Memorial Undergraduate
4 Scholarship Trust Fund.--

5 (1) There is created the Challenger Astronauts
6 Memorial Undergraduate Scholarship Trust Fund which shall
7 receive distributions as provided by s. 320.08058. The
8 Comptroller shall authorize expenditures from this fund for
9 Challenger Astronauts Memorial awards ~~pursuant to s. 240.402,~~
10 and any remaining balances may be expended for
11 education/business partnership programs which involve teacher
12 development strategies pursuant to s. 229.602, upon receipt of
13 vouchers approved by the Department of Education. The
14 Comptroller shall also authorize expenditures from this fund
15 for Challenger Astronauts Memorial Undergraduate Scholarships
16 for students who participated in this program prior to July 1,
17 1993, provided that such students continue to meet the renewal
18 eligibility requirements that were in effect at the time that
19 their original awards were made. Any balance therein at the
20 end of any fiscal year shall remain therein and shall be
21 available for carrying out the purposes of these programs.

22 (2) Matching scholarships may be awarded to math,
23 science, and computer education teachers chosen to participate
24 in the Teacher/Quest Scholarship Program ~~as provided for in~~
25 ~~the K through 12 Mathematics, Science, and Computer Education~~
26 ~~Quality Improvement Act.~~

27
28 Reviser's note.--Subsection (1) is amended to
29 conform to the repeal of s. 240.402 by s. 11,
30 ch. 97-77, Laws of Florida. Subsection (2) is
31 amended to conform to the repeal of the K

1 through 12 Mathematics, Science, and Computer
2 Education Quality Improvement Act by s. 49, ch.
3 94-232, Laws of Florida.

4
5 Section 21. Subsection (2) of section 240.414, Florida
6 Statutes, is amended to read:

7 240.414 Latin American and Caribbean Basin Scholarship
8 Program.--

9 (2) The institutions that are eligible to participate
10 in the scholarship program include the state universities and
11 community colleges authorized by Florida law and any
12 independent institutions eligible to participate in the
13 William L. Boyd, IV, Florida Resident Access Grant Program
14 pursuant to s. 240.605. No college or university may receive
15 more than 25 percent of the funds appropriated in any year.
16 Institutions and the appropriate administrative agency shall
17 seek matching funds from private businesses, public
18 foundations, and other agencies.

19
20 Reviser's note.--Amended to conform to the
21 redesignation of the Florida Resident Access
22 Grant Program as the William L. Boyd, IV,
23 Florida Resident Access Grant Program by s. 9,
24 ch. 98-71, Laws of Florida, and s. 14, ch.
25 98-398, Laws of Florida.

26
27 Section 22. Paragraph (a) of subsection (5) of section
28 240.4145, Florida Statutes, is amended to read:

29 240.4145 African and Afro-Caribbean Scholarship
30 Program.--

31

1 (5)(a) An institution is eligible to participate under
2 this section if it is located in this state and is either a
3 state university, a community college, or an independent
4 institution eligible to participate in the William L. Boyd,
5 IV, Florida Resident Access Grant Program.

6
7 Reviser's note.--Amended to conform to the
8 redesignation of the Florida Resident Access
9 Grant Program as the William L. Boyd, IV,
10 Florida Resident Access Grant Program by s. 9,
11 ch. 98-71, Laws of Florida, and s. 14, ch.
12 98-398, Laws of Florida.

13
14 Section 23. Paragraph (a) of subsection (4) of section
15 240.498, Florida Statutes, is amended to read:

16 240.498 Florida Education Fund.--

17 (4) The Florida Education Fund shall be administered
18 by a board of directors, which is hereby established.

19 (a) The board of directors shall consist of 12
20 members, to be appointed as follows:

21 1. Two laypersons appointed by the Governor;

22 2. Two laypersons appointed by the President of the
23 Senate;

24 3. Two laypersons appointed by the Speaker of the
25 House of Representatives;

26 4. Two representatives of the State University System
27 appointed by the Board of Regents;

28 5. Two representatives of the Florida State Community
29 College System appointed by the State Board of Community
30 Colleges; and

31

1 6. Two representatives of independent colleges or
2 universities appointed by the State Board of Independent
3 Colleges and Universities.

4
5 The board of directors may appoint to the board an additional
6 five members from the private sector for the purpose of
7 assisting in the procurement of private contributions. Such
8 members shall serve as voting members of the board.

9
10 Reviser's note.--Amended to conform to the
11 redesignation of the State Community College
12 System as the Florida Community College System
13 by s. 15, ch. 98-58, Laws of Florida.

14
15 Section 24. Section 240.514, Florida Statutes, is
16 amended to read:

17 240.514 Louis de la Parte Florida Mental Health
18 Institute.--There is established the Louis de la Parte Florida
19 Mental Health Institute within the University of South
20 Florida.

21 (1) The purpose of the institute is to strengthen
22 mental health services throughout the state by providing
23 technical assistance and support services to mental health
24 agencies and mental health professionals. Such assistance and
25 services shall include:

26 (a) Technical training and specialized education.

27 (b) Development, implementation, and evaluation of
28 mental health service programs.

29 (c) Evaluation of availability and effectiveness of
30 existing mental health services.

31

1 (d) Analysis of factors that influence the incidence
2 and prevalence of mental and emotional disorders.
3 (e) Dissemination of information about innovations in
4 mental health services.
5 (f) Consultation on all aspects of program development
6 and implementation.
7 (g) Provisions for direct client services, provided
8 for a limited period of time either in the institute facility
9 or in other facilities within the state, and limited to
10 purposes of research or training.
11 (2) The Department of Health and Rehabilitative
12 Services is authorized to designate the Louis de la Parte
13 Florida Mental Health Institute a treatment facility for the
14 purpose of accepting voluntary and involuntary clients in
15 accordance with institute programs. Clients to be admitted
16 are exempted from prior screening by a community mental health
17 center.
18 (3) The institute may provide direct services in
19 coordination with other agencies. The institute may also
20 provide support services to state agencies through joint
21 programs, collaborative agreements, contracts, and grants.
22 (4) The institute shall operate under the authority of
23 the President of the University of South Florida and shall
24 employ a mental health professional as director. The director
25 shall hold a faculty appointment in a college or department
26 related to mental health within the university. The director
27 has primary responsibility for establishing active liaisons
28 with the community of mental health professionals and other
29 related constituencies in the state and may, with approval of
30 the university president, establish appropriate statewide
31

1 advisory groups to assist in developing these communication
2 links.

3 (5) The Louis de la Parte Florida Mental Health
4 Institute is authorized to utilize the pay plan of the State
5 University System.

6
7 Reviser's note.--Amended to conform to the
8 redesignation of the Florida Mental Health
9 Institute as the Louis de la Parte Florida
10 Mental Health Institute by s. 3, ch. 96-196,
11 Laws of Florida.

12
13 Section 25. Paragraph (a) of subsection (9) of section
14 240.551, Florida Statutes, 1998 Supplement, is amended to
15 read:

16 240.551 Florida Prepaid College Program.--

17 (9) PREPAID COLLEGE PLANS.--At a minimum, the board
18 shall make advance payment contracts available for two
19 independent plans to be known as the community college plan
20 and the university plan. The board may also make advance
21 payment contracts available for a dormitory residence plan.

22 (a)1. Through the community college plan, the advance
23 payment contract shall provide prepaid registration fees for a
24 specified number of undergraduate semester credit hours not to
25 exceed the average number of hours required for the conference
26 of an associate degree. The cost of participation in the
27 community college plan shall be based primarily on the average
28 current and projected registration fees within the Florida
29 ~~State~~ Community College System and the number of years
30 expected to elapse between the purchase of the plan on behalf
31 of a qualified beneficiary and the exercise of the benefits

1 provided in the plan by such beneficiary. Qualified
2 beneficiaries shall bear the cost of any laboratory fees
3 associated with enrollment in specific courses. Each qualified
4 beneficiary shall be classified as a resident for tuition
5 purposes, pursuant to s. 240.1201, regardless of his or her
6 actual legal residence.

7 2. Effective July 1, 1998, the board may provide
8 advance payment contracts for additional fees delineated in s.
9 240.35, not to exceed the average number of hours required for
10 the conference of an associate degree, in conjunction with
11 advance payment contracts for registration fees. The cost of
12 purchasing such fees shall be based primarily on the average
13 current and projected fees within the Florida State Community
14 College System and the number of years expected to elapse
15 between the purchase of the plan on behalf of the beneficiary
16 and the exercise of benefits provided in the plan by such
17 beneficiary. Community college plan contracts purchased prior
18 to July 1, 1998, shall be limited to the payment of
19 registration fees as defined in subsection (2).

20
21 Reviser's note.--Amended to conform to the
22 redesignation of the State Community College
23 System as the Florida Community College System
24 by s. 15, ch. 98-58, Laws of Florida.

25
26 Section 26. Section 240.6054, Florida Statutes, 1998
27 Supplement, is amended to read:

28 240.6054 Ethics in Business scholarships.--When the
29 Department of Insurance receives a \$6 million settlement as
30 specified in the Consent Order of the Treasurer and Insurance
31 Commissioner, case number 18900-96-c, that portion of the \$6

1 million not used to satisfy the requirements of section 18 of
2 the Consent Order must be transferred from the Insurance
3 Commissioner's Regulatory Trust Fund to the State Student
4 Financial Assistance Trust Fund is appropriated from the State
5 Student Financial Assistance Trust Fund to provide Ethics in
6 Business scholarships to students enrolled in public community
7 colleges and independent postsecondary education institutions
8 eligible to participate in the William L. Boyd, IV, Florida
9 Resident Access Grant Program under section 240.605. The funds
10 shall be allocated to institutions for scholarships in the
11 following ratio: Two-thirds for community colleges and
12 one-third for eligible independent institutions. The
13 Department of Education shall administer the scholarship
14 program for students attending community colleges and
15 independent institutions. These funds must be allocated to
16 institutions that provide an equal amount of matching funds
17 generated by private donors for the purpose of providing
18 Ethics in Business scholarships. Public funds may not be used
19 to provide the match, nor may funds collected for other
20 purposes. Notwithstanding any other provision of law, the
21 State Board of Administration shall have the authority to
22 invest the funds appropriated under this section. The
23 Department of Education may adopt rules for administration of
24 the program.

25
26 Reviser's note.--Amended to conform to the
27 redesignation of the Florida Resident Access
28 Grant Program as the William L. Boyd, IV,
29 Florida Resident Access Grant Program by s. 9,
30 ch. 98-71, Laws of Florida, and s. 14, ch.
31 98-398, Laws of Florida.

1 Section 27. Subsection (1) of section 240.632, Florida
2 Statutes, is amended to read:
3 240.632 Creation of institute.--
4 (1) There is hereby created the Florida Martin Luther
5 King, Jr., Institute for Nonviolence to be established at
6 Miami-Dade Community College by the Florida State Community
7 College System in conjunction with the State University
8 System. The institute shall have an advisory board consisting
9 of 13 members as follows: the Attorney General, the Chancellor
10 of the State University System, the Commissioner of Education,
11 and 10 members to be appointed by the Governor, such members
12 to represent the population of the state based on its ethnic,
13 gender, and socioeconomic diversity. Of the members appointed
14 by the Governor, one shall be a member of the Senate appointed
15 by the Governor on the recommendation of the President of the
16 Senate; one shall be a member of the Senate appointed by the
17 Governor on the recommendation of the minority leader; one
18 shall be a member of the House of Representatives appointed by
19 the Governor on the recommendation of the Speaker of the House
20 of Representatives; one shall be a member of the House of
21 Representatives appointed by the Governor on the
22 recommendation of the minority leader; and six shall be
23 members appointed by the Governor, no more than three of whom
24 shall be members of the same political party. The following
25 groups shall be represented by the six members: the Florida
26 Sheriffs Association; the Florida Association of Counties; the
27 Florida League of Cities; human services agencies; community
28 relations or human relations councils; and youth. A
29 chairperson shall be elected by the members and shall serve
30 for a term of 3 years. Members of the board shall serve the
31 following terms of office which shall be staggered:

1 (a) A member of the Legislature appointed to the board
2 shall serve for a single term not to exceed 5 years and shall
3 serve as a member only while he or she is a member of the
4 Legislature.

5 (b) Of the six members who are not members of the
6 Legislature, three shall serve for terms of 4 years, two shall
7 serve for terms of 3 years, and one shall serve for a term of
8 1 year. Thereafter, each member, except for a member
9 appointed to fill an unexpired term, shall serve for a 5-year
10 term. No member shall serve on the board for more than 10
11 years.

12
13 In the event of a vacancy occurring in the office of a member
14 of the board by death, resignation, or otherwise, the Governor
15 shall appoint a successor to serve for the balance of the
16 unexpired term.

17
18 Reviser's note.--Amended to conform to the
19 redesignation of the State Community College
20 System as the Florida Community College System
21 by s. 15, ch. 98-58, Laws of Florida.

22
23 Section 28. Subsection (1) of section 242.3305,
24 Florida Statutes, is amended to read:

25 242.3305 Florida School for the Deaf and the Blind;
26 responsibilities and mission.--

27 (1) The Florida School for the Deaf and the Blind is a
28 state-supported residential school for hearing-impaired and
29 visually impaired students in preschool through 12th grade.
30 The school is a part of the state system of public education
31 and shall be funded through the Division of Public Schools and

1 Community Education of the Department of Education. The school
2 shall provide educational programs and support services
3 appropriate to meet the education and related evaluation and
4 counseling needs of hearing-impaired and visually impaired
5 students in the state who meet enrollment criteria. Education
6 services may be provided on an outreach basis for
7 sensory-impaired children ages 0 through 5 years and their
8 parents. Graduates of the Florida School for the Deaf and the
9 Blind shall be eligible for the William L. Boyd, IV, Florida
10 Resident Access Grant Program as provided in s. 240.605.

11

12 Reviser's note.--Amended to conform to the
13 redesignation of the Florida Resident Access
14 Grant Program as the William L. Boyd, IV,
15 Florida Resident Access Grant Program by s. 9,
16 ch. 98-71, Laws of Florida, and s. 14, ch.
17 98-398, Laws of Florida.

18

19 Section 29. Paragraph (r) of subsection (1) of section
20 246.041, Florida Statutes, 1998 Supplement, is amended to
21 read:

22

246.041 Powers and duties of board.--

23

(1) The board shall:

24

(r) Provide information and documentation on an annual
25 basis to the Office of Student Financial Assistance of the
26 Department of Education regarding the requirements set forth
27 for nonpublic colleges in s. 240.605, relating to William L.
28 Boyd, IV, Florida resident access grants, s. 240.6055,
29 relating to access grants for community college graduates, and
30 s. 240.609, relating to Florida postsecondary endowment
31 grants.

1 Reviser's note.--Amended to conform to the
2 redesignation of the Florida Resident Access
3 Grant Program as the William L. Boyd, IV,
4 Florida Resident Access Grant Program by s. 9,
5 ch. 98-71, Laws of Florida, and s. 14, ch.
6 98-398, Laws of Florida.

7
8 Section 30. Section 250.46, Florida Statutes, is
9 amended to read:

10 250.46 Salaried employees not entitled to additional
11 pay.--Officers and enlisted personnel of the militia employed
12 by the ~~military~~ Department of Military Affairs ~~of the state~~,
13 who receive monthly salaries from the state for military
14 duties, shall not be entitled to any other pay from the state
15 for military service of any character; provided, that the
16 provisions of this section shall not prohibit any officer or
17 enlisted person from receiving pay from the United States for
18 participation in maneuvers, camps, field service, or other
19 service or duty.

20
21 Reviser's note.--Amended to conform to the
22 redesignation of the military department as the
23 Department of Military Affairs by s. 2, ch.
24 73-93, Laws of Florida.

25
26 Section 31. Subsection (4) of section 252.939, Florida
27 Statutes, 1998 Supplement, is amended to read:

28 252.939 Fees.--

29 (4) If the Legislature directs the department to seek
30 authority to implement and enforce s. 112(r)(7) of the Clean
31 Air Act for additional stationary sources, the department

1 shall, with the advice ~~advise~~ of the commission, review and
2 suggest revisions, if necessary and appropriate, to the fees
3 specified in this section.

4

5 Reviser's note.--Amended to improve clarity.

6

7 Section 32. Subsection (15) of section 253.025,
8 Florida Statutes, 1998 Supplement, is amended to read:

9 253.025 Acquisition of state lands for purposes other
10 than preservation, conservation, and recreation.--

11 (15) Pursuant to s. 944.10, the Department of
12 Corrections is responsible for obtaining appraisals and
13 entering into option agreements and agreements for the
14 purchase of state correctional facility sites. An option
15 agreement or agreement for purchase is not binding upon the
16 state until it is approved by the Board of Trustees of the
17 Internal Improvement Trust Fund. The provisions of paragraphs
18 (6)(b)(7)(b), (c), and (d) and (7)(b)(8)(b), (c), and (d)
19 apply to all appraisals, offers, and counteroffers of the
20 Department of Corrections for state correctional facility
21 sites.

22

23 Reviser's note.--Amended to conform to the
24 redesignation of subunits of s. 253.025 by s.
25 2, ch. 94-240, Laws of Florida.

26

27 Section 33. Paragraph (a) of subsection (1) of section
28 255.05, Florida Statutes, 1998 Supplement, is amended to read:

29 255.05 Bond of contractor constructing public
30 buildings; form; action by materialmen.--

31

1 (1)(a) Any person entering into a formal contract with
2 the state or any county, city, or political subdivision
3 thereof, or other public authority, for the construction of a
4 public building, for the prosecution and completion of a
5 public work, or for repairs upon a public building or public
6 work shall be required, before commencing the work or before
7 recommencing the work after a default or abandonment, to
8 execute, deliver to the public owner, and record in the public
9 records of the county where the improvement is located, a
10 payment and performance bond with a surety insurer authorized
11 to do business in this state as surety. The bond must state on
12 its front page: the name, principal business address, and
13 phone number of the contractor, the surety, the owner of the
14 property being improved, and, if different from the owner, the
15 contracting public entity; the contract number assigned by the
16 contracting public entity; and a description of the project
17 sufficient to identify it, including, if applicable, a legal
18 description and the street address of the property being
19 improved, and a general description of the improvement. Such
20 bond shall be conditioned that the contractor perform the
21 contract in the time and manner prescribed in the contract and
22 promptly make payments to all persons defined in s. 713.01
23 whose claims derive directly or indirectly from the
24 prosecution of the work provided for in the contract. Any
25 claimant may apply to the governmental entity having charge of
26 the work for copies of the contract and bond and shall
27 thereupon be furnished with a certified copy of the contract
28 and bond. The claimant shall have a right of action against
29 the contractor and surety for the amount due him or her,
30 including unpaid finance charges due under the claimant's
31 contract. Such action shall not involve the public authority

1 in any expense. When such work is done for the state and the
2 contract is for \$100,000 or less, no payment and performance
3 bond shall be required. At the discretion of the official or
4 board awarding such contract when such work is done for any
5 county, city, political subdivision, or public authority, any
6 person entering into such a contract which is for \$200,000 or
7 less may be exempted from executing the payment and
8 performance bond. When such work is done for the state, the
9 Secretary ~~director~~ of the Department of Management Services
10 may delegate to state agencies the authority to exempt any
11 person entering into such a contract amounting to more than
12 \$100,000 but less than \$200,000 from executing the payment and
13 performance bond. In the event such exemption is granted, the
14 officer or officials shall not be personally liable to persons
15 suffering loss because of granting such exemption. The
16 Department of Management Services shall maintain information
17 on the number of requests by state agencies for delegation of
18 authority to waive the bond requirements by agency and project
19 number and whether any request for delegation was denied and
20 the justification for the denial.

21
22 The state shall not be held liable to any laborer,
23 materialman, or subcontractor for any amounts greater than the
24 pro rata share as determined under this section.

25
26 Reviser's note.--Amended to conform to the
27 title of the head of the Department of
28 Management Services as provided in s. 20.22.

29
30 Section 34. Subsection (10) of section 259.032,
31 Florida Statutes, 1998 Supplement, is amended to read:

1 259.032 Conservation and Recreation Lands Trust Fund;
2 purpose.--
3 (10) State, regional, or local governmental agencies
4 or private entities designated to manage lands under this
5 section shall develop and adopt, with the approval of the
6 board of trustees, an individual management plan for each
7 project designed to conserve and protect such lands and their
8 associated natural resources. Private sector involvement in
9 management plan development may be used to expedite the
10 planning process. Beginning fiscal year 1998-1999, individual
11 management plans required by s. 253.034(5)~~253.034(4)~~ shall be
12 developed with input from an advisory group. Members of this
13 advisory group shall include, at a minimum, representatives of
14 the lead land managing agency, comanaging entities, local
15 private property owners, the appropriate soil and water
16 conservation district, a local conservation organization, and
17 a local elected official. The advisory group shall conduct at
18 least one public hearing within the county in which the parcel
19 or project is located. Notice of such public hearing shall be
20 posted on the parcel or project designated for management,
21 advertised in a paper of general circulation, and announced at
22 a scheduled meeting of the local governing body before the
23 actual public hearing. The management prospectus required
24 pursuant to paragraph (9)(b) shall be available to the public
25 for a period of 30 days prior to the public hearing. Once a
26 plan is adopted, the managing agency or entity shall update
27 the plan at least every 5 years in a form and manner
28 prescribed by rule of the board of trustees. Such plans may
29 include transfers of leasehold interests to appropriate
30 conservation organizations designated by the Land Management
31 Advisory Council for uses consistent with the purposes of the

1 organizations and the protection, preservation, and proper
2 management of the lands and their resources. Volunteer
3 management assistance is encouraged, including, but not
4 limited to, assistance by youths participating in programs
5 sponsored by state or local agencies, by volunteers sponsored
6 by environmental or civic organizations, and by individuals
7 participating in programs for committed delinquents and
8 adults. For each project for which lands are acquired after
9 July 1, 1995, an individual management plan shall be adopted
10 and in place no later than 1 year after the essential parcel
11 or parcels identified in the annual Conservation and
12 Recreation Lands report prepared pursuant to s. 259.035(2)(a)
13 have been acquired. Beginning in fiscal year 1998-1999, the
14 Department of Environmental Protection shall distribute only
15 75 percent of the acquisition funds to which a budget entity
16 or water management district would otherwise be entitled from
17 the Preservation 2000 Trust Fund to any budget entity or any
18 water management district that has more than one-third of its
19 management plans overdue.

20 (a) Individual management plans shall conform to the
21 appropriate policies and guidelines of the state land
22 management plan and shall include, but not be limited to:

23 1. A statement of the purpose for which the lands were
24 acquired, the projected use or uses as defined in s. 253.034,
25 and the statutory authority for such use or uses.

26 2. Key management activities necessary to preserve and
27 protect natural resources and restore habitat, and for
28 controlling the spread of nonnative plants and animals, and
29 for prescribed fire and other appropriate resource management
30 activities.

31

1 3. A specific description of how the managing agency
2 plans to identify, locate, protect, and preserve, or otherwise
3 use fragile, nonrenewable natural and cultural resources.

4 4. A priority schedule for conducting management
5 activities, based on the purposes for which the lands were
6 acquired.

7 5. A cost estimate for conducting priority management
8 activities, to include recommendations for cost-effective
9 methods of accomplishing those activities.

10 6. A cost estimate for conducting other management
11 activities which would enhance the natural resource value or
12 public recreation value for which the lands were acquired. The
13 cost estimate shall include recommendations for cost-effective
14 methods of accomplishing those activities.

15 7. A determination of the public uses that would be
16 consistent with the purposes for which the lands were
17 acquired.

18 (b) The Division of State Lands shall submit a copy of
19 each individual management plan for parcels which exceed 160
20 acres in size to each member of the Land Management Advisory
21 Council. The council shall, within 60 days after receiving a
22 plan from the division, review each plan for compliance with
23 the requirements of this subsection and with the requirements
24 of the rules established by the board pursuant to this
25 subsection. The council shall also consider the propriety of
26 the recommendations of the managing agency with regard to the
27 future use or protection of the property. After its review,
28 the council shall submit the plan, along with its
29 recommendations and comments, to the board of trustees. The
30 council shall specifically recommend to the board of trustees
31

1 whether to approve the plan as submitted, approve the plan
2 with modifications, or reject the plan.

3 (c) The board of trustees shall consider the
4 individual management plan submitted by each state agency and
5 the recommendations of the Land Management Advisory Council
6 and the Division of State Lands and shall approve the plan
7 with or without modification or reject such plan. The use or
8 possession of any lands owned by the board of trustees which
9 is not in accordance with an approved individual management
10 plan is subject to termination by the board of trustees.

11
12 By July 1 of each year, each governmental agency, including
13 the water management districts, and each private entity
14 designated to manage lands shall report to the Secretary of
15 Environmental Protection on the progress of funding, staffing,
16 and resource management of every project for which the agency
17 or entity is responsible.

18
19 Reviser's note.--Amended to conform to the
20 location of provisions requiring submittal of
21 land management plans in s. 253.034(5).
22 Section 253.034(4) provides for limitation to
23 reasonable use for management agreements,
24 leases, and other instruments authorizing the
25 use of board lands.

26
27 Section 35. Paragraphs (a) and (b) of subsection (6)
28 and paragraph (f) of subsection (9) of section 259.101,
29 Florida Statutes, 1998 Supplement, are amended to read:
30 259.101 Florida Preservation 2000 Act.--
31 (6) DISPOSITION OF LANDS.--

1 (a) Any lands acquired pursuant to paragraph (3)(a),
2 paragraph (3)(c), paragraph (3)(d), paragraph (3)(e),
3 paragraph (3)(f), or paragraph (3)(g), if title to such lands
4 is vested in the Board of Trustees of the Internal Improvement
5 Trust Fund, may be disposed of by the Board of Trustees of the
6 Internal Improvement Trust Fund in accordance with the
7 provisions and procedures set forth in s. 253.034(6)
8 ~~253.034(5)~~, and lands acquired pursuant to paragraph (3)(b)
9 may be disposed of by the owning water management district in
10 accordance with the procedures and provisions set forth in ss.
11 373.056 and 373.089 provided such disposition also shall
12 satisfy the requirements of paragraphs (b) and (c).

13 (b) Before land can be determined to be of no further
14 benefit to the public as required by s. 253.034(6)~~253.034(5)~~,
15 or to be no longer required for its purposes under s.
16 373.056(4), whichever may be applicable, there shall first be
17 a determination by the Board of Trustees of the Internal
18 Improvement Trust Fund, or, in the case of water management
19 district lands, by the owning water management district, that
20 such land no longer needs to be preserved in furtherance of
21 the intent of the Florida Preservation 2000 Act. Any lands
22 eligible to be disposed of under this procedure also may be
23 used to acquire other lands through an exchange of lands,
24 provided such lands obtained in an exchange are described in
25 the same paragraph of subsection (3) as the lands disposed.

26 (9)

27 (f)1. Pursuant to subsection (3) and beginning in
28 fiscal year 1999-2000, that portion of the unencumbered
29 balances of each program described in paragraphs (3)(c), (d),
30 (e), (f), and (g) which has been on deposit in such program's
31 Preservation 2000 account for more than two fiscal years shall

1 be redistributed equally to the Department of Environmental
2 Protection, Division of State Lands P2000 sub account for the
3 purchase of State Lands as described in s. 259.032 and Water
4 Management District P2000 sub account for the purchase of
5 Water Management Lands pursuant to ss. 373.456, 373.4592 and
6 373.59. For the purposes of this subsection, the term
7 "unencumbered balances" means the portion of Preservation 2000
8 bond proceeds which is not obligated through the signing of a
9 purchase contract between a public agency and a private
10 landowner, except that the program described in paragraph
11 (3)(c) may not lose any portion of its unencumbered funds
12 which remain unobligated because of extraordinary
13 circumstances that hampered the affected local governments'
14 abilities to close on land acquisition projects approved
15 through the Florida Communities Trust program. Extraordinary
16 circumstances shall be determined by the Florida Communities
17 Trust governing body and may include such things as death or
18 bankruptcy of the owner of property; a change in the land use
19 designation of the property; natural disasters that affected a
20 local government's ability to consummate the sales contract on
21 such property; or any other condition that the Florida
22 Communities Trust governing board determined to be
23 extraordinary. The portion of the funds deposited in the Water
24 Management Lands Trust Fund shall be distributed to the water
25 management districts as provided in s. 373.59(8)~~373.59(7)~~.

26 2. The department and the water management districts
27 may enter into joint acquisition agreements to jointly fund
28 the purchase of lands using alternatives to fee simple
29 techniques.

30
31

1 Reviser's note.--Paragraphs (6)(a) and (b) are
2 amended to conform to the redesignation of s.
3 253.034(5) as s. 253.034(6) by s. 3, ch.
4 97-164, Laws of Florida. Paragraph (9)(f) is
5 amended to conform to the location of
6 provisions allocating moneys from the Water
7 Management Lands Trust Fund to the districts in
8 s. 373.59(8). Section 373.59(7) provides for
9 accumulation of a district's unused funds.

10
11 Section 36. Paragraph (d) of subsection (3) of section
12 260.016, Florida Statutes, 1998 Supplement, is amended to
13 read:

14 260.016 General powers of the department.--

15 (3) The department or its designee is authorized to
16 negotiate with potentially affected private landowners as to
17 the terms under which such landowners would consent to the
18 public use of their lands as part of the greenways and trails
19 system. The department shall be authorized to agree to
20 incentives for a private landowner who consents to this public
21 use of his or her lands for conservation or recreational
22 purposes, including, but not limited to, the following:

23 (d) At the option of the landowner, acceleration of
24 the acquisition process or higher consideration in the ranking
25 process when any lands owned ~~owed~~ by the landowner are under
26 consideration for acquisition by the state or other unit of
27 government.

28
29 Reviser's note.--Amended to improve clarity and
30 facilitate correct interpretation.

31

1 Section 37. Section 266.0016, Florida Statutes, is
2 reenacted to read:

3 266.0016 Powers of the board.--The department shall
4 monitor the effectiveness of all programs of the board and
5 oversee the board to ensure that it complies with state laws
6 and rules. The board is the governing body and shall exercise
7 those powers delegated to it by the department. These
8 delegated powers shall include, but not be limited to, the
9 power to:

10 (1) Select and hire a manager, subject to final
11 approval of the department, who shall report to the board and
12 who shall be a member of Selected Exempt Service.

13 (2) Recommend to the department the salary of the
14 manager within the range permissible under Department of
15 Management Services guidelines.

16 (3) Adopt a seal and alter it at its pleasure.

17 (4) Contract and be contracted with, sue and be sued,
18 and plead and be impleaded in all courts, with the approval of
19 the department and the Department of Legal Affairs.

20 (5) Establish an office in or near the City of
21 Pensacola for the conduct of its affairs.

22 (6) Acquire, hold, lease, and dispose of personal
23 property or any interest therein for its authorized purpose.

24 (7) Plan buildings and improvements; demolish existing
25 structures; and construct, reconstruct, alter, repair, and
26 improve its facilities wherever located.

27 (8) Employ, subject to the provisions of the Career
28 Service System, employees as may be necessary.

29 (9) Contract with consulting engineers, architects,
30 accountants, inspectors, attorneys, and such other consultants
31

1 as may be necessary. However, consultants must be retained in
2 the manner provided by ss. 287.055, 287.057, and 287.058.

3 (10) Draft a historical plan of development for the
4 City of Pensacola and Escambia County; and the board may
5 recommend to the governing body of the City of Pensacola the
6 creation of a historical district or districts that include
7 any section or sections of the city containing buildings,
8 landmarks, sites, or facilities of historical value and having
9 an overall atmosphere of architectural or historical
10 distinction, or both. Such facilities having historical value
11 must be designated by the board based on criteria of
12 historical evaluation established by the National Trust for
13 Historic Preservation or another recognized professional
14 historical group.

15 (11) Contract with any agency of the state, the
16 Federal Government, the City of Pensacola, the County of
17 Escambia, or any firm or corporation with respect to the
18 establishment, construction, and operation of the facilities
19 of the board in or near the City of Pensacola.

20 (12) Make and enter into all contracts or agreements
21 with private individuals, corporations, organizations,
22 historical societies, and others with reference to facilities
23 and enter into contracts and agreements which are necessary to
24 the performance of its duties or the execution of its powers
25 under ss. 266.0011-266.0018.

26 (13) Engage in any lawful business or activity to
27 establish, maintain, and operate the facilities contemplated
28 by ss. 266.0011-266.0018, including:

29 (a) The renting or leasing for revenue of any land,
30 improved or restored real estate, or personal property
31 directly related to carrying out the purposes for which the

1 board is created, under terms and conditions deemed by the
2 board to be in the best interest of the state.

3 (b) The selling of craft products created through the
4 operation and demonstration of historical museums, craft
5 shops, and other facilities.

6 (c) The limited selling of merchandise relating to the
7 historical and antiquarian period of Pensacola and its
8 surrounding territory.

9 (14) Fix and collect charges for admission to any of
10 the facilities operated and maintained by the board under the
11 provisions of ss. 266.0011-266.0018 and adopt and enforce
12 reasonable rules to govern the conduct of the visiting public.

13 (15) Cooperate and coordinate all its activities with
14 any statewide commission and participate in any overall
15 statewide plan of historical development.

16 (16) Cooperate and coordinate its activities with any
17 national project of historical development and with any other
18 agency, state, local, or national, undertaking historical
19 objectives if they are not in conflict with the objectives of
20 the board.

21 (17) Research, prepare, publish, and procure books,
22 reports, articles, pamphlets, brochures, documents, maps,
23 photographs, films, sound recordings, and other products of a
24 similar nature in fulfillment of its purpose and function for
25 use by the board or for use by or distribution to any person
26 or entity, public or private, with or without charge or
27 profit.

28 (18) Perform all lawful acts necessary and convenient
29 and incident to the effectuating of its function and purpose.
30
31

1 Any power delegated by the department pursuant to this section
2 may be revoked by the department at any time if, in the
3 department's determination, the board is not exercising a
4 delegated power in accordance with department rules and
5 policies or in the best interest of the state.

6
7 Reviser's note.--Section 105, ch. 92-279, Laws
8 of Florida, purported to amend subsection (2)
9 of s. 266.0016, but did not set out in full the
10 amended subsection to include the flush left
11 language at the end of the section. In the
12 absence of affirmative evidence that the
13 Legislature intended to repeal the omitted
14 material, s. 266.0016 is reenacted to confirm
15 that the omission was not intended.

16
17 Section 38. Section 270.10, Florida Statutes, is
18 amended to read:

19 270.10 Sections not to impair law relative to
20 homesteads, preemptions, or grants of lands for certain
21 purposes.--Sections 270.07 and 270.08 ~~270.07-270.09~~ shall in
22 nowise impair the law of the state relative to homesteads or
23 preemptions, or the law relative to the granting of lands for
24 the construction of highways, public roads and canals.

25
26 Reviser's note.--Amended to conform to the
27 repeal of s. 270.09 by s. 513, ch. 94-356, Laws
28 of Florida.

29
30 Section 39. Subsection (2) of section 280.09, Florida
31 Statutes, is amended to read:

1 280.09 Public Deposits Trust Fund.--
2 (2) The Treasurer is authorized to pay any losses to
3 public depositors from the fund, and there are hereby
4 appropriated from the fund such sums as may be necessary from
5 time to time to pay the losses. The term "losses," for
6 purposes of this chapter, shall also include losses of
7 interest or other accumulations to the public depositor as a
8 result of penalties for early withdrawal required by
9 Depository Institution Deregulatory Commission Regulations or
10 applicable successor federal laws or regulations because of
11 suspension or disqualification of a qualified public
12 depository by the Treasurer pursuant to s. 280.05(20)
13 ~~280.05(3)~~ or because of withdrawal from the public deposits
14 program pursuant to s. 280.11. In that event, the Treasurer
15 is authorized to assess against the suspended, disqualified,
16 or withdrawing public depository, in addition to any amount
17 authorized by any other provision of this chapter, an
18 administrative penalty equal to the amount of the early
19 withdrawal penalty and to pay that amount over to the public
20 depositor as reimbursement for such loss. Any money in the
21 fund estimated not to be needed for immediate cash
22 requirements shall be invested pursuant to s. 18.125.

23
24 Reviser's note.--Amended to conform to the
25 redesignation of s. 280.05(3) as s. 280.05(20)
26 by s. 14, ch. 98-409, Laws of Florida.

27
28 Section 40. Subsection (3) of section 280.11, Florida
29 Statutes, is amended to read:

30 280.11 Withdrawal from public deposits program; return
31 of pledged collateral.--

1 (3) A qualified public depository which is required to
2 withdraw from the public deposits program pursuant to s.
3 280.05(1)(b)~~280.05(6)(b)~~ shall not receive or retain public
4 deposits after the effective date of withdrawal. The
5 contingent liability, required collateral, and reporting
6 requirements of the withdrawing depository shall continue
7 until the effective date of withdrawal. Notice of withdrawal
8 (order of discontinuance) from the Treasurer shall be mailed
9 to the qualified public depository by registered or certified
10 mail. Penalties incurred because of withdrawal from the public
11 deposits program shall be the responsibility of the
12 withdrawing depository.

13
14 Reviser's note.--Amended to conform to the
15 redesignation of s. 280.05(6)(b) as s.
16 280.05(1)(b) by s. 14, ch. 98-409, Laws of
17 Florida.

18
19 Section 41. Section 281.05, Florida Statutes, 1998
20 Supplement, is amended to read:

21 281.05 Ex officio agents.--The Department of Highway
22 Safety and Motor Vehicles, the Department of Law Enforcement,
23 and law enforcement officers of counties and municipalities
24 are ex officio agents of the Department of Management Services
25 and may, when authorized by the department, enforce rules and
26 laws applicable to the powers and duties of the department to
27 provide and maintain the security required by ss.
28 281.02-281.08 ~~281.02-281.09~~.

29
30
31

1 Reviser's note.--Amended to conform to the
2 repeal of s. 281.09 by s. 45, ch. 98-34, Laws
3 of Florida.

4
5 Section 42. Section 281.06, Florida Statutes, 1998
6 Supplement, is amended to read:
7 281.06 Contracts with counties, municipalities, or
8 licensed private security agencies.--The Department of
9 Management Services may contract with any county,
10 municipality, or licensed private security agency to provide
11 and maintain the security of state-owned or state-leased
12 property required by ss. 281.02-281.08 ~~281.02-281.09~~ upon such
13 terms as the department may deem to be in the best interest of
14 the state.

15
16 Reviser's note.--Amended to conform to the
17 repeal of s. 281.09 by s. 45, ch. 98-34, Laws
18 of Florida.

19
20 Section 43. Section 281.07, Florida Statutes, is
21 amended to read:

22 281.07 Rules; ~~Division of Capitol Police~~ traffic
23 regulation.--

24 (1) The Department of Management Services shall adopt
25 and promulgate rules ~~to govern the administration, operation,~~
26 ~~and management of the Division of Capitol Police~~ and to
27 regulate traffic and parking on state-owned or state-leased
28 property, which rules are not in conflict with any state law
29 or county or municipal ordinance, and to carry out the
30 provisions of ss. 281.02-281.08 ~~281.02-281.09~~.

31

1 Reviser's note.--Amended to conform to the
2 deletion of the Division of Capitol Police in
3 the reorganization of the Department of
4 Management Services by s. 3, ch. 97-296, Laws
5 of Florida, and to conform to the repeal of s.
6 281.09 by s. 45, ch. 98-34, Laws of Florida.
7

8 Section 44. Subsection (1) of section 281.08, Florida
9 Statutes, 1998 Supplement, is amended to read:

10 281.08 Equipment.--

11 (1) The Department of Management Services is
12 specifically authorized to purchase, sell, trade, rent, lease,
13 and maintain all necessary equipment, uniforms, motor
14 vehicles, communication systems, housing facilities, and
15 office space, and perform any other acts necessary for the
16 proper administration and enforcement of ss. 281.02-281.08
17 ~~281.02-281.09~~, pursuant to part I of chapter 287. The
18 department may prescribe a distinctive uniform to be worn by
19 personnel in the performance of their duties pursuant to s.
20 281.02(7)~~281.02(3)~~. The department may prescribe a
21 distinctive emblem to be worn by all agents or guards.
22

23 Reviser's note.--Amended to conform to the
24 repeal of s. 281.09 by s. 45, ch. 98-34, Laws
25 of Florida, and the redesignation of s.
26 281.02(3) as s. 281.02(7) by s. 6, ch. 84-143,
27 Laws of Florida.
28

29 Section 45. Section 282.003, Florida Statutes, is
30 amended to read:
31

1 282.003 Short title.--This part ~~chapter~~ may be cited
2 as the "Information Resources Management Act of 1997."

3
4 Reviser's note.--Amended to conform to the
5 division of the chapter into parts incident to
6 the compilation of the Florida Statutes 1997.

7
8 Section 46. Subsection (8) of section 282.005, Florida
9 Statutes, is amended to read:

10 282.005 Legislative findings and intent.--The
11 Legislature finds that:

12 (8) To ensure the best management of the state's
13 information technology resources, and notwithstanding other
14 provisions of law to the contrary, the functions of
15 information resources management are hereby assigned to the
16 Board of Regents as the agency responsible for the development
17 and implementation of policy, planning, management,
18 rulemaking, standards, and guidelines for the State University
19 System; to the State Board of Community Colleges as the agency
20 responsible for establishing and developing rules and policies
21 for the Florida ~~State~~ Community College System; to the Supreme
22 Court, for the judicial branch; and to each state attorney and
23 public defender.

24
25 Reviser's note.--Amended to conform to the
26 redesignation of the State Community College
27 System as the Florida Community College System
28 by s. 15, ch. 98-58, Laws of Florida.

29
30 Section 47. Section 282.101, Florida Statutes, is
31 amended to read:

1 282.101 Construction of terms, "communications" or
2 "communications system."--Any reference in this part ~~chapter~~
3 to "communications" or "communications system" means any
4 transmission, emission, and reception of signs, signals,
5 writings, images, and sounds of intelligence of any nature by
6 wire, radio, optical, or other electromagnetic systems and
7 includes all facilities and equipment owned, leased, or used
8 by all agencies and political subdivisions of state
9 government.

10
11 Reviser's note.--Amended to conform to the
12 division of the chapter into parts incident to
13 the compilation of the Florida Statutes 1997.

14
15 Section 48. Paragraph (b) of subsection (1) of section
16 282.20, Florida Statutes, is amended to read:

17 282.20 Technology Resource Center.--

18 (1)

19 (b) For the purposes of this section, the term:

20 1. "Department" means the Department of Management
21 Services.

22 2. "Division" means the Division of Information
23 Services of the Department of Management Services.

24 3. "Information-system utility" means a full-service
25 information-processing facility offering hardware, software,
26 operations, integration, networking, and consulting services.

27 4. "Customer" means a state agency or other entity
28 which is authorized to utilize the SUNCOM Network pursuant to
29 this part ~~chapter~~.

1 Reviser's note.--Amended to conform to the
2 division of the chapter into parts incident to
3 the compilation of the Florida Statutes 1997.

4
5 Section 49. Subsection (2) of section 282.22, Florida
6 Statutes, is amended to read:

7 282.22 Department of Management Services production
8 and dissemination of materials and products.--

9 (2) To accomplish this objective the department is
10 authorized to publish, produce, or have produced materials and
11 products and to make them readily available for appropriate
12 use. The department is authorized to charge an amount adequate
13 to cover the essential cost of producing and disseminating
14 such materials and products and is authorized to sell copies
15 for use to any entity who is authorized to utilize the SUNCOM
16 Network pursuant to this part ~~chapter~~ and to the public.

17
18 Reviser's note.--Amended to conform to the
19 division of the chapter into parts incident to
20 the compilation of the Florida Statutes 1997.

21
22 Section 50. Section 282.3031, Florida Statutes, is
23 amended to read:

24 282.3031 Assignment of information resources
25 management responsibilities.--For purposes of ss.
26 282.303-282.322, to ensure the best management of state
27 information technology resources, and notwithstanding other
28 provisions of law to the contrary, the functions of
29 information resources management are hereby assigned to the
30 Board of Regents as the agency responsible for the development
31 and implementation of policy, planning, management,

1 rulemaking, standards, and guidelines for the State University
2 System; to the State Board of Community Colleges as the agency
3 responsible for establishing and developing rules and policies
4 for the Florida State Community College System; to the Supreme
5 Court for the judicial branch; and to each state attorney and
6 public defender.

7
8 Reviser's note.--Amended to conform to the
9 redesignation of the State Community College
10 System as the Florida Community College System
11 by s. 15, ch. 98-58, Laws of Florida.

12
13 Section 51. Section 282.3041, Florida Statutes, is
14 amended to read:

15 282.3041 State agency responsibilities.--The head of
16 each state agency is responsible and accountable for
17 information resources management within the agency in
18 accordance with legislative intent and as defined in this part
19 chapter.

20
21 Reviser's note.--Amended to conform to the
22 division of the chapter into parts incident to
23 the compilation of the Florida Statutes 1997.

24
25 Section 52. Subsection (2) of section 282.310, Florida
26 Statutes, 1998 Supplement, is amended to read:

27 282.310 State Annual Report on Information Resources
28 Management.--

29 (2) The State Annual Report on Information Resources
30 Management shall contain, at a minimum, the following:

31

- 1 (a) The state vision for information resources
2 management.
- 3 (b) A forecast of the state information resources
4 management priorities and initiatives for the ensuing 2 years.
- 5 (c) A summary of major statewide policies recommended
6 by the State Technology Council for information resources
7 management.
- 8 (d) A summary of memoranda issued by the Executive
9 Office of the Governor.
- 10 (e) An assessment of the overall progress on state
11 information resources management initiatives and priorities
12 for the past fiscal year.
- 13 (f) A summary of major statewide issues related to
14 improving information resources management by the state.
- 15 (g) An inventory list, by major categories, of state
16 information technology resources.
- 17 (h) A summary of the total expenditures for
18 information resources management by each state agency.
- 19 (i) A summary of the opportunities for government
20 agencies or entities to share information resources management
21 projects or initiatives with other governmental or private
22 sector entities.
- 23 (j) A list of the information resources management
24 issues that have been identified as statewide or critical
25 issues for which the State Technology Council could provide
26 leadership or assistance.
- 27
- 28 The state annual report shall also include information
29 resources management information from the annual reports
30 prepared by the Board of Regents for the State University
31 System, from the State Board of Community Colleges for the

1 Florida ~~State~~ Community College System, from the Supreme Court
2 for the judicial branch, and from the Justice Administrative
3 Commission on behalf of the state attorneys and public
4 defenders. Expenditure information shall be taken from each
5 agency's annual report as well as the annual reports of the
6 Board of Regents, the State Board of Community Colleges, the
7 Supreme Court, and the Justice Administrative Commission.

8
9 Reviser's note.--Amended to conform to the
10 redesignation of the State Community College
11 System as the Florida Community College System
12 by s. 15, ch. 98-58, Laws of Florida.

13
14 Section 53. Section 284.31, Florida Statutes, is
15 amended to read:

16 284.31 Scope and types of coverages; separate
17 accounts.--The insurance risk management trust fund shall,
18 unless specifically excluded by the Department of Insurance,
19 cover all departments of the State of Florida and their
20 employees, agents, and volunteers and shall provide separate
21 accounts for workers' compensation, general liability, fleet
22 automotive liability, federal civil rights actions under 42
23 U.S.C. s. 1983 or similar federal statutes, and court-awarded
24 attorney's fees in other proceedings against the state except
25 for such awards in eminent domain or for inverse condemnation
26 or for awards by the Public Employees Relations Commission.
27 Unless specifically excluded by the Department of Insurance,
28 the insurance risk management trust fund shall provide fleet
29 automotive liability coverage to motor vehicles titled to the
30 state, or to any department of the state, when such motor
31 vehicles are used by ~~coordinated~~ community transportation

1 coordinators ~~providers~~ performing, under contract to the
2 appropriate department of the state, services for the
3 transportation disadvantaged under part I of chapter 427. Such
4 fleet automotive liability coverage shall be primary and shall
5 be subject to the provisions of s. 768.28 and parts II and III
6 of chapter 284, and applicable rules adopted thereunder, and
7 the terms and conditions of the certificate of coverage issued
8 by the Department of Insurance.

9

10 Reviser's note.--Amended to conform to the
11 redesignation of coordinated community
12 transportation providers as community
13 transportation coordinators by s. 1, ch.
14 89-376, Laws of Florida.

15

16 Section 54. Subsections (3) and (5) of section
17 287.059, Florida Statutes, are amended to read:

18 287.059 Private attorney services.--

19 (3) An agency requesting approval for the use of
20 private attorney services shall first offer to contract with
21 the Department of Legal Affairs for such attorney services at
22 a cost pursuant to mutual agreement. The Attorney General
23 shall decide on a case-by-case basis to accept or decline to
24 provide such attorney services as staffing, expertise, or
25 other legal or economic considerations warrant. If the
26 Attorney General declines to provide the requested attorney
27 services, the Attorney General's written approval shall
28 include a statement that the private attorney services
29 requested cannot be provided by the office of the Attorney
30 General or that such private attorney services are
31 cost-effective in the opinion of the Attorney General. The

1 Attorney General shall not consider political affiliation in
2 making such decision. The office of the Attorney General
3 shall respond to the request of an agency for prior written
4 approval within 10 working days after receiving such request.
5 The Attorney General may request additional information
6 necessary for evaluation of a request. The Attorney General
7 shall respond to the request within 10 working days after
8 receipt of the requested information. Those agencies exempt
9 from written approval from the Attorney General, as described
10 in paragraphs (2)(a)-(e)~~(2)(a)-(f)~~, may contract with the
11 Department of Legal Affairs for attorney services. The
12 Attorney General shall determine on a case-by-case basis
13 whether to provide such attorney services as staffing,
14 expertise, or other legal considerations warrant. The
15 Attorney General may adopt, by rule, a form on which agencies
16 requesting written approval for private attorney services
17 shall provide information concerning:
18 (a) The nature of the attorney services to be provided
19 and the issues involved.
20 (b) The need for use of private attorneys, rather than
21 agency staff attorneys, utilizing the criteria provided in
22 subsection (8).
23 (c) The criteria by which the agency selected the
24 private attorney or law firm it proposes to employ, utilizing
25 the criteria provided in subsection (9).
26 (d) Competitive fees for similar attorney services.
27 (e) The agency's analysis estimating the number of
28 hours for attorney services, the costs, the total contract
29 amount, and, when appropriate, a risk or cost-benefit
30 analysis.
31

1 (f) Which partners, associates, paralegals, research
2 associates, or other personnel will be used, and how their
3 time will be billed to the agency.

4 (g) Any other information which the Attorney General
5 deems appropriate for the proper evaluation of the need for
6 such private attorney services.

7 (5) The agency head or a designee shall give written
8 approval prior to contracting for private attorney services
9 for all agencies exempt from written approval of the Attorney
10 General as described in paragraphs (2)(a)-(e)~~(2)(a)-(f)~~.

11

12 Reviser's note.--Amended to conform to the
13 redesignation of paragraphs (2)(a)-(f) as
14 paragraphs (2)(a)-(e) by ss. 10 and 11, ch.
15 95-222, Laws of Florida.

16

17 Section 55. Paragraph (a) of subsection (1) of section
18 287.0595, Florida Statutes, 1998 Supplement, is amended to
19 read:

20 287.0595 Pollution response action contracts;
21 department rules.--

22 (1) The Department of Environmental Protection shall
23 establish, through the promulgation of administrative rules as
24 provided in chapter 120:

25 (a) Procedures for determining the qualifications of
26 responsible potential bidders prior to advertisement for and
27 receipt of bids for pollution response action contracts,
28 including procedures for the rejection of unqualified bidders.
29 Response actions are those activities described in s.
30 376.301(37)~~376.301(35)~~.

31

1 Reviser's note.--Amended to conform to the
2 redesignation of the provision containing the
3 definition of "response action" as s.
4 376.301(37) by s. 8, ch. 98-189, Laws of
5 Florida.

6
7 Section 56. Subsection (1) of section 287.064, Florida
8 Statutes, 1998 Supplement, is amended to read:

9 287.064 Consolidated financing of deferred-payment
10 purchases.--

11 (1) The Division of Bond Finance of the State Board of
12 Administration and the Comptroller shall plan and coordinate
13 deferred-payment purchases made by or on behalf of the state
14 or its agencies or by or on behalf of state community colleges
15 participating under this section pursuant to s. 240.319(4)(p)
16 ~~240.319(3)(p)~~. The Division of Bond Finance shall negotiate
17 and the Comptroller shall execute agreements and contracts to
18 establish master equipment financing agreements for
19 consolidated financing of deferred-payment, installment sale,
20 or lease purchases with a financial institution or a
21 consortium of financial institutions. As used in this act, the
22 term "deferred-payment" includes installment sale and
23 lease-purchase.

24 (a) The period during which equipment may be acquired
25 under any one master equipment financing agreement shall be
26 limited to not more than 3 years.

27 (b) Repayment of the whole or a part of the funds
28 drawn pursuant to the master equipment financing agreement may
29 continue beyond the period established pursuant to paragraph
30 (a).

31

1 (c) The interest rate component of any master
2 equipment financing agreement shall be deemed to comply with
3 the interest rate limitation imposed in s. 287.063 so long as
4 the interest rate component of every interagency or community
5 college agreement entered into under such master equipment
6 financing agreement complies with the interest rate limitation
7 imposed in s. 287.063. Such interest rate limitation does not
8 apply when the payment obligation under the master equipment
9 financing agreement is rated by a nationally recognized rating
10 service in any one of the three highest classifications, which
11 rating services and classifications are determined pursuant to
12 rules adopted by the Comptroller.

13
14 Reviser's note.--Amended to conform to the
15 redesignation of s. 240.319(3)(p) as s.
16 240.319(4)(p) by ch. 97-246, Laws of Florida.

17
18 Section 57. Section 287.09431, Florida Statutes, is
19 amended to read:

20 287.09431 Statewide and interlocal agreement on
21 certification of business concerns for the status of minority
22 business enterprise.--The statewide and interlocal agreement
23 on certification of business concerns for the status of
24 minority business enterprise is hereby enacted and entered
25 into with all jurisdictions or organizations legally joining
26 therein. If, within 2 years from the date that the
27 certification core criteria are approved by the Department of
28 Labor and Employment Security, the agreement included herein
29 is not executed by a majority of county and municipal
30 governing bodies that administer a minority business
31 assistance program on the effective date of this act, then the

1 Legislature shall review this agreement. It is the intent of
2 the Legislature that if the agreement is not executed by a
3 majority of the requisite governing bodies, then a statewide
4 uniform certification process should be adopted, and that said
5 agreement should be repealed and replaced by a mandatory state
6 government certification process.

7
8
9

ARTICLE I

10 PURPOSE, FINDINGS, AND POLICY.--

11 (1) The parties to this agreement, desiring by common
12 action to establish a uniform certification process in order
13 to reduce the multiplicity of applications by business
14 concerns to state and local governmental programs for minority
15 business assistance, declare that it is the policy of each of
16 them, on the basis of cooperation with one another, to remedy
17 social and economic disadvantage suffered by certain groups,
18 resulting in their being historically underutilized in
19 ownership and control of commercial enterprises. Thus, the
20 parties seek to address this history by increasing the
21 participation of the identified groups in opportunities
22 afforded by government procurement.

23 (2) The parties find that the State of Florida
24 presently certifies firms for participation in the minority
25 business assistance programs of the state. The parties find
26 further that some counties, municipalities, school boards,
27 special districts, and other divisions of local government
28 require a separate, yet similar, and in most cases redundant
29 certification in order for businesses to participate in the
30 programs sponsored by each government entity.

31

1 business enterprise in this agreement, in accordance with the
2 duly adopted eligibility criteria.

3 (3) All participating organizations shall issue notice
4 of certification decisions granting or denying certification
5 to all other participating organizations within 14 days of the
6 decision. Such notice may be made through electronic media.

7 (4) No certification will be granted without an onsite
8 visit to verify ownership and control of the prospective
9 minority business enterprise, unless verification can be
10 accomplished by other methods of adequate verification or
11 assessment of ownership and control.

12 (5) The certification of a minority business
13 enterprise pursuant to the terms of this agreement shall not
14 be suspended, revoked, or otherwise impaired except on any
15 grounds which would be sufficient for revocation or suspension
16 of a certification in the jurisdiction of the participating
17 organization.

18 (6) The certification determination of a party may be
19 challenged by any other participating organization by the
20 issuance of a timely written notice by the challenging
21 organization to the certifying organization's determination
22 within 10 days of receiving notice of the certification
23 decision, stating the grounds therefor.

24 (7) The sole accepted grounds for challenge shall be
25 the failure of the certifying organization to adhere to the
26 adopted criteria or the certifying organization's rules or
27 procedures, or the perpetuation of a misrepresentation or
28 fraud by the firm.

29 (8) The certifying organization shall reexamine its
30 certification determination and submit written notice to the
31

1 applicant and the challenging organization of its findings
2 within 30 days after the receipt of the notice of challenge.

3 (9) If the certification determination is affirmed,
4 the challenging agency may subsequently submit timely written
5 notice to the firm of its intent to revoke certification of
6 the firm.

7
8 ARTICLE IV
9

10 APPROVED AND ACCEPTED PROGRAMS.--Nothing in this
11 agreement shall be construed to repeal or otherwise modify any
12 ordinance, law, or regulation of a party relating to the
13 existing minority business assistance provisions and
14 procedures by which minority business enterprises participate
15 therein.

16
17 ARTICLE V
18

19 TERM.--The term of the agreement shall be 5 years,
20 after which it may be reexecuted by the parties.

21
22 ARTICLE VI
23

24 AGREEMENT EVALUATION.--The designated state and local
25 officials may meet from time to time as a group to evaluate
26 progress under the agreement, to formulate recommendations for
27 changes, or to propose a new agreement.

28
29 ARTICLE VII
30
31

1 OTHER ARRANGEMENTS.--Nothing in this agreement shall be
2 construed to prevent or inhibit other arrangements or
3 practices of any party in order to comply with federal law.

4
5 ARTICLE VIII

6
7 EFFECT AND WITHDRAWAL.--

8 (1) This agreement shall become effective when
9 properly executed by a legal representative of the
10 participating organization, when enacted into the law of the
11 state and after an ordinance or other legislation is enacted
12 into law by the governing body of each participating
13 organization. Thereafter it shall become effective as to any
14 participating organization upon the enactment of this
15 agreement by the governing body of that organization.

16 (2) Any party may withdraw from this agreement by
17 enacting legislation repealing the same, but no such
18 withdrawal shall take effect until one year after the
19 governing body of the withdrawing party has given notice in
20 writing of the withdrawal to the other parties.

21 (3) No withdrawal shall relieve the withdrawing party
22 of any obligations imposed upon it by law.

23
24 ARTICLE IX

25
26 FINANCIAL RESPONSIBILITY.--

27 (1) A participating organization shall not be
28 financially responsible or liable for the obligations of any
29 other participating organization related to this agreement.

30 (2) The provisions of this agreement shall constitute
31 neither a waiver of any governmental immunity under Florida

1 law nor a waiver of any defenses of the parties under Florida
2 law. The provisions of this agreement are solely for the
3 benefit of its executors and not intended to create or grant
4 any rights, contractual or otherwise, to any person or entity.

5
6 ARTICLE X

7
8 VENUE AND GOVERNING LAW.--The obligations of the
9 parties to this agreement are performable only within the
10 county where the participating organization is located, and
11 statewide for the Minority Business Advocacy and Assistance
12 Office, and venue for any legal action in connection with this
13 agreement shall lie, for any participating organization except
14 the Minority Business Advocacy and Assistance Office,
15 exclusively in the county where the participating organization
16 is located. This agreement shall be governed by and construed
17 in accordance with the laws and court decisions of the state.

18
19 ARTICLE XI

20
21 CONSTRUCTION AND SEVERABILITY.--This agreement shall be
22 liberally construed so as to effectuate the purposes thereof.
23 The provisions of this agreement shall be severable and if any
24 phrase, clause, sentence, or provision of this agreement is
25 declared to be contrary to the State Constitution or the
26 United States Constitution, or the application thereof to any
27 government, agency, person, or circumstance is held invalid,
28 the validity of the remainder of this agreement and the
29 applicability thereof to any government, agency, person, or
30 circumstance shall not be affected thereby. If this agreement
31 shall be held contrary to the State Constitution, the

1 agreement shall remain in full force and effect as to all
2 severable matters.

3
4 Reviser's note.--Amended to conform to the
5 correct location of the definition of "small
6 business concern."

7
8 Section 58. Paragraph (c) of subsection (1), paragraph
9 (b) of subsection (2), paragraphs (a), (e), and (f) of
10 subsection (3), and subsection (4) of section 287.133, Florida
11 Statutes, are amended to read:

12 287.133 Public entity crime; denial or revocation of
13 the right to transact business with public entities.--

14 (1) As used in this section:

15 (c) "Convicted vendor list" means the list required to
16 be kept by the department pursuant to paragraph (3)(d)~~(3)(e)~~.

17 (2)

18 (b) No public entity shall accept any bid from, award
19 any contract to, or transact any business in excess of the
20 threshold amount provided in s. 287.017 for CATEGORY TWO with
21 any person or affiliate on the convicted vendor list for a
22 period of 36 months from the date that person or affiliate was
23 placed on the convicted vendor list unless that person or
24 affiliate has been removed from the list pursuant to paragraph
25 (3)(f)~~(3)(e)~~. No public entity which was transacting

26 business with a person at the time of the commission of a
27 public entity crime which resulted in that person being placed
28 on the convicted vendor list shall accept any bid from, award
29 any contract to, or transact any business with any other
30 person who is under the same, or substantially the same,
31 control as the person whose name appears on the convicted

1 vendor list so long as that person's name appears on the
2 convicted vendor list.

3 (3)(a) All invitations to bid as defined by s.
4 287.012(11), requests for proposals as defined by s.
5 287.012(15)~~287.012(16)~~, and any contract document described
6 by s. 287.058 shall contain a statement informing persons of
7 the provisions of paragraph (2)(a).

8 (e)1. Upon receiving reasonable information from any
9 source that a person has been convicted, the department shall
10 investigate the information and determine whether good cause
11 exists to place that person or an affiliate of that person on
12 the convicted vendor list. If good cause exists, the
13 department shall notify the person or affiliate in writing of
14 its intent to place the name of that person or affiliate on
15 the convicted vendor list, and of the person's or affiliate's
16 right to a hearing, the procedure that must be followed, and
17 the applicable time requirements. If the person or affiliate
18 does not request a hearing, the department shall enter a final
19 order placing the name of the person or affiliate on the
20 convicted vendor list. No person or affiliate may be placed
21 on the convicted vendor list without receiving an individual
22 notice of intent from the department.

23 2. Within 21 days of receipt of the notice of intent,
24 the person or affiliate may file a petition for a formal
25 hearing pursuant to ss. 120.569 and 120.57(1) to determine
26 whether it is in the public interest for that person or
27 affiliate to be placed on the convicted vendor list. A person
28 or affiliate may not file a petition for an informal hearing
29 under s. 120.57(2). The procedures of chapter 120 shall apply
30 to any formal hearing under this section except where they are
31 in conflict with the following provisions:

- 1 a. The petition shall be filed with the department.
2 The department shall be a party to the proceeding for all
3 purposes.
- 4 b. Within 5 days after the filing of the petition, the
5 department shall notify the Division of Administrative
6 Hearings of the request for a formal hearing. The director of
7 the Division of Administrative Hearings shall, within 5 days
8 after receipt of notice from the department, assign an
9 administrative law judge to preside over the proceeding. The
10 administrative law judge, upon request by a party, may
11 consolidate related proceedings.
- 12 c. The administrative law judge shall conduct the
13 formal hearing within 30 days after being assigned, unless
14 otherwise stipulated by the parties.
- 15 d. Within 30 days after the formal hearing or receipt
16 of the hearing transcript, whichever is later, the
17 administrative law judge shall enter a final order, which
18 shall consist of findings of fact, conclusions of law,
19 interpretation of agency rules, and any other information
20 required by law or rule to be contained in the final order.
21 Such final order shall place or not place the person or
22 affiliate on the convicted vendor list.
- 23 e. The final order of the administrative law judge
24 shall be final agency action for purposes of s. 120.68.
- 25 f. At any time after the filing of the petition,
26 informal disposition may be made pursuant to s. 120.57(4). In
27 that event, the administrative law judge shall enter a final
28 order adopting the stipulation, agreed settlement, or consent
29 order.
- 30 3. In determining whether it is in the public interest
31 to place a person or affiliate on the convicted vendor list,

1 the administrative law judge shall consider the following
2 factors:

3 a. Whether the person or affiliate committed a public
4 entity crime.

5 b. The nature and details of the public entity crime.

6 c. The degree of culpability of the person or
7 affiliate proposed to be placed on the convicted vendor list.

8 d. Prompt or voluntary payment of any damages or
9 penalty as a result of the conviction.

10 e. Cooperation with state or federal investigation or
11 prosecution of any public entity crime, provided that a good
12 faith exercise of any constitutional, statutory, or other
13 right during any portion of the investigation or prosecution
14 of any public entity crime shall not be considered a lack of
15 cooperation.

16 f. Disassociation from any other persons or affiliates
17 convicted of the public entity crime.

18 g. Prior or future self-policing by the person or
19 affiliate to prevent public entity crimes.

20 h. Reinstatement or clemency in any jurisdiction in
21 relation to the public entity crime at issue in the
22 proceeding.

23 i. Compliance by the person or affiliate with the
24 notification provisions of paragraph (b)~~(a)~~.

25 j. The needs of public entities for additional
26 competition in the procurement of goods and services in their
27 respective markets.

28 k. Mitigation based upon any demonstration of good
29 citizenship by the person or affiliate.

30 4. In any proceeding under this section, the
31 department shall be required to prove that it is in the public

1 interest for the person to whom it has given notice under this
2 section to be placed on the convicted vendor list. Proof of a
3 conviction of the person or that one is an affiliate of such
4 person shall constitute a prima facie case that it is in the
5 public interest for the person or affiliate to whom the
6 department has given notice to be put on the convicted vendor
7 list. Prompt payment of damages or posting of a bond,
8 cooperation with investigation, and termination of the
9 employment or other relationship with the employee or other
10 natural person responsible for the public entity crime shall
11 create a rebuttable presumption that it is not in the public
12 interest to place a person or affiliate on the convicted
13 vendor list. Status as an affiliate must be proven by clear
14 and convincing evidence. If the administrative law judge
15 determines that the person was not convicted or is not an
16 affiliate of such person, that person or affiliate shall not
17 be placed on the convicted vendor list.

18 5. Any person or affiliate who has been notified by
19 the department of its intent to place his or her name on the
20 convicted vendor list may offer evidence on any relevant
21 issue. An affidavit alone shall not constitute competent
22 substantial evidence that the person has not been convicted or
23 is not an affiliate of a person so convicted. Upon
24 establishment of a prima facie case that it is in the public
25 interest for the person or affiliate to whom the department
26 has given notice to be put on the convicted vendor list, that
27 person or affiliate may prove by a preponderance of the
28 evidence that it would not be in the public interest to put
29 him or her on the convicted vendor list, based upon evidence
30 addressing the factors in subparagraph 3.

31

1 (f)1. A person on the convicted vendor list may
2 petition for removal from the list no sooner than 6 months
3 from the date a final order is entered disqualifying that
4 person from the public purchasing and contracting process
5 pursuant to this section, but may petition for removal at any
6 time if the petition is based upon a reversal of the
7 conviction on appellate review or pardon. The petition shall
8 be filed with the department, and the proceeding shall be
9 conducted pursuant to the procedures and requirements of this
10 subsection.

11 2. A person may be removed from the convicted vendor
12 list subject to such terms and conditions as may be prescribed
13 by the administrative law judge upon a determination that
14 removal is in the public interest. In determining whether
15 removal would be in the public interest, the administrative
16 law judge shall give consideration to any relevant factors,
17 including, but not limited to, the factors identified in
18 subparagraph (e)3. ~~(d)3.~~ Upon proof that a person's conviction
19 has been reversed on appellate review or that he or she has
20 been pardoned, the administrative law judge shall determine
21 that removal of the person or an affiliate of that person from
22 the convicted vendor list is in the public interest.

23 3. If a petition for removal is denied, the person or
24 affiliate may not petition for another hearing on removal for
25 a period of 9 months after the date of denial, unless the
26 petition is based upon a reversal of the conviction on
27 appellate review or a pardon. The department may petition for
28 removal prior to the expiration of such period if, in its
29 discretion, it determines that removal would be in the public
30 interest.

31

1 (4) The conviction of a person for a public entity
2 crime, or placement on the convicted vendor list, shall not
3 affect any rights or obligations under any contract,
4 franchise, or other binding agreement which predates such
5 conviction or placement on the convicted vendor list. However,
6 the administrative law judge in a proceeding instituted under
7 this section may declare voidable any specific contract,
8 franchise, or other binding agreement entered into after July
9 1, 1989, by a person placed on the convicted vendor list and a
10 public entity, but only if the administrative law judge finds
11 as fact that the person to be placed on the list has not
12 satisfied the criteria set forth in sub-subparagraphs
13 (3)(e)3.d.~~(3)(d)3.d.~~, f., and g.

14
15 Reviser's note.--Paragraphs (1)(c), (2)(b), and
16 (3)(e) and (f) and subsection (4) are amended
17 to conform to the redesignation of subunits of
18 subsection (3) by the reviser incident to the
19 compilation of the Florida Statutes 1995.
20 Paragraph (3)(a) is amended to conform to the
21 redesignation of subunits necessitated by the
22 repeal of former s. 287.012(12) by s. 8, ch.
23 96-236, Laws of Florida.

24
25 Section 59. Subsection (2) of section 287.151, Florida
26 Statutes, is amended to read:

27 287.151 Limitation on classes of motor vehicles
28 procured.--

29 (2) No funds in the General Appropriations Act shall
30 be used to purchase any vehicle at prices in excess of the
31

1 standard prices negotiated by the ~~Division of Purchasing of~~
2 ~~the~~ Department of Management Services.

3
4 Reviser's note.--Amended to conform to the
5 deletion of the Division of Purchasing in the
6 reorganization of the Department of Management
7 Services by s. 3, ch. 97-296, Laws of Florida.

8
9 Section 60. Subsection (8) of section 287.16, Florida
10 Statutes, 1998 Supplement, is amended to read:

11 287.16 Powers and duties of department.--The
12 Department of Management Services shall have the following
13 powers, duties, and responsibilities:

14 (8) To require any state agency to keep records and
15 make reports regarding aircraft and motor vehicles to the
16 department as may be required. ~~The Department of Highway~~
17 ~~Safety and Motor Vehicles may use the reporting system in~~
18 ~~effect on October 1, 1983, until July 1, 1984. Beginning July~~
19 ~~1, 1984, The Department of Highway Safety and Motor Vehicles~~
20 shall use a reporting system approved by the department. ~~The~~
21 ~~division shall assist the Department of Highway Safety and~~
22 ~~Motor Vehicles in developing or implementing a reporting~~
23 ~~system prior to July 1, 1984, which shall specifically address~~
24 ~~the needs and requirements of the division and the Department~~
25 ~~of Highway Safety and Motor Vehicles.~~

26
27 Reviser's note.--Amended to delete provisions
28 that have served their purpose.

29
30 Section 61. Paragraph (b) of subsection (2) of section
31 288.039, Florida Statutes, is amended to read:

1 288.039 Employing and Training our Youths (ENTRY).--
2 (2) TAX REFUND; ELIGIBLE AMOUNTS.--
3 (b) After entering into an employment/tax refund
4 agreement under subsection (3), an eligible business may
5 receive refunds for the following taxes or fees due and paid
6 by that business:
7 1. Taxes on sales, use, and other transactions under
8 ~~part I~~ of chapter 212.
9 2. Corporate income taxes under chapter 220.
10 3. Intangible personal property taxes under chapter
11 199.
12 4. Emergency excise taxes under chapter 221.
13 5. Excise taxes on documents under chapter 201.
14 6. Ad valorem taxes paid, as defined in s. 220.03(1).
15 7. Insurance premium taxes under s. 624.509.
16 8. Occupational license fees under chapter 205.
17
18 However, an eligible business may not receive a refund under
19 this section for any amount of credit, refund, or exemption
20 granted to that business for any of such taxes or fees. If a
21 refund for such taxes or fees is provided by the office, which
22 taxes or fees are subsequently adjusted by the application of
23 any credit, refund, or exemption granted to the eligible
24 business other than as provided in this section, the business
25 shall reimburse the office for the amount of that credit,
26 refund, or exemption. An eligible business shall notify and
27 tender payment to the office within 20 days after receiving
28 any credit, refund, or exemption other than the one provided
29 in this section.
30
31

1 Reviser's note.--Amended to conform to the
2 removal of part designations from chapter 212
3 following the repeal of the provisions of
4 former part II of that chapter by s. 4, ch.
5 97-94, Laws of Florida.

6
7 Section 62. Subsection (5) of section 288.041, Florida
8 Statutes, is amended to read:

9 288.041 Solar energy industry; legislative findings
10 and policy; promotional activities.--

11 (5) By January 15 of each year, the Department of
12 Community Affairs shall report to the Governor, the President
13 of the Senate, and the Speaker of the House of Representatives
14 on the impact of the solar energy industry on the economy of
15 this state and shall make any recommendations on initiatives
16 to further promote the solar energy industry as the department
17 deems appropriate. ~~For purposes of the 1997 legislative~~
18 ~~session, the department's report shall specifically address~~
19 ~~the job creation and export potential of an expanded solar~~
20 ~~energy industry in Florida.~~

21
22 Reviser's note.--Amended to delete a provision
23 that has served its purpose.

24
25 Section 63. Section 288.052, Florida Statutes, is
26 amended to read:

27 288.052 Legislative findings.--~~In addition to the~~
28 ~~findings contained in s. 288.045,~~The Legislature finds that
29 the production of motion picture, video, and television
30 projects in Florida is an emerging industry, experiencing a
31 growth rate of 20 percent over the last calendar year and

1 employing increasing numbers of Florida residents. The
2 Legislature also finds that, with the development of necessary
3 support services, including in-state financing of projects,
4 the motion picture, television, and video recording industry
5 has the potential to generate over \$1 billion annually in
6 direct investments within the state during the early part of
7 the 21st century. One means of increasing the amount of film
8 and television investment in the state is to assist in
9 financing the distribution and marketing of films through the
10 provision of print and advertising funds contingent upon the
11 expenditure of production dollars within the state. Therefore,
12 the Legislature finds and declares that the creation of a
13 Florida Film and Television Investment Board and financing
14 program is in the public interest and that the creation of the
15 Florida Film and Television Investment Board and Trust Fund
16 will serve a public purpose.

17

18 Reviser's note.--Amended to conform to the
19 repeal of s. 288.045 by s. 154, ch. 96-320,
20 Laws of Florida.

21

22 Section 64. Subsection (1) of section 288.1066,
23 Florida Statutes, is amended to read:

24 288.1066 Confidentiality of records.--

25 (1) The following information when received by the
26 Department of Commerce; the Office of Tourism, Trade, and
27 Economic Development; Enterprise Florida, Inc.; or county or
28 municipal governmental entities and their employees pursuant
29 to the qualified defense contractor tax refund program as
30 required by s. 288.1045 ~~288.104~~ is confidential and exempt
31 from the provisions of s. 119.07(1) and s. 24(a), Art. I of

1 the State Constitution for a period not to exceed the duration
2 of the tax refund agreement or 10 years, whichever is earlier:

3 (a) The applicant's federal employer identification
4 number and Florida sales tax registration number.

5 (b) The percentage of the applicant's gross receipts
6 derived from Department of Defense contracts during the 5
7 taxable years immediately preceding the date the application
8 is submitted.

9 (c) The amount of:

10 1. Taxes on sales, use, and other transactions paid
11 pursuant to chapter 212;

12 2. Corporate income taxes paid pursuant to chapter
13 220;

14 3. Intangible personal property taxes paid pursuant to
15 chapter 199;

16 4. Emergency excise taxes paid pursuant to chapter
17 221; and

18 5. Ad valorem taxes paid
19

20 during the 5 fiscal years immediately preceding the date of
21 the application, and the projected amounts of such taxes to be
22 due in the 3 fiscal years immediately following the date of
23 the application.

24 (d) Any trade secret information as defined in s.
25 812.081 contained within any statement concerning the
26 applicant's need for tax refunds or concerning the proposed
27 uses of such refunds by the applicant.

28

29 Reviser's note.--Amended to conform to the
30 repeal of s. 288.104 by s. 8, ch. 96-348, Laws
31 of Florida, and the enactment of similar

1 provisions in s. 1, ch. 96-348. Both ss.
2 288.104 and 288.1045 created the qualified
3 defense contractor tax refund program.
4

5 Section 65. Paragraphs (c) and (e) of subsection (6)
6 of section 288.108, Florida Statutes, are amended to read:

7 288.108 High-impact business.--

8 (6) SELECTION AND DESIGNATION OF HIGH-IMPACT
9 SECTORS.--

10 (c) To begin the process of selecting and designating
11 a new high-impact sector, Enterprise Florida, Inc., shall
12 undertake a thorough study of the proposed sector. This study
13 must consider the definition of the sector, including the
14 types of facilities which characterize the sector that might
15 qualify for a high-impact performance grant and whether a
16 powerful incentive like the high-impact performance grant is
17 needed to induce major facilities in the sector to locate or
18 grow in this state; the benefits that major facilities in the
19 sector have or could have on the state's economy and the
20 relative significance of those benefits; the needs of the
21 sector and major sector facilities, including natural, public,
22 and human resources and benefits and costs with regard to
23 these resources; the sector's current and future markets; the
24 current fiscal and potential fiscal impacts of the sector, to
25 both the state and its communities; any geographic
26 opportunities or limitations with regard to the sector,
27 including areas of ~~for~~ the state most likely to benefit from
28 the sector and areas unlikely to benefit from the sector; the
29 state's advantages or disadvantages with regard to the sector;
30 and the long-term expectations for the industry on a global
31 level and in the state. If Enterprise Florida, Inc., finds

1 favorable conditions for the designation of the sector as a
2 high-impact sector, it shall include in the study
3 recommendations for a complete and comprehensive sector
4 strategy, including appropriate marketing and workforce
5 strategies for the entire sector and any recommendations that
6 Enterprise Florida, Inc., may have for statutory or policy
7 changes needed to improve the state's business climate and to
8 attract and grow Florida businesses, particularly small
9 businesses, in the proposed sector. The study shall reflect
10 the finding of the sector-business network specified in
11 paragraph (d).

12 (e) The study and its findings and recommendations and
13 the recommendations gathered from the sector-business network
14 must be discussed and considered during at least one of the
15 quarterly meetings required in s. 14.2015(2)(f)~~14.2015(2)(h)~~.

16
17 Reviser's note.--Paragraph (6)(c) is amended to
18 improve clarity. Paragraph (6)(e) is amended
19 to conform to the redesignation of subunits of
20 s. 14.2015(2) by s. 3, ch. 97-278, Laws of
21 Florida.

22
23 Section 66. Subsection (6) of section 288.1169,
24 Florida Statutes, is amended to read:

25 288.1169 International Game Fish Association World
26 Center facility; department duties.--

27 (6) The Department of Commerce must recertify every 10
28 years that the facility is open, that the International Game
29 Fish Association World Center continues to be the only
30 international administrative headquarters, fishing museum, and
31 Hall of Fame in the United States recognized by the

1 International Game Fish Association, and that the project is
2 meeting the minimum projections for attendance or sales tax
3 revenues as required at the time of original certification.
4 If the facility is not recertified during this 10-year review
5 as meeting the minimum projections, then funding will be
6 abated until certification criteria are met. If the project
7 fails to generate \$1 million of annual revenues pursuant to
8 paragraph (2)(e), the distribution of revenues pursuant to s.
9 212.20(6)(f)5.c.~~212.20(6)(g)5.c.~~ shall be reduced to an
10 amount equal to \$83,333 multiplied by a fraction, the
11 numerator of which is the actual revenues generated and the
12 denominator of which is \$1 million. Such reduction shall
13 remain in effect until revenues generated by the project in a
14 12-month period equal or exceed \$1 million.

15
16 Reviser's note.--Amended to conform to the
17 redesignation of s. 212.20(6)(g)5.c., as
18 enacted by s. 1, ch. 96-415, Laws of Florida,
19 necessitated by the repeal of former s.
20 212.20(6)(c) by s. 23, ch. 96-397, Laws of
21 Florida.

22
23 Section 67. Paragraph (b) of subsection (3) of section
24 288.1185, Florida Statutes, is amended to read:

25 288.1185 Recycling Markets Advisory Committee.--
26 (3)

27 (b) ~~Within 60 days of May 12, 1993, and~~ Whenever it is
28 necessary to change the designee, the head of each agency
29 shall notify the Governor in writing of the person designated
30 as the recycling market development liaison for such agency.

31

1 Reviser's note.--Amended to delete a provision
2 that has served its purpose.

3
4 Section 68. Section 288.770, Florida Statutes, is
5 amended to read:

6 288.770 Short title.--Sections 288.771-288.778
7 ~~288.771-288.779~~ may be cited as the "Florida Export Finance
8 Corporation Act."

9
10 Reviser's note.--Amended to conform to the
11 repeal of s. 288.779 by s. 154, ch. 96-320,
12 Laws of Florida.

13
14 Section 69. Paragraph (a) of subsection (1) of section
15 288.776, Florida Statutes, is amended to read:

16 288.776 Board of directors; powers and duties.--
17 (1)(a) The corporation shall have a board of directors
18 consisting of 15 members representing all geographic areas of
19 the state. Minority and gender representation must be
20 considered when making appointments to the board. The board
21 membership must include:

22 1. A representative of the following businesses, all
23 of which must be registered to do business in this state: a
24 foreign bank, a state bank, a federal bank, an insurance
25 company involved in covering trade financing risks, and a
26 small or medium-sized exporter.

27 2. The following persons or their designee: the
28 President of Enterprise Florida, Inc., the Comptroller, the
29 Secretary of State, a senior official of the United States
30 Department of Commerce, and the chair of the Florida Black
31 Business Investment Board.

1 Reviser's note.--Amended to conform to the
2 title of the Florida Black Business Investment
3 Board as created in s. 288.707.

4
5 Section 70. Subsection (5) of section 288.853, Florida
6 Statutes, is amended to read:

7 288.853 International sanctions against Castro
8 government.--

9 (5) Furthermore, contingent upon annual appropriation,
10 to the extent covered by the report submitted by the President
11 according to s. 108 of the Cuban Liberty and Democratic
12 Solidarity Act of 1996 ~~1966~~, and until such time as the
13 President submits a determination under s. 203(c)(1) of the
14 Cuban Liberty and Democratic Solidarity Act of 1996, the
15 Governor shall submit an annual report to the President of the
16 Senate and the Speaker of the House of Representatives on
17 assistance to and commerce with Cuba by citizens and legal
18 residents of Florida. Each report shall contain:

19 (a) Identification of Cuba's trading partners and the
20 extent of such trade.

21 (b) A description of joint ventures completed or under
22 consideration by foreign nationals and business firms located
23 in or doing business in Florida involving facilities in Cuba.

24 (c) A determination as to whether any facilities are
25 claimed by a citizen of Florida.

26 (d) Steps taken to assure that raw materials and
27 semifinished or finished goods produced by facilities in Cuba
28 involving Cuban and/or foreign nationals or businesses are not
29 entering the Florida market.

30
31

1 Reviser's note.--Amended to conform to the
2 correct title of the Cuban Liberty and
3 Democratic Solidarity Act of 1996 as provided
4 in Pub. L. No. 104-114.

5
6 Section 71. Subsection (6) of section 288.905, Florida
7 Statutes, is amended to read:

8 288.905 Duties of the board of directors of Enterprise
9 Florida, Inc.--

10 (6) Any employee leased by Enterprise Florida, Inc.,
11 from the state, or any employee who derives his or her ~~their~~
12 salary from funds appropriated by the Legislature, may not
13 receive a pay raise or bonus in excess of a pay raise or bonus
14 that is received by similarly situated state employees.
15 However, this subsection does not prohibit the payment of a
16 pay raise or bonus from funds received from sources other than
17 the Florida Legislature.

18
19 Reviser's note.--Amended to improve clarity and
20 facilitate correct interpretation.

21
22 Section 72. Paragraph (b) of subsection (2) of section
23 288.9512, Florida Statutes, is amended to read:

24 288.9512 Technology development board; creation;
25 purpose; membership.--

26 (2) The board shall be governed by a board of
27 directors. The board of directors shall consist of the
28 following members:

29 (b) The executive director of the Florida State
30 Community College System or the executive director's designee.

31

1 Reviser's note.--Amended to conform to the
2 redesignation of the State Community College
3 System as the Florida Community College System
4 by s. 15, ch. 98-58, Laws of Florida.

5
6 Section 73. Paragraph (f) of subsection (2) of section
7 288.9605, Florida Statutes, 1998 Supplement, is amended to
8 read:

9 288.9605 Exercise of powers by the corporation.--
10 (2) The corporation is authorized and empowered to:
11 (f) Issue, from time to time, revenue bonds,
12 including, but not limited to, bonds the interest on which is
13 exempt from federal income taxation, for the purpose of
14 financing and refinancing any capital projects for applicants
15 and exercise all powers in connection with the authorization,
16 issuance, and sale of bonds, subject to the provisions of s.
17 288.9606 ~~section 6~~.

18
19 Reviser's note.--Amended to facilitate correct
20 interpretation. The reference to section 6
21 appears to have been erroneously retained from
22 C.S. for H.B. 2263, 1993, when that material
23 was incorporated into C.S. for S.B. 2382, 1993,
24 which became ch. 93-187, Laws of Florida. The
25 referenced material is codified as s. 288.9606.

26
27 Section 74. Paragraph (a) of subsection (7) of section
28 288.9607, Florida Statutes, is amended to read:

29 288.9607 Guaranty of bond issues.--
30 (7)(a) The corporation is authorized to enter into an
31 investment agreement with the Department of Transportation and

1 the State Board of Administration concerning the investment of
2 the earnings accrued and collected upon the investment of the
3 minimum balance of funds required to be maintained in the
4 State Transportation Trust Fund pursuant to s. 339.135(6)(b)
5 ~~339.135(7)(b)~~. Such investment shall be limited as follows:
6 1. Not more than \$4 million of the investment earnings
7 earned on the investment of the minimum balance of the State
8 Transportation Trust Fund in a fiscal year shall be at risk at
9 any time on one or more bonds or series of bonds issued by the
10 corporation.
11 2. The investment earnings shall not be used to
12 guarantee any bonds issued after June 30, 1998, and in no
13 event shall the investment earnings be used to guarantee any
14 bond issued for a maturity longer than 15 years.
15 3. The corporation shall pay a reasonable fee, set by
16 the State Board of Administration, in return for the
17 investment of such funds. The fee shall not be less than the
18 comparable rate for similar investments in terms of size and
19 risk.
20 4. The proceeds of bonds, or portions thereof, issued
21 by the corporation for which a guaranty has been or will be
22 issued pursuant to s. 288.9606, s. 288.9608, or this section
23 used to make loans to any one person, including any related
24 interests, as defined in s. 658.48, of such person, shall not
25 exceed 20 percent of the principal of all such outstanding
26 bonds of the corporation issued prior to the first composite
27 bond issue of the corporation, or December 31, 1995, whichever
28 comes first, and shall not exceed 15 percent of the principal
29 of all such outstanding bonds of the corporation issued
30 thereafter, in each case determined as of the date of issuance
31 of the bonds for which such determination is being made and

1 taking into account the principal amount of such bonds to be
2 issued. The provisions of this subparagraph shall not apply
3 when the total amount of all such outstanding bonds issued by
4 the corporation is less than \$10 million. For the purpose of
5 calculating the limits imposed by the provisions of this
6 subparagraph, the first \$10 million of bonds issued by the
7 corporation shall be taken into account.

8 5. The corporation shall establish a debt service
9 reserve account which contains not less than 6 months' debt
10 service reserves from the proceeds of the sale of any bonds,
11 or portions thereof, guaranteed by the corporation.

12 6. The corporation shall establish an account known as
13 the Revenue Bond Guaranty Reserve Account, the Guaranty Fund.
14 The corporation shall deposit a sum of money or other cash
15 equivalents into this fund and maintain a balance of money or
16 cash equivalents in this fund, from sources other than the
17 investment of earnings accrued and collected upon the
18 investment of the minimum balance of funds required to be
19 maintained in the State Transportation Trust Fund, not less
20 than a sum equal to 1 year of maximum debt service on all
21 outstanding bonds, or portions thereof, of the corporation for
22 which a guaranty has been issued pursuant to ss. 288.9606,
23 288.9607, and 288.9608. In the event the corporation fails to
24 maintain the balance required pursuant to this subparagraph
25 for any reason other than a default on a bond issue of the
26 corporation guaranteed pursuant to this section or because of
27 the use by the corporation of any such funds to pay insurance,
28 maintenance, or other costs which may be required for the
29 preservation of any project or other collateral security for
30 any bond issued by the corporation, or to otherwise protect
31 the Revenue Bond Guaranty Reserve Account from loss while the

1 applicant is in default on amortization payments, or to
2 minimize losses to the reserve account in each case in such
3 manner as may be deemed necessary or advisable by the
4 corporation, the corporation shall immediately notify the
5 Department of Transportation of such deficiency. Any
6 supplemental funding authorized by an investment agreement
7 entered into with the Department of Transportation and the
8 State Board of Administration concerning the use of investment
9 earnings of the minimum balance of funds is void unless such
10 deficiency of funds is cured by the corporation within 90 days
11 after the corporation has notified the Department of
12 Transportation of such deficiency.

13
14 The corporation shall include, as part of the annual report
15 prepared pursuant to s. 288.9610, a detailed report concerning
16 the use of guaranteed bond proceeds for loans guaranteed or
17 issued pursuant to any agreement with the Florida Black
18 Business Investment Board, including the percentage of such
19 loans guaranteed or issued and the total volume of such loans
20 guaranteed or issued.

21
22 Reviser's note.--Amended to facilitate correct
23 interpretation. Material relating to the
24 minimum balance to be maintained in the State
25 Transportation Trust Fund is in s.
26 339.135(6)(b).

27
28 Section 75. Paragraph (f) of subsection (3) of section
29 288.9620, Florida Statutes, as amended by section 112 of
30 chapter 96-320, Laws of Florida, is amended to read:
31 288.9620 Workforce development board.--

1 (3) The workforce development board shall be governed
2 by a board of directors. The board of directors is to consist
3 of the following members:

4 (f) The executive director of the Florida State
5 Community College System or the executive director's designee.

6
7 Reviser's note.--Amended to conform to the
8 redesignation of the State Community College
9 System as the Florida Community College System
10 by s. 15, ch. 98-58, Laws of Florida.

11
12 Section 76. Subsection (2) of section 290.0058,
13 Florida Statutes, is amended to read:

14 290.0058 Tests of pervasive poverty, unemployment, and
15 general distress.--

16 (2) Pervasive poverty shall be evidenced by a showing
17 that poverty is widespread throughout the nominated area. The
18 poverty rate of the nominated area shall be established using
19 the following criteria:

20 (a) In each census geographic block group within a
21 nominated area, the poverty rate shall be not less than 20
22 percent.

23 (b) In at least 50 percent of the census geographic
24 block groups within the nominated area, the poverty rate shall
25 not be less than 30 percent.

26 (c) Census geographic block groups with no population
27 shall be treated as having a poverty rate which meets the
28 standards of paragraph (a), but shall be treated as having a
29 zero poverty rate for purposes of applying paragraph (b).

30
31

1 (d) A nominated area may not contain a noncontiguous
2 parcel unless such parcel separately meets the criteria set
3 forth under paragraphs (a) and (b).

4
5 ~~For purposes of this subsection, pervasive poverty within a~~
6 ~~noncontiguous area of an enterprise zone containing two or~~
7 ~~more noncontiguous areas that was nominated by a county and~~
8 ~~one or more municipalities together shall be presumed within~~
9 ~~the noncontiguous area if such area encompasses only one~~
10 ~~municipality and has fewer than three contiguous census~~
11 ~~geographic block groups, provided at least one such group has~~
12 ~~a poverty level of more than 20 percent. The provisions of~~
13 ~~this paragraph shall stand repealed on July 1, 1997.~~

14
15 Reviser's note.--The flush left language in
16 subsection (2) was expressly repealed by s.
17 123, ch. 96-320, Laws of Florida, effective
18 July 1, 1997. Since the language was not
19 repealed by a "current session" of the
20 Legislature, it may be omitted from the Florida
21 Statutes 1999 only through a reviser's bill
22 duly enacted by the Legislature. See s.
23 11.242(5)(b) and (i).

24
25 Section 77. Subsection (10) of section 290.0065,
26 Florida Statutes, 1998 Supplement, is amended to read:
27 290.0065 State designation of enterprise zones.--
28 (10) The Office of Tourism, Trade, and Economic
29 Development may amend the boundaries of any enterprise zone
30 designated by the state pursuant to this section, consistent
31 with the categories, criteria, and limitations imposed in this

1 section upon the establishment of such enterprise zone and
2 only if consistent with the determinations made in s.
3 290.0058(2)~~290.0058(2)(e)~~.

4
5 Reviser's note.--Amended to improve clarity and
6 facilitate correct interpretation. Section
7 290.0058(2)(e) does not exist.

8
9 Section 78. Subsection (1) of section 290.009, Florida
10 Statutes, is amended to read:

11 290.009 Enterprise Zone Interagency Coordinating
12 Council.--

13 (1) There is created within the Office of Tourism,
14 Trade, and Economic Development the Enterprise Zone
15 Interagency Coordinating Council. The council shall be
16 composed of the secretaries or executive directors, or their
17 designees, of the Department of Community Affairs, the Office
18 of Tourism, Trade, and Economic Development, the Department of
19 Health and Rehabilitative Services, the Department of Labor
20 and Employment Security, the Department of State, the
21 Department of Transportation, the Department of Environmental
22 Protection, the Department of Law Enforcement, and the
23 Department of Revenue; the Attorney General or his or her
24 designee; and the executive directors or their designees of
25 the Florida State Community College System, the Florida Black
26 Business Investment Board, and the Florida State Rural
27 Development Council.

28
29 Reviser's note.--Amended to conform to the
30 redesignation of the State Community College
31

1 System as the Florida Community College System
2 by s. 15, ch. 98-58, Laws of Florida.

3
4 Section 79. Paragraph (a) of subsection (4) of section
5 295.07, Florida Statutes, 1998 Supplement, is amended to read:

6 295.07 Preference in appointment and retention.--

7 (4) The following positions are exempt from this
8 section:

9 (a) Those positions that are exempt from the state
10 Career Service System under s. 110.205(2); however, all
11 positions under the University Support Personnel System of the
12 State University System as well as all Career Service System
13 positions under the Florida State Community College System and
14 the School for the Deaf and the Blind are included.

15
16 Reviser's note.--Amended to conform to the
17 redesignation of the State Community College
18 System as the Florida Community College System
19 by s. 15, ch. 98-58, Laws of Florida.

20
21 Section 80. Section 295.085, Florida Statutes, 1998
22 Supplement, is amended to read:

23 295.085 Positions for which a numerically based
24 selection process is not used.--In all positions in which the
25 appointment or employment of persons is not subject to a
26 written examination, with the exception of positions that are
27 exempt under s. 295.07(4)~~295.07(2)~~, first preference in
28 appointment, employment, and retention shall be given by the
29 state and political subdivisions in the state to persons
30 included under s. 295.07(1)(a) and (b), and second preference
31 shall be given to persons included under s. 295.07(1)(c) and

1 (d) who possess the minimum qualifications necessary to
2 discharge the duties of the position involved.

3
4 Reviser's note.--Amended to conform to the
5 redesignation of s. 295.07(2) as s. 295.07(4)
6 by s. 2, ch. 98-33, Laws of Florida.

7
8 Section 81. Paragraph (a) of subsection (1) of section
9 295.09, Florida Statutes, is amended to read:

10 295.09 Reinstatement or reemployment; promotion
11 preference.--

12 (1)(a) When an employee of the state or any of its
13 political subdivisions employed in a position subject or not
14 subject to a career service system or other merit-type system,
15 with the exception of those positions which are exempt
16 pursuant to s. 295.07(4)~~295.07(2)~~, has served in the Armed
17 Forces of the United States and is discharged or separated
18 therefrom with an honorable discharge, the state or its
19 political subdivision shall reemploy or reinstate such person
20 to the same position that he or she held prior to such service
21 in the armed forces, or to an equivalent position, provided
22 such person returns to the position within 1 year of his or
23 her date of separation or, in cases of extended active duty,
24 within 1 year of the date of discharge or separation
25 subsequent to the extension. Such person shall also be awarded
26 preference in promotion and shall be promoted ahead of all
27 others who are as well qualified or less qualified for the
28 position. When an examination for promotion is utilized, such
29 person shall be awarded preference points, as provided in s.
30 295.08, and shall be promoted ahead of all those who appear in
31 an equal or lesser position on the promotional register,

1 provided he or she first successfully passes the examination
2 for the promotional position.

3

4 Reviser's note.--Amended to conform to the
5 redesignation of s. 295.07(2) as s. 295.07(4)
6 by s. 2, ch. 98-33, Laws of Florida.

7

8 Section 82. Subsection (2) of section 295.11, Florida
9 Statutes, 1998 Supplement, is reenacted to read:

10 295.11 Investigation; administrative hearing for not
11 employing preferred applicant.--

12 (2) Upon completion of the investigation, the
13 department shall furnish a copy of the investigative findings
14 to the complainant and to the agency involved.

15

16 Reviser's note.--Section 6, ch. 98-33, Laws of
17 Florida, purported to amend s. 295.11, but
18 failed to publish subsection (2). In the
19 absence of affirmative evidence that the
20 Legislature intended to repeal the subsection,
21 coupled with the fact that the form of the
22 amendment affirmatively evidences an intent to
23 preserve the existing subsection structure,
24 subsection (2) is reenacted to confirm that the
25 omission was not intended.

26

27 Section 83. Subsection (1) of section 295.14, Florida
28 Statutes, 1998 Supplement, is amended to read:

29 295.14 Penalties.--

30 (1) When the Public Employees Relations Commission,
31 after a hearing on notice conducted according to rules adopted

1 by the commission, determines that a violation of s. 295.07,
2 s. 295.08, s. 295.085 ~~295.085(1)~~, or s. 295.09(1)(a) or (b)
3 has occurred and sustains the veteran seeking redress, the
4 commission shall order the offending agency, employee, or
5 officer of the state to comply with the provisions of s.
6 295.07, s. 295.08, s. 295.085 ~~295.085(1)~~, or s. 295.09(1)(a)
7 or (b); and, in the event of a violation of s. 295.07, s.
8 295.08, s. 295.085 ~~295.085(1)~~ or s. 295.09(1)(a) or (b), the
9 commission may issue an order to compensate the veteran for
10 the loss of any wages and reasonable attorney's fees for
11 actual hours worked, and costs of all work, including
12 litigation, incurred as a result of such violation, which
13 order shall be conclusive on the agency, employee, or officer
14 concerned. The attorney's fees and costs may not exceed
15 \$10,000. The action of the commission shall be in writing and
16 shall be served on the parties concerned by certified mail
17 with return receipt requested.

18

19 Reviser's note.--Amended to conform to the
20 elimination of subunit designations in s.
21 295.085 following the repeal of s. 295.085(2)
22 by s. 4, ch. 98-33, Laws of Florida.

23

24 Section 84. Subsection (6) of section 296.33, Florida
25 Statutes, is amended to read:

26 296.33 Definitions.--When used in this part, unless
27 the context clearly indicates otherwise, the term:

28 (6) "Veterans' Nursing Home of Florida," hereinafter
29 referred to as the "home," means a licensed health care
30 facility operated by the department pursuant to the provisions
31 of part II ~~†~~ of chapter 400.

1 Reviser's note.--Amended to conform to the
2 redesignation of part I of chapter 400 as part
3 II incident to the compilation of ch. 93-177,
4 Laws of Florida.

5
6 Section 85. Subsection (8) of section 298.225, Florida
7 Statutes, 1998 Supplement, is amended to read:

8 298.225 Water control plan; plan development and
9 amendment.--

10 (8) If the preparation of a water control plan or
11 amendment under this section does not result in revision of
12 the district's current plan or require the alteration or
13 increase of any levy of assessments or taxes beyond the
14 maximum amount previously authorized by general law, special
15 law, or judicial proceeding, a change in the use of said
16 assessments or taxes, or substantial change to district
17 facilities, the provisions of s. 298.301(2)-(9) do not apply
18 to the plan adoption process. This section and s. 298.301
19 ~~298.301(1)-(9)~~ do not apply to minor, insubstantial amendments
20 to district plans authorized by special law.

21
22 Reviser's note.--Amended to conform to the fact
23 that s. 298.301 only has nine subsections.

24
25 Section 86. Subsection (69) of section 316.003,
26 Florida Statutes, 1998 Supplement, is amended to read:

27 316.003 Definitions.--The following words and phrases,
28 when used in this chapter, shall have the meanings
29 respectively ascribed to them in this section, except where
30 the context otherwise requires:

31

1 (69) HAZARDOUS MATERIAL.--Any substance or material
2 which has been determined by the secretary of the United
3 States Department of Transportation to be capable of imposing
4 an unreasonable risk to health, safety, and property. This
5 term includes hazardous waste as defined in s. 403.703(21)
6 ~~403.703(23)~~.

7
8 Reviser's note.--Amended to conform to the
9 redesignation of s. 403.703(23) as s.
10 403.703(21) to conform to the repeal of former
11 ss. 403.703(18) and (19) by s. 8, ch. 93-207,
12 Laws of Florida.

13
14 Section 87. Subsection (3) of section 316.072, Florida
15 Statutes, is amended to read:

16 316.072 Obedience to and effect of traffic laws.--

17 (3) OBEDIENCE TO POLICE AND FIRE DEPARTMENT
18 OFFICIALS.--It is unlawful and a misdemeanor of the second
19 degree, punishable as provided in s. 775.082 or s. 775.083,
20 for any person willfully to fail or refuse to comply with any
21 lawful order or direction of any law enforcement officer,
22 traffic accident investigation officer as described in s.
23 316.640, traffic infraction enforcement officer as described
24 in s. 316.640 ~~318.141~~, or member of the fire department at the
25 scene of a fire, rescue operation, or other emergency.
26 Notwithstanding the provisions of this subsection, certified
27 emergency medical technicians or paramedics may respond to the
28 scene of emergencies and may provide emergency medical
29 treatment on the scene and provide transport of patients in
30 the performance of their duties for an emergency medical

31

1 services provider licensed under chapter 401 and in accordance
2 with any local emergency medical response protocols.

3

4 Reviser's note.--Amended to conform to the
5 repeal of s. 318.141 by s. 44, ch. 96-350, Laws
6 of Florida, and the addition of a description
7 of traffic infraction enforcement officers to
8 s. 316.640 by s. 37, ch. 96-350.

9

10 Section 88. Subsection (3) of section 316.0747,
11 Florida Statutes, is amended to read:

12 316.0747 Sale or purchase of traffic control devices
13 by nongovernmental entities; prohibitions.--

14 (3) Nongovernmental entities to which the general
15 public is invited to travel shall install and maintain uniform
16 traffic control devices at appropriate locations pursuant to
17 the standards set forth by the Manual on Uniform Traffic
18 Control Devices as adopted by the Department of Transportation
19 pursuant to s. 316.0745. ~~Such traffic control devices shall~~
20 ~~be installed no later than January 1, 1992.~~ Businesses the
21 parking lots of which do not provide intersecting lanes of
22 traffic and businesses having fewer than 25 parking spaces are
23 exempt from the provisions of this subsection. The Department
24 of Transportation shall adopt rules to implement this section.

25

26 Reviser's note.--Amended to delete a provision
27 that has served its purpose.

28

29 Section 89. Paragraph (a) of subsection (10) of
30 section 316.1955, Florida Statutes, 1998 Supplement, is
31 amended to read:

1 316.1955 Parking spaces for persons who have
2 disabilities.--

3 (10)(a) A vehicle that is transporting a person who
4 has a disability and that has been granted a permit under s.
5 320.0848(1)(e)~~320.0848(1)(d)~~ may be parked for a maximum of
6 30 minutes in any parking space reserved for persons who have
7 disabilities.

8
9 Reviser's note.--Amended to conform to the
10 redesignation of s. 320.0848(1)(d) as s.
11 320.0848(1)(e) by s. 7, ch. 98-202, Laws of
12 Florida.

13
14 Section 90. Subsection (2) of section 316.2126,
15 Florida Statutes, is amended to read:

16 316.2126 Use of golf carts by certain
17 municipalities.--In addition to the powers granted by ss.
18 316.212 and 316.2125, municipalities older than 400 years old
19 are hereby authorized to utilize golf carts, as defined in s.
20 320.01, upon any state, county, or municipal roads located
21 within the corporate limits of such municipalities, subject to
22 the following conditions:

23 (2) In addition to the safety equipment required in s.
24 316.212(5)~~316.212(6)~~, such golf carts must be equipped with
25 sufficient lighting and turn signal equipment.

26
27 Reviser's note.--Amended to conform to the
28 redesignation of s. 316.212(6) as s. 316.212(5)
29 by s. 4, ch. 96-413, Laws of Florida.

30
31

1 Section 91. Section 316.2399, Florida Statutes, is
2 amended to read:

3 316.2399 Special warning lights for buses or
4 taxicabs.--The provisions of s. 316.2397(7) ~~316.2397(6)~~to
5 the contrary notwithstanding, a bus or taxicab may be equipped
6 with two flashing devices for the purpose of warning the
7 operators of other vehicles and law enforcement agents that an
8 emergency situation exists within the bus or taxicab. Such
9 devices shall be capable of activation by the operator of the
10 bus or taxicab and shall be of a type approved by the
11 Department of Highway Safety and Motor Vehicles. Such devices
12 shall be mounted one at the front and one at the rear of the
13 bus or taxicab and shall display flashing red lights which
14 shine on the roadway under the vehicle.

15
16 Reviser's note.--Amended to conform to the
17 redesignation of s. 316.2397(6) as s.

18 316.2397(7) by s. 58, ch. 93-164, Laws of
19 Florida.

20
21 Section 92. Paragraph (f) of subsection (2) of section
22 316.302, Florida Statutes, 1998 Supplement, is amended to
23 read:

24 316.302 Commercial motor vehicles; safety regulations;
25 transporters and shippers of hazardous materials;
26 enforcement.--

27 (2)

28 (f) A person who operates a commercial motor vehicle
29 having a declared gross vehicle weight of less than 26,000
30 pounds solely in intrastate commerce and who is not
31 transporting hazardous materials, or who is transporting

1 petroleum products as defined in s. 376.301(31)~~376.301(29)~~,
2 is exempt from subsection (1). However, such person must
3 comply with 49 C.F.R. parts 382, 392, 393, and 49 C.F.R. s.
4 396.9.

5
6 Reviser's note.--Amended to facilitate correct
7 interpretation. "Petroleum product" is defined
8 in s. 376.301(31).

9
10 Section 93. Subsection (5) of section 318.13, Florida
11 Statutes, is amended to read:

12 318.13 Definitions.--The following words and phrases,
13 when used in this chapter, shall have the meanings
14 respectively ascribed to them in this section, except where
15 the context otherwise requires:

16 (5) "Officer" means any law enforcement officer
17 charged with and acting under his or her authority to arrest
18 persons suspected of, or known to be, violating statutes or
19 ordinances regulating traffic or the operation or equipment of
20 vehicles. "Officer" includes any individual employed by a
21 sheriff's department or the police department of a chartered
22 municipality who is acting as a traffic infraction enforcement
23 officer as provided in s. 316.640 ~~318.141~~.

24
25 Reviser's note.--Amended to conform to the
26 repeal of s. 318.141 by s. 44, ch. 96-350, Laws
27 of Florida, and the addition of a description
28 of traffic infraction enforcement officers to
29 s. 316.640 by s. 37, ch. 96-350.

30
31

1 Section 94. Subsections (1), (4), and (9) of section
2 318.14, Florida Statutes, are amended to read:

3 318.14 Noncriminal traffic infractions; exception;
4 procedures.--

5 (1) Except as provided in ss. 318.17 and 320.07(3)(c)
6 ~~320.07(3)(b)~~, any person cited for a violation of s. 240.265,
7 chapter 316, s. 320.0605 ~~320.0605(1)~~, s. 320.07(3)(a), s.
8 322.065, s. 322.15(1), s. 322.16(2) or (3), s. 322.1615(4)
9 ~~322.161(4)~~, or s. 322.19 is charged with a noncriminal
10 infraction and must be cited for such an infraction and cited
11 to appear before an official. If another person dies as a
12 result of the noncriminal infraction, the person cited may be
13 required to perform 120 community service hours under s.
14 316.027(4), in addition to any other penalties.

15 (4) Any person charged with a noncriminal infraction
16 under this section who does not elect to appear shall pay the
17 civil penalty and delinquent fee, if applicable, either by
18 mail or in person, within 30 days of the date of receiving the
19 citation. If the person cited follows the above procedure, he
20 or she shall be deemed to have admitted the infraction and to
21 have waived his or her right to a hearing on the issue of
22 commission of the infraction. Such admission shall not be
23 used as evidence in any other proceedings. Any person who is
24 cited for a violation of s. 320.0605 ~~320.0605(1)~~ or s.
25 322.15(1), or subject to a penalty under s. 320.07(3)(a) or s.
26 322.065, and who makes an election under this subsection shall
27 submit proof of compliance with the applicable section to the
28 clerk of the court. For the purposes of this subsection, proof
29 of compliance consists of a valid driver's license or a valid
30 registration certificate.

31

1 (9) Any person who is cited for an infraction under
2 this section other than a violation of s. 320.0605
3 ~~320.0605(1)~~, s. 320.07(3)(a), s. 322.065, s. 322.15(1), s.
4 322.61, or s. 322.62 may, in lieu of a court appearance, elect
5 to attend in the location of his or her choice within this
6 state a basic driver improvement course approved by the
7 Department of Highway Safety and Motor Vehicles. In such a
8 case, adjudication must be withheld; points, as provided by s.
9 322.27, may not be assessed; and the civil penalty that is
10 imposed by s. 318.18(3) must be reduced by 18 percent;
11 however, a person may not make an election under this
12 subsection if the person has made an election under this
13 subsection in the preceding 12 months. A person may make no
14 more than five elections under this subsection. The
15 requirement for community service under s. 318.18(7) is not
16 waived by a plea of nolo contendere or by the withholding of
17 adjudication of guilt by a court.

18
19 Reviser's note.--Subsection (1) is amended to
20 conform to the redesignation of s. 320.07(3)(b)
21 as s. 320.07(3)(c) by s. 7, ch. 98-223, Laws of
22 Florida; the deletion of subunits from s.
23 320.0605 to conform to the repeal of former s.
24 320.0605(2) by s. 50, ch. 96-350, Laws of
25 Florida; and the redesignation of the
26 referenced s. 322.161(4) as s. 322.1615(4) by
27 the reviser incident to the compilation of the
28 1996 Supplement to the Florida Statutes 1995.
29 Subsections (4) and (9) are amended to conform
30 to the deletion of subunits from s. 320.0605 by
31 s. 50, ch. 96-350.

1 Section 95. Subsections (4) and (5) of section 318.21,
2 Florida Statutes, 1998 Supplement, are amended to read:

3 318.21 Disposition of civil penalties by county
4 courts.--All civil penalties received by a county court
5 pursuant to the provisions of this chapter shall be
6 distributed and paid monthly as follows:

7 (4) Of the additional fine assessed under s.
8 318.18(3)(e)~~318.18(3)(d)~~ for a violation of s. 316.1301, 40
9 percent must be deposited into the Grants and Donations Trust
10 Fund of the Division of Blind Services of the Department of
11 Labor and Employment Security, and 60 percent must be
12 distributed pursuant to subsections (1) and (2) of this
13 section.

14 (5) Of the additional fine assessed under s.
15 318.18(3)(e)~~318.18(3)(d)~~ for a violation of s. 316.1303, 60
16 percent must be deposited into the endowment fund for the
17 Florida Endowment Foundation for Vocational Rehabilitation,
18 and 40 percent must be distributed pursuant to subsections (1)
19 and (2) of this section.

20
21 Reviser's note.--Amended to conform to the
22 redesignation of s. 318.18(3)(d) as s.
23 318.18(3)(e) by s. 6, ch. 98-223, Laws of
24 Florida.

25
26 Section 96. Paragraph (d) of subsection (1) of section
27 319.33, Florida Statutes, is amended to read:

28 319.33 Offenses involving vehicle identification
29 numbers, applications, certificates, papers; penalty.--

30 (1) It is unlawful:
31

1 (d) To possess, sell or offer for sale, conceal, or
2 dispose of in this state a motor vehicle or mobile home, or
3 major component part thereof, on which the motor number or
4 vehicle identification number has been destroyed, removed,
5 covered, altered, or defaced, with knowledge of such
6 destruction, removal, covering, alteration, or defacement,
7 except as provided in s. 319.30(4)~~319.30(3)~~.

8
9 Reviser's note.--Amended to conform to the
10 redesignation of s. 319.30(3) as s. 319.30(4)
11 by s. 4, ch. 90-283, Laws of Florida.

12
13 Section 97. Subsections (7) and (8) of section 320.03,
14 Florida Statutes, 1998 Supplement, are amended to read:

15 320.03 Registration; duties of tax collectors;
16 International Registration Plan.--

17 (7) The Department of Highway Safety and Motor
18 Vehicles shall register apportioned motor vehicles under the
19 provisions of the International Registration Plan.
20 ~~Implementation of the plan shall occur by July 1, 1986, for~~
21 ~~the 1986-1987 registration period.~~ The department may adopt
22 rules to implement and enforce the provisions of the plan.

23 (8) If the applicant's name appears on the list
24 referred to in s. 316.1001(4)~~316.1001(5)~~ or s. 316.1967(6), a
25 license plate or revalidation sticker may not be issued until
26 that person's name no longer appears on the list or until the
27 person presents a receipt from the clerk showing that the
28 fines outstanding have been paid. The tax collector and the
29 clerk of the court are each entitled to receive monthly, as
30 costs for implementing and administering this subsection, 10
31 percent of the civil penalties and fines recovered from such

1 persons. If the tax collector has private tag agents, such tag
2 agents are entitled to receive a pro rata share of the amount
3 paid to the tax collector, based upon the percentage of
4 license plates and revalidation stickers issued by the tag
5 agent compared to the total issued within the county. The
6 authority of any private agent to issue license plates shall
7 be revoked, after notice and a hearing as provided in chapter
8 120, if he or she issues any license plate or revalidation
9 sticker contrary to the provisions of this subsection. This
10 section applies only to the annual renewal in the owner's
11 birth month of a motor vehicle registration and does not apply
12 to the transfer of a registration of a motor vehicle sold by a
13 motor vehicle dealer licensed under this chapter, except for
14 the transfer of registrations which is inclusive of the annual
15 renewals. This section does not affect the issuance of the
16 title to a motor vehicle, notwithstanding s. 319.23(7)(b).

17
18 Reviser's note.--Subsection (7) is amended to
19 delete a provision that has served its purpose.
20 Subsection (8) is amended to conform to the
21 redesignation of s. 316.1001(5) as s.
22 316.1001(4) by s. 15, ch. 96-350, Laws of
23 Florida.

24
25 Section 98. Subsection (1) of section 320.055, Florida
26 Statutes, is amended to read:

27 320.055 Registration periods; renewal periods.--The
28 following registration periods and renewal periods are
29 established:

30 (1) For a motor vehicle subject to registration under
31 s. 320.08(1), (2), (3)~~(a), (b), (c), (d), or (e)~~, (5)(b), (c),

1 (d), or (f)~~(e)~~, (6)(a), (7), (8), (9), or (10) and owned by a
2 natural person, the registration period begins the first day
3 of the birth month of the owner and ends the last day of the
4 month immediately preceding the owner's birth month in the
5 succeeding year. If such vehicle is registered in the name of
6 more than one person, the birth month of the person whose name
7 first appears on the registration shall be used to determine
8 the registration period. For a vehicle subject to this
9 registration period, the renewal period is the 30-day period
10 ending at midnight on the vehicle owner's date of birth.

11
12 Reviser's note.--Amended to conform to the fact
13 that s. 320.08(3) only contains paragraphs
14 (a)-(e) and the redesignation of s.
15 320.08(5)(e) as s. 320.08(5)(f) by s. 5, ch.
16 97-58, Laws of Florida.

17
18 Section 99. Subsection (7) of section 320.08056,
19 Florida Statutes, 1998 Supplement, is amended to read:
20 320.08056 Specialty license plates.--
21 (7) The department shall annually retain from the
22 first proceeds derived from the annual use fees collected an
23 amount sufficient to defray each specialty plate's pro rata
24 share of the department's costs directly related to issuing
25 the specialty plate. Such costs shall include distribution
26 costs, direct costs to the department, and any applicable
27 increased costs of manufacturing the specialty ~~speciality~~
28 license plate. ~~Beginning in the 1995-1996 fiscal year,~~ Any
29 cost increase to the department related to actual cost of the
30 plate, including a reasonable vendor profit, shall be verified
31 by the Department of Management Services. The balance of the

1 proceeds from the annual use fees collected for that specialty
2 license plate shall be distributed as provided by law.

3

4 Reviser's note.--Amended to conform to
5 terminology elsewhere in the section and to
6 delete a provision that has served its purpose.

7

8 Section 100. Paragraph (b) of subsection (1) of
9 section 320.08058, Florida Statutes, 1998 Supplement, is
10 amended to read:

11 320.08058 Specialty license plates.--

12 (1) MANATEE LICENSE PLATES.--

13 (b)~~1~~. The manatee license plate annual use fee must be
14 deposited into the Save the Manatee Trust Fund, created within
15 the Department of Environmental Protection. The funds
16 deposited in the Save the Manatee Trust Fund may be used only
17 for environmental education; manatee research; facilities, as
18 provided in s. 370.12(4)(b)~~370.12(5)(b)~~; and manatee
19 protection and recovery.

20 ~~2. For fiscal year 1996-1997, 25 percent of the~~
21 ~~manatee license plate annual use fee must be deposited into~~
22 ~~the Save the Manatee Trust Fund within the Department of~~
23 ~~Environmental Protection and shall be used for manatee~~
24 ~~facilities as provided in s. 370.12(5)(b).~~

25

26 Reviser's note.--Amended to conform to the
27 redesignation s. 370.12(5)(b) as s.
28 370.12(4)(b) necessitated by the repeal of
29 former s. 370.12(4) by s. 17, ch. 98-227, Laws
30 of Florida, and to delete obsolete language

31

1 pertaining to the manatee license plate annual
2 use fee for fiscal year 1996-1997.

3

4 Section 101. Effective July 1, 1999, paragraph (b) of
5 subsection (1) of section 320.08058, Florida Statutes, 1998
6 Supplement, is amended to read:

7 320.08058 Specialty license plates.--

8 (1) MANATEE LICENSE PLATES.--

9 (b) The manatee license plate annual use fee must be
10 deposited into the Save the Manatee Trust Fund, created within
11 the Department of Environmental Protection. The funds
12 deposited in the Save the Manatee Trust Fund may be used only
13 for manatee-related environmental education; manatee research;
14 facilities, as provided in s. 370.12(4)(b)~~370.12(5)(b)~~; and
15 manatee protection and recovery.

16

17 Reviser's note.--Amended to conform to the
18 redesignation of s. 370.12(5)(b) as s.
19 370.12(4)(b) necessitated by the repeal of
20 former s. 370.12(4) by s. 17, ch. 98-227, Laws
21 of Florida.

22

23 Section 102. Paragraph (c) of subsection (2) of
24 section 320.0848, Florida Statutes, 1998 Supplement, is
25 amended and subsections (9) and (10) of that section are
26 reenacted to read:

27 320.0848 Persons who have disabilities; issuance of
28 disabled parking permits; temporary permits; permits for
29 certain providers of transportation services to persons who
30 have disabilities.--

31

1 (2) DISABLED PARKING PERMIT; PERSONS WITH LONG-TERM
2 MOBILITY PROBLEMS.--

3 (c)1. Except as provided in subparagraph 2., the fee
4 for a disabled parking permit shall be:

5 a. Fifteen dollars for each initial 4-year permit or
6 renewal permit, of which the State Transportation Trust Fund
7 shall receive \$13.50 and the tax collector of the county in
8 which the fee was collected shall receive \$1.50.

9 b. One dollar for each additional or additional
10 renewal 4-year permit, of which the State Transportation Trust
11 Fund shall receive all funds collected.

12
13 The department shall not issue an additional disabled parking
14 permit unless the applicant states that they are a frequent
15 traveler or a quadriplegic. The department may not issue to
16 any one eligible applicant more than two disabled parking
17 permits except to an organization in accordance with paragraph
18 (1)(e)~~(1)(d)~~. Subsections (1), (5), (6), and (7) apply to
19 this subsection.

20 2. If an applicant who is a disabled veteran, is a
21 resident of this state, has been honorably discharged, and
22 either has been determined by the Department of Defense or the
23 United States Department of Veterans Affairs or its
24 predecessor to have a service-connected disability rating for
25 compensation of 50 percent or greater or has been determined
26 to have a service-connected disability rating of 50 percent or
27 greater and is in receipt of both disability retirement pay
28 from the United States Department of Veterans Affairs and has
29 a signed physician's statement of qualification for the
30 disabled parking permits, the fee for a disabled parking
31 permit shall be:

1 a. One dollar and fifty cents for the initial 4-year
2 permit or renewal permit.

3 b. One dollar for each additional or additional
4 renewal 4-year permit.

5
6 The tax collector of the county in which the fee was collected
7 shall retain all funds received pursuant to this subparagraph.

8 3. If an applicant presents to the department a
9 statement from the Federal Government or the State of Florida
10 indicating the applicant is a recipient of supplemental
11 security income, the fee for the disabled parking permit shall
12 be \$9 for the initial 4-year permit or renewal permit, of
13 which the State Transportation Trust Fund shall receive \$6.75
14 and the tax collector of the county in which the fee was
15 collected shall receive \$2.25.

16 (9) A violation of this section is grounds for
17 disciplinary action under s. 458.331, s. 459.015, s. 460.413,
18 or s. 461.013, as applicable.

19 (10) The Department of Highway Safety and Motor
20 Vehicles shall adopt rules to administer this section.

21
22 Reviser's note.--Paragraph (2)(c) is amended to
23 conform to the redesignation of paragraph
24 (1)(d) as (1)(e) by s. 7, ch. 98-202, Laws of
25 Florida. Section 7, ch. 98-202, purported to
26 amend s. 320.0848, but failed to publish
27 subsections (9) and (10). In the absence of
28 affirmative evidence that the Legislature
29 intended to repeal subsections (9) and (10),
30 they are reenacted to confirm that the omission
31 was not intended.

1 Section 103. Section 320.1325, Florida Statutes, is
2 amended to read:

3 320.1325 Registration required for the temporarily
4 employed.--Motor vehicles owned or leased by persons who are
5 temporarily employed within the state but are not residents
6 are required to be registered. The department shall provide a
7 temporary registration plate and a registration certificate
8 valid for 90 days to an applicant who is temporarily employed
9 in the state. The temporary registration plate may be renewed
10 one time for an additional 90-day period. At the end of the
11 180-day period of temporary registration, the applicant shall
12 apply for a permanent registration if there is a further need
13 to remain in this state. A temporary license registration
14 plate may not be issued for any commercial motor vehicle as
15 defined in s. 320.01. The fee for the 90-day temporary
16 registration plate shall be \$40 plus the applicable service
17 charge required by s. 320.04. Subsequent permanent
18 registration and titling of a vehicle registered hereunder
19 shall subject the applicant to the fees required by s. ~~ss~~
20 ~~319.231~~ and 320.072, in addition to all other taxes and fees
21 required.

22
23 Reviser's note.--Amended to conform to the
24 repeal of s. 319.231 by s. 9, ch. 95-140, Laws
25 of Florida.

26
27 Section 104. Subsection (2) of section 320.20, Florida
28 Statutes, is reenacted to read:

29 320.20 Disposition of license tax moneys.--The revenue
30 derived from the registration of motor vehicles, including any
31 delinquent fees and excluding those revenues collected and

1 distributed under the provisions of s. 320.081, must be
2 distributed monthly, as collected, as follows:

3 (2) Twenty-five million dollars per year of such
4 revenues must be deposited in the State Transportation Trust
5 Fund, with priority use assigned to completion of the
6 interstate highway system. However, any excess funds may be
7 utilized for general transportation purposes, consistent with
8 the Department of Transportation's legislatively approved
9 objectives. Prior to such utilization, the department's
10 comptroller shall certify that adequate funds are available to
11 assure expeditious completion of the interstate highway system
12 and to award all such contracts by 1990.

13
14 Reviser's note.--Section 136, ch. 96-320, Laws
15 of Florida, purported to amend s. 320.20, but
16 did not set out in full subsection (2) to
17 include the part of the last sentence that
18 reads "completion of the interstate highway
19 system and to award all such contracts by
20 1990." Absent affirmative evidence that the
21 Legislature intended to repeal this language,
22 it is reenacted to confirm that the omission
23 was not intended.

24
25 Section 105. Subsection (2) of section 322.12, Florida
26 Statutes, is amended to read:

27 322.12 Examination of applicants.--

28 (2) The department shall examine every applicant for a
29 driver's license, including an applicant who is licensed in
30 another state or country, except as otherwise provided in this
31 chapter. A person who holds a learner's driver's license as

1 provided for in s. 322.1615 ~~322.161~~ is not required to pay a
2 fee for successfully completing the examination showing his or
3 her ability to operate a motor vehicle as provided for herein
4 and need not pay the fee for a replacement license as provided
5 in s. 322.17(2). Any person who applies for reinstatement
6 following the suspension or revocation of his or her driver's
7 license shall pay a service fee of \$25 following a suspension,
8 and \$50 following a revocation, which is in addition to the
9 fee for a license. Any person who applies for reinstatement of
10 a commercial driver's license following the disqualification
11 of his or her privilege to operate a commercial motor vehicle
12 shall pay a service fee of \$50, which is in addition to the
13 fee for a license. The department shall collect all of these
14 fees at the time of reinstatement. The department shall issue
15 proper receipts for such fees and shall promptly transmit all
16 funds received by it as follows:

17 (a) Of the \$25 fee received from a licensee for
18 reinstatement following a suspension, the department shall
19 deposit \$15 in the General Revenue Fund and the remaining \$10
20 in the Highway Safety Operating Trust Fund.

21 (b) Of the \$50 fee received from a licensee for
22 reinstatement following a revocation or disqualification, the
23 department shall deposit \$35 in the General Revenue Fund and
24 the remaining \$15 in the Highway Safety Operating Trust Fund.

25
26 If the revocation or suspension of the driver's license was
27 for a violation of s. 316.193, or for refusal to submit to a
28 lawful breath, blood, or urine test, an additional fee of \$105
29 must be charged. However, only one such \$105 fee is to be
30 collected from one person convicted of such violations arising
31 out of the same incident. The department shall collect the

1 \$105 fee and deposit it into the Highway Safety Operating
2 Trust Fund at the time of reinstatement of the person's
3 driver's license, but the fee must not be collected if the
4 suspension or revocation was overturned.

5
6 Reviser's note.--Amended to conform to the
7 redesignation of the referenced s. 322.161 as
8 s. 322.1615 by the reviser incident to the
9 compilation of the 1996 Supplement to the
10 Florida Statutes 1995. Another s. 322.161 was
11 created by s. 28, ch. 96-413, Laws of Florida.

12
13 Section 106. Paragraph (a) of subsection (3) of
14 section 322.121, Florida Statutes, is amended to read:

15 322.121 Periodic reexamination of all drivers.--

16 (3) For each licensee whose driving record does not
17 show any revocations, disqualifications, or suspensions for
18 the preceding 7 years or any convictions for the preceding 3
19 years except for convictions of the following nonmoving
20 violations:

21 (a) Failure to exhibit a vehicle registration
22 certificate, rental agreement, or cab card pursuant to s.
23 320.0605 ~~320.0605(1)~~;

24
25 the department shall cause such licensee's license to be
26 prominently marked with the notation "Safe Driver."

27
28 Reviser's note.--Amended to conform to the
29 deletion of subunits from s. 320.0605 following
30 the repeal of former s. 320.0605(2) by s. 50,
31 ch. 96-350, Laws of Florida.

1 Section 107. Subsection (1) and paragraph (f) of
2 subsection (2) of section 322.292, Florida Statutes, are
3 amended to read:

4 322.292 DUI programs supervision; powers and duties of
5 the department.--

6 (1) The Department of Highway Safety and Motor
7 Vehicles shall license and regulate all DUI programs, which
8 regulation shall include the certification of instructors,
9 evaluators, clinical supervisors, and evaluator supervisors.
10 The department shall, after consultation with the chief judge
11 of the affected judicial circuit, establish requirements
12 regarding the number of programs to be offered within a
13 judicial circuit. Such requirements shall address the number
14 of clients currently served in the circuit as well as
15 improvements in service that may be derived from operation of
16 an additional DUI program. DUI education and evaluation
17 services are exempt from licensure under chapter ~~chapters 396~~
18 ~~and~~ 397. However, treatment programs must continue to be
19 licensed under chapter ~~chapters 396 and~~ 397.

20 (2) The department shall adopt rules to implement its
21 supervisory authority over DUI programs in accordance with the
22 procedures of chapter 120, including the establishment of
23 uniform standards of operation for DUI programs and the method
24 for setting and approving fees, as follows:

25 (f) The department shall oversee an ongoing evaluation
26 to assess the effectiveness of the DUI programs. This
27 evaluation shall be performed by an independent group and
28 shall evaluate the curriculum, client treatment referrals,
29 recidivism rates, and any other relevant matters. ~~The~~
30 ~~department shall report to the Legislature by January 1, 1995,~~
31 ~~on the status of the evaluation, including its design and~~

1 ~~schedule for completion.~~The department may use funds received
2 under s. 322.293 to retain the services and reimburse expenses
3 of such private persons or professional consultants as are
4 required for monitoring and evaluating DUI programs.

5
6 Reviser's note.--Subsection (1) is amended to
7 conform to the repeal of the provisions of
8 chapter 396 by s. 48, ch. 93-39, Laws of
9 Florida. Paragraph (2)(f) is amended to delete
10 a provision that has served its purpose.

11
12 Section 108. Paragraph (b) of subsection (6) of
13 section 322.34, Florida Statutes, 1998 Supplement, is amended
14 to read:

15 322.34 Driving while license suspended, revoked,
16 canceled, or disqualified.--

17 (6) Any person who operates a motor vehicle:

18 (b) While his or her driver's license or driving
19 privilege is canceled, suspended, or revoked pursuant to s.
20 316.655, s. 322.26(8), s. 322.27(2), or s. 322.28(2) or (6)
21 ~~(5)~~,

22
23 and who by careless or negligent operation of the motor
24 vehicle causes the death of or serious bodily injury to
25 another human being is guilty of a felony of the third degree,
26 punishable as provided in s. 775.082 or s. 775.083.

27
28 Reviser's note.--Amended to conform to the
29 redesignation of s. 322.28(5) as s. 322.28(6)
30 by s. 10, ch. 98-223, Laws of Florida.

31

1 Section 109. Paragraph (b) of subsection (1) of
2 section 322.57, Florida Statutes, is amended to read:

3 322.57 Tests of knowledge concerning specified
4 vehicles; endorsement; nonresidents; violations.--

5 (1) In addition to fulfilling any other driver's
6 licensing requirements of this chapter, a person who:

7 (b) Drives a passenger vehicle must successfully
8 complete a test of his or her knowledge concerning the safe
9 operation of such vehicles and a test of his or her driving
10 skill in such a vehicle. ~~However, if such a person satisfies~~
11 ~~the requirements of s. 322.55(1)-(3), he or she is exempt from~~
12 ~~the test of his or her driving skills.~~

13
14 Reviser's note.--Amended to conform to the
15 repeal of s. 322.55 by s. 14, ch. 95-247, Laws
16 of Florida, and s. 67, ch. 95-333, Laws of
17 Florida.

18
19 Section 110. Paragraph (a) of subsection (4) of
20 section 323.001, Florida Statutes, 1998 Supplement, is amended
21 to read:

22 323.001 Wrecker operator storage facilities; vehicle
23 holds.--

24 (4) The requirements for a written hold apply when the
25 following conditions are present:

26 (a) The officer has probable cause to believe the
27 vehicle should be seized and forfeited under the Florida
28 Contraband Forfeiture Act, ss. 932.701-932.707
29 ~~932.701-932.704~~;

1 Reviser's note.--Amended to conform to the
2 correct citation of the Florida Contraband
3 Forfeiture Act.

4
5 Section 111. Subsections (3) and (12) of section
6 325.202, Florida Statutes, are amended to read:

7 325.202 Definitions.--As used in this act, the term:

8 (3) "Dealer certificate" means an inspection
9 certificate issued to a motor vehicle dealer, motor vehicle
10 broker as defined in s. 320.27 ~~320.07~~, mobile home dealer as
11 defined in s. 320.77, or recreational vehicle dealer as
12 defined in s. 320.771, indicating that a motor vehicle has
13 passed an emissions inspection, which grants the dealer or
14 broker 12 months in which to sell at retail the identified
15 motor vehicle owned by the dealer or broker.

16 (12) "Reinspection facility" means any motor vehicle
17 repair shop as defined in s. 559.903(7)~~559.903(2)~~ which has
18 been licensed by the department pursuant to the provisions of
19 s. 325.212.

20
21 Reviser's note.--Subsection (3) is amended to
22 conform to the correct citation to the
23 referenced definition. Subsection (12) is
24 amended to conform to the redesignation of s.
25 559.903(2) as s. 559.903(7) by s. 3, ch.
26 93-219, Laws of Florida.

27
28 Section 112. Subsection (2) of section 325.212,
29 Florida Statutes, is amended to read:

30 325.212 Reinspections; reinspection facilities; rules;
31 minority business participation.--

1 (2) Any motor vehicle repair shop, as defined in s.
2 559.903(7)~~559.903(2)~~, may apply to the department, on a form
3 approved by the department, to be licensed as a reinspection
4 facility to reinspect motor vehicles which fail to pass
5 inspections required by this act.

6
7 Reviser's note.--Amended to conform to the
8 redesignation of s. 559.903(2) as s. 559.903(7)
9 by s. 3, ch. 93-219, Laws of Florida.

10
11 Section 113. Subsection (11) and paragraph (c) of
12 subsection (12) of section 327.25, Florida Statutes, are
13 amended to read:

14 327.25 Classification; registration; fees and charges;
15 surcharge; disposition of fees; fines; marine turtle
16 stickers.--

17 (11) VOLUNTARY CONTRIBUTIONS.--The application form
18 for boat registration shall include a provision to allow each
19 applicant to indicate a desire to pay an additional voluntary
20 contribution to the Save the Manatee Trust Fund for manatee
21 and marine mammal research, protection, recovery, rescue,
22 rehabilitation, and release. This contribution shall be in
23 addition to all other fees and charges. The amount of the
24 request for a voluntary contribution solicited shall be ~~\$1 per~~
25 ~~registrant. Beginning with boat registration in fiscal year~~
26 ~~1992-1993, the request for a voluntary contribution solicited~~
27 ~~shall be~~ \$2 or \$5 per registrant. A registrant who provides a
28 voluntary contribution of \$5 or more shall be given a sticker
29 or emblem by the tax collector to display, which signifies
30 support for the Save the Manatee Trust Fund. All voluntary
31 contributions shall be deposited in the Save the Manatee Trust

1 Fund for use according to this subsection. The first \$2 of
2 voluntary contribution by a vessel registrant shall be
3 available for the manatee protection and recovery effort
4 pursuant to s. 370.12(4)(a)~~370.12(5)(a)~~. Any additional
5 amount of voluntary contribution by a vessel registrant shall
6 also be for the purpose of the manatee protection and recovery
7 effort, except that any voluntary contribution in excess of
8 the first \$2 voluntary contribution by a vessel registrant but
9 not exceeding \$2 shall be available for manatee rehabilitation
10 by those facilities approved to rescue, rehabilitate, and
11 release manatees pursuant to s. 370.12(4)(b)~~370.12(5)(b)~~. The
12 form shall also include language permitting a voluntary
13 contribution of \$5 per applicant, which contribution shall be
14 transferred into the Election Campaign Financing Trust Fund.
15 A statement providing an explanation of the purpose of the
16 trust fund shall also be included.

17 (12) REGISTRATION.--

18 (c) ~~Effective July 1, 1996,~~The following registration
19 periods and renewal periods are established:

20 1. For vessels owned by individuals, the registration
21 period begins the first day of the birth month of the owner
22 and ends the last day of the month immediately preceding the
23 owner's birth month in the succeeding year. If the vessel is
24 registered in the name of more than one person, the birth
25 month of the person whose name first appears on the
26 registration shall be used to determine the registration
27 period. For a vessel subject to this registration period, the
28 renewal period is the 30-day period ending at midnight on the
29 vessel owner's date of birth.

30 2. For vessels owned by companies, corporations,
31 governmental entities, those entities listed under subsection

1 (15)~~(11)~~, and registrations issued to dealers and
2 manufacturers, the registration period begins July 1 and ends
3 June 30. The renewal period is the 30-day period beginning
4 June 1.

5
6 Reviser's note.--Subsection (11) is amended to
7 delete provisions that have served their
8 purpose and to conform to the redesignation of
9 s. 370.12(5) as s. 370.12(4) necessitated by
10 the repeal of former s. 370.12(4) by s. 17, ch.
11 98-227, Laws of Florida. Paragraph (12)(c) is
12 amended to delete a provision that has served
13 its purpose and to conform to the redesignation
14 of subsection (11) as subsection (15) by s. 54,
15 ch. 95-333, Laws of Florida.

16
17 Section 114. Paragraphs (a) and (b) of subsection (1)
18 of section 327.28, Florida Statutes, are amended to read:

19 327.28 Marine Resources Conservation Trust Fund;
20 vessel registration funds; appropriation and distribution.--

21 (1) Except as otherwise specified and less any
22 administrative costs, all funds collected from the
23 registration of vessels through the Department of Highway
24 Safety and Motor Vehicles and the tax collectors of the state
25 shall be deposited in the Marine Resources Conservation Trust
26 Fund for recreational channel marking; public launching
27 facilities; law enforcement and quality control programs;
28 aquatic weed control; manatee protection, recovery, rescue,
29 rehabilitation, and release; and marine mammal protection and
30 recovery. The funds collected pursuant to s. 327.25(1) shall
31 be transferred as follows:

1 (a) In each fiscal year, an amount equal to \$1 for
2 each vessel registered in this state shall be transferred to
3 the Save the Manatee Trust Fund for manatee and marine mammal
4 research, protection, and recovery in accordance with the
5 provisions of s. 370.12(4)(a)~~370.12(5)(a)~~.

6 (b) In addition, in each fiscal year, an amount equal
7 to 50 cents for each vessel registered in this state shall be
8 transferred to the Save the Manatee Trust Fund in accordance
9 with the provisions of s. 370.12(4)(b)~~370.12(5)(b)~~ for use by
10 those facilities approved to rescue, rehabilitate, and release
11 manatees as authorized pursuant to the Fish and Wildlife
12 Service of the United States Department of the Interior.

13
14 Reviser's note.--Amended to conform to the
15 redesignation of s. 370.12(5) as s. 370.12(4)
16 necessitated by the repeal of former s.
17 370.12(4) by s. 17, ch. 98-227, Laws of
18 Florida.

19
20 Section 115. Subsection (1) of section 328.17, Florida
21 Statutes, is reenacted to read:

22 328.17 Nonjudicial sale of vessels.--

23 (1) It is the intent of the Legislature that any
24 nonjudicial sale of any unclaimed vessel held for unpaid costs
25 of repairs, improvements, or other work and related storage
26 charges, or any vessel held for failure to pay removal costs
27 pursuant to s. 327.53(7), or any undocumented vessel in
28 default of marina storage fees be disposed of pursuant to the
29 provisions of this section.

30
31

1 Reviser's note.--Section 61, ch. 95-333, Laws
2 of Florida, purported to amend subsection (1)
3 of s. 328.17, but did not publish it. In the
4 absence of affirmative evidence that the
5 Legislature intended to repeal the subsection,
6 coupled with the fact that the form of the
7 amendment affirmatively evidences an intent to
8 preserve the existing subsection structure,
9 subsection (1) is reenacted to confirm that the
10 omission was not intended.

11
12 Section 116. Subsection (16) of section 331.303,
13 Florida Statutes, is amended to read:

14 331.303 Definitions.--

15 (16) "Project" means any development, improvement,
16 property, launch, utility, facility, system, works, road,
17 sidewalk, enterprise, service, or convenience, which may
18 include coordination with Enterprise Florida, Inc.~~the Florida~~
19 ~~High Technology and Industry Council~~, the Board of Regents,
20 and the Space Research Foundation; any rocket, capsule,
21 module, launch facility, assembly facility, operations or
22 control facility, tracking facility, administrative facility,
23 or any other type of space-related transportation vehicle,
24 station, or facility; any type of equipment or instrument to
25 be used or useful in connection with any of the foregoing; any
26 type of intellectual property and intellectual property
27 protection in connection with any of the foregoing including,
28 without limitation, any patent, copyright, trademark, and
29 service mark for, among other things, computer software; any
30 water, wastewater, gas, or electric utility system, plant, or
31 distribution or collection system; any small business

1 incubator initiative, including any startup aerospace company,
2 research and development company, research and development
3 facility, storage facility, and consulting service; or any
4 tourism initiative, including any space experience attraction,
5 space-launch-related activity, and space museum sponsored or
6 promoted by the authority.

7
8 Reviser's note.--Amended to conform to the
9 abolition of the Florida High Technology and
10 Industry Council and the assumption of its
11 obligations by the Department of Commerce
12 according to s. 12, ch. 93-187, Laws of
13 Florida, and the repeal of s. 20.17, creating
14 the Department of Commerce and the
15 reorganization of the functions formerly
16 performed by it, by ch. 96-320, Laws of
17 Florida.

18
19 Section 117. Subsection (4) of section 331.305,
20 Florida Statutes, is amended to read:

21 331.305 Powers of the authority.--The authority shall
22 have the power to:

23 (4) Review and make recommendations with respect to a
24 strategy to guide and facilitate the future of space-related
25 educational and commercial development. The authority shall
26 in coordination with the Federal Government, private industry,
27 and Florida universities develop a business plan which shall
28 address the expansion of Spaceport Florida locations, space
29 launch capacity, spaceport projects, and complementary
30 activities, which shall include, but not be limited to, a
31 detailed analysis of:

- 1 (a) The authority and the commercial space industry.
2 (b) Products, services description--potential,
3 technologies, skills.
4 (c) Market research and evaluation--customers,
5 competition, economics.
6 (d) Marketing plan and strategy.
7 (e) Design and development plan--tasks, difficulties,
8 costs.
9 (f) Manufacturing locations, facilities, and
10 operations plan.
11 (g) Management organization--roles and
12 responsibilities.
13 (h) Overall schedule (monthly).
14 (i) Important risks, assumptions, and problems.
15 (j) Community impact--economic, human development,
16 community development.
17 (k) Financial plan (monthly for first year; quarterly
18 for next 3 years).
19 (l) Proposed authority offering--financing,
20 capitalization, use of funds.
21
22 ~~A final report containing the recommendations and business~~
23 ~~plan of the authority shall be completed and submitted prior~~
24 ~~to the 1990 Regular Session of the Legislature, along with any~~
25 ~~proposed statutory changes and related legislative budget~~
26 ~~requests required to implement the business plan, to the~~
27 ~~Governor, the President of the Senate, the Speaker of the~~
28 ~~House of Representatives, the minority leader of the Senate,~~
29 ~~and the minority leader of the House of Representatives.~~
30
31

1 Reviser's note.--Amended to delete a provision
2 that has served its purpose.

3
4 Section 118. Subsection (2) of section 331.308,
5 Florida Statutes, is amended to read:

6 331.308 Board of supervisors.--

7 (2) ~~Initially, the Governor shall appoint four regular~~
8 ~~members for terms of 3 years or until successors are appointed~~
9 ~~and qualified and three regular members for terms of 4 years~~
10 ~~or until successors are appointed and qualified. Thereafter,~~
11 ~~Each such member shall serve a term of 4 years or until a~~
12 ~~successor is appointed and qualified. The term of each such~~
13 ~~member shall be construed to commence on the date of~~
14 ~~appointment and to terminate on June 30 of the year of the end~~
15 ~~of the term. The terms for such members initially appointed~~
16 ~~shall be construed to include the time between initial~~
17 ~~appointment and June 30, 1992, for those appointed for 3-year~~
18 ~~terms, and June 30, 1993, for those appointed for 4-year~~
19 ~~terms. No such member shall be allowed to serve an initial~~
20 ~~3-year term or fill any vacancy for the remainder of a term~~
21 ~~for less than 4 years. Appointment to the board shall not~~
22 ~~preclude any such member from holding any other private or~~
23 ~~public position.~~

24
25 Reviser's note.--Amended to delete provisions
26 that have served their purpose.

27
28 Section 119. Paragraph (d) of subsection (25) of
29 section 334.03, Florida Statutes, is amended to read:

30 334.03 Definitions.--When used in the Florida
31 Transportation Code, the term:

1 (25) "State Highway System" means the following, which
2 shall be facilities to which access is regulated:

3 (d) The urban minor arterial mileage on the existing
4 State Highway System as of July 1, 1987, plus additional
5 mileage to comply with the 2-percent requirement as described
6 below. ~~These urban minor arterial routes shall be selected in~~
7 ~~accordance with s. 335.04(1)(a) and (b).~~

8
9 However, not less than 2 percent of the public road mileage of
10 each urbanized area on record as of June 30, 1986, shall be
11 included as minor arterials in the State Highway System.
12 Urbanized areas not meeting the foregoing minimum requirement
13 shall have transferred to the State Highway System additional
14 minor arterials of the highest significance in which case the
15 total minor arterials in the State Highway System from any
16 urbanized area shall not exceed 2.5 percent of that area's
17 total public urban road mileage.

18
19 Reviser's note.--Amended to conform to the
20 repeal of s. 335.04 by s. 35, ch. 95-257, Laws
21 of Florida.

22
23 Section 120. Section 336.01, Florida Statutes, is
24 amended to read:

25 336.01 Designation of county road system.--The county
26 road system shall be as defined in s. 334.03(8)~~334.03(7)~~.

27
28 Reviser's note.--Amended to conform to the
29 redesignation of s. 334.03(7) as s. 334.03(8)
30 by s. 2, ch. 93-164, Laws of Florida.

31

1 Section 121. Section 337.023, Florida Statutes, is
2 amended to read:

3 337.023 Sale of building; acceptance of replacement
4 building.--Notwithstanding the provisions of s. 216.292(5)(b)
5 ~~216.292(4)(b)~~, if the department sells a building, the
6 department may accept the construction of a replacement
7 building, in response to a request for proposals, totally or
8 partially in lieu of cash, and may do so without a specific
9 legislative appropriation. Such action is subject to the
10 approval of the Executive Office of the Governor, and is
11 subject to the notice, review, and objection procedures under
12 s. 216.177. The replacement building shall be consistent with
13 the current and projected needs of the department as agreed
14 upon by the department and the Department of Management
15 Services.

16
17 Reviser's note.--Amended to conform to the
18 redesignation of s. 216.292(4)(b) as s.
19 216.292(5)(b) by s. 9, ch. 98-73, Laws of
20 Florida.

21
22 Section 122. Subsection (2) of section 337.407,
23 Florida Statutes, is amended to read:

24 337.407 Regulation of signs and lights within
25 rights-of-way.--

26 (2) The department has the authority to direct removal
27 of any sign erected in violation of subsection (1) paragraph
28 ~~(a)~~, in accordance with the provisions of chapter 479.

29
30 Reviser's note.--Amended to conform to the
31 redesignation of subunits of s. 337.407

1 necessitated by the repeal of former subsection
2 (2) by s. 62, ch. 94-237, Laws of Florida.

3
4 Section 123. Section 338.22, Florida Statutes, is
5 amended to read:

6 338.22 Florida Turnpike Law; short title.--Sections
7 338.22-338.241 ~~338.22-338.244~~ may be cited as the "Florida
8 Turnpike Law."

9
10 Reviser's note.--Amended to conform to the
11 repeal of s. 338.244 by s. 8, ch. 94-237, Laws
12 of Florida.

13
14 Section 124. Section 338.221, Florida Statutes, is
15 amended to read:

16 338.221 Definitions of terms used in ss.
17 338.22-338.241 ~~338.22-338.244~~.--As used in ss. 338.22-338.241
18 ~~338.22-338.244~~, the following words and terms have the
19 following meanings, unless the context indicates another or
20 different meaning or intent:

21 (1) "Bonds" or "revenue bonds" means notes, bonds,
22 refunding bonds or other evidences of indebtedness or
23 obligations, in either temporary or definitive form, issued by
24 the Division of Bond Finance on behalf of the department and
25 authorized under the provisions of ss. 338.22-338.241
26 ~~338.22-338.244~~ and the State Bond Act.

27 (2) "Cost," as applied to a turnpike project, includes
28 the cost of acquisition of all land, rights-of-way, property,
29 easements, and interests acquired by the department for
30 turnpike project construction; the cost of such construction;
31 the cost of all machinery and equipment, financing charges,

1 fees, and expenses related to the financing; establishment of
2 reserves to secure bonds; interest prior to and during
3 construction and for such period after completion of
4 construction as shall be determined by the department; the
5 cost of traffic estimates and of engineering and legal
6 expenses, plans, specifications, surveys, estimates of cost
7 and revenues; other expenses necessary or incident to
8 determining the feasibility or practicability of acquiring or
9 constructing any such turnpike project; administrative
10 expenses; and such other expenses as may be necessary or
11 incident to the acquisition or construction of a turnpike
12 project, the financing of such acquisition or construction,
13 and the placing of the turnpike project in operation.

14 (3) "Feeder road" means any road no more than 5 miles
15 in length, connecting to the turnpike system which the
16 department determines is necessary to create or facilitate
17 access to a turnpike project.

18 (4) "Owner" includes any person or any governmental
19 entity that has title to, or an interest in, any property,
20 right, easement, or interest authorized to be acquired
21 pursuant to ss. 338.22-338.241 ~~338.22-338.244~~.

22 (5) "Revenues" means all tolls, charges, rentals,
23 gifts, grants, moneys, and other funds coming into the
24 possession, or under the control, of the department by virtue
25 of the provisions hereof, except the proceeds from the sale of
26 bonds issued under ss. 338.22-338.241 ~~338.22-338.244~~.

27 (6) "Turnpike system" means those limited access toll
28 highways and associated feeder roads and other structures,
29 appurtenances, or rights previously designated, acquired, or
30 constructed pursuant to the Florida Turnpike Law and such
31

1 other additional turnpike projects as may be acquired or
2 constructed as approved by the Legislature.

3 (7) "Turnpike improvement" means any betterment
4 necessary or desirable for the operation of the turnpike
5 system, including, but not limited to, widenings, the addition
6 of interchanges to the existing turnpike system, resurfacings,
7 toll plazas, machinery, and equipment.

8 (8) "Economically feasible" means:

9 (a) For a proposed turnpike project, that, as
10 determined by the department before the issuance of revenue
11 bonds for the project, the estimated net revenues of the
12 proposed turnpike project, excluding feeder roads and turnpike
13 improvements, will be sufficient to pay at least 50 percent of
14 the debt service on the bonds by the end of the 5th year of
15 operation and to pay at least 100 percent of the debt service
16 on the bonds by the end of the 15th year of operation. In
17 implementing this paragraph ~~subparagraph~~, up to 50 percent of
18 the adopted work program costs of the project may be funded
19 from turnpike revenues.

20 (b) For turnpike projects, except for feeder roads and
21 turnpike improvements, financed from revenues of the turnpike
22 system, such project, or such group of projects, originally
23 financed from revenues of the turnpike system, that the
24 project is expected to generate sufficient revenues to
25 amortize project costs within 15 years of opening to traffic.

26
27 This subsection does not prohibit the pledging of revenues
28 from the entire turnpike system to bonds issued to finance or
29 refinance a turnpike project or group of turnpike projects.

30 (9) "Turnpike project" means any extension to or
31 expansion of the existing turnpike system and new limited

1 access toll highways and associated feeder roads and other
2 structures, interchanges, appurtenances, or rights as may be
3 approved in accordance with the Florida Turnpike Law.

4 (10) "Statement of environmental feasibility" means a
5 statement by the Department of Environmental Protection of the
6 project's significant environmental impacts.

7
8 Reviser's note.--The introductory paragraph and
9 subsections (1), (4), and (5) are amended to
10 conform to the repeal of s. 338.244 by s. 8,
11 ch. 94-237, Laws of Florida. Paragraph (8)(a)
12 is amended to conform to the correct citation
13 to the referenced material.

14
15 Section 125. Subsection (2) of section 338.222,
16 Florida Statutes, is amended to read:

17 338.222 Department of Transportation sole governmental
18 entity to acquire, construct, or operate turnpike projects;
19 exception.--

20 (2) The department may contract with any local
21 governmental entity as defined in s. 334.03(14)~~334.03(13)~~ for
22 the design, right-of-way acquisition, or construction of any
23 turnpike project which the Legislature has approved. Local
24 governmental entities may negotiate with the department for
25 the design, right-of-way acquisition, and construction of any
26 section of the turnpike project within areas of their
27 respective jurisdictions or within counties with which they
28 have interlocal agreements.

29
30
31

1 Reviser's note.--Amended to conform to the
2 redesignation of s. 334.03(13) as s. 334.03(14)
3 by s. 2, ch. 93-164, Laws of Florida.

4
5 Section 126. Paragraph (b) of subsection (1) and
6 subsection (3) of section 338.223, Florida Statutes, are
7 amended to read:

8 338.223 Proposed turnpike projects.--

9 (1)

10 (b) Any proposed turnpike project or improvement shall
11 be developed in accordance with the Florida Transportation
12 Plan and the work program pursuant to s. 339.135. Turnpike
13 projects that add capacity, alter access, affect feeder roads,
14 or affect the operation of the local transportation system
15 shall be included in the transportation improvement plan of
16 the affected metropolitan planning organization. If such
17 turnpike project does not fall within the jurisdiction of a
18 metropolitan planning organization, the department shall
19 notify the affected county and provide for public hearings in
20 accordance with s. 339.155(6)(c)~~339.155(7)(c)~~.

21
22 After a review of the department's report and any public
23 comments, the Department of Environmental Protection shall
24 submit a statement of environmental feasibility to the
25 department within 30 days after the date on which public
26 comments are due. The notice and the statement of
27 environmental feasibility shall not give rise to any rights to
28 a hearing or other rights or remedies provided pursuant to
29 chapter 120 or chapter 403, and shall not bind the Department
30 of Environmental Protection in any subsequent environmental
31 permit review.

1 (3) All obligations and expenses incurred by the
2 department under this section shall be paid by the department
3 and charged to the appropriate turnpike project. The
4 department shall keep proper records and accounts showing each
5 amount that is so charged. All obligations and expenses so
6 incurred shall be treated as part of the cost of such project
7 and shall be reimbursed to the department out of turnpike
8 revenues or out of the bonds authorized under ss.
9 338.22-338.241 ~~338.22-338.244~~ except when such reimbursement
10 is prohibited by state or federal law.

11
12 Reviser's note.--Paragraph (1)(b) is amended to
13 conform to the redesignation of s.
14 339.155(7)(c) as s. 339.155(6)(c) by s. 3, ch.
15 93-164, Laws of Florida. Subsection (3) is
16 amended to conform to the repeal of s. 338.244
17 by s. 8, ch. 94-237, Laws of Florida.

18
19 Section 127. Section 338.225, Florida Statutes, is
20 amended to read:

21 338.225 Taking of public road for feeder road.--Before
22 taking over any existing public road for maintenance and
23 operation as a feeder road, the department shall obtain the
24 consent of the governmental entity then exercising
25 jurisdiction over the road, which governmental entity is
26 authorized to give such consent by resolution. Each feeder
27 road or portion of a feeder road acquired, constructed, or
28 taken over under this section for maintenance and operation
29 shall, for all purposes of ss. 338.22-338.241 ~~338.22-338.244~~,
30 be deemed to constitute a part of the turnpike system, except
31

1 that no toll shall be charged for transit between points on
2 such feeder road.

3

4 Reviser's note.--Amended to conform to the
5 repeal of s. 338.244 by s. 8, ch. 94-237, Laws
6 of Florida.

7

8 Section 128. Subsection (2) of section 338.227,
9 Florida Statutes, is amended to read:

10 338.227 Turnpike revenue bonds.--

11 (2) The proceeds of the bonds of each issue shall be
12 used solely for the payment of the cost of the turnpike
13 projects for which such bonds shall have been issued, except
14 as provided in the State Bond Act. Such proceeds shall be
15 disbursed and used as provided by ss. 338.22-338.241
16 ~~338.22-338.244~~ and in such manner and under such restrictions,
17 if any, as the Division of Bond Finance may provide in the
18 resolution authorizing the issuance of such bonds or in the
19 trust agreement hereinafter mentioned securing the same. All
20 revenues and bond proceeds from the turnpike system received
21 by the department pursuant to ss. 338.22-338.241
22 ~~338.22-338.244~~, the Florida Turnpike Law, shall be used only
23 for the cost of turnpike projects and turnpike improvements
24 and for the administration, operation, maintenance, and
25 financing of the turnpike system. No revenues or bond proceeds
26 from the turnpike system shall be spent for the operation,
27 maintenance, construction, or financing of any project which
28 is not part of the turnpike system.

29

30

31

1 Reviser's note.--Amended to conform to the
2 repeal of s. 338.244 by s. 8, ch. 94-237, Laws
3 of Florida.

4
5 Section 129. Section 338.228, Florida Statutes, is
6 amended to read:

7 338.228 Bonds not debts or pledges of credit of
8 state.--Turnpike revenue bonds issued under the provisions of
9 ss. 338.22-338.241 ~~338.22-338.244~~ are not debts of the state
10 or pledges of the faith and credit of the state. Such bonds
11 are payable exclusively from revenues pledged for their
12 payment. All such bonds shall contain a statement on their
13 face that the state is not obligated to pay the same or the
14 interest thereon, except from the revenues pledged for their
15 payment, and that the faith and credit of the state is not
16 pledged to the payment of the principal or interest of such
17 bonds. The issuance of turnpike revenue bonds under the
18 provisions of ss. 338.22-338.241 ~~338.22-338.244~~ does not
19 directly, indirectly, or contingently obligate the state to
20 levy or to pledge any form of taxation whatsoever, or to make
21 any appropriation for their payment. Except as provided in
22 ss. 338.001, 338.223, and 338.2275, no state funds shall be
23 used on any turnpike project or to pay the principal or
24 interest of any bonds issued to finance or refinance any
25 portion of the turnpike system, and all such bonds shall
26 contain a statement on their face to this effect.

27
28 Reviser's note.--Amended to conform to the
29 repeal of s. 338.244 by s. 8, ch. 94-237, Laws
30 of Florida.

31

1 Section 130. Section 338.229, Florida Statutes, is
2 amended to read:

3 338.229 Pledge to bondholders not to restrict certain
4 rights of department.--The state does pledge to, and agree
5 with, the holders of the bonds issued pursuant to ss.
6 338.22-338.241 ~~338.22-338.244~~ that the state will not limit or
7 restrict the rights vested in the department to construct,
8 reconstruct, maintain, and operate any turnpike project as
9 defined in ss. 338.22-338.241 ~~338.22-338.244~~ or to establish
10 and collect such tolls or other charges as may be convenient
11 or necessary to produce sufficient revenues to meet the
12 expenses of maintenance and operation of the turnpike system
13 and to fulfill the terms of any agreements made with the
14 holders of bonds authorized by this act and that the state
15 will not in any way impair the rights or remedies of the
16 holders of such bonds until the bonds, together with interest
17 on the bonds, are fully paid and discharged.

18
19 Reviser's note.--Amended to conform to the
20 repeal of s. 338.244 by s. 8, ch. 94-237, Laws
21 of Florida.

22
23 Section 131. Subsections (6) and (7) of section
24 338.231, Florida Statutes, are amended to read:

25 338.231 Turnpike tolls, fixing; pledge of tolls and
26 other revenues.--The department shall at all times fix,
27 adjust, charge, and collect such tolls for the use of the
28 turnpike system as are required in order to provide a fund
29 sufficient with other revenues of the turnpike system to pay
30 the cost of maintaining, improving, repairing, and operating
31 such turnpike system; to pay the principal of and interest on

1 all bonds issued to finance or refinance any portion of the
2 turnpike system as the same become due and payable; and to
3 create reserves for all such purposes.

4 (6) In each fiscal year while any of the bonds of the
5 Broward County Expressway Authority series 1984 and series
6 1986-A remain outstanding, the department is authorized to
7 pledge revenues from the turnpike system to the payment of
8 principal and interest of such series of bonds, the repayment
9 of Broward County gasoline tax funds as provided in s.
10 338.2275(3)~~338.2275(4)~~, and the operation and maintenance
11 expenses of the Sawgrass Expressway, to the extent gross toll
12 revenues of the Sawgrass Expressway are insufficient to make
13 such payments. The terms of an agreement relative to the
14 pledge of turnpike system revenue will be negotiated with the
15 parties of the 1984 and 1986 Broward County Expressway
16 Authority lease-purchase agreements, and subject to the
17 covenants of those agreements. The agreement shall establish
18 that the Sawgrass Expressway shall be subject to the planning,
19 management, and operating control of the department limited
20 only by the terms of the lease-purchase agreements. The
21 department shall provide for the payment of operation and
22 maintenance expenses of the Sawgrass Expressway until such
23 agreement is in effect. This pledge of turnpike system
24 revenues shall be subordinate to the debt service requirements
25 of any future issue of turnpike bonds, the payment of turnpike
26 system operation and maintenance expenses, and subject to
27 provisions of any subsequent resolution or trust indenture
28 relating to the issuance of such turnpike bonds.

29 (7) The use and disposition of revenues pledged to
30 bonds are subject to the provisions of ss. 338.22-338.241
31 ~~338.22-338.244~~ and such regulations as the resolution

1 authorizing the issuance of such bonds or such trust agreement
2 may provide.

3

4 Reviser's note.--Subsection (6) is amended to
5 conform to the redesignation of s. 338.2275(4)
6 as s. 338.2275(3) by s. 20, ch. 97-280, Laws of
7 Florida. Subsection (7) is amended to conform
8 to the repeal of s. 338.244 by s. 8, ch.
9 94-237, Laws of Florida.

10

11 Section 132. Section 338.232, Florida Statutes, is
12 amended to read:

13 338.232 Continuation of tolls upon provision for
14 payment of bondholders and assumption of maintenance by
15 department.--When all revenue bonds issued under the
16 provisions of ss. 338.22-338.241 ~~338.22-338.244~~ in connection
17 with the turnpike system and the interest on the bonds have
18 been paid, or an amount sufficient to provide for the payment
19 of all such bonds and the interest on the bonds to the
20 maturity of the bonds, or such earlier date on which the bonds
21 may be called, has been set aside in trust for the benefit of
22 the bondholders, the department may assume the maintenance of
23 the turnpike system as part of the State Highway System,
24 except that the turnpike system shall remain subject to
25 sufficient tolls to pay the cost of the maintenance, repair,
26 improvement, and operation of the system and the construction
27 of turnpike projects.

28

29 Reviser's note.--Amended to conform to the
30 repeal of s. 338.244 by s. 8, ch. 94-237, Laws
31 of Florida.

1 Section 133. Section 338.239, Florida Statutes, is
2 amended to read:

3 338.239 Traffic control on the turnpike system.--

4 (1) The department is authorized to adopt rules with
5 respect to the use of the turnpike system, which rules must
6 relate to vehicular speeds, loads and dimensions, safety
7 devices, rules of the road, and other matters necessary to
8 carry out the purposes of ss. 338.22-338.241 ~~338.22-338.244~~.
9 Insofar as these rules may be inconsistent with the provisions
10 of chapter 316, the rules control. A violation of these rules
11 must be punished pursuant to chapters 316 and 318.

12 (2) Members of the Florida Highway Patrol are vested
13 with the power, and charged with the duty, to enforce the
14 rules of the department. Expenses incurred by the Florida
15 Highway Patrol in carrying out its powers and duties under ss.
16 338.22-338.241 ~~338.22-338.244~~ may be treated as a part of the
17 cost of the operation of the turnpike system, and the
18 Department of Highway Safety and Motor Vehicles shall be
19 reimbursed by the Department of Transportation for such
20 expenses incurred on the turnpike mainline, which is that part
21 of the turnpike system extending from the southern terminus in
22 Florida City to the northern terminus in Wildwood including
23 all contiguous sections.

24
25 Reviser's note.--Amended to conform to the
26 repeal of s. 338.244 by s. 8, ch. 94-237, Laws
27 of Florida.

28
29 Section 134. Paragraph (b) of subsection (2) of
30 section 339.0805, Florida Statutes, 1998 Supplement, is
31 amended to read:

1 339.0805 Funds to be expended with certified
2 disadvantaged business enterprises; specified percentage to be
3 expended; construction management development program; bond
4 guarantee program.--It is the policy of the state to
5 meaningfully assist socially and economically disadvantaged
6 business enterprises through a program that will provide for
7 the development of skills through construction and business
8 management training, as well as by providing contracting
9 opportunities and financial assistance in the form of bond
10 guarantees, to primarily remedy the effects of past economic
11 disparity.

12 (2) The department shall revoke the certification of a
13 disadvantaged business enterprise upon receipt of notification
14 of any change in ownership which results in the disadvantaged
15 individual or individuals used to qualify the business as a
16 disadvantaged business enterprise, no longer owning at least
17 51 percent of the business enterprise. Such notification shall
18 be made to the department by certified mail within 10 days
19 after the change in ownership, and such business shall be
20 removed from the certified disadvantaged business list until a
21 new application is submitted and approved by the department.
22 Failure to notify the department of the change in the
23 ownership which qualifies the business as a disadvantaged
24 business enterprise will result in revocation of certification
25 and subject the business to the provisions of s. 337.135. In
26 addition, the department may, for good cause, deny or suspend
27 the certification of a disadvantaged business enterprise. As
28 used in this subsection, the term "good cause" includes, but
29 is not limited to, the disadvantaged business enterprise:

30
31

1 (b) Making a false, deceptive, or fraudulent statement
2 in it its application for certification or in any other
3 information submitted to the department;

4
5 Reviser's note.--Amended to improve clarity and
6 facilitate correct interpretation.

7
8 Section 135. Paragraph (e) of subsection (7) of
9 section 339.135, Florida Statutes, is amended to read:

10 339.135 Work program; legislative budget request;
11 definitions; preparation, adoption, execution, and
12 amendment.--

13 (7) AMENDMENT OF THE ADOPTED WORK PROGRAM.--

14 (e) Notwithstanding the requirements in paragraph (d)
15 and ss. 216.177(2) and 216.351, the secretary may request the
16 Executive Office of the Governor to amend the adopted work
17 program when an emergency exists, as defined in s. 252.34(3)
18 ~~252.34(2)~~, and the emergency relates to the repair or
19 rehabilitation of any state transportation facility. The
20 Executive Office of the Governor may approve the amendment to
21 the adopted work program and amend that portion of the
22 department's approved budget in the event that the delay
23 incident to the notification requirements in paragraph (d)
24 would be detrimental to the interests of the state. However,
25 the department shall immediately notify the parties specified
26 in paragraph (d) and shall provide such parties written
27 justification for the emergency action within 7 days of the
28 approval by the Executive Office of the Governor of the
29 amendment to the adopted work program and the department's
30 budget. In no event may the adopted work program be amended
31 under the provisions of this subsection without the

1 certification by the comptroller of the department that there
2 are sufficient funds available pursuant to the 36-month cash
3 forecast and applicable statutes.

4
5 Reviser's note.--Amended to conform to the
6 redesignation of s. 252.34(2) as s. 252.34(3)
7 by s. 10, ch. 93-211, Laws of Florida.

8
9 Section 136. Subsection (5) of section 341.051,
10 Florida Statutes, is reenacted and amended to read:

11 341.051 Administration and financing of public transit
12 programs and projects.--

13 (5) FUND PARTICIPATION; CAPITAL ASSISTANCE.--

14 (a) The department may fund up to 50 percent of the
15 nonfederal share of the costs, not to exceed the local share,
16 of any eligible public transit capital project or commuter
17 assistance project that is local in scope; except, however,
18 that departmental participation in the final design,
19 right-of-way acquisition, and construction phases of an
20 individual fixed-guideway project which is not approved for
21 federal funding shall not exceed an amount equal to 12.5
22 percent of the total cost of each phase.

23 (b) The Department of Transportation shall develop a
24 major capital investment policy which shall include policy
25 criteria and guidelines for the expenditure or commitment of
26 state funds for public transit capital projects. The policy
27 shall include the following:

28 1. Methods to be used to determine consistency of a
29 transit project with the approved local government
30 comprehensive plans of the units of local government in which
31 the project is located.

1 2. Methods for evaluating the level of local
2 commitment to a transit project, which is to be demonstrated
3 through system planning and the development of a feasible plan
4 to fund operating cost through fares, value capture techniques
5 such as joint development and special districts, or other
6 local funding mechanisms.

7 3. Methods for evaluating alternative transit systems
8 including an analysis of technology and alternative methods
9 for providing transit services in the corridor.

10

11 ~~The department shall present such investment policy to both~~
12 ~~the Senate Transportation Committee and the House Public~~
13 ~~Transportation Committee along with recommended legislation by~~
14 ~~March 1, 1991.~~

15 (c) The department is authorized to fund up to 100
16 percent of the cost of any eligible transit capital project or
17 commuter assistance project that is statewide in scope or
18 involves more than one county where no other governmental
19 entity or appropriate jurisdiction exists.

20 (d) The department is authorized to advance up to 80
21 percent of the capital cost of any eligible project that will
22 assist Florida's transit systems in becoming fiscally
23 self-sufficient. Such advances shall be reimbursed to the
24 department on an appropriate schedule not to exceed 5 years
25 after the date of provision of the advances.

26 (e) The department is authorized to fund up to 100
27 percent of the capital and net operating costs of statewide
28 transit service development projects or transit corridor
29 projects. All transit service development projects shall be
30 specifically identified by way of a departmental appropriation
31 request, and transit corridor projects shall be identified as

1 part of the planned improvements on each transportation
2 corridor designated by the department. The project
3 objectives, the assigned operational and financial
4 responsibilities, the timeframe required to develop the
5 required service, and the criteria by which the success of the
6 project will be judged shall be documented by the department
7 for each such transit service development project or transit
8 corridor project.

9 (f) The department is authorized to fund up to 50
10 percent of the capital and net operating costs of transit
11 service development projects that are local in scope and that
12 will improve system efficiencies, ridership, or revenues. All
13 such projects shall be identified in the appropriation request
14 of the department through a specific program of projects, as
15 provided for in s. 341.041, that is selectively applied in the
16 following functional areas and is subject to the specified
17 times of duration:

18 1. Improving system operations, including, but not
19 limited to, realigning route structures, increasing system
20 average speed, decreasing deadhead mileage, expanding area
21 coverage, and improving schedule adherence, for a period of up
22 to 3 years;

23 2. Improving system maintenance procedures, including,
24 but not limited to, effective preventive maintenance programs,
25 improved mechanics training programs, decreasing service
26 repair calls, decreasing parts inventory requirements, and
27 decreasing equipment downtime, for a period of up to 3 years;

28 3. Improving marketing and consumer information
29 programs, including, but not limited to, automated information
30 services, organized advertising and promotion programs, and
31

1 signing of designated stops, for a period of up to 2 years;
2 and

3 4. Improving technology involved in overall
4 operations, including, but not limited to, transit equipment,
5 fare collection techniques, electronic data processing
6 applications, and bus locators, for a period of up to 2 years.
7

8 The term "net operating costs" means all operating costs of a
9 project less any federal funds, fares, or other sources of
10 income to the project.

11
12 Reviser's note.--Section 57, ch. 95-257, Laws
13 of Florida, purported to amend paragraphs
14 (5)(a) and (c) of s. 341.051, but did not set
15 out in full the amended material to include the
16 flush left language at the end of the
17 subsection. In the absence of affirmative
18 evidence that the Legislature intended to
19 repeal the omitted material, subsection (5) is
20 reenacted to confirm that the omission was not
21 intended. Subsection (5) is also amended to
22 delete a provision that has served its purpose.
23

24 Section 137. Subsection (1) of section 341.321,
25 Florida Statutes, is amended to read:

26 341.321 Development of high-speed rail transportation
27 system; legislative findings, policy, purpose, and intent.--

28 (1) The intent of ss. 341.3201-341.386 is to further
29 and advance the goals and purposes of the 1984 High Speed Rail
30 Transportation Commission Act; to ensure a harmonious
31 relationship between that act and the various growth

1 management laws enacted by the Legislature including the Local
2 Government Comprehensive Planning and Land Development
3 Regulation Act, ss. 163.3161-163.3215 ~~163.3616-363.3215~~, the
4 Florida State Comprehensive Planning Act of 1972, as amended,
5 ss. 186.001-186.031 ~~186.011-186.031~~, the Florida Regional
6 Planning Council Act, ss. 186.501-186.513 ~~186.501-186.512~~, and
7 the State Comprehensive Plan, chapter 187; to promote the
8 implementation of these acts in an effective manner; and to
9 encourage and enhance the establishment of a high-speed rail
10 transportation system connecting the major urban areas of the
11 state as expeditiously as is economically feasible.

12 Furthermore, it is the intent of the Legislature that any
13 high-speed rail line and transit station be consistent to the
14 maximum extent feasible with local comprehensive plans, and
15 that any other development associated with the rail line and
16 transit station shall ultimately be consistent with
17 comprehensive plans. The Legislature therefore reaffirms these
18 enactments and further finds:

19 (a) That the implementation of a high-speed rail
20 transportation system in the state will result in overall
21 social and environmental benefits, improvements in ambient air
22 quality, better protection of water quality, greater
23 preservation of wildlife habitat, less use of open space, and
24 enhanced conservation of natural resources and energy.

25 (b) That a high-speed rail transportation system, when
26 used in conjunction with sound land use planning, becomes a
27 vigorous force in achieving growth management goals and in
28 encouraging the use of public transportation to augment and
29 implement land use and growth management goals and objectives.

30 (c) That urban and social benefits include
31 revitalization of blighted or economically depressed areas,

1 the redirection of growth in a carefully and comprehensively
2 planned manner, and the creation of numerous employment
3 opportunities within inner-city areas.

4 (d) That transportation benefits include improved
5 travel times and more reliable travel, hence increased
6 productivity. High-speed rail is far safer than other modes of
7 transportation and, therefore, travel-related deaths and
8 injuries can be reduced, and millions of dollars can be saved
9 from avoided accidents.

10

11 Reviser's note.--Amended to conform to the
12 correct citations to the referenced acts.

13

14 Section 138. Paragraph (c) of subsection (2) of
15 section 348.0005, Florida Statutes, is amended to read:

16 348.0005 Bonds.--

17 (2)

18 (c) Said bonds shall be sold by the authority at
19 public sale by competitive bid. However, if the authority,
20 after receipt of a written recommendation from a financial
21 adviser, shall determine by official action after public
22 hearing by a two-thirds vote of all voting members of the
23 authority that a negotiated sale of the bonds is in the best
24 interest of the authority, the authority may negotiate for
25 sale of the bonds with the underwriter or underwriters
26 designated by the authority and the county in which the
27 authority exists. The authority shall provide specific
28 findings in a resolution as to the reasons requiring the
29 negotiated sale, which resolution shall incorporate and have
30 attached thereto the written recommendation of the financial
31 adviser required by this subsection~~(4)~~.

1 Reviser's note.--Amended to facilitate correct
2 interpretation. There is no subsection (4).

3

4 Section 139. Paragraph (a) of subsection (2) of
5 section 348.242, Florida Statutes, is amended to read:

6 348.242 Broward County Expressway Authority.--

7 (2) The governing body of the authority shall consist
8 of five members. Each member of the governing body shall be a
9 permanent resident of Broward County at all times during his
10 or her term of office.

11 (a) Two members shall be appointed by the Governor,
12 subject to confirmation by the Senate, and three members shall
13 be appointed by the Board of County Commissioners of Broward
14 County. Not more than one of the members appointed by the
15 board of county commissioners may be a member of that board.
16 One of the two members appointed by the Governor must be an
17 elected municipal official, and the other member may not be an
18 officeholder. The members appointed by the Governor shall
19 serve terms of 4 years. If the member appointed by the
20 Governor does not remain in elected municipal office, that
21 member's seat shall become vacant. ~~Initially, two members of~~
22 ~~the authority appointed by the Board of County Commissioners~~
23 ~~of Broward County shall serve terms of 2 years, and one member~~
24 ~~so appointed shall serve a term of 4 years; thereafter, The~~
25 term of each appointed member shall be for 4 years. A vacancy
26 occurring during a term shall be filled by the original
27 appointing authority only for the balance of the unexpired
28 term. Any member of the authority is eligible for
29 reappointment. Members appointed by the Board of County
30 Commissioners of Broward County shall be reviewed annually by
31 the board.

1 Reviser's note.--Amended to delete provisions
2 that have served their purpose.

3
4 Section 140. Section 349.21, Florida Statutes, is
5 amended to read:

6 349.21 Powers conferred by ~~part VI, chapter 163, and~~
7 ~~by~~ s. 212.055(1).--Notwithstanding any other provision of law,
8 any transportation authority created by this chapter shall
9 have all the powers conferred by ~~part VI of chapter 163 and by~~
10 s. 212.055(1). The revenues provided by this section shall be
11 used to pay principal and interest on bonds for which tolls
12 have been pledged. The powers provided by this section shall
13 expire when all such bonds in existence on the effective date
14 of this act have been retired.

15
16 Reviser's note.--Amended to conform to the
17 repeal by s. 105, ch. 90-136, Laws of Florida,
18 of the provisions formerly contained in part VI
19 of chapter 163, redesignated as part VII when a
20 new part IV was added by ch. 87-243, Laws of
21 Florida.

22
23 Section 141. Subsection (3) of section 350.031,
24 Florida Statutes, 1998 Supplement, is amended to read:

25 350.031 Florida Public Service Commission Nominating
26 Council.--

27 (3) A majority of the membership of the council may
28 conduct any business before the council. All meetings and
29 proceedings of the council shall be staffed by the Office of
30 Legislative Services and shall be subject to the provisions of
31 ss. 119.07 and 286.011. Members of the council are entitled

1 to receive per diem and travel expenses as provided in s.
2 112.061, which shall be funded by the Florida Public Service
3 Regulatory Trust Fund. Applicants invited for interviews
4 before the council may, in the discretion of the council,
5 receive per diem and travel expenses as provided in s. 112.061
6 ~~112.06~~, which shall be funded by the Florida Public Service
7 Regulatory Trust Fund. The council shall establish policies
8 and procedures to govern the process by which applicants are
9 nominated.

10

11 Reviser's note.--Amended to facilitate correct
12 interpretation. Provisions relating to per diem
13 and travel expenses are in s. 112.061.

14

15 Section 142. Subsection (3) of section 350.0605,
16 Florida Statutes, is amended to read:

17 350.0605 Former commissioners and employees;
18 representation of clients before commission.--

19 (3) For a period of 2 years following termination of
20 service on the commission, a former member may not accept
21 employment by or compensation from a business entity which,
22 directly or indirectly, owns or controls a public utility
23 regulated by the commission, from a public utility regulated
24 by the commission, from a business entity which, directly or
25 indirectly, is an affiliate or subsidiary of a public utility
26 regulated by the commission or is an actual business
27 competitor of a local exchange company or public utility
28 regulated by the commission and is otherwise exempt from
29 regulation by the commission under ss. 364.02(12)~~364.02(7)~~
30 and 366.02(1), or from a business entity or trade association
31 that has been a party to a commission proceeding within the 2

1 years preceding the member's termination of service on the
2 commission. This subsection applies only to members of the
3 Florida Public Service Commission who are appointed or
4 reappointed after May 10, 1993.

5
6 Reviser's note.--Amended to conform to the
7 redesignation of s. 364.02(7) as s. 364.02(12)
8 by s. 6, ch. 95-403, Laws of Florida.

9
10 Section 143. Effective October 1, 2002, sections
11 351.03, 351.034, 351.35, 351.36, and 351.37, Florida Statutes,
12 are reenacted to read:

13 351.03 Railroad-highway grade-crossing warning signs
14 and signals; audible warnings; exercise of reasonable care;
15 blocking highways, roads, and streets during darkness.--

16 (1) Every railroad company shall exercise reasonable
17 care for the safety of motorists whenever its track crosses a
18 highway and shall be responsible for erecting and maintaining
19 crossbuck grade-crossing warning signs in accordance with the
20 uniform system of traffic control devices adopted pursuant to
21 s. 316.0745. Such crossbuck signs shall be erected and
22 maintained at all public or private railroad-highway grade
23 crossings.

24 (2) Advance railroad warning signs and pavement
25 markings shall be installed and maintained at public
26 railroad-highway grade crossings in accordance with the
27 uniform system of traffic control devices by the governmental
28 entity having jurisdiction over or maintenance responsibility
29 for the highway or street. All persons approaching a
30 railroad-highway grade crossing shall exercise reasonable care
31 for their own safety and for the safety of railroad train

1 crews as well as for the safety of train or vehicle
2 passengers.

3 (3) Except as provided in subsection (4), any railroad
4 train approaching within 1,500 feet of a public
5 railroad-highway grade crossing shall emit a signal audible
6 for such distance.

7 (4)(a) The Department of Transportation and the
8 Federal Railroad Administration may authorize a municipality
9 or county to implement a whistle ban provided the following
10 conditions are met:

11 1. A traffic operations system is implemented to
12 secure railroad-highway grade crossings for the purpose of
13 preventing vehicles from going around, under, or through
14 lowered railroad gates.

15 2. The municipality or county has in effect an
16 ordinance that unconditionally prohibits the sounding of
17 railroad train horns and whistles during the hours of 10 p.m.
18 and 6 a.m. at all public railroad-highway grade crossings
19 within the municipality or county and where the municipality,
20 county, or state has erected signs at the crossing announcing
21 that railroad train horns and whistles may not be sounded
22 during such hours. Signs so erected shall be in conformance
23 with the uniform system of traffic control devices as
24 specified in s. 316.0745.

25 (b) Upon final approval and verification by the
26 department and the Federal Railroad Administration that such
27 traffic operations system meets all state and federal safety
28 and traffic regulations and that such railroad-highway grade
29 crossings can be secured, the municipality or county may pass
30 an ordinance prohibiting the sounding of audible warning
31

1 devices by trains upon approaching such railroad-highway grade
2 crossings between the hours of 10 p.m. and 6 a.m.

3 (c) Nothing in this subsection shall be construed to
4 nullify the liability provisions of s. 768.28.

5 (5)(a) Whenever a railroad train engages in a
6 switching operation or stops so as to block a public highway,
7 street, or road at any time from one-half hour after sunset to
8 one-half hour before sunrise, the crew of the railroad train
9 shall cause to be placed a lighted fusee or other visual
10 warning device in both directions from the railroad train upon
11 or at the edge of the pavement of the highway, street, or road
12 to warn approaching motorists of the railroad train blocking
13 the highway, street, or road. However, this subsection does
14 not apply to railroad-highway grade crossings at which there
15 are automatic warning devices properly functioning or at which
16 there is adequate lighting.

17 (b) A person who violates any provision of paragraph
18 (a) is guilty of a misdemeanor of the second degree,
19 punishable as provided in s. 775.082 or s. 775.083.

20 351.034 Railroad-highway grade crossings to be cleared
21 for emergency vehicles.--Except for trains or equipment
22 stopped due to mechanical failure where separation or movement
23 is not possible, any train or equipment that has come to a
24 complete stop and is blocking a railroad-highway grade
25 crossing must be cut, separated, or moved to clear the
26 crossing upon the approach of any emergency vehicle, which for
27 the purpose of this law shall be:

28 (1) An ambulance operated by public authority or by
29 private persons;

30 (2) A fire engine; or an emergency vehicle operated by
31 power or electric companies; or

1 (3) Any other vehicle when operated as an emergency
2 vehicle, defined as one which is engaged in the saving of
3 life, property, or responding to any other public peril; or

4 (4) Emergency vehicles used as such by the Government
5 of the United States; when upon the approach of such emergency
6 vehicle, such vehicle gives due warning of its approach to
7 such crossing by the sounding of sirens, flashing of lights,
8 waving of flag, or any other warning sufficient to attract
9 attention to such emergency vehicle; and thereupon the said
10 train or equipment shall be cut and said crossing shall be
11 cleared with all possible dispatch to permit the crossing and
12 passing through of said emergency vehicle.

13 351.35 Railroad tracks and related equipment; safety
14 rules; penalties.--

15 (1) The Department of Transportation shall adopt rules
16 requiring companies operating railroads wholly or in part in
17 the state to maintain tracks and all supportive, related
18 equipment, including locomotives and other rolling stock, of
19 such railroad companies within the state in a safe condition.

20 (2) If any company operating a railroad either in
21 whole or in part within the state fails to comply with any
22 rule adopted by the department, such company shall thereby
23 incur a penalty as provided for in applicable federal
24 regulations.

25 351.36 Railroad safety inspections and inspectors.--

26 (1) The Department of Transportation shall employ
27 competent safety inspectors to inspect the physical conditions
28 of the tracks and all supportive, related equipment, including
29 locomotives and other rolling stock, of any railroad operated
30 wholly or in part in the state. Safety inspectors shall
31 attain Federal Railroad Administration employment

1 qualifications necessary to qualify the state for federal
2 funds.

3 (2) The inspectors shall report in writing the results
4 of their inspections in the manner and on forms prescribed by
5 the department.

6 351.37 Railroad safety.--The state shall supplement
7 and not replace the responsibility of the Federal Government
8 in the inspection of physical conditions of railroad
9 facilities within the state to ascertain compliance with
10 federal standards and regulations. Because this is a
11 supplementary program, the state shall not be deemed to be
12 liable for any actions or omissions in inspecting or failing
13 to inspect railroad facilities. The provisions of this act
14 replace all other provisions in the Florida Statutes relating
15 to jurisdiction over railroad safety.

16
17 Reviser's note.--Reenacted to conform to the
18 repeal of the s. 11.61 repeal of ss.
19 351.03-351.37 by s. 4, ch. 91-429, Laws of
20 Florida, and the confirmation of that repeal by
21 s. 33, ch. 96-318, Laws of Florida.

22
23 Section 144. Section 354.01, Florida Statutes, is
24 amended to read:

25 354.01 Appointment of special officers.--Upon the
26 application of any railroad or other common carrier doing
27 business in this state, the Governor shall appoint one or more
28 persons who have met the law enforcement qualifications and
29 training requirements of s. 943.13(1)-(10) as special officers
30 for the protection and safety of such carriers; their
31 passengers and employees; and the property of such carriers,

1 passengers, and employees. ~~Any special officer appointed~~
2 ~~before October 1, 1982, shall meet the training requirements~~
3 ~~no later than October 1, 1985.~~

4
5 Reviser's note.--Amended to delete a provision
6 that has served its purpose.

7
8 Section 145. Effective October 1, 2002, section
9 354.01, Florida Statutes, is reenacted to read:

10 354.01 Appointment of special officers.--Upon the
11 application of any railroad or other common carrier doing
12 business in this state, the Governor shall appoint one or more
13 persons who have met the law enforcement qualifications and
14 training requirements of s. 943.13(1)-(10) as special officers
15 for the protection and safety of such carriers; their
16 passengers and employees; and the property of such carriers,
17 passengers, and employees.

18
19 Reviser's note.--Reenacted to conform to the
20 repeal of the s. 11.61 repeal of s. 354.01 by
21 s. 4, ch. 91-429, Laws of Florida, and the
22 confirmation of that repeal by s. 33, ch.
23 96-318, Laws of Florida.

24
25 Section 146. Effective October 1, 2002, sections
26 354.02, 354.03, 354.04, 354.05, and 354.07, Florida Statutes,
27 are reenacted to read:

28 354.02 Powers.--Each special officer shall have and
29 exercise throughout every county in which the common carrier
30 for which he or she was appointed, shall do business, operate,
31 or own property, the power to make arrests for violation of

1 law on the property of such common carrier, and to arrest
2 persons, whether on or off such carrier's property, violating
3 any law on such carrier's property, under the same conditions
4 under which deputy sheriffs may by law make arrests, and shall
5 have authority to carry weapons for the reasonable purpose of
6 their offices.

7 354.03 Bond.--Before entering into the performance of
8 his or her duties every such special officer shall enter into
9 a good and sufficient bond payable to the Governor of Florida,
10 and the Governor's successors, in the penal sum of \$5,000,
11 with some surety company authorized to do business in this
12 state as surety thereon, conditioned for the faithful
13 performance of his or her duties, and to pay any and all
14 damage done by any illegal act committed by him or her, to be
15 approved by the Department of Banking and Finance.

16 354.04 Compensation.--Such special officers shall not
17 receive any fees or salary from the state or any county, but
18 their compensation shall be agreed upon and paid by the
19 carrier making such application.

20 354.05 Term of office; removal.--The special officers
21 provided for herein shall be commissioned by the Governor, and
22 their commissions shall continue so long as they are employed
23 in such capacity by the railroad or other common carrier; but
24 they shall be removed by the Governor at any time, in the
25 manner and for the causes provided by law.

26 354.07 Suit for damages on bond.--Any person whose
27 person or property has been damaged by the wrongful act of
28 such special officer may bring suit for the redress of such
29 wrong on the bond of such officer. The remedy provided in this
30 section is not exclusive of any remedy that otherwise may
31 exist.

1 Reviser's note.--Reenacted to conform to the
2 repeal of the s. 11.61 repeal of ss.
3 354.02-354.07 by s. 4, ch. 91-429, Laws of
4 Florida, and the confirmation of that repeal by
5 s. 33, ch. 96-318, Laws of Florida.

6
7 Section 147. Effective October 1, 2002, section
8 361.025, Florida Statutes, is reenacted to read:

9 361.025 Right of eminent domain to railroad
10 companies.--Any railroad company organized under the laws of
11 this state, or organized under the laws of any other state and
12 qualified to do business in this state, shall have the right
13 of eminent domain to enter upon, for survey purposes, any land
14 necessary for the construction, operation, and maintenance of
15 its roads and required facilities and to appropriate the same
16 or any part thereof upon making due compensation according to
17 the procedures set forth in chapters 73 and 74; however, no
18 such company shall have the right of eminent domain with
19 respect to property belonging to the state or any agency
20 thereof. Any railroad company may construct, operate, and
21 maintain its roads and required facilities on such property,
22 subject only to the permitting requirements and reasonable
23 regulations that may be imposed by the public authorities
24 having jurisdiction over such property. The right of eminent
25 domain for the purpose of securing terminal facilities on any
26 waters of this state, including a sufficient amount of land
27 for such facilities, shall be subordinate to the right of the
28 governmental entity wherein the property is located to condemn
29 such property through the exercise of its powers of eminent
30 domain for a public purpose.

31

1 Reviser's note.--Reenacted to conform to the
2 repeal of the s. 11.61 repeal of s. 361.025 by
3 s. 4, ch. 91-429, Laws of Florida, and the
4 confirmation of that repeal by s. 33, ch.
5 96-318, Laws of Florida.

6
7 Section 148. Paragraph (c) of subsection (3) and
8 paragraph (b) of subsection (4) of section 364.509, Florida
9 Statutes, are amended to read:

10 364.509 The Florida Distance Learning Network;
11 creation; membership; organization; meetings.--

12 (3) The Florida Distance Learning Network is
13 established with the necessary powers to exercise
14 responsibility for statewide leadership in coordinating,
15 enhancing, and serving as a resource center for advanced
16 telecommunications services and distance learning in all
17 public education delivery systems. The Florida Distance
18 Learning Network shall be governed by a board of directors
19 which shall consist of the following members:

20 (c) The executive director of the Florida State
21 Community College System or the executive director's designee.

22 (4)

23 (b) The board of directors shall ~~meet within 30 days~~
24 ~~after July 1, 1995, and shall continue to meet~~ at least 4
25 times each year, upon the call of the chairperson, or at the
26 request of a majority of the membership. The board of
27 directors shall take official action only by consensus.

28
29 Reviser's note.--Paragraph (3)(c) is amended to
30 conform to the redesignation of the State
31 Community College System as the Florida

1 Community College System by s. 15, ch. 98-58,
2 Laws of Florida. Paragraph (4)(b) is amended
3 to delete a provision that has served its
4 purpose.

5
6 Section 149. Section 366.072, Florida Statutes, is
7 amended to read:

8 366.072 Rate adjustment orders.--Any order issued by
9 the commission adjusting general increases or reductions of
10 the rates of an electric or gas company shall be reduced to
11 writing including any dissenting or concurring opinions within
12 20 days of the official vote of the commission. Within said 20
13 days, the commission shall also mail a copy of the order to
14 the clerk of the circuit court of each county in which
15 customers are served who are affected by the rate adjustment,
16 which copy shall be kept on file and made available to the
17 public. The commission shall notify all parties of record in
18 the proceeding of the date of such mailing. Such an order
19 shall not be considered rendered for purposes of appeal,
20 rehearing, or judicial review until the date the copies are
21 mailed as required by this section. This provision shall not
22 delay the effective date of the order. ~~Such an order shall be~~
23 ~~considered rendered on the date of the official vote for the~~
24 ~~purposes of s. 366.06(3).~~

25
26 Reviser's note.--Amended to conform to the
27 repeal of s. 366.06(3) by s. 5, ch. 95-328,
28 Laws of Florida.

29
30 Section 150. Subsections (1) and (3) of section
31 368.061, Florida Statutes, are amended to read:

1 368.061 Penalty.--

2 (1) Any person who violates any provision of this part
3 ~~chapter~~, or any regulation issued hereunder, shall be subject
4 to a civil penalty not to exceed \$25,000 for each violation
5 for each day that such violation persists, except that the
6 maximum civil penalty shall not exceed \$500,000 for any
7 related series of violations.

8 (3) The commissioners may, at their discretion, cause
9 to be instituted in any court of competent jurisdiction in
10 this state proceedings for injunction against any person
11 subject to the provisions of this part ~~chapter~~ to compel the
12 observance of the provisions of this part ~~chapter~~ or any rule,
13 regulation or requirement of the commission made thereunder.

14
15 Reviser's note.--Amended to conform to the
16 division of the chapter into parts incident to
17 the compilation of ch. 92-284, Laws of Florida.

18
19 Section 151. Paragraph (e) of subsection (4) of
20 section 370.06, Florida Statutes, 1998 Supplement, is amended
21 to read:

22 370.06 Licenses.--

23 (4) SPECIAL ACTIVITY LICENSES.--

24 (e) The department is authorized to issue special
25 activity licenses in accordance with ss. 370.071, 370.101, and
26 this section; aquaculture permit consolidation procedures in
27 s. 370.26(2)~~370.26(3)(a)~~; and rules of the Marine Fisheries
28 Commission to permit the capture and possession of saltwater
29 species protected by law and used as stock for artificial
30 cultivation and propagation.

31

1 Reviser's note.--Amended to conform to the
2 redesignation of s. 370.26(3)(a) as s.
3 370.26(2) by s. 14, ch. 98-333, Laws of
4 Florida.

5
6 Section 152. Subsection (7) and paragraphs (a) and (h)
7 of subsection (12) of section 370.0605, Florida Statutes, 1998
8 Supplement, are amended to read:

9 370.0605 Saltwater fishing license required; fees.--

10 ~~(7)(a) Each county tax collector, as issuing agent for~~
11 ~~the department, shall submit to the department by January 31,~~
12 ~~1997, a report of the sale of, and payment for, all licenses~~
13 ~~and permits sold between June 1, 1996, and December 31, 1996.~~

14 ~~(b) By March 15, 1997, each county tax collector shall~~
15 ~~provide the department with a written report, on forms~~
16 ~~provided by the department, of the audit numbers of all~~
17 ~~unissued licenses and permits for the period of June 1, 1996,~~
18 ~~to December 31, 1996. Within 30 days after the submission of~~
19 ~~the annual audit report, each county tax collector shall~~
20 ~~provide the department with a written audit report of~~
21 ~~unissued, sold, and voided licenses, permits, and stamps,~~
22 ~~together with a certified reconciliation statement prepared by~~
23 ~~a certified public accountant. Concurrent with the submission~~
24 ~~of the certification, the county tax collector shall remit to~~
25 ~~the department the monetary value of all licenses, permits,~~
26 ~~and stamps that are unaccounted for. Each tax collector is~~
27 ~~also responsible for fees for all licenses, permits, and~~
28 ~~stamps distributed by him or her to subagents, sold by him or~~
29 ~~her, or reported by him or her as lost.~~

30 (12)(a) Any person cited for a violation of the
31 license requirements of subsection (1) or the permit stamp

1 requirements of s. 370.1111(1)(a) or s. 370.14(10)(a)
2 ~~370.14(11)(a)~~ is guilty of a noncriminal infraction, shall be
3 cited for such an infraction, and shall be cited to appear
4 before the county court. The civil penalty for any such
5 infraction is \$50, in addition to the cost of the amount of
6 the annual license fee or stamp involved in the infraction,
7 except as otherwise provided in this section. The civil
8 penalty for any other noncriminal infraction shall be \$50,
9 except as otherwise provided in this section.

10 (h) ~~Effective October 1, 1991,~~ Any person who fails to
11 pay the civil penalty specified in paragraph (a) within 30
12 days or who fails to appear before the court is guilty of a
13 misdemeanor of the second degree, punishable as provided in s.
14 775.082 or s. 775.083.

15
16 Reviser's note.--Subsection (7) and paragraph
17 (12)(h) are amended to delete provisions that
18 have served their purpose. Paragraph (12)(a) is
19 amended to conform to the substitution of
20 permit requirements for stamp requirements in
21 ss. 370.1111 and 370.14 by ss. 8 and 9, ch.
22 96-300, Laws of Florida, respectively, and to
23 conform to the redesignation of s.
24 370.14(11)(a) as s. 370.14(10)(a) necessitated
25 by the repeal of former s. 370.14(6) by s. 20,
26 ch. 98-227, Laws of Florida.

27
28 Section 153. Subsection (3) of section 370.063,
29 Florida Statutes, is amended to read:

30 370.063 Special recreational crawfish license.--There
31 is created a special recreational crawfish license, to be

1 issued to qualified persons as provided by this section for
2 the recreational harvest of crawfish (spiny lobster) beginning
3 August 5, 1994.

4 (3) The holder of a special recreational crawfish
5 license must also possess the recreational crawfish permit
6 ~~stamp~~ required by s. 370.14(10)~~370.14(11)~~ and the license
7 required by s. 370.0605.

8
9 Reviser's note.--Amended to conform to the
10 substitution of recreational crawfish permits
11 for recreational crawfish stamps by s. 9, ch.
12 96-300, Laws of Florida, and the redesignation
13 of s. 370.14(11) as s. 370.14(10) necessitated
14 by the repeal of former s. 370.14(6) by s. 20,
15 ch. 98-227, Laws of Florida.

16
17 Section 154. Subsection (3) and paragraph (b) of
18 subsection (4) of section 370.0821, Florida Statutes, 1998
19 Supplement, are amended to read:

20 370.0821 St. Johns County; use of nets.--

21 (3) No person, firm, or corporation shall use, or
22 cause to be used, any manner of seine net, other than a
23 recreational net as hereafter defined, in the salt waters of
24 St. Johns County, or within 1 mile seaward of the Atlantic
25 Ocean beaches and coast thereof, without a permit issued by
26 the Division of Marine Resources of the Department of
27 Environmental Protection. Applications for such permits shall
28 be made on forms to be supplied by the division, which shall
29 require the applicant to furnish such information as may be
30 deemed pertinent to the best interests of saltwater
31 conservation. The fee for such permits shall be \$250 per year.

1 Each permit shall entitle the holder thereof to use no more
2 than one seine net at any one time, subject to the provisions
3 of subsections (1) and, (2), ~~and (3)~~. The division may refuse
4 to grant any permit when it is apparent that the best
5 interests of saltwater conservation will be served by such
6 denial. All permits granted shall be in the holder's
7 possession whenever the holder is engaged in using a seine
8 net. Each permit is subject to immediate revocation upon
9 conviction of a violation of any provision of this section or
10 when it is apparent that the best interests of saltwater
11 conservation will be served by such revocation.

12 (4)

13 (b)1. No recreational net may be set or hauled within
14 100 feet of any other recreational or commercial net.

15 2. No recreational net shall be used after the hours
16 of sunset and before sunrise between May 1 and September 15 of
17 each year.

18 3. Unless the user of a recreational net is also a
19 holder of a permit specified in subsection (3) ~~(4)~~, no user of
20 a recreational net shall retain on the beach, in a vehicle on
21 the beach, or in a boat, during the time that such net is in
22 use, more than one bushel container of fish per net in use.
23 All fish in excess of one bushel container per net and all
24 unwanted species taken shall be returned alive to the waters
25 when caught.

26

27 Reviser's note.--Subsection (3) is amended to
28 conform to the repeal of former subsection (3)
29 by s. 12, ch. 98-227, Laws of Florida.

30 Paragraph (4)(b) is amended to conform to the
31 redesignation of subsection (4) as subsection

1 (3) necessitated by the repeal of former
2 subsection (3) by s. 12, ch. 98-227.

3
4 Section 155. Paragraph (b) of subsection (4) of
5 section 370.12, Florida Statutes, 1998 Supplement, is amended
6 to read:

7 370.12 Marine animals; regulation.--

8 (4) ANNUAL FUNDING OF PROGRAMS FOR MARINE ANIMALS.--

9 (b) Each fiscal year moneys in the Save the Manatee
10 Trust Fund shall also be used, pursuant to s. 327.28(1)(b), to
11 reimburse the cost of activities related to manatee
12 rehabilitation by facilities that rescue, rehabilitate, and
13 release manatees as authorized pursuant to the Fish and
14 Wildlife Service of the United States Department of the
15 Interior. Such facilities must be involved in the actual
16 rescue and full-time acute care veterinarian-based
17 rehabilitation of manatees. The cost of activities includes,
18 but is not limited to, costs associated with expansion,
19 capital outlay, repair, maintenance, and operations related to
20 the rescue, treatment, stabilization, maintenance, release,
21 and monitoring of manatees. Moneys distributed through
22 contractual agreement to each facility for manatee
23 rehabilitation shall be proportionate to the number of
24 manatees under acute care rehabilitation and those released
25 during the previous fiscal year. However, the reimbursement
26 may not exceed the total amount available pursuant to ss.
27 327.25(11)~~327.25(7)~~ and 327.28(1)(b) for the purposes
28 provided in this paragraph. Prior to receiving reimbursement
29 for the expenses of rescue, rehabilitation, and release, a
30 facility that qualifies under state and federal regulations
31 shall submit a plan to the Department of Environmental

1 Protection for assisting the department and the Department of
2 Highway Safety and Motor Vehicles in marketing the manatee
3 specialty license plates. At a minimum, the plan shall include
4 provisions for graphics, dissemination of brochures, recorded
5 oral and visual presentation, and maintenance of a marketing
6 exhibit. The plan shall be updated annually and the Department
7 of Environmental Protection shall inspect each marketing
8 exhibit at least once each year to ensure the quality of the
9 exhibit and promotional material. Each facility that receives
10 funds for manatee rehabilitation shall annually provide the
11 department a written report, within 30 days after the close of
12 the state fiscal year, documenting the efforts and
13 effectiveness of the facility's promotional activities.

14

15 Reviser's note.--Amended to conform to the
16 redesignation of s. 327.25(7) as s. 327.25(11)
17 by s. 54, ch. 95-333, Laws of Florida.

18

19 Section 156. Paragraph (a) of subsection (2) and
20 subsection (9) of section 370.14, Florida Statutes, 1998
21 Supplement, are amended to read:

22 370.14 Crawfish; regulation.--

23 (2)(a) Each trap used for taking or attempting to take
24 crawfish must have a trap number permanently attached to the
25 trap and the buoy. This trap number may be issued by the
26 Division of Law Enforcement upon the receipt of application by
27 the owner of the traps and accompanied by the payment of a fee
28 of \$100. The design of the applications and of the trap number
29 shall be determined by the division. ~~However, effective July~~
30 ~~1, 1988, and until July 1, 1992, no crawfish trap numbers~~
31 ~~issued pursuant to this section except those numbers that were~~

1 ~~active during the 1990-1991 fiscal year shall be renewed or~~
2 ~~reissued. No new trap numbers shall be issued during this~~
3 ~~period. Until July 1, 1992, trap number holders or members of~~
4 ~~their immediate family or a person to whom the trap number was~~
5 ~~transferred in writing must request renewal of the number~~
6 ~~prior to June 30 of each year. If a person holding an active~~
7 ~~trap number or a member of the person's immediate family or a~~
8 ~~person to whom the trap number was transferred in writing does~~
9 ~~not request renewal of the number before the applicable date~~
10 ~~as specified above, the department may reissue the number to~~
11 ~~another applicant in the order of the receipt of the~~
12 ~~application for a trap number. Any trap or device used in~~
13 ~~taking or attempting to take crawfish, other than a trap with~~
14 ~~the trap number attached as prescribed in this paragraph,~~
15 ~~shall be seized and destroyed by the division. The proceeds of~~
16 ~~the fees imposed by this paragraph shall be deposited and used~~
17 ~~as provided in paragraph (b). The Department of Environmental~~
18 ~~Protection is authorized to promulgate rules and regulations~~
19 ~~to carry out the intent of this section.~~

20 (9) No common carrier or employee of said carrier may
21 carry, knowingly receive for carriage, or permit the carriage
22 of any crawfish of the species *Panulirus argus*, regardless of
23 where taken, during the closed season, except of the species
24 *Panulirus argus* lawfully imported from a foreign country for
25 reshipment outside of the territorial limits of the state
26 under United States Customs bond or in accordance with
27 paragraph (7)(a) ~~(8)(a)~~.

28
29 Reviser's note.--Paragraph (2)(a) is amended to
30 delete provisions that have served their
31 purpose. Subsection (9) is amended to conform

1 to the redesignation of paragraph (8)(a) as
2 paragraph (7)(a) necessitated by the repeal of
3 former subsection (6) by s. 20, ch. 98-227,
4 Laws of Florida.

5
6 Section 157. Paragraphs (b) and (c) of subsection (2)
7 of section 370.142, Florida Statutes, 1998 Supplement, are
8 amended to read:

9 370.142 Spiny lobster trap certificate program.--

10 (2) TRANSFERABLE TRAP CERTIFICATES; TRAP TAGS; FEES;
11 PENALTIES.--The Department of Environmental Protection shall
12 establish a trap certificate program for the spiny lobster
13 fishery of this state and shall be responsible for its
14 administration and enforcement as follows:

15 (b) Trap tags.--Each trap used to take or attempt to
16 take spiny lobsters in state waters or adjacent federal waters
17 shall, in addition to the crawfish trap number required by s.
18 370.14(2), have affixed thereto an annual trap tag issued by
19 the department. Each such tag shall be made of durable plastic
20 or similar material and shall, ~~beginning with those tags~~
21 ~~issued for the 1993-1994 season~~ based on the number of
22 certificates held, have stamped thereon the owner's license
23 number. To facilitate enforcement and recordkeeping, such tags
24 shall be issued each year in a color different from that of
25 each of the previous 3 years. ~~A fee of 50 cents per tag issued~~
26 ~~other than on the basis of a certificate held shall be~~
27 ~~assessed through March 31, 1993. Until 1995, an annual fee of~~
28 ~~50 cents per certificate shall be assessed, and thereafter,~~
29 ~~until 1998, an annual fee of 75 cents per certificate shall be~~
30 ~~assessed upon issuance in order to recover administrative~~
31 ~~costs of the tags and the certificate program. Beginning in~~

1 ~~1998~~The annual certificate fee shall be \$1 per certificate.
2 Replacement tags for lost or damaged tags may be obtained as
3 provided by rule of the department.
4 (c) Prohibitions; penalties.--
5 1. It is unlawful for a person to possess or use a
6 spiny lobster trap in or on state waters or adjacent federal
7 waters without having affixed thereto the trap tag required by
8 this section. It is unlawful for a person to possess or use
9 any other gear or device designed to attract and enclose or
10 otherwise aid in the taking of spiny lobster by trapping that
11 is not a trap as defined in rule 46-24.006(2), Florida
12 Administrative Code.
13 2. It is unlawful for a person to possess or use spiny
14 lobster trap tags without having the necessary number of
15 certificates on record as required by this section.
16 3. In addition to any other penalties provided in s.
17 370.021, a commercial harvester, as defined by rule
18 46-24.002(1), Florida Administrative Code, who violates the
19 provisions of this section, or the provisions relating to
20 traps of chapter 46-24, Florida Administrative Code, shall be
21 punished as follows:
22 a. If the first violation is for violation of
23 subparagraph 1. or subparagraph 2., the department shall
24 assess an additional civil penalty of up to \$1,000 and the
25 crawfish trap number issued pursuant to s. 370.14(2) or (6)
26 ~~(7)~~ may be suspended for the remainder of the current license
27 year. For all other first violations, the department shall
28 assess an additional civil penalty of up to \$500.
29 b. For a second violation of subparagraph 1. or
30 subparagraph 2. which occurs within 24 months of any previous
31 such violation, the department shall assess an additional

1 civil penalty of up to \$2,000 and the crawfish trap number
2 issued pursuant to s. 370.14(2) or (6)~~(7)~~ may be suspended
3 for the remainder of the current license year.

4 c. For a third or subsequent violation of subparagraph
5 1. or subparagraph 2. which occurs within 36 months of any
6 previous two such violations, the department shall assess an
7 additional civil penalty of up to \$5,000 and may suspend the
8 crawfish trap number issued pursuant to s. 370.14(2) or (6)
9 ~~(7)~~ for a period of up to 24 months or may revoke the crawfish
10 trap number and, if revoking the crawfish trap number, may
11 also proceed against the licenseholder's saltwater products
12 license in accordance with the provisions of s. 370.021(3)(i)
13 ~~370.021(2)(e)~~.

14 d. Any person assessed an additional civil penalty
15 pursuant to this section shall within 30 calendar days after
16 notification:

17 (I) Pay the civil penalty to the department; or
18 (II) Request an administrative hearing pursuant to the
19 provisions of s. 120.60.

20 e. The department shall suspend the crawfish trap
21 number issued pursuant to s. 370.14(2) or (6)~~(7)~~ for any
22 person failing to comply with the provisions of
23 sub-subparagraph d.

24 4.a. It is unlawful for any person to make, alter,
25 forge, counterfeit, or reproduce a spiny lobster trap tag or
26 certificate.

27 b. It is unlawful for any person to knowingly have in
28 his or her possession a forged, counterfeit, or imitation
29 spiny lobster trap tag or certificate.

30 c. It is unlawful for any person to barter, trade,
31 sell, supply, agree to supply, aid in supplying, or give away

1 a spiny lobster trap tag or certificate or to conspire to
2 barter, trade, sell, supply, aid in supplying, or give away a
3 spiny lobster trap tag or certificate unless such action is
4 duly authorized by the department as provided in this chapter
5 or in the rules of the department.

6 5.a. Any person who violates the provisions of
7 subparagraph 4., or any person who engages in the commercial
8 harvest, trapping, or possession of spiny lobster without a
9 crawfish trap number as required by s. 370.14(2) or (6)~~(7)~~ or
10 during any period while such crawfish trap number is under
11 suspension or revocation, commits a felony of the third
12 degree, punishable as provided in s. 775.082, s. 775.083, or
13 s. 775.084.

14 b. In addition to any penalty imposed pursuant to
15 sub-subparagraph a., the department shall levy a fine of up to
16 twice the amount of the appropriate surcharge to be paid on
17 the fair market value of the transferred certificates, as
18 provided in subparagraph (a)1., on any person who violates the
19 provisions of sub-subparagraph 4.c.

20 6. Any certificates for which the annual certificate
21 fee is not paid for a period of 3 years shall be considered
22 abandoned and shall revert to the department. During any
23 period of trap reduction, any certificates reverting to the
24 department shall become permanently unavailable and be
25 considered in that amount to be reduced during the next
26 license-year period. Otherwise, any certificates that revert
27 to the department are to be reallocated in such manner as
28 provided by the department.

29 7. The proceeds of all civil penalties collected
30 pursuant to subparagraph 3. and all fines collected pursuant
31

1 to sub-subparagraph 5.b. shall be deposited into the Marine
2 Resources Conservation Trust Fund.

3 8. All traps shall be removed from the water during
4 any period of suspension or revocation.

5
6 Reviser's note.--Paragraph (2)(b) is amended to
7 delete provisions that have served their
8 purpose. Paragraph (2)(c) is amended to
9 conform to the redesignation of s. 370.14(7) as
10 s. 370.14(6) necessitated by the repeal of
11 former s. 370.14(6) by s. 20, ch. 98-227, Laws
12 of Florida, and the redesignation of s.
13 370.021(2)(e) as s. 370.021(3)(i) by s. 2, ch.
14 98-227.

15
16 Section 158. Paragraph (d) of subsection (2) of
17 section 370.1535, Florida Statutes, is amended to read:

18 370.1535 Regulation of shrimp fishing in Tampa Bay;
19 licensing requirements.--

20 (2) The Department of Environmental Protection is
21 authorized to issue a dead shrimp production permit to persons
22 qualified pursuant to the following criteria:

23 (d) No person shall be issued a permit or be allowed
24 to renew a permit if such person is registered for
25 noncommercial trawling pursuant to s. 370.15(4)~~370.15(6)~~ or
26 if such person holds a live bait shrimping license issued
27 pursuant to s. 370.15(6)~~370.15(8)~~.

28
29 Reviser's note.--Amended to conform to the
30 redesignation of subunits of s. 370.15
31 necessitated by the repeal of former s.

1 370.15(2) and (3) by s. 21, ch. 98-227, Laws of
2 Florida.

3
4 Section 159. Section 370.154, Florida Statutes, is
5 amended to read:

6 370.154 Shrimp regulations; closed areas; suspension
7 of license, etc.--Any person convicted of taking shrimp in a
8 closed area who is punishable under s. 370.15(5) or (6)
9 ~~370.15(7) or (8)~~ shall, in addition to the penalties set forth
10 therein, have his or her permit and the permit of the boat
11 involved in the violation, issued pursuant to s. 370.15(4)
12 ~~370.15(6)~~, revoked, if the person holds such a permit, and he
13 or she shall be ineligible to make application for such a
14 permit for a period of 2 years from the date of such
15 conviction. If a person not having a permit is convicted
16 hereunder, that person and the boat involved in the violation
17 shall not be eligible for such a permit for 5 years.

18
19 Reviser's note.--Amended to conform to the
20 redesignation of subunits of s. 370.15
21 necessitated by the repeal of former s.
22 370.15(2) and (3) by s. 21, ch. 98-227, Laws of
23 Florida.

24
25 Section 160. Subsection (3) of section 372.023,
26 Florida Statutes, is amended to read:

27 372.023 J. W. Corbett and Cecil M. Webb Wildlife
28 Management Areas.--

29 (3) Moneys received from the sale of lands within
30 either wildlife management area, less reasonable expenses
31 incident to the sale, shall be used by the Game and Fresh

1 Water Fish Commission to acquire acreage contiguous to the
2 wildlife management area or lands of equal wildlife value.
3 The sale shall be made directly to the state, notwithstanding
4 the procedures of s. ss.270.08 ~~and 270.09~~ to the contrary.

5
6 Reviser's note.--Amended to conform to the
7 repeal of s. 270.09 by s. 513, ch. 94-356, Laws
8 of Florida.

9
10 Section 161. Subsection (7) of section 372.561,
11 Florida Statutes, 1998 Supplement, is amended to read:

12 372.561 Issuance of licenses to take wild animal life
13 or freshwater aquatic life; costs; reporting.--

14 ~~(7)(a) Each county tax collector, as issuing agent for~~
15 ~~the commission, shall submit to the commission by January 31,~~
16 ~~1997, a report of the sale of, and payment for, all licenses~~
17 ~~and permits sold between June 1, 1996, and December 31, 1996.~~

18 ~~(b) By March 15, 1997, each county tax collector shall~~
19 ~~provide the commission with a written report, on forms~~
20 ~~provided by the commission, of the audit numbers of all~~
21 ~~unissued licenses and permits for the period of June 1, 1996,~~
22 ~~to December 31, 1996. Within 30 days after the submission of~~
23 ~~the annual audit report, each county tax collector shall~~
24 ~~provide the commission with a written audit report on~~
25 ~~unissued, sold, and voided licenses, permits, and stamps with~~
26 ~~a certified reconciliation statement prepared by a certified~~
27 ~~public accountant. Concurrent with the submission of the~~
28 ~~certification, the county tax collector shall remit to the~~
29 ~~commission the monetary value of all licenses, permits, and~~
30 ~~stamps that are unaccounted for. Each tax collector is also~~
31 ~~responsible for fees for all licenses, permits, and stamps~~

1 distributed by him or her to subagents, sold by him or her, or
2 reported by him or her as lost.

3

4 Reviser's note.--Amended to delete provisions
5 that have served their purpose.

6

7 Section 162. Subsection (13) of section 372.57,
8 Florida Statutes, 1998 Supplement, is amended to read:

9 372.57 Licenses and permits; exemptions; fees.--No
10 person, except as provided herein, shall take game, freshwater
11 fish, or fur-bearing animals within this state without having
12 first obtained a license, permit, or authorization and paid
13 the fees hereinafter set forth, unless such license is issued
14 without fee as provided in s. 372.561. Such license, permit,
15 or authorization shall authorize the person to whom it is
16 issued to take game, freshwater fish, or fur-bearing animals
17 in accordance with law and commission rules. Such license,
18 permit, or authorization is not transferable. Each license or
19 permit must bear on its face in indelible ink the name of the
20 person to whom it is issued and other information requested by
21 the commission. Such license, permit, or authorization issued
22 by the commission or any agent must be in the personal
23 possession of the person to whom issued while taking game,
24 freshwater fish, or fur-bearing animals. The failure of such
25 person to exhibit such license, permit, or authorization to
26 the commission or its wildlife officers, when such person is
27 found taking game, freshwater fish, or fur-bearing animals, is
28 a violation of law. A positive form of identification is
29 required when using an authorization, a lifetime license, a
30 5-year license, or when otherwise required by the license or
31 permit. The lifetime licenses and 5-year licenses provided

1 herein shall be embossed with the name, date of birth, the
2 date of issuance, and other pertinent information as deemed
3 necessary by the commission. A certified copy of the
4 applicant's birth certificate shall accompany all applications
5 for a lifetime license for residents 12 years of age and
6 younger. Each applicant for a license, permit, or
7 authorization shall provide the applicant's social security
8 number on the application form. Disclosure of social security
9 numbers obtained through this requirement shall be limited to
10 the purpose of administration of the Title IV-D child support
11 enforcement program and use by the commission, and as
12 otherwise provided by law.

13 (13) Fees collected pursuant to s. 370.0605(2) for
14 5-year saltwater fishing licenses, fees collected pursuant to
15 s. 370.0605(6)(e)~~370.0605(5)(e)~~ for replacement 5-year and
16 lifetime licenses, fees collected pursuant to s. 370.0615 for
17 lifetime saltwater fishing licenses and 30 percent of the fee
18 for the lifetime sportsman's license shall be transferred
19 within 30 days following the last day of the month in which
20 the license fees were received by the commission to the Marine
21 Resources Conservation Trust Fund.

22
23 Reviser's note.--Amended to facilitate correct
24 interpretation; s. 370.0605(5)(e) does not
25 exist. Section 370.0605(6)(e) pertains to
26 replacement licenses.

27
28 Section 163. Section 372.573, Florida Statutes, is
29 amended to read:

30 372.573 Management area permit revenues.--The
31 commission shall expend the revenue generated from the sale of

1 the management area permit as provided for in s. 372.57(4)(b)
2 ~~372.57(5)(b)~~ or that pro rata portion of any license that
3 includes management area privileges as provided for in s.
4 372.57(2)(i) ~~372.57(2)(k)~~ and (14)(b) ~~(16)(b)~~ for the lease,
5 management, and protection of lands for public hunting,
6 fishing, and other outdoor recreation.

7
8 Reviser's note.--Amended to conform to the
9 redesignation of subunits of s. 372.57 by s.
10 13, ch. 96-300, Laws of Florida.

11
12 Section 164. Subsection (2) of section 372.661,
13 Florida Statutes, is amended to read:

14 372.661 Private hunting preserve, license;
15 exception.--

16 (2) A commercial hunting preserve license, which shall
17 exempt patrons of licensed preserves from the licensure
18 requirements of s. 372.57(2)(e), (f), (g), ~~(h)~~, and (i) ~~(k)~~,
19 (4)(a) ~~(5)(a)~~, (c), (d), and (e), (7) ~~(9)~~, (9) ~~(11)~~, and
20 (14)(b) ~~(16)(b)~~ while hunting on the licensed preserve
21 property, shall be \$500. Such commercial hunting preserve
22 license shall be available only to those private hunting
23 preserves licensed pursuant to this section which are operated
24 exclusively for commercial purposes, which are open to the
25 public, and for which a uniform fee is charged to patrons for
26 hunting privileges.

27
28 Reviser's note.--Amended to conform to the
29 repeal of s. 372.57(2)(h) and the redesignation
30 of other subunits of s. 372.57 by s. 13, ch.
31 96-300, Laws of Florida.

1 Section 165. Paragraph (d) of subsection (1) of
2 section 373.036, Florida Statutes, 1998 Supplement, is amended
3 to read:

4 373.036 Florida water plan; district water management
5 plans.--

6 (1) FLORIDA WATER PLAN.--In cooperation with the water
7 management districts, regional water supply authorities, and
8 others, the department shall develop the Florida water plan.
9 The Florida water plan shall include, but not be limited to:

10 (d) Goals, objectives, and guidance for the
11 development and review of programs, rules, and plans relating
12 to water resources, based on statutory policies and
13 directives. The state water policy rule, renamed the water
14 resource implementation rule pursuant to s. 373.019(20)
15 ~~373.019(21)~~, shall serve as this part of the plan. Amendments
16 or additions to this part of the Florida water plan shall be
17 adopted by the department as part of the water resource
18 implementation rule. In accordance with s. 373.114, the
19 department shall review rules of the water management
20 districts for consistency with this rule. Amendments to the
21 water resource implementation rule must be adopted by the
22 secretary of the department and be submitted to the President
23 of the Senate and the Speaker of the House of Representatives
24 within 7 days after publication in the Florida Administrative
25 Weekly. Amendments shall not become effective until the
26 conclusion of the next regular session of the Legislature
27 following their adoption.

28
29 Reviser's note.--Amended to facilitate correct
30 interpretation; the water resource
31

1 implementation rule can be found at s.
2 373.019(20).

3

4 Section 166. Subsection (1) of section 373.0691,
5 Florida Statutes, is amended to read:

6 373.0691 Transfer of areas.--

7 (1) At the time of change of boundaries of the
8 respective districts under s. 373.069(3), 1976 Supplement to
9 Florida Statutes 1975, all contractual obligations with
10 respect to an area being transferred to another district shall
11 be assumed by the district receiving such area; all real
12 property interests owned by a district within an area to be
13 transferred shall be conveyed to the district receiving such
14 area; and all equipment, vehicles, other personal property,
15 and records owned, located, and used by a district solely
16 within an area being transferred shall be delivered to the
17 district receiving such area. However, if an area is
18 transferred from a district with a contractual obligation to
19 the United States of America for the operation and maintenance
20 of works within such area, then the deliveries and conveyances
21 required in this section shall be deferred until the United
22 States has approved the assumption of the contractual
23 obligations by the receiving district.

24

25 Reviser's note.--Amended to clarify the
26 reference to s. 373.069(3), which appeared at
27 the location and referenced the time of change
28 of boundaries of the districts in the 1976
29 Supplement.

30

31

1 Section 167. Subsections (2) and (3) of section
2 373.197, Florida Statutes, are reenacted to read:
3 373.197 Kissimmee River Valley and Taylor
4 Creek-Nubbins Slough Basin restoration project; measures
5 authorized.--

6 (2) The Legislature recommends that the authorization
7 provide that the Board of Engineers for Rivers and Harbors,
8 created under s. 3 of the Rivers and Harbors Act, approved
9 June 13, 1902, be directed to review the report of the Chief
10 of Engineers on Central and Southern Florida, published as
11 House Document Numbered 643, Eightieth Congress, and other
12 pertinent reports, with a view to determining whether any
13 modification of the recommendations contained therein and of
14 the system of works constructed pursuant thereto is advisable
15 with respect to questions of the quality of water entering the
16 Kissimmee River and Taylor Creek-Nubbins Slough and Lake
17 Okeechobee therefrom, flood control, recreation, navigation,
18 loss of fish and wildlife resources, other current and
19 foreseeable environmental problems, and loss of environmental
20 amenities in those areas. Potential modification
21 alternatives, if any, shall include, but not be limited to,
22 consideration of restoration of all or parts of the Kissimmee
23 River below Lake Kissimmee and of the Taylor Creek-Nubbins
24 Slough Basin.

25 (3) The department and the Water Management District
26 shall also seek to assure that this restudy be conducted by
27 the Corps of Engineers in close cooperation with the
28 Coordinating Council on the Restoration of the Kissimmee River
29 Valley and the Taylor Creek-Nubbins Slough Basin and that the
30 study be responsive to the problems and needs identified by
31 the Coordinating Council and consider development of detailed

1 physical and mathematical models to assess and predict these
2 identified problems.

3

4 Reviser's note.--Section 260, ch. 94-356, Laws
5 of Florida, purported to amend s. 373.197, but
6 failed to republish subsections (2) and (3).
7 In the absence of affirmative evidence that the
8 Legislature intended to repeal the omitted
9 material, coupled with the fact that the form
10 of the amendment affirmatively evidenced an
11 intent to retain the existing subsection
12 structure, subsections (2) and (3) are
13 reenacted to confirm that the omission was not
14 intended.

15

16 Section 168. Section 373.213, Florida Statutes, is
17 amended to read:

18 373.213 Certain artesian wells exempt.--Nothing in ss.
19 373.203, 373.206, 373.209, or s. 373.213 ~~ss. 370.051-370.054~~
20 shall be construed to apply to an artesian well feeding a lake
21 already in existence prior to June 15, 1953, which lake is
22 used or intended to be used for public bathing and/or the
23 propagation of fish, where the continuous flow of water is
24 necessary to maintain its purity for bathing and the water
25 level of said lake for fish.

26

27 Reviser's note.--Amended to conform to the
28 redesignation of the referenced sections
29 incident to the compilation of the Florida
30 Statutes 1957 and the further redesignation of
31 sections pursuant to the directive of the

1 Legislature in s. 25, ch. 73-190, Laws of
2 Florida. Section 370.054, as redesignated s.
3 373.051, was repealed by s. 1, part VI, ch.
4 72-299, Laws of Florida.

5
6 Section 169. Subsection (1) of section 373.246,
7 Florida Statutes, is amended to read:

8 373.246 Declaration of water shortage or emergency.--

9 (1) The governing board or the department by
10 regulation shall formulate a plan for implementation during
11 periods of water shortage. ~~Copies of the water shortage plan~~
12 ~~shall be submitted to the Speaker of the House of~~
13 ~~Representatives and the President of the Senate no later than~~
14 ~~October 31, 1983.~~ As a part of this plan the governing board
15 or the department shall adopt a reasonable system of water-use
16 classification according to source of water supply; method of
17 extraction, withdrawal, or diversion; or use of water or a
18 combination thereof. The plan may include provisions for
19 variances and alternative measures to prevent undue hardship
20 and ensure equitable distribution of water resources.

21
22 Reviser's note.--Amended to delete a provision
23 that has served its purpose.

24
25 Section 170. Subsection (9) of section 373.414,
26 Florida Statutes, is amended to read:

27 373.414 Additional criteria for activities in surface
28 waters and wetlands.--

29 (9) The department and the governing boards, on or
30 before July 1, 1994, shall adopt rules to incorporate the
31 provisions of this section, relying primarily on the existing

1 rules of the department and the water management districts,
2 into the rules governing the management and storage of surface
3 waters. Such rules shall seek to achieve a statewide,
4 coordinated and consistent permitting approach to activities
5 regulated under this part. Variations in permitting criteria
6 in the rules of individual water management districts or the
7 department shall only be provided to address differing
8 physical or natural characteristics. Such rules adopted
9 pursuant to this subsection shall include the special criteria
10 adopted pursuant to s. 403.061(29) and may include the special
11 criteria adopted pursuant to s. 403.061(34)~~403.061(35)~~. Such
12 rules shall include a provision requiring that a notice of
13 intent to deny or a permit denial based upon this section
14 shall contain an explanation of the reasons for such denial
15 and an explanation, in general terms, of what changes, if any,
16 are necessary to address such reasons for denial. Such rules
17 may establish exemptions and general permits, if such
18 exemptions and general permits do not allow significant
19 adverse impacts to occur individually or cumulatively. Such
20 rules may require submission of proof of financial
21 responsibility which may include the posting of a bond or
22 other form of surety prior to the commencement of construction
23 to provide reasonable assurance that any activity permitted
24 pursuant to this section, including any mitigation for such
25 permitted activity, will be completed in accordance with the
26 terms and conditions of the permit once the construction is
27 commenced. Until rules adopted pursuant to this subsection
28 become effective, existing rules adopted under this part and
29 rules adopted pursuant to the authority of ss. 403.91-403.929
30 shall be deemed authorized under this part and shall remain in
31 full force and effect. Neither the department nor the

1 governing boards are limited or prohibited from amending any
2 such rules.

3

4 Reviser's note.--Amended to conform to the
5 redesignation of s. 403.061(35) as s.
6 403.061(34) necessitated by the repeal of s.
7 403.061(33) by s. 26, ch. 97-160, Laws of
8 Florida.

9

10 Section 171. Subsection (1) of section 373.421,
11 Florida Statutes, 1998 Supplement, is amended to read:

12 373.421 Delineation methods; formal determinations.--

13 (1) ~~By January 1, 1994,~~The Environmental Regulation
14 Commission shall adopt a unified statewide methodology for the
15 delineation of the extent of wetlands as defined in s.
16 373.019(22)~~373.019(23)~~. This methodology shall consider
17 regional differences in the types of soils and vegetation that
18 may serve as indicators of the extent of wetlands. This
19 methodology shall also include provisions for determining the
20 extent of surface waters other than wetlands for the purposes
21 of regulation under s. 373.414. This methodology shall not
22 become effective until ratified by the Legislature. Subsequent
23 to legislative ratification, the wetland definition in s.
24 373.019(22)~~373.019(23)~~and the adopted wetland methodology
25 shall be binding on the department, the water management
26 districts, local governments, and any other governmental
27 entities. Upon ratification of such wetland methodology, the
28 Legislature preempts the authority of any water management
29 district, state or regional agency, or local government to
30 define wetlands or develop a delineation methodology to
31 implement the definition and determines that the exclusive

1 definition and delineation methodology for wetlands shall be
2 that established pursuant to s. 373.019(22)~~373.019(23)~~and
3 this section. Upon such legislative ratification, any existing
4 wetlands definition or wetland delineation methodology shall
5 be superseded by the wetland definition and delineation
6 methodology established pursuant to this chapter. Subsequent
7 to legislative ratification, a delineation of the extent of a
8 surface water or wetland by the department or a water
9 management district, pursuant to a formal determination under
10 subsection (2), or pursuant to a permit issued under this part
11 in which the delineation was field-verified by the permitting
12 agency and specifically approved in the permit, shall be
13 binding on all other governmental entities for the duration of
14 the formal determination or permit. All existing rules and
15 methodologies of the department, the water management
16 districts, and local governments, regarding surface water or
17 wetland definition and delineation shall remain in full force
18 and effect until the common methodology rule becomes
19 effective. However, this shall not be construed to limit any
20 power of the department, the water management districts, and
21 local governments to amend or adopt a surface water or wetland
22 definition or delineation methodology until the common
23 methodology rule becomes effective.

24
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Reviser's note.--Amended to delete a provision
that has served its purpose and to conform to
the correct location of the definition of
"wetlands" in s. 373.019.

1 Section 172. Paragraph (a) of subsection (4) and
2 paragraph (e) of subsection (6) of section 373.4592, Florida
3 Statutes, are amended to read:

4 373.4592 Everglades improvement and management.--

5 (4) EVERGLADES PROGRAM.--

6 (a) Everglades Construction Project.--The district
7 shall implement the Everglades Construction Project. By the
8 time of completion of the project, the state, district, or
9 other governmental authority shall purchase the inholdings in
10 the Rotenberger and such other lands necessary to achieve a
11 2:1 mitigation ratio for the use of Brown's Farm and other
12 similar lands, including those needed for the STA 1 Inflow and
13 Distribution Works. The inclusion of public lands as part of
14 the project is for the purpose of treating waters not coming
15 from the EAA for hydroperiod restoration. It is the intent of
16 the Legislature that the district aggressively pursue the
17 implementation of the Everglades Construction Project in
18 accordance with the schedule in this subsection. The
19 Legislature recognizes that adherence to the schedule is
20 dependent upon factors beyond the control of the district,
21 including the timely receipt of funds from all contributors.
22 The district shall take all reasonable measures to complete
23 timely performance of the schedule in this section in order to
24 finish the Everglades Construction Project. The district shall
25 not delay implementation of the project beyond the time delay
26 caused by those circumstances and conditions that prevent
27 timely performance. The district shall not levy ad valorem
28 taxes in excess of 0.1 mill within the Okeechobee Basin for
29 the purposes of the design, construction, and acquisition of
30 the Everglades Construction Project. The ad valorem tax
31 proceeds not exceeding 0.1 mill levied within the Okeechobee

1 Basin for such purposes shall be the sole direct district
2 contribution from district ad valorem taxes appropriated or
3 expended for the design, construction, and acquisition of the
4 Everglades Construction Project unless the Legislature by
5 specific amendment to this section increases the 0.1 mill ad
6 valorem tax contribution, increases the agricultural privilege
7 taxes, or otherwise reallocates the relative contribution by
8 ad valorem taxpayers and taxpayers paying the agricultural
9 privilege taxes toward the funding of the design,
10 construction, and acquisition of the Everglades Construction
11 Project. Notwithstanding the provisions of s. 200.069 to the
12 contrary, any millage levied under the 0.1 mill limitation in
13 this paragraph shall be included as a separate entry on the
14 Notice of Proposed Property Taxes pursuant to s. 200.069. Once
15 the STAs are completed, the district shall allow these areas
16 to be used by the public for recreational purposes in the
17 manner set forth in s. 373.59(11)~~373.59(10)~~, considering the
18 suitability of these lands for such uses. These lands shall be
19 made available for recreational use unless the district
20 governing board can demonstrate that such uses are
21 incompatible with the restoration goals of the Everglades
22 Construction Project or the water quality and hydrological
23 purposes of the STAs or would otherwise adversely impact the
24 implementation of the project. The district shall give
25 preferential consideration to the hiring of agricultural
26 workers displaced as a result of the Everglades Construction
27 Project, consistent with their qualifications and abilities,
28 for the construction and operation of these STAs. The
29 following milestones apply to the completion of the Everglades
30 Construction Project as depicted in the February 15, 1994,
31 conceptual design document:

- 1 1. The district must complete the final design of the
2 STA 1 East and West and pursue STA 1 East project components
3 as part of a cost-shared program with the Federal Government.
4 The district must be the local sponsor of the federal project
5 that will include STA 1 East, and STA 1 West if so authorized
6 by federal law. Land acquisition shall be completed for STA 1
7 West by April 1, 1996, and for STA 1 East by July 1, 1998;
- 8 2. Construction of STA 1 East is to be completed under
9 the direction of the United States Army Corps of Engineers in
10 conjunction with the currently authorized C-51 flood control
11 project by July 1, 2002;
- 12 3. The district must complete construction of STA 1
13 West and STA 1 Inflow and Distribution Works under the
14 direction of the United States Army Corps of Engineers, if the
15 direction is authorized under federal law, in conjunction with
16 the currently authorized C-51 flood control project, by
17 January 1, 1999;
- 18 4. The district must complete construction of STA 2 by
19 February 1, 1999;
- 20 5. The district must complete construction of STA 3/4
21 by October 1, 2003;
- 22 6. The district must complete construction of STA 5 by
23 January 1, 1999; and
- 24 7. The district must complete construction of STA 6 by
25 October 1, 1997.
- 26 8. East Beach Water Control District, South Shore
27 Drainage District, South Florida Conservancy District, East
28 Shore Water Control District, and the lessee of agricultural
29 lease number 3420 shall complete any system modifications
30 described in the Everglades Construction Project to the extent
31 that funds are available from the Everglades Fund. These

1 entities shall divert the discharges described within the
2 Everglades Construction Project within 60 days of completion
3 of construction of the appropriate STA. Such required
4 modifications shall be deemed to be a part of each district's
5 plan of reclamation pursuant to chapter 298.

6 (6) EVERGLADES AGRICULTURAL PRIVILEGE TAX.--

7 (e) If, for any tax year, the number of acres subject
8 to the Everglades agricultural privilege tax is less than the
9 number of acres included on the Everglades agricultural
10 privilege tax roll certified for the tax notices mailed in
11 November 1994, the minimum tax shall be subject to increase in
12 the manner provided in this paragraph. In determining the
13 number of acres subject to the Everglades agricultural
14 privilege tax for purposes of this paragraph, property
15 acquired by a not-for-profit entity for purposes of
16 conservation and preservation, the United States, or the
17 state, or any agency thereof, and removed from the Everglades
18 agricultural privilege tax roll after January 1, 1994, shall
19 be treated as subject to the tax even though no tax is imposed
20 or due: in its entirety, for tax notices mailed prior to
21 November 2000; to the extent its area exceeds 4 percent of the
22 total area of property subject to the Everglades agricultural
23 tax, for tax notices mailed in November 2000 through November
24 2005; and to the extent its area exceeds 8 percent of the
25 total area of property subject to the Everglades agricultural
26 tax, for tax notices mailed in November 2006 and thereafter.
27 For each tax year, the district shall determine the amount, if
28 any, by which the sum of the following exceeds \$12,367,000:

29 1. The product of the minimum tax multiplied by the
30 number of acres subject to the Everglades agricultural
31 privilege tax; and

1 2. The ad valorem tax increment, as defined in this
2 subparagraph.
3
4 The aggregate of such annual amounts, less any portion
5 previously applied to eliminate or reduce future increases in
6 the minimum tax, as described in this paragraph ~~subparagraph~~,
7 shall be known as the "excess tax amount." If for any tax
8 year, the amount computed by multiplying the minimum tax by
9 the number of acres then subject to the Everglades
10 agricultural privilege tax is less than \$12,367,000, the
11 excess tax amount shall be applied in the following manner. If
12 the excess tax amount exceeds such difference, an amount equal
13 to the difference shall be deducted from the excess tax amount
14 and applied to eliminate any increase in the minimum tax. If
15 such difference exceeds the excess tax amount, the excess tax
16 amount shall be applied to reduce any increase in the minimum
17 tax. In such event, a new minimum tax shall be computed by
18 subtracting the remaining excess tax amount from \$12,367,000
19 and dividing the result by the number of acres subject to the
20 Everglades agricultural privilege tax for such tax year. For
21 purposes of this paragraph ~~subparagraph~~, the "ad valorem tax
22 increment" means 50 percent of the difference between the
23 amount of ad valorem taxes actually imposed by the district
24 for the immediate prior tax year against property included on
25 the Everglades agricultural privilege tax roll certified for
26 the tax notices mailed in November 1994 that was not subject
27 to the Everglades agricultural privilege tax during the
28 immediate prior tax year and the amount of ad valorem taxes
29 that would have been imposed against such property for the
30 immediate prior tax year if the taxable value of each acre had
31 been equal to the average taxable value of all other land

1 classified as agricultural within the EAA for such year;
2 however, the ad valorem tax increment for any year shall not
3 exceed the amount that would have been derived from such
4 property from imposition of the minimum tax during the
5 immediate prior tax year.

6
7 Reviser's note.--Paragraph (4)(a) is amended to
8 conform to the redesignation of subunits of s.
9 373.59 by s. 17, ch. 96-389, Laws of Florida.
10 Paragraph (6)(e) is amended to reflect that
11 references to "this subparagraph" occurred in
12 text that is not designated as a subparagraph.

13
14 Section 173. Paragraph (a) of subsection (2),
15 subsection (6), and paragraphs (a) and (d) of subsection (14)
16 of section 373.59, Florida Statutes, 1998 Supplement, are
17 amended to read:

18 373.59 Water Management Lands Trust Fund.--
19 (2)(a) By January 15 of each year, each district shall
20 file with the Legislature and the Secretary of Environmental
21 Protection a report of acquisition activity together with
22 modifications or additions to its 5-year plan of acquisition.
23 Included in the report shall be an identification of those
24 lands which require a full fee simple interest to achieve
25 water management goals and those lands which can be acquired
26 using alternatives to fee simple acquisition techniques and
27 still achieve such goals. In their evaluation of which lands
28 would be appropriate for acquisition through alternatives to
29 fee simple, district staff shall consider criteria including,
30 but not limited to, acquisition costs, the net present value
31 of future land management costs, the net present value of ad

1 valorem revenue loss to the local government, and the
2 potential for revenue generated from activities compatible
3 with acquisition objectives. The report shall also include a
4 description of land management activity. Expenditure of moneys
5 from the Water Management Lands Trust Fund shall be limited to
6 the costs for acquisition, management, maintenance, and
7 capital improvements of lands included within the 5-year plan
8 as filed by each district and to the department's costs of
9 administration of the fund. The department's costs of
10 administration shall be charged proportionally against each
11 district's allocation using the formula provided in subsection
12 (8)~~(7)~~. However, no acquisition of lands shall occur without
13 a public hearing similar to those held pursuant to the
14 provisions set forth in s. 120.54. In the annual update of its
15 5-year plan for acquisition, each district shall identify
16 lands needed to protect or recharge groundwater and shall
17 establish a plan for their acquisition as necessary to protect
18 potable water supplies. Lands which serve to protect or
19 recharge groundwater identified pursuant to this paragraph
20 shall also serve to protect other valuable natural resources
21 or provide space for natural resource based recreation.

22 (6) If a district issues revenue bonds or notes under
23 s. 373.584, the district may pledge its share of the moneys in
24 the Water Management Lands Trust Fund as security for such
25 bonds or notes. The Department of Environmental Protection
26 shall pay moneys from the trust fund to a district or its
27 designee sufficient to pay the debt service, as it becomes
28 due, on the outstanding bonds and notes of the district;
29 however, such payments shall not exceed the district's
30 cumulative portion of the trust fund. However, any moneys
31 remaining after payment of the amount due on the debt service

1 shall be released to the district pursuant to subsection(4)
2 ~~(3)~~.

3 (14)(a) ~~Beginning in fiscal year 1992-1993~~, Not more
4 than one-fourth of the land management funds provided for in
5 subsections (1) and (9) in any year shall be reserved annually
6 by a governing board, during the development of its annual
7 operating budget, for payment in lieu of taxes to qualifying
8 counties for actual ad valorem tax losses incurred as a result
9 of lands purchased with funds allocated pursuant to s.
10 259.101(3)(b). In addition, the Northwest Florida Water
11 Management District, the South Florida Water Management
12 District, the Southwest Florida Water Management District, the
13 St. Johns River Water Management District, and the Suwannee
14 River Water Management District shall pay to qualifying
15 counties payments in lieu of taxes for district lands acquired
16 with funds allocated pursuant to subsection (8). Reserved
17 funds that are not used for payment in lieu of taxes in any
18 year shall revert to the fund to be used for management
19 purposes or land acquisition in accordance with this section.

20 (d) The payment amount shall be based on the average
21 amount of actual taxes paid on the property for the 3 years
22 immediately preceding acquisition. ~~For lands purchased prior~~
23 ~~to July 1, 1992, applications for payment in lieu of taxes~~
24 ~~shall be made to the districts by January 1, 1993. For lands~~
25 ~~purchased after July 1, 1992~~, Applications for payment in lieu
26 of taxes shall be made no later than January 31 of the year
27 following acquisition. No payment in lieu of taxes shall be
28 made for properties which were exempt from ad valorem taxation
29 for the year immediately preceding acquisition. Payment in
30 lieu of taxes shall be limited to a period of 10 consecutive
31 years of annual payments.

1 Reviser's note.--Paragraph (2)(a) and
2 subsection (6) are amended to conform to the
3 redesignation of subunits of s. 373.59 by s.
4 17, ch. 96-389, Laws of Florida. Paragraphs
5 (14)(a) and (d) are amended to delete
6 provisions that have served their purpose.
7

8 Section 174. Subsection (1) of section 373.591,
9 Florida Statutes, 1998 Supplement, is amended to read:
10 373.591 Management review teams.--

11 (1) To determine whether conservation, preservation,
12 and recreation lands titled in the names ~~named~~ of the water
13 management districts are being managed for the purposes for
14 which they were acquired and in accordance with land
15 management objectives, the water management districts shall
16 establish land management review teams to conduct periodic
17 management reviews. The land management review teams shall be
18 composed of the following members:

19 (a) One individual from the county or local community
20 in which the parcel is located.

21 (b) One employee of the water management district.

22 (c) A private land manager mutually agreeable to the
23 governmental agency representatives.

24 (d) A member of the local soil and water conservation
25 district board of supervisors.

26 (e) One individual from the Game and Fresh Water Fish
27 Commission.

28 (f) One individual from the Department of
29 Environmental Protection.

30 (g) One individual representing a conservation
31 organization.

1 (h) One individual from the Department of Agriculture
2 and Consumer Services' Division of Forestry.

3
4 Reviser's note.--Amended to improve clarity and
5 facilitate correct interpretation.

6
7 Section 175. Subsection (1) of section 374.976,
8 Florida Statutes, 1998 Supplement, is amended to read:

9 374.976 Authority to address impacts of waterway
10 development projects.--

11 (1) Each inland navigation district, ~~except the~~
12 ~~district created pursuant to s. 374.301,~~ is empowered and
13 authorized to undertake programs intended to alleviate the
14 problems associated with its waterway or waterways, including,
15 but not limited to, the following:

16 (a) The district may act as a local interest sponsor
17 for any project designated as a "Section 107, River and Harbor
18 Act of 1960" project authorized and undertaken by the U.S.
19 Army Corps of Engineers and, in this regard, may comply with
20 any or all conditions imposed on local interests as part of
21 such project.

22 (b) It is the intent of the Legislature that the
23 district may sponsor or furnish assistance and support to
24 member counties and local governments within the district in
25 planning and carrying out beach renourishment and inlet
26 management projects. Such assistance and support, if
27 financial in nature, shall be contributed only after a finding
28 by the board that inlet management projects are a benefit to
29 public navigation in the district and that the beaches to be
30 nourished have been adversely impacted by navigation inlets,
31 navigation structures, navigation dredging, or a navigation

1 project. Such projects will be consistent with Department of
2 Environmental Protection approved inlet management plans and
3 the statewide beach management plan pursuant to s. 161.161.
4 Inlet management projects that are determined to be consistent
5 with Department of Environmental Protection approved inlet
6 management plans are declared to be a benefit to public
7 navigation.

8 (c) The district is authorized to aid and cooperate
9 with the Federal Government, state, member counties, and local
10 governments within the district in planning and carrying out
11 public navigation, local and regional anchorage management,
12 beach renourishment, public recreation, inlet management,
13 environmental education, and boating safety projects, directly
14 related to the waterways. The district is also authorized to
15 enter into cooperative agreements with the United States Army
16 Corps of Engineers, state, and member counties, and to
17 covenant in any such cooperative agreement to pay part of the
18 costs of acquisition, planning, development, construction,
19 reconstruction, extension, improvement, operation, and
20 maintenance of such projects.

21 (d) The district is authorized to enter into
22 cooperative agreements with navigation-related districts to
23 pay part of the costs of acquisition of spoil disposal sites.

24 (e) The district is authorized to enter into ecosystem
25 management agreements with the Department of Environmental
26 Protection pursuant to s. 403.075.

27

28 Reviser's note.--Amended to conform to the
29 repeal of s. 374.301 by s. 2, ch. 93-265, Laws
30 of Florida.

31

1 Section 176. Subsection (3) of section 374.983,
2 Florida Statutes, is amended to read:

3 374.983 Governing body.--

4 (3) The officers of the board shall be: one chair,
5 one vice chair, one secretary, and one treasurer; provided,
6 however, that no one person shall be eligible to hold more
7 than one of said offices at one and the same time. The
8 officers shall be elected from the board by the members
9 thereof. Six members of the board of commissioners shall
10 constitute a quorum, and the vote of a majority of such quorum
11 shall be necessary to the transaction of business. Board and
12 committee meetings may be conducted utilizing communications
13 media technology, pursuant to s. 120.54(5)(b)2~~120.53(6)~~. The
14 chair shall have the right to vote at all meetings of the
15 board. Special meetings of the board may be called at any time
16 by the chair, with notice thereof to be given to each member
17 of the board.

18
19 Reviser's note.--Amended to conform to
20 revisions to chapter 120 by ch. 96-159, Laws of
21 Florida. Material relating to utilization of
22 communications media technology formerly
23 located in s. 120.53(6) is now located in s.
24 120.54(5)(b)2.

25
26 Section 177. Subsection (2) of section 375.041,
27 Florida Statutes, is amended to read:

28 375.041 Land Acquisition Trust Fund.--

29 (2) The moneys on deposit in the Land Acquisition
30 Trust Fund shall be first applied to pay the rentals due under
31 lease-purchase agreements or to meet debt service requirements

1 of revenue bonds issued pursuant to s. 375.051; provided,
2 however, that debt service on Save Our Coast bonds shall not
3 be paid from moneys transferred to the Land Acquisition Trust
4 Fund pursuant to s. 259.032(2)(b)~~253.023(2)(b)~~.

5
6 Reviser's note.--Amended to conform to the
7 transfer of s. 253.023 to s. 259.032 by s. 1,
8 ch. 94-240, Laws of Florida.

9
10 Section 178. Paragraph (i) of subsection (4) of
11 section 376.3071, Florida Statutes, is amended to read:

12 376.3071 Inland Protection Trust Fund; creation;
13 purposes; funding.--

14 (4) USES.--Whenever, in its determination, incidents
15 of inland contamination related to the storage of petroleum or
16 petroleum products may pose a threat to the environment or the
17 public health, safety, or welfare, the department shall
18 obligate moneys available in the fund to provide for:

19 (i) Funding of the provisions of ss. 376.305(6)
20 ~~376.305(7)~~and 376.3072.

21
22 The Inland Protection Trust Fund may only be used to fund the
23 activities in ss. 376.30-376.319 except ss. 376.3078 and
24 376.3079. Amounts on deposit in the Inland Protection Trust
25 Fund in each fiscal year shall first be applied or allocated
26 for the payment of amounts payable by the department pursuant
27 to paragraph (o) under a service contract entered into by the
28 department pursuant to s. 376.3075 and appropriated in each
29 year by the Legislature prior to making or providing for other
30 disbursements from the fund. Nothing in this subsection shall
31 authorize the use of the Inland Protection Trust Fund for

1 cleanup of contamination caused primarily by a discharge of
2 solvents as defined in s. 206.9925(6), or polychlorinated
3 biphenyls when their presence causes them to be hazardous
4 wastes, except solvent contamination which is the result of
5 chemical or physical breakdown of petroleum products and is
6 otherwise eligible. Facilities used primarily for the storage
7 of motor or diesel fuels as defined in ss. 206.01 and 206.86
8 shall be presumed not to be excluded from eligibility pursuant
9 to this section.

10

11 Reviser's note.--Amended to conform to the
12 redesignation of s. 376.305(7) as s. 376.305(6)
13 by s. 4, ch. 96-277, Laws of Florida.

14

15 Section 179. Paragraphs (b) and (c) of subsection (2)
16 of section 376.30711, Florida Statutes, are reenacted to read:
17 376.30711 Preapproved site rehabilitation, effective
18 March 29, 1995.--

19

(2)

20

(b) Any contractor performing site rehabilitation
21 program tasks must demonstrate to the department that:

22

1. The contractor meets all certification and license
23 requirements imposed by law.

24

2. The contractor has obtained approval of its
25 Comprehensive Quality Assurance Plan prepared under department
26 rules.

27

(c) The contractor shall certify to the department
28 that such contractor:

29

1. Complies with applicable OSHA regulations.

30

31

- 1 2. Maintains workers' compensation insurance for all
2 employees as required by the Florida Workers' Compensation
3 Law.
- 4 3. Maintains comprehensive general liability and
5 comprehensive automobile liability insurance with minimum
6 limits of at least \$1 million per occurrence and \$1 million
7 annual aggregate, as shall protect it from claims for damage
8 for personal injury, including accidental death, as well as
9 claims for property damage which may arise from performance of
10 work under the program, designating the state as an additional
11 insured party.
- 12 4. Maintains professional liability insurance of at
13 least \$1 million per occurrence and \$1 million annual
14 aggregate.
- 15 5. Has completed and submitted a sworn statement under
16 s. 287.133(3)(a), on public entity crimes.
- 17 6. Has the capacity to perform or directly supervise
18 the majority of the work at a site in accordance with s.
19 489.113(9).

20
21 Reviser's note.--Section 15, ch. 97-277, Laws
22 of Florida, purported to amend s. 376.30711(2),
23 but failed to republish paragraphs (2)(b) and
24 (c). In the absence of affirmative evidence
25 that the Legislature intended to repeal the
26 omitted material, coupled with the fact that
27 the form of the amendment affirmatively
28 evidences an intent to preserve the existing
29 paragraph structure, paragraphs (2)(b) and (c)
30 are reenacted to confirm that the omission was
31 not intended.

1 Section 180. Paragraph (a) of subsection (2) of
2 section 376.3072, Florida Statutes, is amended to read:

3 376.3072 Florida Petroleum Liability and Restoration
4 Insurance Program.--

5 (2)(a) Any owner or operator of a petroleum storage
6 system may become an insured in the restoration insurance
7 program at a facility provided:

8 1. A site at which an incident has occurred shall be
9 eligible for restoration if the insured is a participant in
10 the third-party liability insurance program or otherwise meets
11 applicable financial responsibility requirements. After July
12 1, 1993, the insured must also provide the required excess
13 insurance coverage or self-insurance for restoration to
14 achieve the financial responsibility requirements of 40 C.F.R.
15 s. 280.97, subpart H, not covered by paragraph(d)~~(e)~~.

16 2. A site which had a discharge reported prior to
17 January 1, 1989, for which notice was given pursuant to s.
18 376.3071(9) or (12), and which is ineligible for the
19 third-party liability insurance program solely due to that
20 discharge shall be eligible for participation in the
21 restoration program for any incident occurring on or after
22 January 1, 1989, in accordance with subsection (3).
23 Restoration funding for an eligible contaminated site will be
24 provided without participation in the third-party liability
25 insurance program until the site is restored as required by
26 the department or until the department determines that the
27 site does not require restoration.

28 3. Notwithstanding paragraph (b), a site where an
29 application is filed with the department prior to January 1,
30 1995, where the owner is a small business under s. 288.703(1),
31 a state community college with less than 2,500 FTE, a

1 religious institution as defined by s. 212.08(7)(o)2.a., a
2 charitable institution as defined by s. 212.08(7)(o)2.b., or a
3 county or municipality with a population of less than 50,000,
4 shall be eligible for up to \$300,000 of eligible restoration
5 costs, less a deductible of \$10,000 for small businesses,
6 eligible community colleges, and religious or charitable
7 institutions, and \$30,000 for eligible counties and
8 municipalities, provided that:

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

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

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

17 d. The owner or operator proceeds to complete initial
18 remedial action as defined by department rules.

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

24

25 However, the department may consider in-kind services from
26 eligible counties and municipalities in lieu of the \$30,000
27 deductible. The cost of conducting initial remedial action as
28 defined by department rules shall be an eligible restoration
29 cost pursuant to this provision.

30 4.a. By January 1, 1997, facilities at sites with
31 existing contamination shall be required to have methods of

1 release detection to be eligible for restoration insurance
2 coverage for new discharges subject to department rules for
3 secondary containment. Annual storage system testing, in
4 conjunction with inventory control, shall be considered to be
5 a method of release detection until the later of December 22,
6 1998, or 10 years after the date of installation or the last
7 upgrade. Other methods of release detection for storage tanks
8 which meet such requirement are:

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

11 (II) Automatic tank gauging systems; or

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

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

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

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

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

24 (I) A single check valve installed directly below the
25 suction pump, provided there are no other valves between the
26 dispenser and the tank; or

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

28 d. Owners of facilities with existing contamination
29 that install internal release detection systems in accordance
30 with sub-subparagraph a. shall permanently close their
31 external groundwater and vapor monitoring wells in accordance

1 with department rules by December 31, 1998. Upon installation
2 of the internal release detection system, these wells shall be
3 secured and taken out of service until permanent closure.

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

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

13

14 Reviser's note.--Amended to conform to the
15 redesignation of paragraph (e) of s.
16 376.3072(2) as paragraph (d) by s. 8, ch.
17 96-277, Laws of Florida.

18

19 Section 181. Paragraph (a) of subsection (8) and
20 subsection (12) of section 376.3078, Florida Statutes, 1998
21 Supplement, are amended to read:

22 376.3078 Drycleaning facility restoration; funds;
23 uses; liability; recovery of expenditures.--

24 (8) SCORING SYSTEM APPLICATION.--

25 (a) If the department determines that a site is
26 eligible for the program, pursuant to this section, then the
27 department shall develop a score for the site in accordance
28 with provisions of subsection (7)~~(5)~~.

29 (12) REOPENERS.--Upon completion of site
30 rehabilitation in compliance with subsection (11)~~(10)~~,

31

1 additional site rehabilitation is not required unless it is
2 demonstrated:

3 (a) That fraud was committed in demonstrating site
4 conditions or completion of site rehabilitation;

5 (b) That new information confirms the existence of an
6 area of previously unknown contamination which exceeds the
7 site-specific rehabilitation levels established in accordance
8 with subsection (4), or which otherwise poses the threat of
9 real and substantial harm to public health, safety, or the
10 environment;

11 (c) That the remediation efforts failed to achieve the
12 site rehabilitation criteria established under this section;

13 (d) That the level of risk is increased beyond the
14 acceptable risk established under subsection (4) due to
15 substantial changes in exposure conditions, such as a change
16 in land use from nonresidential to residential use. Any person
17 who changes the land use of the site, thus causing the level
18 of risk to increase beyond the acceptable risk level, may be
19 required by the department to undertake additional remediation
20 measures to assure that human health, public safety, and the
21 environment are protected consistent with this section; or

22 (e) That a new discharge occurs at the drycleaning
23 site subsequent to a determination of eligibility for
24 participation in the drycleaning program established under
25 this section.

26

27 Reviser's note.--Amended to conform to the
28 redesignation of subunits of s. 376.3078 by the
29 reviser incident to compiling the 1998
30 Supplement to the Florida Statutes 1997.

31

1 Section 182. Paragraph (a) of subsection (2) of
2 section 376.30781, Florida Statutes, 1998 Supplement, is
3 amended to read:

4 376.30781 Partial tax credits for rehabilitation of
5 drycleaning-solvent-contaminated sites and brownfield sites in
6 designated brownfield areas; application process; rulemaking
7 authority; revocation authority.--

8 (2)(a) A credit in the amount of 35 percent of the
9 costs of voluntary cleanup activity that is integral to site
10 rehabilitation at the following sites is allowed pursuant to
11 ss. 199.1055 and 220.1845:

12 1. A drycleaning-solvent-contaminated site eligible
13 for state-funded site rehabilitation under s. 376.3078(3);

14 2. A drycleaning-solvent-contaminated site at which
15 cleanup is undertaken by the real property owner pursuant to
16 s. 376.3078(11)~~376.3078(10)~~, if the real property owner is
17 not also, and has never been, the owner or operator of the
18 drycleaning facility where the contamination exists; or

19 3. A brownfield site in a designated brownfield area
20 under s. 376.80.

21
22 Reviser's note.--Amended to conform to the
23 redesignation of s. 376.3078(10) as s.
24 376.3078(11) by the reviser necessitated by the
25 inclusion of two subsections numbered (6) in s.
26 10, ch. 98-189, Laws of Florida.

27
28 Section 183. Paragraph (a) of subsection (1) of
29 section 376.82, Florida Statutes, 1998 Supplement, is amended
30 to read:

31

1 376.82 Eligibility criteria and liability
2 protection.--
3 (1) ELIGIBILITY.--Any person who has not caused or
4 contributed to the contamination of a brownfield site on or
5 after July 1, 1997, is eligible to participate in the
6 brownfield rehabilitation program established in ss.
7 376.77-376.85, subject to the following:
8 (a) Potential brownfield sites that are subject to an
9 ongoing formal judicial or administrative enforcement action
10 or corrective action pursuant to federal authority, including,
11 but not limited to, the Comprehensive Environmental Response
12 Compensation and Liability Act, 42 U.S.C. ss. 9601, et seq.,
13 as amended; the Safe Drinking Water Act, 42 U.S.C. ss.
14 300f-300i, as amended; the Clean Water Act, 33 U.S.C. ss.
15 1251-1387, as amended; or under an order from the United
16 States Environmental Protection Agency pursuant to s. 3008(h)
17 of the Resource Conservation and Recovery Act, as amended (42
18 U.S.C.A. s. 6928(h)); or that have obtained or are required to
19 obtain a permit for the operation of a hazardous waste
20 treatment, storage, or disposal facility; a postclosure
21 permit; or a permit pursuant to the federal Hazardous and
22 Solid Waste Amendments of 1984, are not eligible for
23 participation unless specific exemptions are secured by a
24 memorandum of agreement with the United States Environmental
25 Protection Agency pursuant to paragraph (2)(g)~~(2)(e)~~. A
26 brownfield site within an eligible brownfield area that
27 subsequently becomes subject to formal judicial or
28 administrative enforcement action or corrective action under
29 such federal authority shall have its eligibility revoked
30 unless specific exemptions are secured by a memorandum of
31

1 agreement with the United States Environmental Protection
2 Agency pursuant to paragraph (2)(g).

3
4 Reviser's note.--Amended to facilitate correct
5 interpretation and to conform to usage
6 elsewhere in the paragraph; paragraph (2)(e)
7 does not relate to agreements with the United
8 States Environmental Protection Agency.

9
10 Section 184. Paragraphs (b), (c), (d), (e), (h), (i),
11 (j), (k), (l), and (m) of subsection (3) of section 377.703,
12 Florida Statutes, 1998 Supplement, are reenacted to read:

13 377.703 Additional functions of the Department of
14 Community Affairs; energy emergency contingency plan; federal
15 and state conservation programs.--

16 (3) DEPARTMENT OF COMMUNITY AFFAIRS; DUTIES.--The
17 Department of Community Affairs shall, in addition to assuming
18 the duties and responsibilities provided by ss. 20.18 and
19 377.701, perform the following functions consistent with the
20 development of a state energy policy:

21 (b) The department shall constitute the responsible
22 state agency for performing or coordinating the functions of
23 any federal energy programs delegated to the state, including
24 energy supply, demand, conservation, or allocation.

25 (c) The department shall analyze present and proposed
26 federal energy programs and make recommendations regarding
27 those programs to the Governor.

28 (d) The department shall coordinate efforts to seek
29 federal support or other support for state energy activities,
30 including energy conservation, research, or development, and
31

1 shall be the state agency responsible for the coordination of
2 multiagency energy conservation programs and plans.

3 (e) The department shall analyze energy data collected
4 and prepare long-range forecasts of energy supply and demand
5 in coordination with the Florida Public Service Commission,
6 which shall have responsibility for electricity and natural
7 gas forecasts. To this end, the forecasts shall contain:

8 1. An analysis of the relationship of state economic
9 growth and development to energy supply and demand, including
10 the constraints to economic growth resulting from energy
11 supply constraints.

12 2. Plans for the development of renewable energy
13 resources and reduction in dependence on depletable energy
14 resources, particularly oil and natural gas, and an analysis
15 of the extent to which renewable energy sources are being
16 utilized in the state.

17 3. Consideration of alternative scenarios of statewide
18 energy supply and demand for 5, 10, and 20 years, to identify
19 strategies for long-range action, including identification of
20 potential social, economic, and environmental effects.

21 4. An assessment of the state's energy resources,
22 including examination of the availability of commercially
23 developable and imported fuels, and an analysis of anticipated
24 effects on the state's environment and social services
25 resulting from energy resource development activities or from
26 energy supply constraints, or both.

27 (h) Promote the development and use of renewable
28 energy resources, in conformance with the provisions of
29 chapter 187 and s. 377.601, by:

30 1. Establishing goals and strategies for increasing
31 the use of solar energy in this state.

1 2. Aiding and promoting the commercialization of solar
2 energy technology, in cooperation with the Florida Solar
3 Energy Center, the Department of Commerce, and any other
4 federal, state, or local governmental agency which may seek to
5 promote research, development, and demonstration of solar
6 energy equipment and technology.

7 3. Identifying barriers to greater use of solar energy
8 systems in this state, and developing specific recommendations
9 for overcoming identified barriers, with findings and
10 recommendations to be submitted annually in the report to the
11 Legislature required under paragraph (f).

12 4. In cooperation with the Department of
13 Transportation, the Department of Commerce, the Florida Solar
14 Energy Center, and the Florida Solar Energy Industries
15 Association, investigating opportunities, pursuant to the
16 National Energy Policy Act of 1992 and the Housing and
17 Community Development Act of 1992, for solar electric vehicles
18 and other solar energy manufacturing, distribution,
19 installation, and financing efforts which will enhance this
20 state's position as the leader in solar energy research,
21 development, and use.

22 5. Undertaking other initiatives to advance the
23 development and use of renewable energy resources in this
24 state.

25
26 In the exercise of its responsibilities under this paragraph,
27 the department shall seek the assistance of the solar energy
28 industry in this state and other interested parties and is
29 authorized to enter into contracts, retain professional
30 consulting services, and expend funds appropriated by the
31 Legislature for such purposes.

1 (i) The department shall promote energy conservation
2 in all energy use sectors throughout the state and shall
3 constitute the state agency primarily responsible for this
4 function. To this end, the department shall coordinate the
5 energy conservation programs of all state agencies and review
6 and comment on the energy conservation programs of all state
7 agencies.

8 (j) The department shall serve as the state
9 clearinghouse for indexing and gathering all information
10 related to energy programs in state universities, in private
11 universities, in federal, state, and local government
12 agencies, and in private industry and shall prepare and
13 distribute such information in any manner necessary to inform
14 and advise the citizens of the state of such programs and
15 activities. This shall include developing and maintaining a
16 current index and profile of all research activities, which
17 shall be identified by energy area and may include a summary
18 of the project, the amount and sources of funding, anticipated
19 completion dates, or, in case of completed research,
20 conclusions, recommendations, and applicability to state
21 government and private sector functions. The department shall
22 coordinate, promote, and respond to efforts by all sectors of
23 the economy to seek financial support for energy activities.
24 The department shall provide information to consumers
25 regarding the anticipated energy-use and energy-saving
26 characteristics of products and services in coordination with
27 any federal, state, or local governmental agencies as may
28 provide such information to consumers.

29 (k) The department shall coordinate energy-related
30 programs of state government, including, but not limited to,
31

1 the programs provided in this section. To this end, the
2 department shall:

3 1. Provide assistance to other state agencies,
4 counties, municipalities, and regional planning agencies to
5 further and promote their energy planning activities.

6 2. Require, in cooperation with the Department of
7 Management Services, all state agencies to operate state-owned
8 and state-leased buildings in accordance with energy
9 conservation standards as adopted by the Department of
10 Management Services. Every 3 months, the Department of
11 Management Services shall furnish the department data on
12 agencies' energy consumption in a format mutually agreed upon
13 by the two departments.

14 3. Promote the development and use of renewable energy
15 resources, energy efficiency technologies, and conservation
16 measures.

17 4. Promote the recovery of energy from wastes,
18 including, but not limited to, the use of waste heat, the use
19 of agricultural products as a source of energy, and recycling
20 of manufactured products. Such promotion shall be conducted in
21 conjunction with, and after consultation with, the Department
22 of Environmental Protection, the Florida Public Service
23 Commission where electrical generation or natural gas is
24 involved, and any other relevant federal, state, or local
25 governmental agency having responsibility for resource
26 recovery programs.

27 (1) The department shall develop, coordinate, and
28 promote a comprehensive research plan for state programs. Such
29 plan shall be consistent with state energy policy and shall be
30 updated on a biennial basis.

31

1 (m) In recognition of the devastation to the economy
2 of this state and the dangers to the health and welfare of
3 residents of this state caused by Hurricane Andrew, and the
4 potential for such impacts caused by other natural disasters,
5 the department shall include in its energy emergency
6 contingency plan and in the state model energy efficiency
7 building code specific provisions to facilitate the use of
8 cost-effective solar energy technologies as emergency remedial
9 and preventive measures for providing electric power, street
10 lighting, and water heating service in the event of electric
11 power outages.

12
13 Reviser's note.--Section 7, ch. 95-328, Laws of
14 Florida, purported to amend subsection (3) of
15 s. 377.703, but did not set out in full the
16 amended subsection to include paragraphs
17 (b)-(m). Paragraph (f) was amended by s. 39,
18 ch. 95-196, Laws of Florida, and paragraph (g)
19 was amended by s. 89, ch. 98-200, Laws of
20 Florida. In the absence of affirmative evidence
21 that the Legislature intended to repeal the
22 omitted material, coupled with the amendment of
23 two of the omitted paragraphs in other
24 legislation and the fact that the amendments by
25 ch. 95-196, ch. 95-328, and ch. 98-200
26 affirmatively evidence an intent to preserve
27 the existing subsection structure, paragraphs
28 (b)-(e) and (h)-(m) are reenacted to confirm
29 that their omission was not intended.

30
31

1 Section 185. Subsection (9) of section 378.901,
2 Florida Statutes, is amended to read:

3 378.901 Life-of-the-mine permit.--

4 (9) Each operator of a mine that has received
5 construction approval in accordance with s. 403.087, s.
6 403.088, former part VIII of chapter 403, or part IV of
7 chapter 373 in response to an application which was submitted
8 prior to July 1, 1995, may elect either to seek renewal of
9 that permit or to seek a life-of-the-mine permit for all new
10 or existing activities that require a permit. Life-of-the-mine
11 permit applications for existing fuller's earth mining
12 activities must be reviewed as set forth in s. 373.414(15).

13
14 Reviser's note.--Amended to conform to the fact
15 that the only provision in former part VIII of
16 chapter 403 existing at the time the reference
17 was enacted, s. 403.939, expired October 1,
18 1994, and was repealed by s. 18, ch. 95-145,
19 Laws of Florida.

20
21 Section 186. Subsections (4) and (5), paragraphs (b)
22 and (c) of subsection (8), and paragraphs (d) and (g) of
23 subsection (10) of section 380.0555, Florida Statutes, 1998
24 Supplement, are amended to read:

25 380.0555 Apalachicola Bay Area; protection and
26 designation as area of critical state concern.--

27 (4) REMOVAL OF DESIGNATION.--The state land planning
28 agency may recommend to the Administration Commission the
29 removal of the designation from all or part of the area
30 specified in subsection (3), if it determines that all local
31 land development regulations and local comprehensive plans and

1 the administration of such regulations and plans are adequate
2 to protect the Apalachicola Bay Area, continue to carry out
3 the legislative intent set forth in subsection (2), and are in
4 compliance with the principles for guiding development set
5 forth in subsection (7)~~(8)~~. If the Administration Commission
6 concurs with the recommendations of the state land planning
7 agency to remove any area from the designation, it shall,
8 within 45 days after receipt of the recommendation, initiate
9 rulemaking to remove the designation. The state land planning
10 agency shall make recommendations to the Administration
11 Commission annually.

12 (5) APPLICATION OF CHAPTER 380 PROVISIONS.--Section
13 380.05(1)-(6), (8)-(12), (15), (17), and (21), shall not apply
14 to the area designated by this act for so long as the
15 designation remains in effect. Except as otherwise provided in
16 this act, s. 380.045 shall not apply to the area designated by
17 this act. All other provisions of this chapter shall apply,
18 including ss. 380.07 and 380.11, except that the "local
19 development regulations" in s. 380.05(13) shall include the
20 regulations set forth in subsection (8)~~(9)~~ for purposes of s.
21 380.05(13), and the plan or plans submitted pursuant to s.
22 380.05(14) shall be submitted no later than February 1, 1986.
23 All or part of the area designated by this act may be
24 redesignated pursuant to s. 380.05 as if it had been initially
25 designated pursuant to that section.

26 (8) COMPREHENSIVE PLAN ELEMENTS AND LAND DEVELOPMENT
27 REGULATIONS.--

28 (b) Conflicting regulations.--In the event of any
29 inconsistency between subparagraph (a)1. and subparagraphs
30 (a)2.-11., subparagraph (a)1. shall control. Further, in the
31 event of any inconsistency between subsection (7)~~(8)~~ and

1 paragraph (a) of this subsection and a development order
2 issued pursuant to s. 380.06, which has become final prior to
3 June 18, 1985, or between subsection~~(7)~~~~(8)~~ and paragraph (a)
4 and an amendment to a final development order, which amendment
5 has been requested prior to April 2, 1985, the development
6 order or amendment thereto shall control. However, any
7 modification to paragraph (a) enacted by a local government
8 and approved by the Administration Commission pursuant to
9 subsection~~(9)~~~~(10)~~ may provide whether it shall control over
10 an inconsistent provision of a development order or amendment
11 thereto. A development order or any amendment thereto
12 referred to in this paragraph shall not be subject to approval
13 by the Administration Commission pursuant to subsection~~(9)~~
14 ~~(10)~~.

15 (c) Effect of existing plans and regulations.--Legally
16 adopted comprehensive plans and land development regulations
17 other than those listed in this subsection shall remain in
18 full force and effect unless inconsistent with the principles
19 for guiding development set forth in subsection~~(7)~~~~(8)~~, the
20 elements of the comprehensive plan listed in this subsection,
21 or the land development regulations listed in this subsection.

22 (10) REQUIREMENTS; LOCAL GOVERNMENTS.--

23 (d) Franklin County and the municipalities within it
24 shall, within 12 months from June 18, 1985, establish by
25 ordinance a map of "pollution-sensitive segments of the
26 critical shoreline" within the Apalachicola Bay Area, which
27 ordinance shall not be effective until approved by the
28 Department of Health and Rehabilitative Services and the
29 Department of Environmental Regulation. Franklin County and
30 the municipalities within it, after the effective date of
31 these ordinances, shall no longer grant permits for onsite

1 wastewater disposal systems in pollution-sensitive segments of
2 the critical shoreline, except for those onsite wastewater
3 systems that will not degrade water quality in the river or
4 bay. These ordinances shall not become effective until
5 approved by the resource planning and management committee.
6 Until such ordinances become effective, the Franklin County
7 Health Department shall not give a favorable recommendation to
8 the granting of a septic tank variance pursuant to section (1)
9 of Ordinance 79-8, adopted on June 22, 1979, by the Franklin
10 County Board of County Commissioners and filed with the
11 Secretary of State on June 27, 1979, or issue a permit for a
12 septic tank or alternative waste disposal system pursuant to
13 Ordinance 81-5, adopted on June 22, 1981, by the Franklin
14 County Board of County Commissioners and filed with the
15 Secretary of State on June 30, 1981, as amended as set forth
16 in subparagraph (8)(a)2.~~(9)(a)2.~~, unless the Franklin County
17 Health Department certifies, in writing, that the use of such
18 system will be consistent with paragraph (7)(f)~~(8)(f)~~ and
19 subsection (8)~~(9)~~.

20 (g) Franklin County and the municipalities within it
21 shall, beginning 12 months from June 18, 1985, prepare
22 semiannual reports on the implementation of paragraphs (b)-(f)
23 on the environmental status of the Apalachicola Bay Area. The
24 state land planning agency may prescribe additional detailed
25 information required to be reported. Each report shall be
26 delivered to the resource planning and management committee
27 and the state land planning agency for review and
28 recommendations. The state land planning agency shall review
29 each report and consider such reports when making
30 recommendations to the Administration Commission pursuant to
31 subsection (9)~~(10)~~.

1 Reviser's note.--Amended to conform to the
2 redesignation of the subunits of s. 380.0555
3 necessitated by the repeal of former subsection
4 (7) by s. 31, ch. 98-176, Laws of Florida.

5
6 Section 187. Section 380.20, Florida Statutes, is
7 amended to read:

8 380.20 Short title.--Sections 380.205-380.24 ~~and ss.~~
9 ~~380.31-380.33~~ may be cited as the "Florida Coastal Management
10 Act."

11
12 Reviser's note.--Amended to conform to the
13 repeal of ss. 380.31-380.33 by s. 12, ch.
14 95-145, Laws of Florida.

15
16 Section 188. Section 380.205, Florida Statutes, is
17 amended to read:

18 380.205 Definitions.--As used in ss. 380.21-380.24 ~~and~~
19 ~~380.31-380.33~~:

20 (1) "Department" means the Department of Community
21 Affairs.

22 ~~(2) "Interagency management committee" means the~~
23 ~~Coastal Resources Interagency Management Committee established~~
24 ~~by s. 380.31.~~

25 (2)~~(3)~~ "Coastal zone" means that area of land and
26 water from the territorial limits seaward to the most inland
27 extent of marine influences. However, for planning and
28 developing coordinated projects and initiatives for coastal
29 resource protection and management, the department shall
30 consider the coastal zone to be the geographical area
31 encompassed by the 35 Florida coastal counties listed in the

1 Final Environmental Impact Statement for the Florida Coastal
2 Management Program and the adjoining territorial sea. It is
3 not the intent of this definition to limit the authority
4 currently exercised under the federal law and the federally
5 approved Florida Coastal Management Program by which projects
6 landward and seaward of the 35 coastal counties are reviewed
7 for consistency with the Florida Coastal Management Program.

8
9 Reviser's note.--Amended to conform to the
10 repeal of ss. 380.31-380.33 by s. 12, ch.
11 95-145, Laws of Florida.

12
13 Section 189. Subsection (4) of section 380.22, Florida
14 Statutes, 1998 Supplement, is amended to read:

15 380.22 Lead agency authority and duties.--

16 (4) The department shall establish a county-based
17 process for identifying, and setting priorities for acquiring,
18 coastal properties in coordination with the Land Acquisition
19 Advisory Council ~~and the Coastal Resources Interagency~~
20 ~~Management Committee~~ so these properties may be acquired as
21 part of the state's land acquisition programs. This process
22 shall include the establishment of criteria for prioritizing
23 coastal acquisitions which, in addition to recognizing
24 pristine coastal properties and coastal properties of
25 significant or important environmental sensitivity, recognize
26 hazard mitigation, beach access, beach management, urban
27 recreation, and other policies necessary for effective coastal
28 management.

29
30 Reviser's note.--Amended to conform to the
31 repeal of s. 380.31, which created the Coastal

1 Resources Interagency Management Committee, by
2 s. 12, ch. 95-145, Laws of Florida.

3

4 Section 190. Section 381.0014, Florida Statutes, is
5 amended to read:

6 381.0014 Regulations and ordinances superseded.--The
7 rules adopted by the department under the provisions of this
8 chapter shall, as to matters of public health, supersede all
9 rules enacted by other state departments, boards or
10 commissions, or ordinances and regulations enacted by
11 municipalities, except that this chapter does not alter or
12 supersede any of the provisions set forth in chapters 502 and
13 503 or any rule adopted under the authority of those chapters.
14 ~~Any rules adopted by the department under the provisions of~~
15 ~~this chapter relating to the sanitary practices for the~~
16 ~~production, handling, and processing of milk, to dairies, and~~
17 ~~to milk plants shall be only for the purpose of carrying out~~
18 ~~the provisions of s. 502.211(3).~~

19

20 Reviser's note.--Amended to conform to the
21 repeal of s. 502.211 by s. 14, ch. 94-92, Laws
22 of Florida.

23

24 Section 191. Subsection (3) of section 381.0035,
25 Florida Statutes, 1998 Supplement, is amended to read:

26 381.0035 Educational course on human immunodeficiency
27 virus and acquired immune deficiency syndrome; employees and
28 clients of certain health care facilities.--

29 (3) Facilities licensed under chapters 393, 394, 395,
30 397, and parts II, III, IV, and VI ~~I, II, III, and V~~ of
31 chapter 400 shall maintain a record of employees and dates of

1 attendance at human immunodeficiency virus and acquired immune
2 deficiency syndrome educational courses.

3
4 Reviser's note.--Amended to conform to the
5 redesignation of the parts of chapter 400
6 incident to the compilation of ch. 93-177, Laws
7 of Florida.

8
9 Section 192. Paragraphs (a) and (b) of subsection (3)
10 of section 381.004, Florida Statutes, 1998 Supplement, are
11 amended to read:

12 381.004 Testing for human immunodeficiency virus.--

13 (3) HUMAN IMMUNODEFICIENCY VIRUS TESTING; INFORMED
14 CONSENT; RESULTS; COUNSELING; CONFIDENTIALITY.--

15 (a) No person in this state shall order a test
16 designed to identify the human immunodeficiency virus, or its
17 antigen or antibody, without first obtaining the informed
18 consent of the person upon whom the test is being performed,
19 except as specified in paragraph (h)~~(i)~~. Informed consent
20 shall be preceded by an explanation of the right to
21 confidential treatment of information identifying the subject
22 of the test and the results of the test to the extent provided
23 by law. Information shall also be provided on the fact that a
24 positive HIV test result will be reported to the county health
25 department with sufficient information to identify the test
26 subject and on the availability and location of sites at which
27 anonymous testing is performed. As required in paragraph
28 (4)(c), each county health department shall maintain a list of
29 sites at which anonymous testing is performed, including the
30 locations, phone numbers, and hours of operation of the sites.
31 Consent need not be in writing provided there is documentation

1 in the medical record that the test has been explained and the
2 consent has been obtained.

3 (b) Except as provided in paragraph (h)~~(i)~~, informed
4 consent must be obtained from a legal guardian or other person
5 authorized by law when the person:

6 1. Is not competent, is incapacitated, or is otherwise
7 unable to make an informed judgment; or

8 2. Has not reached the age of majority, except as
9 provided in s. 384.30.

10

11 Reviser's note.--Amended to conform to the
12 redesignation of paragraph (3)(i) of s. 381.004
13 as paragraph (3)(h) by s. 2, ch. 98-171, Laws
14 of Florida.

15

16 Section 193. Paragraph (s) of subsection (4) of
17 section 381.0065, Florida Statutes, 1998 Supplement, is
18 amended to read:

19 381.0065 Onsite sewage treatment and disposal systems;
20 regulation.--

21 (4) PERMITS; INSTALLATION; AND CONDITIONS.--A person
22 may not construct, repair, modify, abandon, or operate an
23 onsite sewage treatment and disposal system without first
24 obtaining a permit approved by the department. The department
25 may issue permits to carry out this section. A construction
26 permit is valid for 18 months from the issuance date and may
27 be extended by the department for one 90-day period under
28 rules adopted by the department. A repair permit is valid for
29 90 days from the date of issuance. An operating permit must be
30 obtained prior to the use of any aerobic treatment unit or if
31 the establishment generates commercial waste. Buildings or

1 establishments that use an aerobic treatment unit or generate
2 commercial waste shall be inspected by the department at least
3 annually to assure compliance with the terms of the operating
4 permit. The operating permit is valid for 1 year from the date
5 of issuance and must be renewed annually. If all information
6 pertaining to the siting, location, and installation
7 conditions or repair of an onsite sewage treatment and
8 disposal system remains the same, a construction or repair
9 permit for the onsite sewage treatment and disposal system may
10 be transferred to another person, if the transferee files,
11 within 60 days after the transfer of ownership, an amended
12 application providing all corrected information and proof of
13 ownership of the property. There is no fee associated with
14 the processing of this supplemental information. A person may
15 not contract to construct, modify, alter, repair, service,
16 abandon, or maintain any portion of an onsite sewage treatment
17 and disposal system without being registered under part III of
18 chapter 489. A property owner who personally performs
19 construction, maintenance, or repairs to a system serving his
20 or her own owner-occupied single-family residence is exempt
21 from registration requirements for performing such
22 construction, maintenance, or repairs on that residence, but
23 is subject to all permitting requirements. A municipality or
24 political subdivision of the state may not issue a building or
25 plumbing permit for any building that requires the use of an
26 onsite sewage treatment and disposal system unless the owner
27 or builder has received a construction permit for such system
28 from the department. A building or structure may not be
29 occupied and a municipality, political subdivision, or any
30 state or federal agency may not authorize occupancy until the
31 department approves the final installation of the onsite

1 sewage treatment and disposal system. A municipality or
2 political subdivision of the state may not approve any change
3 in occupancy or tenancy of a building that uses an onsite
4 sewage treatment and disposal system until the department has
5 reviewed the use of the system with the proposed change,
6 approved the change, and amended the operating permit.

7 (s) Notwithstanding the provisions of subparagraph
8 (f)1., onsite sewage treatment and disposal systems located in
9 floodways of the Suwannee and Aucilla Rivers must adhere to
10 the following requirements:

11 1. The absorption surface of the drainfield shall not
12 be subject to flooding based on 10-year flood elevations.
13 Provided, however, for lots or parcels created by the
14 subdivision of land in accordance with applicable local
15 government regulations prior to January 17, 1990, if an
16 applicant cannot construct a drainfield system with the
17 absorption surface of the drainfield at an elevation equal to
18 or above 10-year flood elevation, the department shall issue a
19 permit for an onsite sewage treatment and disposal system
20 within the 10-year floodplain of rivers, streams, and other
21 bodies of flowing water if all of the following criteria are
22 met:

- 23 a. The lot is at least one-half acre in size;
24 b. The bottom of the drainfield is at least 36 inches
25 above the 2-year flood elevation; and
26 c. The applicant installs either: a waterless,
27 incinerating, or organic waste composting toilet and a
28 graywater system and drainfield in accordance with department
29 rules; an aerobic treatment unit and drainfield in accordance
30 with department rules; a system approved by the State Health
31 Office that is capable of reducing effluent nitrate by at

1 least 50 percent; or a system approved by the county health
2 department pursuant to department rule other than a system
3 using alternative drainfield materials. The United States
4 Department of Agriculture Soil Conservation Service soil maps,
5 State of Florida Water Management District data, and Federal
6 Emergency Management Agency Flood Insurance maps are resources
7 that shall be used to identify flood-prone ~~floor-prone~~ areas.

8 2. The use of fill or mounding to elevate a drainfield
9 system out of the 10-year floodplain of rivers, streams, or
10 other bodies of flowing water shall not be permitted if such a
11 system lies within a regulatory floodway of the Suwannee and
12 Aucilla Rivers. In cases where the 10-year flood elevation
13 does not coincide with the boundaries of the regulatory
14 floodway, the regulatory floodway will be considered for the
15 purposes of this subsection to extend at a minimum to the
16 10-year flood elevation.

17
18 Reviser's note.--Amended to improve clarity and
19 facilitate correct interpretation.

20
21 Section 194. Subsection (2) of section 381.0068,
22 Florida Statutes, 1998 Supplement, is amended to read:

23 381.0068 Technical review and advisory panel.--

24 (2) The primary purpose of the panel is to assist the
25 department in rulemaking and decisionmaking by drawing on the
26 expertise of representatives from several groups that are
27 affected by onsite sewage treatment and disposal systems. The
28 panel may also review and comment on any legislation or any
29 existing or proposed state policy or issue related to onsite
30 sewage ~~sewer~~ treatment and disposal systems. If requested by
31 the panel, the chair will advise any affected person or member

1 of the Legislature of the panel's position on the legislation
2 or any existing or proposed state policy or issue. The chair
3 may also take such other action as is appropriate to allow the
4 panel to function. At a minimum, the panel shall consist of a
5 soil scientist; a professional engineer registered in this
6 state who is recommended by the Florida Engineering Society
7 and who has work experience in onsite sewage treatment and
8 disposal systems; two representatives from the home-building
9 industry recommended by the Florida Home Builders Association,
10 including one who is a developer in this state who develops
11 lots using onsite sewage treatment and disposal systems; a
12 representative from the county health departments who has
13 experience permitting and inspecting the installation of
14 onsite sewage treatment and disposal systems in this state; a
15 representative from the real estate industry who is
16 recommended by the Florida Association of Realtors; a consumer
17 representative with a science background; two representatives
18 of the septic tank industry recommended by the Florida Septic
19 Tank Association, including one who is a manufacturer of
20 onsite sewage treatment and disposal systems; and a
21 representative from the environmental health profession who is
22 recommended by the Florida Environmental Health Association
23 and who is not employed by a county health department.
24 Members are to be appointed for a term of 2 years. The panel
25 may also, as needed, be expanded to include ad hoc, nonvoting
26 representatives who have topic-specific expertise. All rules
27 proposed by the department which relate to onsite sewage
28 treatment and disposal systems must be presented to the panel
29 for review and comment prior to adoption. The panel's
30 position on proposed rules shall be made a part of the
31 rulemaking record that is maintained by the agency. The panel

1 shall select a chair, who shall serve for a period of 1 year
2 and who shall direct, coordinate, and execute the duties of
3 the panel. The panel shall also solicit input from the
4 department's variance review and advisory committee before
5 submitting any comments to the department concerning proposed
6 rules. The panel's comments must include any dissenting
7 points of view concerning proposed rules. The panel shall
8 hold meetings as it determines necessary to conduct its
9 business, except that the chair, a quorum of the voting
10 members of the panel, or the department may call meetings.
11 The department shall keep minutes of all meetings of the
12 panel. Panel members shall serve without remuneration, but,
13 if requested, shall be reimbursed for per diem and travel
14 expenses as provided in s. 112.061.

15

16 Reviser's note.--Amended to improve clarity and
17 facilitate correct interpretation.

18

19 Section 195. Paragraph (d) of subsection (2) of
20 section 381.0203, Florida Statutes, is amended to read:

21 381.0203 Pharmacy services.--

22 (2) The department may establish and maintain a
23 pharmacy services program, including, but not limited to:

24 (d) Consultation to county health departments as
25 required by s. 154.04(1)(c)~~154.04(1)(d)~~.

26

27 Reviser's note.--Amended to conform to the
28 redesignation of s. 154.04(1)(d) as s.

29 154.04(1)(c) by s. 15, ch. 96-403, Laws of
30 Florida.

31

1 Section 196. Section 408.602, Florida Statutes
2 (renumbered as section 381.732, 1998 Supplement), is amended
3 to read:

4 381.732 Short title.--Sections 381.731-381.734
5 ~~408.601-408.604~~ may be cited as the "Healthy Communities,
6 Healthy People Act."

7
8 Reviser's note.--Amended to conform to the
9 transfer of ss. 408.601-408.604 to ss.
10 381.731-381.734 by s. 2, ch. 98-224, Laws of
11 Florida.

12
13 Section 197. Section 408.603, Florida Statutes
14 (renumbered as section 381.733, 1998 Supplement), is amended
15 to read:

16 381.733 Definitions.--As used in ss. 381.731-381.734
17 ~~408.601-408.604~~, the term:

18 (1) "Department" means the Department of Health and
19 Rehabilitative Services.

20 (2) "Primary prevention" means interventions directed
21 toward healthy populations with a focus on avoiding disease
22 prior to its occurrence.

23 (3) "Secondary prevention" means interventions
24 designed to promote the early detection and treatment of
25 diseases and to reduce the risks experienced by at-risk
26 populations.

27 (4) "Tertiary prevention" means interventions directed
28 at rehabilitating and minimizing the effects of disease in a
29 chronically ill population.

30
31

1 Reviser's note.--Amended to conform to the
2 transfer of ss. 408.601-408.604 to ss.
3 381.731-381.734 by s. 2, ch. 98-224, Laws of
4 Florida.

5
6 Section 198. Subsection (10) of section 382.003,
7 Florida Statutes, is amended to read:

8 382.003 Powers and duties of the department.--The
9 department may:

10 (10) Adopt, promulgate, and enforce rules necessary
11 for the creation, issuance, recording, rescinding,
12 maintenance, and processing of vital records and for carrying
13 out the provisions of ss. 382.004-382.0135 ~~382.004-382.014~~ and
14 ss. 382.016-382.019.

15
16 Reviser's note.--Amended to conform to the
17 repeal of s. 382.014 by s. 125, ch. 97-237,
18 Laws of Florida.

19
20 Section 199. Section 382.356, Florida Statutes, is
21 amended to read:

22 382.356 Protocol for sharing certain birth certificate
23 information.--In order to facilitate the prosecution of
24 offenses under s. 794.011, s. 794.05, s. 800.04, or s.
25 827.04(3)~~827.04(4)~~, the Department of Health, the Department
26 of Revenue, and the Florida Prosecuting Attorneys Association
27 shall develop a protocol for sharing birth certificate
28 information for all children born to unmarried mothers who are
29 less than 17 years of age at the time of the child's birth.

30
31

1 Reviser's note.--Amended to revise the
2 reference to s. 827.04(4) as created by s. 2,
3 ch. 96-215, Laws of Florida, to conform to the
4 redesignation of subunits of s. 827.04 by s.
5 10, ch. 96-322, Laws of Florida.
6

7 Section 200. Paragraph (c) of subsection (2) of
8 section 388.4111, Florida Statutes, is amended to read:

9 388.4111 Public lands; arthropod control.--
10 (2)

11 (c) If the land management agency and the local
12 arthropod control agency are unable to agree on a public lands
13 control plan, the Florida Coordinating Council on Mosquito
14 Control may recommend a control plan to the department, which
15 shall propose a recommended public lands control plan. If the
16 land management agency and the local arthropod control agency
17 fail to agree to such recommended public lands control plan
18 within 30 days of the rendering of such plan, either agency
19 may petition the Land and Water Adjudicatory Commission to
20 determine whether the proposed control plan employs methods
21 which are the minimum necessary and economically feasible to
22 abate a public health or nuisance problem and which impose the
23 least hazard to fish, wildlife, and other natural resources
24 protected or managed in such areas. Unless both parties waive
25 their right to a hearing, the Land and Water Adjudicatory
26 Commission shall direct a hearing officer to hold a hearing
27 within the jurisdiction of the local arthropod control agency
28 pursuant to the provisions of ss. 120.569 and 120.57 and
29 submit a recommended order. The commission shall, within 60
30 days of receipt of the recommended order, issue a final order
31 adopting a public lands control plan. Consistent with s.

1 120.57(1)(1)~~120.57(1)(j)~~, the commission may adopt or modify
2 the proposed control plan. The commission shall adopt rules on
3 the conduct of appeals before the commission.

4
5 Reviser's note.--Amended to conform to the
6 redesignation of s. 120.57(1)(j) as s.
7 120.57(1)(1) by s. 5, ch. 98-200, Laws of
8 Florida.

9
10 Section 201. Subsection (1) of section 388.46, Florida
11 Statutes, is amended to read:

12 388.46 Florida Coordinating Council on Mosquito
13 Control; establishment; membership; organization;
14 responsibilities.--

15 (1) ESTABLISHMENT OF COUNCIL; LEGISLATIVE INTENT.--It
16 is declared to be in the best interest of the state that
17 public agencies responsible for and involved in arthropod
18 control activities work together to reduce duplication of
19 effort, foster maximum efficient use of existing resources,
20 advise and assist the agencies involved in arthropod control
21 in implementing best management practices and best available
22 technology in controlling arthropods, develop outside funding
23 sources and establish priorities for research into the
24 environmental effects of arthropod control, and enhance
25 communication between all interests involved in arthropod
26 control activities. It is therefore the intent of the
27 Legislature to establish the Florida Coordinating Council on
28 Mosquito Control within the department. The Florida
29 Coordinating Council on Mosquito Control shall be an advisory
30 body, ~~as defined in s. 11.611(3)(a).~~

31

1 Reviser's note.--Amended to conform to the
2 repeal of s. 11.611 by s. 5, ch. 91-429, Laws
3 of Florida, ratified by s. 33, ch. 96-318, Laws
4 of Florida.

5
6 Section 202. Paragraph (b) of subsection (3) of
7 section 390.0111, Florida Statutes, 1998 Supplement, is
8 amended to read:

9 390.0111 Termination of pregnancies.--

10 (3) CONSENTS REQUIRED.--A termination of pregnancy may
11 not be performed or induced except with the voluntary and
12 informed written consent of the pregnant woman or, in the case
13 of a mental incompetent, the voluntary and informed written
14 consent of her court-appointed guardian.

15 (b) In the event a medical emergency exists and a
16 physician cannot comply with the requirements for informed
17 consent, a physician may terminate a pregnancy if he or she
18 has obtained at least one corroborative medical opinion
19 attesting to the medical necessity for emergency medical
20 procedures and to the fact that to a reasonable degree of
21 medical certainty the continuation of the pregnancy would
22 threaten the life of the pregnant woman. In the event no
23 second physician is available for a corroborating opinion, the
24 physician may proceed but shall ~~be~~ document reasons for the
25 medical necessity in the patient's medical records.

26
27 Reviser's note.--Amended to improve clarity and
28 facilitate correct interpretation.

29
30 Section 203. Subsection (3) of section 390.0112,
31 Florida Statutes, is amended to read:

1 390.0112 Termination of pregnancies; reporting.--
2 (3) Reports submitted pursuant to this section shall
3 be confidential and exempt from the provisions of s. 119.07(1)
4 and shall not be revealed except upon the order of a court of
5 competent jurisdiction in a civil or criminal proceeding. ~~This~~
6 ~~exemption is subject to the Open Government Sunset Review Act~~
7 ~~in accordance with s. 119.14.~~

8
9 Reviser's note.--Amended to conform to the
10 repeal of s. 119.14 by s. 1, ch. 95-217, Laws
11 of Florida.

12
13 Section 204. Subsections (8) and (45) of section
14 393.063, Florida Statutes, 1998 Supplement, are amended to
15 read:

16 393.063 Definitions.--For the purposes of this
17 chapter:

18 (8) "Comprehensive transitional education program"
19 means a group of jointly operating centers or units, the
20 collective purpose of which is to provide a sequential series
21 of educational care, training, treatment, habilitation, and
22 rehabilitation services to persons who have developmental
23 disabilities, as defined in subsection (12) ~~(11)~~, and who have
24 severe or moderate maladaptive behaviors. However, nothing in
25 this subsection shall require comprehensive transitional
26 education programs to provide services only to persons with
27 developmental disabilities, as defined in subsection (12)
28 ~~(11)~~. All such services shall be temporary in nature and
29 delivered in a structured residential setting with the primary
30 goal of incorporating the normalization principle to establish
31 permanent residence for persons with maladaptive behaviors in

1 facilities not associated with the comprehensive transitional
2 education program. The staff shall include psychologists and
3 teachers, and such staff personnel shall be available to
4 provide services in each component center or unit of the
5 program. The psychologists shall be individuals who are
6 licensed in this state and certified as behavior analysts in
7 this state, or individuals who meet the professional
8 requirements established by the department for district
9 behavior analysts and are certified as behavior analysts in
10 this state.

11 (a) Comprehensive transitional education programs
12 shall include a minimum of two component centers or units, as
13 defined in this paragraph, one of which shall be either an
14 intensive treatment and educational center or a transitional
15 training and educational center, which provide services to
16 persons with maladaptive behaviors in the following sequential
17 order:

18 1. Intensive treatment and educational center. This
19 component is a self-contained residential unit providing
20 intensive psychological and educational programming for
21 persons with severe maladaptive behaviors, whose behaviors
22 preclude placement in a less restrictive environment due to
23 the threat of danger or injury to themselves or others.

24 2. Transitional training and educational center. This
25 component is a residential unit for persons with moderate
26 maladaptive behaviors, providing concentrated psychological
27 and educational programming emphasizing a transition toward a
28 less restrictive environment.

29 3. Community transition residence. This component is
30 a residential center providing educational programs and such
31 support services, training, and care as are needed to assist

1 persons with maladaptive behaviors to avoid regression to more
2 restrictive environments while preparing them for more
3 independent living. Continuous-shift staff shall be required
4 for this component.

5 4. Alternative living center. This component is a
6 residential unit providing an educational and family living
7 environment for persons with maladaptive behaviors, in a
8 moderately unrestricted setting. Residential staff shall be
9 required for this component.

10 5. Independent living education center. This
11 component is a facility providing a family living environment
12 for persons with maladaptive behaviors, in a largely
13 unrestricted setting which includes education and monitoring
14 appropriate to support the development of independent living
15 skills by the students.

16 (b) Centers or units that are components of a
17 comprehensive transitional education program are subject to
18 the license issued to the comprehensive transitional education
19 program and may be located on either single or multiple sites.

20 (c) Comprehensive transitional education programs
21 shall develop individual education plans for each person with
22 maladaptive behaviors who receives services therein. Such
23 individual education plans shall be developed in accordance
24 with the criteria included in Pub. L. No. 94-142, 20 U.S.C.
25 ss. 401 et seq., and 34 C.F.R. part 300.

26 (d) In no instance shall the total number of persons
27 with maladaptive behaviors being provided services in a
28 comprehensive transitional education program exceed 120.

29 (e) This subsection shall authorize licensure for
30 comprehensive transitional education programs which by July 1,
31 1989:

1 1. Are in actual operation; or
2 2. Own a fee simple interest in real property for
3 which a county or city government has approved zoning allowing
4 for the placement of the facilities described in this
5 subsection, and have registered an intent with the department
6 to operate a comprehensive transitional education program.

7 (45) "Screening," for purposes of employment,
8 contracting, or certification, means the act of assessing the
9 background of direct service providers and independent support
10 coordinators, who are not related to clients for whom they
11 provide services, and includes, but is not limited to,
12 employment history checks, local criminal records checks
13 through local law enforcement agencies, fingerprinting for all
14 purposes and checks in this subsection, statewide criminal
15 records checks through the Department of Law Enforcement, and
16 federal criminal records checks through the Federal Bureau of
17 Investigation; except that screening for volunteers included
18 under the definition of personnel includes only local criminal
19 records checks through local law enforcement agencies for
20 current residence and residence immediately prior to
21 employment as a volunteer, if different; and statewide
22 criminal records correspondence checks through the Department
23 of Law Enforcement.

24
25 Reviser's note.--Subsection (8) is amended to
26 conform to the redesignation of s. 393.063(11)
27 as s. 393.063(12) by s. 23, ch. 98-171, Laws of
28 Florida. Subsection (45) is amended to improve
29 clarity and facilitate correct interpretation.

30
31

1 Section 205. Subsection (12) of section 393.067,
2 Florida Statutes, 1998 Supplement, is amended to read:

3 393.067 Licensure of residential facilities and
4 comprehensive transitional education programs.--

5 (12) An alternative living center and an independent
6 living education center, as defined in s. 393.063(8)
7 ~~393.063(7)~~, shall be subject to the provisions of s. 419.001,
8 except that such centers shall be exempt from the
9 1,000-foot-radius requirement of s. 419.001(2) if:

10 (a) Such centers are located on a site zoned in a
11 manner so that all the component centers of a comprehensive
12 transition education center may be located thereon; or

13 (b) There are no more than three such centers within
14 said radius of 1,000 feet.

15
16 Reviser's note.--Amended to conform to the
17 redesignation of s. 393.063(7) as s. 393.063(8)
18 by s. 23, ch. 98-171, Laws of Florida.

19
20 Section 206. Subsection (7) of section 394.4787,
21 Florida Statutes, 1998 Supplement, is amended to read:

22 394.4787 Definitions.--As used in this section and ss.
23 394.4786, 394.4788, and 394.4789:

24 (7) "Specialty psychiatric hospital" means a hospital
25 licensed by the agency pursuant to s. 395.002(29)~~395.002(30)~~
26 as a specialty psychiatric hospital.

27
28 Reviser's note.--Amended to conform to the
29 redesignation of s. 395.002(30) as s.
30 395.002(29) incident to the compilation of the
31 1998 Supplement to the Florida Statutes 1997.

1 Section 207. Subsections (11) and (29) of section
2 395.002, Florida Statutes, 1998 Supplement, are amended to
3 read:

4 395.002 Definitions.--As used in this chapter:

5 (11) "General hospital" means any facility which meets
6 the provisions of subsection (13)~~(14)~~ and which regularly
7 makes its facilities and services available to the general
8 population.

9 (29) "Specialty hospital" means any facility which
10 meets the provisions of subsection (13)~~(14)~~, and which
11 regularly makes available either:

12 (a) The range of medical services offered by general
13 hospitals, but restricted to a defined age or gender group of
14 the population;

15 (b) A restricted range of services appropriate to the
16 diagnosis, care, and treatment of patients with specific
17 categories of medical or psychiatric illnesses or disorders;
18 or

19 (c) Intensive residential treatment programs for
20 children and adolescents as defined in subsection (16).

21
22 Reviser's note.--Amended to conform to the
23 redesignation of subsection (14) of s. 395.002
24 as subsection (13) necessitated by the repeal
25 of former subsection (2) by s. 23, ch. 98-89,
26 Laws of Florida.

27
28 Section 208. Subsection (4) of section 395.605,
29 Florida Statutes, is amended to read:

30 395.605 Emergency care hospitals.--
31

1 (4) For the purpose of coordinating primary care
2 services described in s. 154.011(1)(c)10. ~~and aging services~~
3 ~~described in s. 410.016(2)(n)~~, the department shall treat
4 emergency care hospitals in the same manner as rural
5 hospitals.

6
7 Reviser's note.--Amended to conform to the
8 repeal of s. 410.016 by s. 87, ch. 95-418, Laws
9 of Florida.

10
11 Section 209. Section 397.405, Florida Statutes, is
12 reenacted and amended to read:

13 397.405 Exemptions from licensure.--The following are
14 exempt from the licensing provisions of this chapter:

15 (1) A hospital or hospital-based component licensed
16 under chapter 395.

17 (2) A nursing home facility as defined in s.
18 400.021(11).

19 (3) A substance abuse education program established
20 pursuant to s. 233.061.

21 (4) A facility or institution operated by the Federal
22 Government.

23 (5) A physician licensed under chapter 458 or chapter
24 459.

25 (6) A psychologist licensed under chapter 490.

26 (7) A social worker, marriage and family therapist, or
27 mental health counselor licensed under chapter 491.

28 (8) An established and legally cognizable church or
29 nonprofit religious organization, denomination, or sect
30 providing substance abuse services, including prevention
31 services, which are exclusively religious, spiritual, or

1 ecclesiastical in nature. A church or nonprofit religious
2 organization, denomination, or sect providing any of the
3 licensable service components itemized under s. 397.311(19) is
4 not exempt for purposes of its provision of such licensable
5 service components but retains its exemption with respect to
6 all services which are exclusively religious, spiritual, or
7 ecclesiastical in nature.

8 (9) Facilities licensed under s. 393.063(8)~~393.063(7)~~
9 that, in addition to providing services to persons who are
10 developmentally disabled as defined therein, also provide
11 services to persons developmentally at risk as a consequence
12 of exposure to alcohol or other legal or illegal drugs while
13 in utero.

14 (10) DUI education and screening services required to
15 be attended pursuant to ss. 316.192, 316.193, 322.095,
16 322.271, and 322.291 are exempt from licensure under this
17 chapter. Treatment programs must continue to be licensed
18 under this chapter.

19
20 The exemptions from licensure in this section do not apply to
21 any facility or entity which receives an appropriation, grant,
22 or contract from the state to operate as a service provider as
23 defined in this chapter or to any substance abuse program
24 regulated pursuant to s. 397.406. No provision of this
25 chapter shall be construed to limit the practice of a
26 physician licensed under chapter 458 or chapter 459, a
27 psychologist licensed under chapter 490, or a psychotherapist
28 licensed under chapter 491, providing outpatient or inpatient
29 substance abuse treatment to a voluntary patient, so long as
30 the physician, psychologist, or psychotherapist does not
31 represent to the public that he or she is a licensed service

1 provider under this act. Failure to comply with any
2 requirement necessary to maintain an exempt status under this
3 section is a misdemeanor of the first degree, punishable as
4 provided in s. 775.082 or s. 775.083.

5
6 Reviser's note.--Section 65, ch. 97-190, Laws
7 of Florida, purported to amend subsection (3)
8 of s. 397.405, but did not set out in full the
9 amended subsection to include the flush left
10 language at the end of the section. In the
11 absence of affirmative evidence that the
12 Legislature intended to repeal the omitted
13 material, s. 397.405 is reenacted to confirm
14 that the omission was not intended. Subsection
15 (9) is amended to conform to the redesignation
16 of s. 393.063(7) as s. 393.063(8) by s. 23, ch.
17 98-171, Laws of Florida.

18
19 Section 210. Subsection (4) of section 400.0067,
20 Florida Statutes, is amended to read:

21 400.0067 Establishment of State Long-Term Care
22 Ombudsman Council; duties; membership.--

23 ~~(4)(a) Within 30 days after May 5, 1993, each district~~
24 ~~ombudsman council shall appoint one member to the council and~~
25 ~~the secretary shall submit a list of not fewer than eight~~
26 ~~council nominees to the Governor.~~

27 ~~(b) Within 60 days after May 5, 1993, the Governor~~
28 ~~shall appoint three members to the council, or the provisions~~
29 ~~of paragraph (3)(a) shall apply.~~

30 ~~(c) The initial appointments shall be for staggered~~
31 ~~terms. The members from districts 1, 2, 3A, 3B, and 4 shall~~

1 ~~serve for 1 year; the members from districts 5, 6, 7, 8, and 9~~
2 ~~shall serve for 2 years; and the members from districts 10 and~~
3 ~~11 and the Governor's three appointees shall serve for 3~~
4 ~~years. Thereafter, Members shall be appointed and serve 3-year~~
5 terms as provided by this section.

6 ~~(d) Within 60 days after May 5, 1993, or as soon~~
7 ~~thereafter as practicable, the State Long-Term Care Ombudsman~~
8 ~~Council shall hold its first meeting and shall elect a~~
9 ~~chairperson from among its members, without regard to the~~
10 ~~minimum time served on the council. All other provisions of~~
11 ~~paragraph (3)(c) shall apply.~~

12
13 Reviser's note.--Amended to delete provisions
14 that have served their purpose.

15
16 Section 211. Paragraph (b) of subsection (1) of
17 section 400.051, Florida Statutes, 1998 Supplement, is amended
18 to read:

19 400.051 Homes or institutions exempt from the
20 provisions of this part.--

21 (1) The following shall be exempt from the provisions
22 of this part:

23 (b) Any hospital, as defined in s. 395.002(11)
24 ~~395.002(10)~~, that is licensed under chapter 395.

25
26 Reviser's note.--Amended to conform to the
27 redesignation of the referenced s. 395.002(10)
28 as s. 395.002(11) incident to the compilation
29 of the 1998 Supplement to the Florida Statutes
30 1997.

1 Section 212. Subsection (1) of section 400.063,
2 Florida Statutes, is amended to read:

3 400.063 Resident Protection Trust Fund.--

4 (1) A Resident Protection Trust Fund shall be
5 established for the purpose of collecting and disbursing funds
6 generated from the license fees and administrative fines as
7 provided for in ss. 393.0673(2), 400.062(3)(b), 400.111(1),
8 400.121(2), and 400.23(9)~~400.23(8)~~. Such funds shall be for
9 the sole purpose of paying for the appropriate alternate
10 placement, care, and treatment of residents who are removed
11 from a facility licensed under this part or a facility
12 specified in s. 393.0678(1) in which the agency determines
13 that existing conditions or practices constitute an immediate
14 danger to the health, safety, or security of the residents.
15 If the agency determines that it is in the best interest of
16 the health, safety, or security of the residents to provide
17 for an orderly removal of the residents from the facility, the
18 agency may utilize such funds to maintain and care for the
19 residents in the facility pending removal and alternative
20 placement. The maintenance and care of the residents shall be
21 under the direction and control of a receiver appointed
22 pursuant to s. 393.0678(1) or s. 400.126(1). However, funds
23 may be expended in an emergency upon a filing of a petition
24 for a receiver, upon the declaration of a state of local
25 emergency pursuant to s. 252.38(3)(a)~~5.252.38(6)(e)~~, or upon
26 a duly authorized local order of evacuation of a facility by
27 emergency personnel to protect the health and safety of the
28 residents.

29
30 Reviser's note.--Amended to conform to the
31 correct location of material relating to

1 license fees and administrative fines in s.
2 400.23 and the redesignation of s. 252.38(6)(e)
3 as s. 252.38(3)(a)5. by s. 14, ch. 93-211, Laws
4 of Florida.

5
6 Section 213. Subsection (2) of section 400.417,
7 Florida Statutes, 1998 Supplement, is amended to read:

8 400.417 Expiration of license; renewal; conditional
9 license.--

10 (2) A license shall be renewed within 90 days upon the
11 timely filing of an application on forms furnished by the
12 agency and the provision of satisfactory proof of ability to
13 operate and conduct the facility in accordance with the
14 requirements of this part and adopted rules, including proof
15 that the facility has received a satisfactory firesafety
16 inspection, conducted by the local authority having
17 jurisdiction or the State Fire Marshal, within the preceding
18 12 months and an affidavit of ~~or~~ compliance with the
19 background screening requirements of s. 400.4174.

20
21 Reviser's note.--Amended to improve clarity and
22 facilitate correct interpretation.

23
24 Section 214. Subsection (2) of section 400.4174,
25 Florida Statutes, 1998 Supplement, is amended to read:

26 400.4174 Background screening; exemptions; reports of
27 abuse in facilities.--

28 (2) The owner or administrator of an assisted living
29 facility must conduct level 1 background screening, as set
30 forth in chapter 435, on all employees hired on or after
31 October 1, 1998, who perform personal services as defined in

1 s. 400.402(17)~~400.402(16)~~. The agency may exempt an
2 individual from employment disqualification as set forth in
3 chapter 435. Such persons shall be considered as having met
4 this requirement if:

5 (a) Proof of compliance with level 1 screening
6 requirements obtained to meet any professional license
7 requirements in this state is provided and accompanied, under
8 penalty of perjury, by a copy of the person's current
9 professional license and an affidavit of current compliance
10 with the background screening requirements.

11 (b) The person required to be screened has been
12 continuously employed in the same type of occupation for which
13 the person is seeking employment without a breach in service
14 which exceeds 180 days, and proof of compliance with the level
15 1 screening requirement which is no more than 2 years old is
16 provided. Proof of compliance shall be provided directly from
17 one employer or contractor to another, and not from the person
18 screened. Upon request, a copy of screening results shall be
19 provided by the employer retaining documentation of the
20 screening to the person screened.

21 (c) The person required to be screened is employed by
22 a corporation or business entity or related corporation or
23 business entity that owns, operates, or manages more than one
24 facility or agency licensed under this chapter, and for whom a
25 level 1 screening was conducted by the corporation or business
26 entity as a condition of initial or continued employment.

27

28 Reviser's note.--Amended to conform to the
29 redesignation of s. 400.402(16) as s.
30 400.402(17) by s. 1, ch. 98-80, Laws of
31 Florida.

1 Section 215. Paragraph (a) of subsection (4) of
2 section 400.4256, Florida Statutes, 1998 Supplement, is
3 amended to read:

4 400.4256 Assistance with self-administration of
5 medication.--

6 (4) Assistance with self-administration does not
7 include:

8 (a) Mixing, compounding, converting, or calculating
9 medication doses, except for measuring a prescribed amount of
10 liquid medication or breaking a scored tablet ~~tableted~~ or
11 crushing a tablet as prescribed.

12
13 Reviser's note.--Amended to improve clarity and
14 facilitate correct interpretation.

15
16 Section 216. Subsection (11) of section 400.426,
17 Florida Statutes, is amended to read:

18 400.426 Appropriateness of placements; examinations of
19 residents.--

20 (11) No resident who requires 24-hour nursing
21 supervision, except for a resident who is an enrolled hospice
22 patient pursuant to part VI ~~V~~ of this chapter, shall be
23 retained in a facility licensed under this part.

24
25 Reviser's note.--Amended to conform to the
26 redesignation of part V of chapter 400 as part
27 VI incident to the compilation of ch. 93-177,
28 Laws of Florida.

1 Section 217. Paragraph (a) of subsection (6) of
2 section 400.427, Florida Statutes, 1998 Supplement, is amended
3 to read:

4 400.427 Property and personal affairs of residents.--

5 (6)

6 (a) In addition to any damages or civil penalties to
7 which a person is subject, any person who:

8 1. Intentionally withholds a resident's personal
9 funds, personal property, or personal needs allowance, or who
10 demands, beneficially receives, or contracts for payment of
11 all or any part of a resident's personal property or personal
12 needs allowance in satisfaction of the facility rate for
13 supplies and services; or

14 2. Borrows from or pledges any personal funds of a
15 resident, other than the amount agreed to by written contract
16 under s. 400.424,

17
18 commits a misdemeanor of the first degree, punishable as
19 provided in s. 775.082 or s. 775.083.

20
21 Reviser's note.--Amended to improve clarity and
22 facilitate correct interpretation. Prior to the
23 amendment by s. 22, ch. 93-216, Laws of
24 Florida, the language "commits a misdemeanor of
25 the first degree, punishable as provided in s.
26 775.082 or s. 775.083" was placed flush left
27 following s. 400.427(6)(a)2. The amendment by
28 s. 22, ch. 93-216, placed the language at the
29 end of subparagraph 2.

1 Section 218. Subsection (2) of section 400.447,
2 Florida Statutes, is amended to read:

3 400.447 Prohibited acts; penalties for violation.--

4 (2) It is unlawful for any holder of a license issued
5 pursuant to the provisions of this act to withhold from the
6 agency any evidence of financial instability, including, but
7 not limited to, bad checks, delinquent accounts, nonpayment of
8 withholding taxes, unpaid utility expenses, nonpayment for
9 essential services, or adverse court action concerning the
10 financial viability of the facility or any other facility
11 licensed under part II ¶ or part III ¶¶ of this chapter which
12 is owned by the licensee.

13
14 Reviser's note.--Amended to conform to the
15 redesignation of parts I and II of chapter 400
16 as parts II and III incident to the compilation
17 of ch. 93-177, Laws of Florida.

18
19 Section 219. Subsection (1) of section 400.471,
20 Florida Statutes, 1998 Supplement, is amended to read:

21 400.471 Application for license; fee; provisional
22 license; temporary permit.--

23 (1) Application for an initial license or for renewal
24 of an existing license must be made under oath to the Agency
25 for Health Care Administration on forms furnished by it and
26 must be accompanied by the appropriate license fee as provided
27 in subsection (8) ~~(4)~~. The agency must take final action on
28 an initial licensure application within 60 days after receipt
29 of all required documentation.

1 Reviser's note.--Amended to conform to the
2 correct location of material relating to
3 license fees in s. 400.471(7) as amended by s.
4 4, ch. 93-214, Laws of Florida, and the further
5 redesignation of subsection (7) as subsection
6 (8) by s. 48, ch. 98-171, Laws of Florida.
7

8 Section 220. Paragraph (a) of subsection (2) of
9 section 400.6085, Florida Statutes, is amended to read:
10 400.6085 Contractual services.--A hospice may contract
11 out for some elements of its services. However, the core
12 services, as set forth in s. 400.609(1), shall be provided
13 directly by the hospice. Any contract entered into between a
14 hospice and a health care facility or service provider must
15 specify that the hospice retains the responsibility for
16 planning, coordinating, and prescribing hospice care and
17 services for the hospice patient and family. A hospice that
18 contracts for any hospice service is prohibited from charging
19 fees for services provided directly by the hospice care team
20 that duplicate contractual services provided to the patient
21 and family.

22 (2) With respect to contractual arrangements for
23 inpatient hospice care:

24 (a) Licensed beds designated for inpatient hospice
25 care through contract between an existing health care facility
26 and a hospice shall not be required to be delicensed from one
27 type of health care in order to enter into a contract with a
28 hospice, nor shall the physical plant of any facility licensed
29 pursuant to chapter 395 or part II † of this chapter be
30 required to be altered, except that a homelike atmosphere may
31 be required.

1 Reviser's note.--Amended to conform to the
2 redesignation of part I of chapter 400 as part
3 II incident to the compilation of ch. 93-177,
4 Laws of Florida.

5
6 Section 221. Subsection (12) of section 400.618,
7 Florida Statutes, 1998 Supplement, is amended to read:
8 400.618 Definitions.--As used in this part, the term:
9 (12) "Relative" means an individual who is the father,
10 mother, son, daughter, brother, sister, grandfather,
11 grandmother, great-grandfather, ~~and~~ great-grandmother, uncle,
12 aunt, first cousin, nephew, niece, husband, wife,
13 father-in-law, mother-in-law, son-in-law, daughter-in-law,
14 brother-in-law, sister-in-law, stepfather, stepmother,
15 stepson, stepdaughter, stepbrother, stepsister, half brother,
16 or half sister of a provider.

17
18 Reviser's note.--Amended to improve clarity and
19 facilitate correct interpretation.

20
21 Section 222. Paragraphs (a), (b), and (d) of
22 subsection (1) of section 400.6196, Florida Statutes, 1998
23 Supplement, are amended to read:

24 400.6196 Violations; penalties.--

25 (1) In addition to any other liability or penalty
26 provided by law, the agency may impose a civil penalty on a
27 provider according to the following classification:

28 (a) Class I violations are those conditions or
29 practices related to the operation and maintenance of an adult
30 family-care home or to the care of residents which the agency
31 determines present an imminent danger to the residents or

1 guests of the facility or a substantial probability that death
2 or serious physical or emotional harm would result therefrom.
3 The condition or practice that constitutes a class I violation
4 must be abated or eliminated within 24 hours, unless a fixed
5 period, as determined by the agency, is required for
6 correction. A class I deficiency is subject to an
7 administrative fine in an amount not less than ~~that~~ \$500 and
8 not exceeding \$1,000 for each violation. A fine may be levied
9 notwithstanding the correction of the deficiency.

10 (b) Class II violations are those conditions or
11 practices related to the operation and maintenance of an adult
12 family-care home or to the care of residents which the agency
13 determines directly threaten the physical or emotional health,
14 safety, or security of the residents, other than class I
15 violations. A class II violation is subject to an
16 administrative fine in an amount not less than ~~that~~ \$250 and
17 not exceeding \$500 for each violation. A citation for a class
18 II violation must specify the time within which the violation
19 is required to be corrected. If a class II violation is
20 corrected within the time specified, no civil penalty shall be
21 imposed, unless it is a repeated offense.

22 (d) Class IV violations are those conditions or
23 occurrences related to the operation and maintenance of an
24 adult family-care home, or related to the required reports,
25 forms, or documents, which do not have the potential of
26 negatively affecting the residents. A provider that does not
27 correct a class IV violation within the time limit specified
28 by the agency is subject to an administrative fine in an
29 amount not less than ~~that~~ \$50 and not exceeding \$100 for each
30 violation. Any class IV violation that is corrected during the
31

1 time the agency survey is conducted will be identified as an
2 agency finding and not as a violation.

3

4 Reviser's note.--Amended to improve clarity and
5 facilitate correct interpretation.

6

7 Section 223. Section 402.161, Florida Statutes, is
8 amended to read:

9

402.161 Authorization for sale of property.--

10 (1) The Department of Children and Family Services
11 ~~division~~ is authorized to sell any real or personal property
12 that it acquired by way of donation, gift, contribution,
13 bequest, or devise from any person, persons, or organizations
14 when such real or personal property is determined by the
15 department ~~division~~ not to be necessary for use in connection
16 with the work of the department ~~division~~. All proceeds derived
17 from the sale of such property shall be transmitted to the
18 State Treasury to be credited to the department.

19 (2) The Department of Children and Family Services
20 ~~division~~ is authorized to use for its ~~division~~ purposes any
21 moneys realized from the sale of any such real or personal
22 property. It is expressly declared to be the intention of the
23 Legislature that such moneys are appropriated to the
24 department and may be used by it for its ~~division~~ purposes.
25 However, such moneys shall be withdrawn in accordance with
26 law. Such moneys are appropriated to the use of the
27 department in addition to other funds which have been or may
28 otherwise be appropriated for its ~~division~~ purposes.

29

30 Reviser's note.--Amended to conform to the
31 assignment of the functions of the former

1 Division of Family Services to the former
2 Department of Health and Rehabilitative
3 Services by s. 3, ch. 75-48, Laws of Florida,
4 and the subsequent assumption of those
5 functions by the Department of Children and
6 Family Services, created by s. 5, ch. 96-403,
7 Laws of Florida.

8
9 Section 224. Paragraphs (b), (d), and (g) of
10 subsection (2) of section 402.3055, Florida Statutes, are
11 amended to read:

12 402.3055 Child care personnel requirements.--

13 (2) EXCLUSION FROM OWNING, OPERATING, OR BEING
14 EMPLOYED BY A CHILD CARE FACILITY OR OTHER CHILD CARE PROGRAM;
15 HEARINGS PROVIDED.--

16 (b) When the department or the local licensing agency
17 has reasonable cause to believe that grounds for denial or
18 termination of employment exist, it shall notify, in writing,
19 the applicant, licensee, or other child care program and the
20 child care personnel affected, stating the specific record
21 which indicates noncompliance with the standards in s.
22 402.305(2)~~402.305(1)~~.

23 (d) When a local licensing agency is the agency
24 initiating the statement regarding noncompliance of an
25 employee with the standards contained in s. 402.305(2)
26 ~~402.305(1)~~, the employee, applicant, licensee, or other child
27 care program has 15 days from the time of written notification
28 of the agency's finding to make a written request for a
29 hearing. If a request for a hearing is not received in that
30 time, the permanent employee, applicant, licensee, or other
31 child care program is presumed to accept the finding.

1 (g) Refusal on the part of an applicant or licensee to
2 dismiss child care personnel who have been found to be in
3 noncompliance with personnel standards of s. 402.305(2)
4 ~~402.305(1)~~ shall result in automatic denial or revocation of
5 the license in addition to any other remedies pursued by the
6 department or local licensing agency.

7
8 Reviser's note.--Amended to conform to the
9 redesignation of s. 402.305(1) as s. 402.305(2)
10 by s. 2, ch. 91-300, Laws of Florida.

11
12 Section 225. Section 402.3057, Florida Statutes, is
13 amended to read:

14 402.3057 Persons not required to be refingerprinted or
15 rescreened.--Any provision of law to the contrary
16 notwithstanding, human resource personnel who have been
17 fingerprinted or screened pursuant to chapters 393, 394, 397,
18 402, and 409, and teachers and noninstructional personnel who
19 have been fingerprinted pursuant to chapter 231, who have not
20 been unemployed for more than 90 days thereafter, and who
21 under the penalty of perjury attest to the completion of such
22 fingerprinting or screening and to compliance with the
23 provisions of this section and the standards for good moral
24 character as contained in such provisions as ss. 110.1127(3),
25 393.0655(1), 394.457(6), 397.451, 402.305(2)~~402.305(1)~~, and
26 409.175(4), shall not be required to be refingerprinted or
27 rescreened in order to comply with any caretaker screening or
28 fingerprinting requirements.

1 Reviser's note.--Amended to conform to the
2 redesignation of s. 402.305(1) as s. 402.305(2)
3 by s. 2, ch. 91-300, Laws of Florida.

4
5 Section 226. Paragraph (d) of subsection (3) and
6 paragraph (d) of subsection (4) of section 402.308, Florida
7 Statutes, are amended to read:

8 402.308 Issuance of license.--

9 (3) STATE ADMINISTRATION OF LICENSING.--In any county
10 in which the department has the authority to issue licenses,
11 the following procedures shall be applied:

12 (d) The department shall issue or renew a license upon
13 receipt of the license fee and upon being satisfied that all
14 standards required by ss. 402.301-402.319 have been met. A
15 license may be issued if all the screening materials have been
16 timely submitted; however, a license may not be issued or
17 renewed if any of the child care personnel at the applicant
18 facility have failed the screening required by ss. 402.305(2)
19 ~~402.305(1)~~and 402.3055.

20 (4) LOCAL ADMINISTRATION OF LICENSING.--In any county
21 in which there is a local licensing agency approved by the
22 department, the following procedures shall apply:

23 (d) The local licensing agency shall issue a license
24 or renew a license upon being satisfied that all standards
25 required by ss. 402.301-402.319 have been met. A license may
26 be issued or renewed if all the screening materials have been
27 timely submitted; however, the local licensing agency shall
28 not issue or renew a license if any of the child care
29 personnel at the applicant facility have failed the screening
30 required by ss. 402.305(2)~~402.305(1)~~and 402.3055.

31

1 Reviser's note.--Amended to conform to the
2 redesignation of s. 402.305(1) as s. 402.305(2)
3 by s. 2, ch. 91-300, Laws of Florida.

4
5 Section 227. Section 402.3115, Florida Statutes, 1998
6 Supplement, is amended to read:

7 402.3115 Elimination of duplicative and unnecessary
8 inspections; abbreviated inspections.--The Department of
9 Health and Rehabilitative Services and local governmental
10 agencies that license child care facilities shall develop and
11 implement a plan to eliminate duplicative and unnecessary
12 inspections of child care facilities. In addition, the
13 department and the local governmental agencies shall develop
14 and implement an abbreviated inspection plan for child care
15 facilities that have had no Class 1 or Class 2 deficiencies,
16 as defined by rule, for at least 2 consecutive years. The
17 abbreviated inspection must include those elements identified
18 by the department and the local governmental agencies as being
19 key indicators of whether the child care facility continues to
20 provide quality care and programming. ~~The department and local~~
21 ~~governmental agencies shall conduct the first meeting not~~
22 ~~later than August 15, 1996, and shall jointly share~~
23 ~~administrative responsibilities. The department and local~~
24 ~~governmental agencies shall report to the Legislature not~~
25 ~~later than January 15, 1997, regarding the status of~~
26 ~~implementing this section and any recommendations for~~
27 ~~statutory changes necessary to further reduce duplicative and~~
28 ~~unnecessary inspections and fully implement the plan for~~
29 ~~abbreviated inspections.~~

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1 Reviser's note.--Amended to delete provisions
2 that have served their purpose.
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