

By the Committees on Governmental Oversight and Productivity;
Banking and Insurance; and Senators Horne, Bronson, McKay,
Klein and Dyer

302-1609-99

1 A bill to be entitled
2 An act relating to state financial matters;
3 amending s. 17.05, F.S.; specifying certain
4 powers of the Comptroller and the Department of
5 Banking and Finance; providing requirements;
6 specifying procedures, rights, and requirements
7 for enforcing compliance with certain
8 subpoenas; providing for assessing certain
9 costs under certain circumstances; amending s.
10 17.076, F.S.; providing for payment of
11 retirement benefits by direct deposit; amending
12 s. 20.04, F.S.; exempting the Department of
13 Banking and Finance from certain organizational
14 requirements; amending s. 20.12, F.S.;
15 specifying purposes and duties of the
16 Comptroller and providing that provisions of
17 this section do not apply to the Office of
18 Chief Fiscal Officer; deleting divisions of the
19 department; creating the Office of Financial
20 Investigations; repealing s. 20.12(3) and (4),
21 F.S., relating to duties of the Comptroller and
22 the Office of Financial Investigations;
23 amending s. 110.1165, F.S.; deleting a
24 reference for purposes of specifying a statute
25 of limitations for certain purposes; specifying
26 a time limit for filing actions to recover
27 certain compensation; providing application;
28 amending s. 112.061, F.S.; providing for
29 designees of agency heads to perform specified
30 functions; relating to per diem and travel
31 expenses; amending s. 215.422, F.S.; deleting

1 certain requirements relating to vendors and
2 state purchasing agreements and warrants;
3 amending s. 216.011, F.S.; revising a
4 definition; amending s. 216.102, F.S.; revising
5 duties of the Comptroller relating to preparing
6 and publishing certain financial information;
7 amending s. 273.02, F.S.; revising a
8 definition; amending ss. 17.11, 215.3206,
9 215.3208, 216.183, 216.212, 216.237, 280.08,
10 288.778, 494.0011, 494.0017, 494.0041,
11 494.00421, 494.0061, 494.0062, 494.0072,
12 497.407, 497.435, 516.03, 520.998, 655.90, and
13 655.942, F.S., to conform; providing
14 compatibility with s. 216.351, F.S.; providing
15 an effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. Section 17.05, Florida Statutes, is amended
20 to read:

21 17.05 Subpoenas; sworn statements; enforcement
22 proceedings ~~May examine under oath parties and persons privy~~
23 ~~to accounts.--~~

24 (1) The Comptroller ~~of this state~~ may demand and
25 require full answers on oath from any and every person, party
26 or privy to any account, claim, or demand against or by the
27 state, such as it may be the Comptroller's ~~his or her~~ official
28 duty to examine into, and which answers the Comptroller may
29 require to be in writing and to be sworn to before the
30 Comptroller or the department ~~himself or herself~~ or before any
31 judicial officer or clerk of any court of the state so as to

1 enable the ~~such~~ Comptroller to determine ~~decide as to~~ the
2 justice or legality of such account, claim, or demand.

3 (2) In exercising authority under this chapter, the
4 Comptroller or his or her designee may:

5 (a) Issue subpoenas, administer oaths, and examine
6 witnesses.

7 (b) Require or permit a person to file a statement in
8 writing, under oath or otherwise as the Comptroller or his or
9 her designee requires, as to all the facts and circumstances
10 concerning the matter to be audited, examined, or
11 investigated.

12 (3) Subpoenas shall be issued by the Comptroller or
13 his or her designee under seal commanding such witnesses to
14 appear before the Comptroller or the Comptroller's
15 representative or the department at a specified time and place
16 and to bring books, records, and documents as specified or to
17 submit books, records, and documents for inspection. Such
18 subpoenas may be served by an authorized representative of the
19 Comptroller or the department.

20 (4) In the event of noncompliance with a subpoena
21 issued pursuant to this section, the Comptroller or the
22 department may petition the circuit court of the county in
23 which the person subpoenaed resides or has his or her
24 principal place of business for an order requiring the
25 subpoenaed person to appear and testify and to produce books,
26 records, and documents as specified in the subpoena. The
27 court may grant legal, equitable, or injunctive relief,
28 including, but not limited to, issuance of a writ of ne exeat
29 or the restraint by injunction or appointment of a receiver of
30 any transfer, pledge, assignment, or other disposition of such
31 person's assets or any concealment, alteration, destruction,

1 or other disposition of subpoenaed books, records, or
2 documents, as the court deems appropriate, until such person
3 has fully complied with such subpoena and the Comptroller or
4 the department has completed the audit, examination, or
5 investigation. The Comptroller or the department is entitled
6 to the summary procedure provided in s. 51.011 and the court
7 shall advance the cause on its calendar. Costs incurred by
8 the Comptroller or the department to obtain an order granting,
9 in whole or in part, such petition for enforcement of a
10 subpoena shall be charged against the subpoenaed person, and
11 failure to comply with such order shall be a contempt of
12 court.

13 Section 2. Subsection (8) is added to section 17.076,
14 Florida Statutes, to read:

15 17.076 Direct deposit of funds.--

16 (8) Effective July 1, 2000, all new recipients of
17 retirement benefits from this state shall be paid by direct
18 deposit of funds. A retiree may request from the department an
19 exemption from the provisions of this subsection when such
20 retiree can demonstrate a hardship. The department may pay
21 retirement benefits by state warrant when deemed
22 administratively necessary.

23 Section 3. Subsection (3) of section 20.04, Florida
24 Statutes, is amended to read:

25 20.04 Structure of executive branch.--The executive
26 branch of state government is structured as follows:

27 (3) For their internal structure, all departments,
28 except for the Department of Banking and Finance, the
29 Department ~~Departments~~ of Children and Family Services, the
30 Department of Corrections, the Department of Management
31

1 Services, the Department of Revenue, and the Department of
2 Transportation, must adhere to the following standard terms:

3 (a) The principal unit of the department is the
4 "division." Each division is headed by a "director."

5 (b) The principal unit of the division is the
6 "bureau." Each bureau is headed by a "chief."

7 (c) The principal unit of the bureau is the "section."
8 Each section is headed by an "administrator."

9 (d) If further subdivision is necessary, sections may
10 be divided into "subsections," which are headed by
11 "supervisors."

12 Section 4. Section 20.12, Florida Statutes, is amended
13 to read:

14 20.12 Department of Banking and Finance.--There is
15 created a Department of Banking and Finance.

16 (1) The head of the Department of Banking and Finance
17 is the Comptroller.

18 (2) As provided in s. 4(d), Art. IV of the State
19 Constitution, the purpose of the Comptroller is to serve as
20 the chief fiscal officer of the state, and shall settle and
21 approve accounts against the state.

22 (3) The Comptroller shall execute the programs and
23 policies as adopted by the Legislature.~~The following~~
24 ~~divisions are established within the Department of Banking and~~
25 ~~Finance:~~

26 ~~(a) Division of Accounting and Auditing.~~

27 ~~(b) Division of Administration.~~

28 ~~(c) Division of Banking.~~

29 ~~(d) Division of Finance.~~

30 ~~(e) Division of Information Systems.~~

31 ~~(f) Division of Securities and Investor Protection.~~

1 ~~(g) Division of Financial Investigations.~~
2 (4) There is created as a subunit within the
3 Department of Banking and Finance the Office of Financial
4 Investigations. The Office of Financial Investigations shall:
5 (a) Function as a criminal justice agency within the
6 meaning of s. 943.045(10)(d); and
7 (b) Have a separate budget.
8 Section 5. Subsections (3) and (4) of section 20.12,
9 Florida Statutes, as amended by this act are repealed
10 effective January 7, 2003.
11 Section 6. Subsection (1) of section 110.1165, Florida
12 Statutes, is amended, and subsection (3) is added to said
13 section, to read:
14 110.1165 Executive branch personnel errors.--
15 (1) An agency of the executive branch, including the
16 State University System, shall establish procedures for the
17 receipt, consideration, and disposition of a claim regarding
18 pay or benefits brought by an employee when that employee is
19 damaged as a result of being provided with erroneous written
20 information by the employing agency regarding his or her pay
21 or benefits, and the employee detrimentally relies upon such
22 written information. In order to qualify for the relief
23 provided by this section, the employee's reliance on the
24 representation must have been reasonable and based only upon
25 the written representations made by those persons authorized
26 by the agency head to make such representations. Furthermore,
27 the erroneous calculation and payment of an employee's salary,
28 wages, or benefits is not among the written representations
29 which will trigger relief under this section. ~~Section 95.11(4)~~
30 ~~is the statute of limitations for filing any action to recover~~
31 ~~salary, wages, overtime, benefits, or related damages by or on~~

1 ~~behalf of a state employee, or any action under this section.~~
2 ~~No distinctions between the terms "salary" and "wages" in~~
3 ~~construing the provisions of s. 95.11(4) apply to this section~~
4 ~~or the statute of limitations for filing any action under this~~
5 ~~section.~~

6 (3) The time limit to file any action to recover
7 compensation, including, but not limited to, salaries, wages,
8 overtime pay, fringe benefits, or damages or penalties
9 relating to errors in such compensation from, by, or on behalf
10 of a state officer or employee is 2 years from the date of the
11 alleged error in payment of such compensation. The time limit
12 applies in all disputes over compensation for work performed
13 by state officers or employees, and is not confined to cases
14 arising under subsections (1) and (2).

15 Section 7. Paragraphs (d) and (f) of subsection (3),
16 paragraph (b) of subsection (4), paragraphs (a), (d), and (f)
17 of subsection (7), and subsections (12) and (13) of section
18 112.061, Florida Statutes, 1998 Supplement, are amended to
19 read:

20 112.061 Per diem and travel expenses of public
21 officers, employees, and authorized persons.--

22 (3) AUTHORITY TO INCUR TRAVEL EXPENSES.--

23 (d) Travel expenses of public employees for the sole
24 purpose of taking merit system or other job placement
25 examinations, written or oral, shall not be allowed under any
26 circumstances, except that upon prior written approval of the
27 agency head or his or her designee, candidates for executive
28 or professional positions may be allowed travel expenses
29 pursuant to this section.

30 (f) A traveler who becomes sick or injured while away
31 from his or her official headquarters and is therefore unable

1 to perform the official business of the agency may continue to
2 receive subsistence as provided in subsection (6) during this
3 period of illness or injury until such time as he or she is
4 able to perform the official business of the agency or returns
5 to his or her official headquarters, whichever is earlier.
6 Such subsistence may be paid when approved by the agency head
7 or his or her designee.

8 (4) OFFICIAL HEADQUARTERS.--The official headquarters
9 of an officer or employee assigned to an office shall be the
10 city or town in which the office is located except that:

11 (b) When any state employee is stationed in any city
12 or town for a period of over 30 continuous workdays, such city
13 or town shall be deemed to be the employee's official
14 headquarters, and he or she shall not be allowed per diem or
15 subsistence, as provided in this section, after the said
16 period of 30 continuous workdays has elapsed, unless this
17 period of time is extended by the express approval of the
18 agency head or his or her designee.

19 (7) TRANSPORTATION.--

20 (a) All travel must be by a usually traveled route.
21 In case a person travels by an indirect route for his or her
22 own convenience, any extra costs shall be borne by the
23 traveler; and reimbursement for expenses shall be based only
24 on such charges as would have been incurred by a usually
25 traveled route. The agency head or his or her designee shall
26 designate the most economical method of travel for each trip,
27 keeping in mind the following conditions:

- 28 1. The nature of the business.
- 29 2. The most efficient and economical means of travel
- 30 (considering time of the traveler, impact on the productivity
- 31 of the traveler, cost of transportation, and per diem or

1 subsistence required). When it is more efficient and
2 economical to either the traveler or the agency head, jet
3 service offered by any airline, whether on state contract or
4 not, may be used when the cost is within an approved threshold
5 determined by the agency head or his or her designee.

6 3. The number of persons making the trip and the
7 amount of equipment or material to be transported.

8 (d)1. The use of privately owned vehicles for official
9 travel in lieu of publicly owned vehicles or common carriers
10 may be authorized by the agency head or his or her designee.

11 Whenever travel is by privately owned vehicle, the traveler
12 shall be entitled to a mileage allowance at a fixed rate of 25
13 cents per mile for state fiscal year 1994-1995 and 29 cents
14 per mile thereafter or the common carrier fare for such
15 travel, as determined by the agency head. Reimbursement for
16 expenditures related to the operation, maintenance, and
17 ownership of a vehicle shall not be allowed when privately
18 owned vehicles are used on public business and reimbursement
19 is made pursuant to this paragraph, except as provided in
20 subsection (8).

21 2. All mileage shall be shown from point of origin to
22 point of destination and, when possible, shall be computed on
23 the basis of the current map of the Department of
24 Transportation. Vicinity mileage necessary for the conduct of
25 official business is allowable but must be shown as a separate
26 item on the expense voucher.

27 (f) The agency head or his or her designee may grant
28 monthly allowances in fixed amounts for use of privately owned
29 automobiles on official business in lieu of the mileage rate
30 provided in paragraph (d). Allowances granted pursuant to
31 this paragraph shall be reasonable, taking into account the

1 customary use of the automobile, the roads customarily
2 traveled, and whether any of the expenses incident to the
3 operation, maintenance, and ownership of the automobile are
4 paid from funds of the agency or other public funds. Such
5 allowance may be changed at any time, and shall be made on the
6 basis of a signed statement of the traveler, filed before the
7 allowance is granted or changed, and at least annually
8 thereafter. The statement shall show the places and distances
9 for an average typical month's travel on official business,
10 and the amount that would be allowed under the approved rate
11 per mile for the travel shown in the statement, if payment had
12 been made pursuant to paragraph (d).

13 (12) ADVANCEMENTS.--Notwithstanding any of the
14 foregoing restrictions and limitations, an agency head or his
15 or her designee may make, or authorize the making of, advances
16 to cover anticipated costs of travel to travelers. Such
17 advancements may include the costs of subsistence and travel
18 of any person transported in the care or custody of the
19 traveler in the performance of his or her duties.

20 (13) DIRECT PAYMENT OF EXPENSES BY AGENCY.--Whenever
21 an agency requires an employee to incur either Class A or
22 Class B travel on emergency notice to the traveler, such
23 traveler may request the agency to pay his or her expenses for
24 meals and lodging directly to the vendor, and the agency may
25 pay the vendor the actual expenses for meals and lodging
26 during the travel period, limited to an amount not to exceed
27 that authorized pursuant to this section. In emergency
28 situations, the agency head or his or her designee may
29 authorize an increase in the amount paid for a specific meal,
30 provided that the total daily cost of meals does not exceed
31 the total amount authorized for meals each day. The agency

1 head or his or her designee may also grant prior approval for
2 a state agency to make direct payments of travel expenses in
3 other situations that result in cost savings to the state, and
4 such cost savings shall be documented in the voucher submitted
5 to the Comptroller for the direct payment of travel expenses.
6 The provisions of this subsection shall not be deemed to apply
7 to any legislator or to any employee of the Legislature.

8 Section 8. Subsections (5), (6), and (9) of section
9 215.422, Florida Statutes, are amended to read:

10 215.422 Warrants, vouchers, and invoices; processing
11 time limits; dispute resolution; agency or judicial branch
12 compliance.--

13 (5) All purchasing agreements between a state agency
14 or the judicial branch and a vendor, applicable to this
15 section, shall include a statement of the vendor's rights and
16 the state's responsibilities under this section. The vendor's
17 rights shall include being provided with the ~~name and~~
18 telephone number of the vendor ombudsman within the Department
19 of Banking and Finance, which information shall also be placed
20 on all agency or judicial branch purchase orders.

21 (6) The Department of Banking and Finance shall
22 monitor each agency's and the judicial branch's compliance
23 with the time limits and interest penalty provisions of this
24 section. The department shall provide a report to an agency
25 or to the judicial branch if the department determines that
26 the agency or the judicial branch has failed to maintain an
27 acceptable rate of compliance with the time limits and
28 interest penalty provisions of this section. The department
29 shall establish criteria for determining acceptable rates of
30 compliance. The report shall also include a list of late
31 vouchers or payments, the amount of interest owed or paid, and

1 any corrective actions recommended. The department shall
2 perform monitoring responsibilities, pursuant to this section,
3 using the Management Services and Purchasing Subsystem or the
4 Florida Accounting Information Resource Subsystem ~~State~~
5 ~~Automated Management Accounting Subsystem~~ provided in s.
6 215.94. Each agency and the judicial branch shall be
7 responsible for the accuracy of information entered into the
8 Management Services and Purchasing Subsystem and the Florida
9 Accounting Information Resource Subsystem ~~State Automated~~
10 ~~Management Accounting Subsystem~~ for use in this monitoring.

11 (9) Each agency and the judicial branch shall include
12 in the official position description of every officer or
13 employee who is responsible for the approval or processing of
14 vendors' invoices or distribution of warrants to vendors that
15 the requirements of this section are mandatory. ~~In addition,~~
16 ~~each employee shall be required to sign a statement at least~~
17 ~~annually that he or she has been provided a copy of this~~
18 ~~section and the rules promulgated by the Comptroller. The~~
19 ~~statement shall also acknowledge that the employee understands~~
20 ~~the approval and processing time limitations and the provision~~
21 ~~for automatic interest penalty payments. Each agency and the~~
22 ~~judicial branch shall certify its compliance with this~~
23 ~~subsection to the Comptroller on or before February 1 of each~~
24 ~~year.~~

25 Section 9. Paragraph (x) of subsection (1) of section
26 216.011, Florida Statutes, 1998 Supplement, is amended to
27 read:

28 216.011 Definitions.--

29 (1) For the purpose of fiscal affairs of the state,
30 appropriations acts, legislative budgets, and approved

31

1 budgets, each of the following terms has the meaning
2 indicated:

3 (x) "Operating capital outlay" means equipment,
4 fixtures, and other tangible personal property of a
5 nonconsumable and nonexpendable nature, the value or cost of
6 which is ~~\$1,000~~^{\$500} or more and the normal expected life of
7 which is 1 year or more, and hardback-covered bound books that
8 are circulated to students or the general public, the value or
9 cost of which is \$25 or more, and hardback-covered bound
10 books, the value or cost of which is ~~\$250~~^{\$100} or more.

11 Section 10. Section 216.102, Florida Statutes, is
12 amended to read:

13 (Substantial rewording of section. See
14 s. 216.102, F.S., for present text.)

15 216.102 Filing of financial information; handling by
16 Comptroller; penalty for noncompliance.--

17 (1) By September 30 of each year, each agency
18 supported by any form of taxation, licenses, fees, imposts, or
19 exactions, the judicial branch, and, for financial reporting
20 purposes, each component unit of the state as determined by
21 the Comptroller shall prepare, using generally accepted
22 accounting principles, and file with the Comptroller the
23 financial and other information necessary for the preparation
24 of annual financial statements for the State of Florida as of
25 June 30. In addition, each such agency and the judicial branch
26 shall prepare financial statements showing the financial
27 position and results of agency or branch operations as of June
28 30 for internal management purposes.

29 (a) Each state agency and the judicial branch shall
30 record the receipt and disbursement of funds from federal
31 sources in a form and format prescribed by the Comptroller.

1 The access to federal funds by the administering agencies or
2 the judicial branch may not be authorized until:
3 1. The deposit has been recorded in the Florida
4 Accounting Information Resource Subsystem using proper,
5 consistent codes that designate deposits as federal funds.
6 2. The deposit and appropriate recording required by
7 this paragraph have been verified by the Office of the
8 Treasurer.
9 (b) The Comptroller shall publish a statewide policy
10 detailing the requirements for recording receipt and
11 disbursement of federal funds into the Florida Accounting
12 Information Resource Subsystem and provide technical
13 assistance to the agencies and the judicial branch to
14 implement the policy.
15 (2) Financial information must be contained within the
16 Florida Accounting Information Resource Subsystem. Other
17 information must be submitted in the form and format
18 prescribed by the Comptroller.
19 (a) Each component unit shall file financial
20 information and other information necessary for the
21 preparation of annual financial statements with the agency or
22 branch designated by the Comptroller by the date specified by
23 the Comptroller.
24 (b) The state agency or branch designated by the
25 Comptroller to receive financial information and other
26 information from component units shall include the financial
27 information in the Florida Accounting Information Resource
28 Subsystem and shall include the component units' other
29 information in its submission to the Comptroller.
30 (3) The Comptroller shall:
31

1 (a) Prepare and furnish to the Auditor General annual
2 financial statements for the state on or before December 31 of
3 each year, using generally accepted accounting principles.

4 (b) Prepare and publish a comprehensive annual
5 financial report for the state in accordance with generally
6 accepted accounting principles on or before February 28 of
7 each year.

8 (c) Furnish the Governor, the President of the Senate,
9 and the Speaker of the House of Representatives with a copy of
10 the comprehensive annual financial report prepared pursuant to
11 paragraph (b).

12 (d) Notify each agency and the judicial branch of the
13 data that is required to be recorded to enhance accountability
14 for tracking federal financial assistance.

15 (e) Provide reports, as requested, to executive or
16 judicial branch entities, the President of the Senate, the
17 Speaker of the House of Representatives, and the members of
18 the Florida Congressional Delegation, detailing the federal
19 financial assistance received and disbursed by state agencies
20 and the judicial branch.

21 (f) Consult with and elicit comments from the
22 Executive Office of the Governor on changes to the Florida
23 Accounting Information Resource Subsystem which clearly affect
24 the accounting of federal funds, so as to ensure consistency
25 of information entered into the Federal Aid Tracking System by
26 state executive and judicial branch entities. While efforts
27 shall be made to ensure the compatibility of the Florida
28 Accounting Information Resource Subsystem and the Federal Aid
29 Tracking System, any successive systems serving identical or
30 similar functions shall preserve such compatibility.

31

1 The Comptroller may furnish and publish in electronic form the
2 financial statements and the comprehensive annual financial
3 report required under paragraphs (a), (b), and (c).

4 (4) If any agency or the judicial branch fails to
5 comply with subsection (1) or subsection (2), the Comptroller
6 may refuse to honor salary claims for agency or branch fiscal
7 and executive staff until the agency or branch corrects its
8 deficiency.

9 (5) The Comptroller may withhold any funds payable to
10 a component unit that does not comply with subsection (1) or
11 subsection (2) until the component unit corrects its
12 deficiency.

13 (6) The Comptroller may adopt rules to administer this
14 section.

15 Section 11. Section 273.02, Florida Statutes, is
16 amended to read:

17 273.02 Record and inventory of certain property.--The
18 word "property" as used in this section means equipment,
19 fixtures, and other tangible personal property of a
20 nonconsumable and nonexpendable nature, the value or cost of
21 which is \$1,000~~\$500~~ or more and the normal expected life of
22 which is 1 year or more, and hardback-covered bound books that
23 are circulated to students or the general public, the value or
24 cost of which is \$25 or more, and hardback-covered bound
25 books, the value or cost of which is \$250~~\$100~~ or more. Each
26 item of property which it is practicable to identify by
27 marking shall be marked in the manner required by the Auditor
28 General. Each custodian shall maintain an adequate record of
29 property in his or her custody, which record shall contain
30 such information as shall be required by the Auditor General.
31 Once each year, on July 1 or as soon thereafter as is

1 practicable, and whenever there is a change of custodian, each
2 custodian shall take an inventory of property in his or her
3 custody. The inventory shall be compared with the property
4 record, and all discrepancies shall be traced and reconciled.
5 All publicly supported libraries shall be exempt from marking
6 hardback-covered bound books, as required by this section.
7 The catalog and inventory control records maintained by each
8 publicly supported library shall constitute the property
9 record of hardback-covered bound books with a value or cost of
10 \$25 or more included in each publicly supported library
11 collection and shall serve as a perpetual inventory in lieu of
12 an annual physical inventory. All books identified by these
13 records as missing shall be traced and reconciled, and the
14 library inventory shall be adjusted accordingly.

15 Section 12. Subsection (2) of section 17.11, Florida
16 Statutes, is amended to read:

17 17.11 To report disbursements made.--

18 (2) The Comptroller shall also cause to have reported
19 from the Florida Accounting Information Resource Subsystem
20 ~~state automated management accounting subsystem~~ no less than
21 quarterly the disbursements which agencies made to small
22 businesses, as defined in the Florida Small and Minority
23 Business Assistance Act of 1985; to certified minority
24 business enterprises in the aggregate; and to certified
25 minority business enterprises broken down into categories of
26 minority persons, as well as gender and nationality subgroups.
27 This information shall be made available to the agencies, the
28 Minority Business Advocacy and Assistance Office, the
29 Governor, the President of the Senate, and the Speaker of the
30 House of Representatives. Each agency shall be responsible for
31 the accuracy of information entered into the Florida

1 Accounting Information Resource Subsystem ~~state automated~~
2 ~~management accounting subsystem~~ for use in this reporting.

3 Section 13. Subsection (4) of section 215.3206,
4 Florida Statutes, is amended to read:

5 215.3206 Trust funds; termination or re-creation.--

6 (4) For the purposes of this section, the Governor,
7 Chief Justice, and agencies shall review the trust funds as
8 they are identified by a unique 6-digit code in the Florida
9 Accounting Information Resource Subsystem ~~State Automated~~
10 ~~Management Accounting Subsystem (SAMAS)~~ at a level composed of
11 the 2-digit organization level 1, the 1-digit state fund type
12 2, and the first three digits of the fund identifier. The
13 Governor, Chief Justice, and agencies may also conduct their
14 review and make recommendations concerning accounts within
15 such trust funds.

16 Section 14. Subsection (3) of section 215.3208,
17 Florida Statutes, is amended to read:

18 215.3208 Trust funds; schedule for termination;
19 legislative review.--

20 (3) For the purposes of this section, the Legislature
21 shall review the trust funds as they are identified by a
22 unique 6-digit code in the Florida Accounting Information
23 Resource Subsystem ~~State Automated Management Accounting~~
24 ~~Subsystem (SAMAS)~~ at a level composed of the 2-digit
25 organization level 1, the 1-digit state fund type 2, and the
26 first three digits of the fund identifier. When a statutorily
27 created trust fund that was in existence on November 4, 1992,
28 has more than one 6-digit code, the Legislature may treat it
29 as a single trust fund for the purposes of this section. The
30 Legislature may also conduct its review concerning accounts
31 within such trust funds.

1 Section 15. Section 216.183, Florida Statutes, is
2 amended to read:

3 216.183 Entities using performance-based program
4 budgets; chart of accounts.--State agencies and the judicial
5 branch for which a performance-based program budget has been
6 appropriated shall utilize the chart of accounts used by the
7 Florida Accounting Information Resource Subsystem ~~State~~
8 ~~Automated Management Accounting Subsystem~~ in the manner
9 described in s. 215.93(3). The chart of accounts for state
10 agencies and the judicial branch for which a performance-based
11 program budget has been appropriated shall be developed and
12 amended, if necessary, in consultation with the Department of
13 Banking and Finance and the Executive Office of the Governor.

14 Section 16. Subsection (4) of section 216.212, Florida
15 Statutes, is amended to read:

16 216.212 Budgets for federal funds; restrictions on
17 expenditure of federal funds.--

18 (4) The Office of the Comptroller and the Executive
19 Office of the Governor, in consultation with the Office of the
20 Treasurer and the Office of the Auditor General, shall develop
21 and maintain a means to ensure the compatibility of the
22 Florida Accounting Information Resource Subsystem ~~State~~
23 ~~Automated Management Accounting Subsystem~~ and the Federal Aid
24 Tracking System. Any successive systems serving identical or
25 similar functions shall preserve such compatibility.

26 Section 17. Section 216.237, Florida Statutes, is
27 amended to read:

28 216.237 Availability of any remaining funds; agency
29 maintenance of accounting records.--Any remaining funds from
30 the General Revenue Fund and trust fund spending authority not
31 awarded to agencies pursuant to section 2 of this bill shall

1 be available to agencies for innovative projects which
2 generate a cost savings, increase revenue, or improve service
3 delivery. Innovative projects which generate a cost savings
4 shall receive greater consideration when awarding innovation
5 investment funds. Any trust fund authority granted under this
6 program shall be utilized in a manner consistent with the
7 statutory authority for the use of said trust fund. Any
8 savings realized as a result of implementing the innovative
9 project shall be used by the agency to establish an internal
10 innovations fund. State agencies which are awarded funds for
11 innovative projects shall utilize the chart of accounts used
12 by the Florida Accounting Information Resource Subsystem ~~State~~
13 ~~Automated Management Accounting System~~ in the manner described
14 in s. 215.93(3). Such chart of accounts shall be developed and
15 amended in consultation with the Department of Banking and
16 Finance and the Executive Office of the Governor to separate
17 and account for the savings that result from the
18 implementation of the innovative projects and to keep track of
19 how the innovative funds are reinvested by the state agency to
20 fund additional innovative projects, which may include, but
21 not be limited to, expenditures for training and information
22 technology resources. Guidelines for the establishment of such
23 internal innovations fund shall be provided by the Department
24 of Management Services. Any agency awarded funds under this
25 section shall maintain detailed accounting records showing all
26 expenses, loan transfers, savings, or other financial actions
27 concerning the project. Any savings realized as a result of
28 implementing the innovative project shall be quantified,
29 validated, and verified by the agency. A final report of the
30 results of the implementation of each innovative project shall
31 be submitted by each participating agency to the Governor's

1 Office of Planning and Budgeting and the legislative
2 appropriations committees by June 30 of the fiscal year in
3 which the funds were received and ensuing fiscal years for the
4 life of the project.

5 Section 18. Subsection (1) of section 280.08, Florida
6 Statutes, 1998 Supplement, is amended to read:

7 280.08 Procedure for payment of losses.--When the
8 Treasurer determines that a default or insolvency has
9 occurred, he or she shall provide notice as required in s.
10 280.085(1) and implement the following procedures:

11 (1) The Treasurer, in cooperation with the ~~Director of~~
12 ~~the Division of Banking of the~~ Department of Banking and
13 Finance or the receiver of the qualified public depository in
14 default, shall ascertain the amount of funds of each public
15 depositor on deposit at such depository and the amount of
16 deposit insurance applicable to such deposits.

17 Section 19. Section 288.778, Florida Statutes, is
18 amended to read:

19 288.778 Department of Banking and Finance.--The
20 ~~Division of Banking of the~~ Department of Banking and Finance
21 shall review the corporation's activities once every 24 months
22 to determine compliance with this part and other related laws
23 and rules and to evaluate the corporation's operations. The
24 department division shall prepare a report based on its review
25 and evaluation with recommendation for any corrective action.
26 The president shall submit to the department division regular
27 reports on the corporation's activities. The content and
28 frequency of such reports shall be determined by the
29 department division. The department division shall charge a
30 fee for conducting the review and evaluation and preparing the
31 related report, which fee shall not be in excess of the

1 examination fee paid by financial institutions chartered or
2 licensed under the financial institutions code of this state.

3 Section 20. Subsection (3) of section 494.0011,
4 Florida Statutes, 1998 Supplement, is amended to read:

5 494.0011 Powers and duties of the department.--

6 (3) All fees, charges, and fines collected by the
7 department pursuant to ss. 494.001-494.0077 shall be deposited
8 in the State Treasury to the credit of the Regulatory Trust
9 Fund under the ~~Division of Finance of the~~ department.

10 Section 21. Subsection (3) of section 494.0017,
11 Florida Statutes, is amended to read:

12 494.0017 Mortgage Brokerage Guaranty Fund.--

13 (3) The Mortgage Brokerage Guaranty Fund shall be
14 disbursed as provided in former s. 494.044, upon approval by
15 the department ~~Division of Finance~~, to any party to a mortgage
16 financing transaction who:

17 (a) Is adjudged by a court of competent jurisdiction
18 of this state to have suffered monetary damages as a result of
19 any violation of chapter 494 in effect prior to October 1,
20 1991, committed by a licensee or registrant;

21 (b) Has filed a claim for recovery prior to January 1,
22 1992; and

23 (c) Has suffered monetary damages as a result of an
24 act occurring prior to October 1, 1991.

25 Section 22. Paragraph (m) of subsection (2) of section
26 494.0041, Florida Statutes, is amended to read:

27 494.0041 Administrative penalties and fines; license
28 violations.--

29 (2) Each of the following acts constitutes a ground
30 for which the disciplinary actions specified in subsection (1)
31 may be taken:

1 (m) Failure to maintain, preserve, and keep available
2 for examination all books, accounts, or other documents
3 required by ss. 494.001-494.0077 and the rules of the
4 department ~~Division of Finance~~.

5 Section 23. Section 494.00421, Florida Statutes, is
6 amended to read:

7 494.00421 Fees earned upon obtaining a bona fide
8 commitment.--Notwithstanding the provisions of ss.
9 494.001-494.0077, any mortgage brokerage business which
10 contracts to receive from a borrower a mortgage brokerage fee
11 upon obtaining a bona fide commitment shall accurately
12 disclose in the mortgage brokerage agreement:

13 (1) The gross loan amount.

14 (2) In the case of a fixed-rate mortgage, the note
15 rate.

16 (3) In the case of an adjustable rate mortgage:

17 (a) The initial note rate.

18 (b) The length of time for which the initial note rate
19 is effective.

20 (c) The frequency of changes.

21 (d) The limitation upon such changes including
22 adjustment to adjustment cap and life cap.

23 (e) Whether the loan has any potential for negative
24 amortization.

25 (f) Identification of the margin-interest rate
26 differential.

27 (g) Identification of a nationally recognized index
28 which index must be free from control of the mortgage broker,
29 mortgage brokerage business, mortgage lender, or correspondent
30 mortgage lender.

31

1 (4) The estimated net proceeds to be paid directly to
2 the borrower. "Estimated net proceeds" means the cash to be
3 received by the borrower after payment of any fees, charges,
4 debts, liens, or encumbrances to perfect the lien of the new
5 mortgage and establish the agreed-upon priority of the new
6 mortgage.

7 (5) The lien priority of the new proposed mortgage.

8 (6) The number of calendar days, which are mutually
9 agreed upon, within which the mortgage brokerage business
10 shall obtain a bona fide mortgage commitment.

11 (7)(a) The following statement, in no less than
12 12-point boldface type immediately above the signature lines
13 for the borrowers:

14
15 "You are entering into a contract with a mortgage brokerage
16 business to obtain a bona fide mortgage loan commitment under
17 the same terms and conditions as stated hereinabove or in a
18 separate executed good faith estimate form. If the mortgage
19 brokerage business obtains a bona fide commitment under the
20 same terms and conditions, you will be obligated to pay the
21 mortgage brokerage business fees, including, but not limited
22 to, a mortgage brokerage fee, even if you choose not to
23 complete the loan transaction. If the provisions of s.
24 494.00421, Florida Statutes, are not met, the mortgage
25 brokerage fee can only be earned upon the funding of the
26 mortgage loan. The borrower may contact the Department of
27 Banking and Finance, ~~Division of Finance~~, Tallahassee,
28 Florida, regarding any complaints that the borrower may have
29 against the mortgage broker or the mortgage brokerage
30 business. The telephone number of the department as set by
31 rule of the department is: ...[insert telephone number]...."

1 (b) Paragraph (a) does not apply to nonresidential
2 mortgage loan commitments in excess of \$1 million.

3 (8) Any other disclosure required pursuant to s.
4 494.0038.

5
6 ~~The Department of Banking and Finance shall review the effects~~
7 ~~of this section on consumers and shall issue a written report,~~
8 ~~by January 31, 1997, to the President of the Senate and the~~
9 ~~Speaker of the House of Representatives. Such report shall~~
10 ~~summarize the findings of the department's review and include~~
11 ~~recommended changes, if any, to this section.~~

12 Section 24. Subsection (3) of section 494.0061,
13 Florida Statutes, is amended to read:

14 494.0061 Mortgage lender's license requirements.--

15 (3) Each initial application for a mortgage lender's
16 license must be in written form prescribed by the department.
17 The department ~~division~~ may require each applicant to provide
18 any information reasonably necessary to make a determination
19 of the applicant's eligibility for licensure. The department
20 may require that each officer, director, and ultimate
21 equitable owner of a 10-percent or greater interest in the
22 applicant submit a complete set of fingerprints taken by an
23 authorized law enforcement officer.

24 Section 25. Subsection (3) of section 494.0062,
25 Florida Statutes, is amended to read:

26 494.0062 Correspondent mortgage lender's license
27 requirements.--

28 (3) Each initial application for a correspondent
29 mortgage lender's license must be in written form prescribed
30 by the department. The department ~~division~~ may require each
31 applicant to provide any information reasonably necessary to

1 make a determination of the applicant's eligibility for
2 licensure. The department may require that each officer,
3 director, and ultimate equitable owner of a 10-percent or
4 greater interest submit a complete set of fingerprints taken
5 by an authorized law enforcement officer.

6 Section 26. Paragraph (m) of subsection (2) of section
7 494.0072, Florida Statutes, is amended to read:

8 494.0072 Administrative penalties and fines; license
9 violations.--

10 (2) Each of the following acts constitutes a ground
11 for which the disciplinary actions specified in subsection (1)
12 may be taken:

13 (m) Failure to maintain, preserve, and keep available
14 for examination all books, accounts, or other documents
15 required by ss. 494.001-494.0077 or the rules of the
16 department ~~Division of Finance~~.

17 Section 27. Subsections (4), (9), and (12) of section
18 497.407, Florida Statutes, are amended to read:

19 497.407 Certificate of authority; annual statement;
20 renewal; transfer.--

21 (4) The fee payable to the department for issuance of
22 the original certificate of authority and each annual renewal
23 thereof shall be set by the board at an amount not to exceed
24 \$500 and shall accompany each application for an original
25 certificate and, thereafter, each annual statement. Any
26 person or entity that is part of a common business enterprise
27 that has a certificate of authority issued pursuant to this
28 section and elects to operate under a name other than that of
29 the common business enterprise shall submit an application on
30 a form adopted by the board to become a branch registrant.
31 Upon the approval of the board that such entity qualifies to

1 sell preneed contracts under this chapter except for the
2 requirements of subparagraph (2)(c)1. and if the
3 certificateholder meets the requirements of such subparagraph,
4 a branch registration shall be issued. Each branch registrant
5 may operate under the certificate of authority of the common
6 business enterprise upon the payment of a fee established by
7 the board not to exceed \$100 accompanying the application on
8 April 1 annually. The fee shall be payable to the Regulatory
9 Trust Fund under the department ~~Division of Finance~~.

10 (9) In addition to any other penalty that may be
11 provided for under this chapter, the board may levy a fine not
12 to exceed \$50 a day for each day the certificateholder fails
13 to file its annual statement, and the board may levy a fine
14 not to exceed \$50 a day for each day the certificateholder
15 fails to file the statement of activities of the trust. Upon
16 notice to the certificateholder by the board that the
17 certificateholder has failed to file the annual statement or
18 the statement of activities of the trust, the
19 certificateholder's authority to sell preneed contracts shall
20 cease while such default continues. The board shall deposit
21 all sums collected under this section to the credit of the
22 Regulatory Trust Fund under the department ~~Division of~~
23 ~~Finance~~.

24 (12) Each certificateholder shall pay to the
25 Regulatory Trust Fund under the department ~~Division of Finance~~
26 an amount established by the board not to exceed \$5 for each
27 preneed contract entered into. This amount must be paid within
28 60 days after the end of each quarter. These funds must be
29 used to defray the cost of the board and the department in
30 administering the provisions of this chapter.

31

1 Section 28. Subsection (3) of section 497.435, Florida
2 Statutes, is amended to read:

3 497.435 Administrative fine in lieu of revocation or
4 suspension of certificate of authority.--

5 (3) The fine shall be deposited into the Regulatory
6 Trust Fund under the department ~~Division of Finance~~.

7 Section 29. Subsection (2) of section 516.03, Florida
8 Statutes, is amended to read:

9 516.03 Application for license; fees; etc.--

10 (2) FEES.--Fees herein provided for shall be collected
11 by the department and shall be turned into the State Treasury
12 to the credit of the regulatory trust fund under the ~~Division~~
13 ~~of Finance of the~~ department. The department shall have full
14 power to employ such examiners or clerks to assist the
15 department as may from time to time be deemed necessary and
16 fix their compensation.

17 Section 30. Section 520.998, Florida Statutes, is
18 amended to read:

19 520.998 Regulatory Trust Fund.--All fees, charges, and
20 fines collected by the department pursuant to this chapter
21 shall be deposited in the State Treasury to the credit of the
22 Regulatory Trust Fund under the ~~Division of Finance of the~~
23 department.

24 Section 31. Paragraph (a) of subsection (1) of section
25 655.90, Florida Statutes, is amended to read:

26 655.90 Closing during emergencies and other special
27 days.--

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

29 (a) "Commissioner" means the officer of this state
30 designated by law as the head of the Department of Banking and
31 Finance and any other person lawfully exercising such powers,

1 whether as a deputy to such officer, ~~as a division~~ director,
2 bureau chief, or financial administrator of or within such
3 department, ~~or~~ otherwise. ~~In the absence of any person~~
4 ~~lawfully exercising the powers of the head of the Department~~
5 ~~of Banking and Finance, the director of the Division of~~
6 ~~Banking or any other person lawfully exercising the powers of~~
7 ~~the director of the division, whether as another division~~
8 ~~director, as a bureau chief or financial administrator, or~~
9 ~~otherwise.~~

10 Section 32. Subsection (1) of section 655.942, Florida
11 Statutes, is amended to read:

12 655.942 Standards of conduct; institutions.--

13 (1) A financial institution which is licensed or
14 authorized to do business pursuant to the financial
15 institutions codes, or its officers, directors, or employees
16 may not make or grant any loan or gratuity to any employee of
17 the department ~~Division of Banking~~ who has authority to
18 examine or otherwise supervise such financial institution.

19 Section 33. The amendments made by this act to
20 sections 216.011, 216.102, 216.183, 216.212, and 216.237,
21 Florida Statutes, shall take effect notwithstanding the
22 provisions of section 216.351, Florida Statutes.

23 Section 34. This act shall take effect October 1,
24 1999.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
CS/SB 150

The Committee Substitute corrects style and drafting cross references in the previous version of the bill, provides a self-repeal of internal organizational changes to the Department of Banking and Finance upon implementation of Cabinet reform in the year 2003, and provides additional required cross references for changes made to Chapter 216, Florida Statutes.