

Bill No. CS for SB 228

Amendment No.     

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11 Senator Webster moved the following amendment:

12  
13 **Senate Amendment (with title amendment)**

14 On page 4, between lines 23 and 24,

15  
16 insert:

17 Section 4. Subsections (1) and (2) and paragraph (a)  
18 of subsection (7) of section 216.023, Florida Statutes, are  
19 amended to read:

20 216.023 Legislative budget requests to be furnished by  
21 agencies.--

22 (1) The head of each state agency shall submit a final  
23 legislative budget request to the Legislature and to the  
24 Governor, as chief budget officer of the state, in the form  
25 and manner prescribed in the budget instructions and at such  
26 time as specified by the Executive Office of the Governor,  
27 based on the agency's independent judgment of its needs.  
28 However, no state agency shall submit its final legislative  
29 budget request later than September 15 <sup>±</sup> of each year.

30 (2) The judicial branch and the Division of  
31 Administrative Hearings shall submit their final legislative

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1 budget requests directly to the Legislature with a copy to the  
2 Governor, as chief budget officer of the state, in the form  
3 and manner as prescribed in the budget instructions. However,  
4 the final legislative budget requests shall be submitted no  
5 later than September 15 † of each year.

6 (7)(a) The provisions of subsections (1) and (2) to  
7 the contrary notwithstanding, each agency subject to the  
8 provisions of this section shall submit its legislative budget  
9 request no later than September 15 † of the year in which the  
10 agency is required to submit its point-by-point response  
11 pursuant to s. 216.0165(1)(d).

12 Section 5. Subsection (1) of section 216.0166, Florida  
13 Statutes, 1998 Supplement, is amended to read:

14 216.0166 Submission by state agencies of  
15 performance-based budget requests, programs, and performance  
16 measures.--

17 (1) Prior to September 15 † of the fiscal year prior  
18 to which a state agency is required to submit a  
19 performance-based program budget request pursuant to s.  
20 216.0172, such state agency shall identify and submit to the  
21 Executive Office of the Governor a list of proposed state  
22 agency programs and performance measures. The agency may also  
23 provide a list of statutes or rules affecting its performance  
24 which may be addressed as incentives or disincentives for the  
25 performance-based program budget. The list should be  
26 accompanied by recommended legislation to implement the  
27 requested changes for potential incentives. Such  
28 identification shall be conducted after discussion with  
29 legislative appropriations and appropriate substantive  
30 committees and shall be approved by the Executive Office of  
31 the Governor. The Executive Office of the Governor, after

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1 discussion with legislative appropriations and appropriate  
 2 substantive committees and the Office of Program Policy  
 3 Analysis and Government Accountability, shall review the list  
 4 of programs and performance measures, may make any changes or  
 5 require the agency to resubmit the list, and shall make a  
 6 final recommendation of programs and associated performance  
 7 measures to the Legislature within 60 days after receipt, to  
 8 be used in the preparation and submission of the state  
 9 agency's final legislative budget request pursuant to s.  
 10 216.023(5). The Executive Office of the Governor may also  
 11 recommend legislation to implement any or all of the proposed  
 12 incentives. Agencies continuing under performance-based  
 13 program budgeting may provide as part of their legislative  
 14 budget request a list of statutes or rules affecting their  
 15 program performance which may be addressed as incentives or  
 16 disincentives for the performance-based program budget.

17 Section 6. Subsections (6), (7), and (8) of section  
 18 216.0172, Florida Statutes, 1998 Supplement, are amended to  
 19 read:

20 216.0172 Schedule for submission of performance-based  
 21 program budgets.--In order to implement the provisions of  
 22 chapter 94-249, Laws of Florida, state agencies shall submit  
 23 performance-based program budget legislative budget requests  
 24 for programs approved pursuant to s. 216.0166 to the Executive  
 25 Office of the Governor and the Legislature based on the  
 26 following schedule:

27 (6) By September 15 ±, 1999, for the 2000-2001 fiscal  
 28 year, by the following:

- 29 (a) Division of Administrative Hearings.
- 30 (b) Department of Business and Professional
- 31 Regulation.

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- 1 (c) Parole and Probation Commission.
- 2 (d) Public Service Commission.
- 3 (e) Department of Health.
- 4 (f) Department of Education (all remaining programs).
- 5 (7) By September 15 ±, 2000, for the 2001-2002 fiscal

6 year, by the following:

- 7 (a) Department of Citrus.
- 8 (b) Department of Community Affairs.
- 9 (c) Department of Insurance.
- 10 (d) Department of Veterans' Affairs.
- 11 (e) State attorneys.
- 12 (f) Public defenders.
- 13 (g) Justice Administrative Commission and capital
- 14 collateral counsel.

15 (8) Any new agency or portion thereof created after  
 16 September 15 ±, 2000, shall submit a performance-based program  
 17 budget request for programs approved pursuant to s. 216.0166  
 18 to the Executive Office of the Governor and the Legislature by  
 19 September 15 ± of the year following the creation of the  
 20 agency or portion thereof.

21 Section 7. Subsections (1) and (2) of section  
 22 216.0235, Florida Statutes, 1998 Supplement, are amended to  
 23 read:

24 216.0235 Performance-based legislative program budget  
 25 requests to be furnished by agencies.--

26 (1) The head of each state agency shall submit a final  
 27 legislative program budget request to the Legislature and to  
 28 the Governor, as chief budget officer of the state, in the  
 29 form and manner prescribed in the program budget instructions  
 30 and at such time as specified by the Executive Office of the  
 31 Governor, based on the agency's independent judgment of its

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1 needs. However, a state agency may not submit its final  
2 legislative program budget request later than September 15 ±  
3 of each year. The provisions of s. 216.023 do not apply to  
4 programs within state agencies that have been approved to  
5 operate under a performance-based program budget.

6 (2) The judicial branch shall submit its final  
7 legislative program budget request directly to the Legislature  
8 with a copy to the Governor, as chief budget officer of the  
9 state, in the form and manner prescribed in the program budget  
10 instructions. However, the final legislative program budget  
11 requests shall be submitted no later than September 15 ± of  
12 each year.

13 Section 8. Subsection (7) of section 240.2601, Florida  
14 Statutes, is amended to read:

15 240.2601 State University System Facility Enhancement  
16 Challenge Grant Program.--

17 (7) By September 15 ± of each year, the Board of  
18 Regents shall transmit to the Legislature a list of projects  
19 which meet all eligibility requirements to participate in the  
20 Alec P. Courtelis Capital Facilities Matching Trust Fund and a  
21 budget request which includes the recommended schedule  
22 necessary to complete each project.

23 Section 9. Subsection (8) of section 240.383, Florida  
24 Statutes, is amended to read:

25 240.383 State Community College System Facility  
26 Enhancement Challenge Grant Program.--

27 (8) By September 15 ± of each year, the Division of  
28 Community Colleges shall transmit to the Legislature a list of  
29 projects which meet all eligibility requirements to  
30 participate in the State Community College System Facility  
31 Enhancement Challenge Grant Program and a budget request which

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1 includes the recommended schedule necessary to complete each  
2 project.

3 Section 10. Section 216.131, Florida Statutes, is  
4 amended to read:

5 216.131 Public hearings on legislative budgets.--The  
6 Governor and the Chief Justice of the Supreme Court may ~~shall~~  
7 each provide for at least one public hearing prior to  
8 submission of budget recommendations to the Legislature on  
9 issues contained in agency legislative budget requests or in  
10 the judicial branch budget request and issues which may be  
11 included in budget recommendations to the Legislature, which  
12 shall be held at such time as the Governor or the Chief  
13 Justice may fix. The Governor may require the attendance at  
14 his or her hearings of the heads or responsible  
15 representatives of all state agencies supported by any form of  
16 taxation or licenses, fees, imposts, or exactions.

17 Section 11. Subsection (4) of section 216.181, Florida  
18 Statutes, 1998 Supplement, is amended to read:

19 216.181 Approved budgets for operations and fixed  
20 capital outlay.--

21 (4) All amendments to the original approved operating  
22 budgets, regardless of funding source, are subject to the  
23 notice and review procedures set forth in s. 216.177 and must  
24 be approved by the Governor and the Technology Review  
25 Workgroup ~~Administration Commission~~ as provided in this  
26 chapter for the executive branch and the Chief Justice for the  
27 judicial branch if the amendment is for an information  
28 resources management project or initiative that involves more  
29 than one agency, has an outcome that impacts another agency,  
30 or exceeds \$500,000 in total cost over a 1-year period, except  
31 for those projects that are a continuation of hardware or

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1 software maintenance or software licensing agreements, or that  
2 are for desktop replacement that is similar to the technology  
3 currently in use.

4 Section 12. Subsection (1) of section 216.192, Florida  
5 Statutes, is amended to read:

6 216.192 Release of appropriations; revision of  
7 budgets.--

8 (1) Unless otherwise provided in the General  
9 Appropriations Act, on July 1 of each fiscal year, 25 ~~20~~  
10 percent of the original approved operating budget of each  
11 agency and of the judicial branch shall be released and the  
12 ~~until such time as~~ annual plans for quarterly releases for all  
13 appropriations shall be ~~have been developed, approved, and~~  
14 furnished to the Comptroller by the Executive Office of the  
15 Governor for state agencies and by the Chief Justice of the  
16 Supreme Court for the judicial branch. The plans, including  
17 appropriate plans of releases for fixed capital outlay  
18 projects that correspond with each project schedule, shall  
19 attempt to maximize the use of trust funds ~~and shall be~~  
20 ~~transmitted to the Comptroller by August 1 of each fiscal~~  
21 ~~year.~~ Such releases shall at no time exceed the total  
22 appropriations available to a state agency or to the judicial  
23 branch, or the approved budget for such agency or the judicial  
24 branch if less. The Comptroller shall enter such releases in  
25 his or her records in accordance with the release plans  
26 prescribed by the Executive Office of the Governor and the  
27 Chief Justice, unless otherwise amended as provided by law.  
28 The Executive Office of the Governor and the Chief Justice  
29 shall transmit a copy of the approved annual releases to the  
30 head of the state agency, the chairs of the legislative  
31 appropriations committees, and the Auditor General. The

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1 Comptroller shall authorize all expenditures to be made from  
2 the appropriations on the basis of such releases and in  
3 accordance with the approved budget, and not otherwise.  
4 Expenditures shall be authorized only in accordance with  
5 legislative authorizations. Nothing herein precludes periodic  
6 reexamination and revision by the Executive Office of the  
7 Governor or by the Chief Justice of the annual plans for  
8 release of appropriations and the notifications of the parties  
9 of all such revisions.

10 Section 13. Subsections (1) and (2) of section  
11 216.231, Florida Statutes, are amended to read:

12 216.231 Release of certain classified  
13 appropriations.--

14 (1)(a) Any appropriation to the Executive Office of  
15 the Governor which is classified as "emergency," as defined in  
16 s. 252.34(3), may be released only with the approval of the  
17 Governor. The state agency, or the judicial branch, desiring  
18 the use of the emergency appropriation shall submit to the  
19 Executive Office of the Governor application therefor in  
20 writing setting forth the facts from which the alleged need  
21 arises. The Executive Office of the Governor shall, ~~at a~~  
22 ~~public hearing,~~ review such application promptly and approve  
23 or disapprove the applications as the circumstances may  
24 warrant. The provisions of this paragraph are subject to the  
25 notice, review, and objection procedures set forth in s.  
26 216.177. ~~All actions of the Executive Office of the Governor~~  
27 ~~shall be reported to the legislative appropriations~~  
28 ~~committees, and the committees may advise the Executive Office~~  
29 ~~of the Governor relative to the release of such funds.~~

30 (b) The release of appropriated funds classified as  
31 "emergency" shall be approved only when an act or circumstance

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1 caused by an act of God, civil disturbance, natural disaster,  
2 or other circumstance of an emergency nature threatens,  
3 endangers, or damages the property, safety, health, or welfare  
4 of the state or its citizens, which condition has not been  
5 provided for in appropriation acts of the Legislature. Funds  
6 allocated for this purpose may be used to pay overtime pay to  
7 personnel of agencies called upon to perform extra duty  
8 because of any civil disturbance or other emergency as defined  
9 in s. 252.34(3) and to provide the required state match for  
10 federal grants under the federal Disaster Relief Act.

11 (2) The release of appropriated funds classified as  
12 "deficiency" shall be approved only when a General Revenue  
13 Fund appropriation for operations of a state agency or of the  
14 judicial branch is inadequate because the workload or cost of  
15 the operation exceeds that anticipated by the Legislature and  
16 a determination has been made by the Executive Office of the  
17 Governor ~~commission~~ that the deficiency will result in an  
18 impairment of the activities of an agency or of the judicial  
19 branch to the extent that the agency is unable to carry out  
20 its program as provided by the Legislature in the general  
21 appropriations acts. These funds may not be used for creation  
22 of any new agency or program, for increases of salary, or for  
23 the construction or equipping of additional buildings. The  
24 provisions of this subsection are subject to the notice,  
25 review, and objection procedures set forth in s. 216.177.

26 Section 14. Paragraphs (a) and (b) of subsection (1)  
27 of section 216.262, Florida Statutes, 1998 Supplement, are  
28 amended to read:

29 216.262 Authorized positions.--

30 (1)(a) Unless otherwise expressly provided by law, the  
31 total number of authorized positions may not exceed the total

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1 provided in the appropriations acts. In the event any state  
2 agency or entity of the judicial branch finds that the number  
3 of positions so provided is not sufficient to administer its  
4 authorized programs, it may file an application with the  
5 Executive Office of the Governor or the Chief Justice; and, if  
6 the office or Chief Justice certifies that there are no  
7 authorized positions available for addition, deletion, or  
8 transfer within the agency as provided in paragraph (c) and  
9 recommends an increase in the number of positions, the  
10 Executive Office of the Governor ~~commission~~ or the Chief  
11 Justice may, ~~after a public hearing~~, authorize an increase in  
12 the number of positions for the following reasons only:

- 13 1. To implement or provide for continuing federal  
14 grants or changes in grants not previously anticipated;
- 15 2. To meet emergencies pursuant to s. 252.36;
- 16 3. To satisfy new federal regulations or changes  
17 therein;
- 18 4. To take advantage of opportunities to reduce  
19 operating expenditures or to increase the revenues of the  
20 state or local government; and
- 21 5. To authorize positions which were not fixed by the  
22 Legislature through error in drafting the appropriations acts.

23  
24 The provisions of this paragraph are subject to the notice and  
25 review procedures set forth in s. 216.177. A copy of the  
26 application, the certification, and the final authorization  
27 shall be filed with the legislative appropriations committees  
28 and with the Auditor General.

29 (b) The Executive Office of the Governor  
30 ~~Administration Commission~~ and the Chief Justice may, ~~after a~~  
31 ~~public hearing~~, delete supervisory or managerial positions

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1 within a department and establish direct service delivery  
 2 positions in excess of the number of supervisory or managerial  
 3 positions deleted. The salary rate for all positions  
 4 authorized under this paragraph may not exceed the salary rate  
 5 for all positions deleted under this paragraph. Positions  
 6 affected by changes made under this paragraph may be funded  
 7 only from identical funding sources.

8 Section 15. Subsections (2), (3), and (5) and  
 9 paragraph (b) of subsection (8) of section 216.292, Florida  
 10 Statutes, 1998 Supplement, are amended to read:

11 216.292 Appropriations nontransferable; exceptions.--

12 (2) A lump sum appropriated for a performance-based  
 13 program must be distributed by the Governor for state agencies  
 14 or the Chief Justice for the judicial branch into the  
 15 traditional expenditure categories in accordance with s.  
 16 216.181(5)(b). At any time during the year, the agency head  
 17 or Chief Justice may transfer funds between those categories  
 18 with no limit on the amount of the transfer. Authorized  
 19 revisions of the original approved operating budget, together  
 20 with related changes, if any, must be transmitted by the state  
 21 agency or by the judicial branch to the Executive Office of  
 22 the Governor or the Chief Justice, the chairs of the  
 23 legislative appropriations committees, the Office of Program  
 24 Policy Analysis and Government Accountability, and the Auditor  
 25 General. Such authorized revisions shall be consistent with  
 26 the intent of the approved operating budget, shall be  
 27 consistent with legislative policy and intent, and shall not  
 28 conflict with specific spending policies specified in the  
 29 General Appropriations Act. The Executive Office of the  
 30 Governor shall forward a copy of the revisions within 7  
 31 working days to the Comptroller for entry in his or her

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1 records in the manner and format prescribed by the Executive  
2 Office of the Governor in consultation with the Comptroller.  
3 Such authorized revisions shall be consistent with the intent  
4 of the approved operating budget, shall be consistent with  
5 legislative policy and intent, and shall not conflict with  
6 specific spending policies specified in the General  
7 Appropriations Act. ~~Additionally, subsection (3) shall not~~  
8 ~~apply to programs operating under performance-based program~~  
9 ~~budgeting where a lump sum was appropriated.~~

10 (3) The head of each department or the Chief Justice  
11 of the Supreme Court, whenever it is deemed necessary by  
12 reason of changed conditions, may transfer appropriations  
13 funded from identical funding sources, except appropriations  
14 for fixed capital outlay, and transfer the amounts included  
15 within the total original approved budget and releases as  
16 furnished pursuant to ss. 216.181 and 216.192, as follows:

17 (a) Between categories of appropriations within a  
18 budget entity, if no category of appropriation is increased or  
19 decreased by more than 5 percent of the original approved  
20 budget or \$150,000~~\$25,000~~, whichever is greater, by all  
21 action taken under this subsection.

22 (b) Additionally, between budget entities within  
23 identical categories of appropriations, if no category of  
24 appropriation is increased or decreased by more than 5 percent  
25 of the original approved budget or \$150,000~~\$25,000~~, whichever  
26 is greater, by all action taken under this subsection.

27  
28 ~~(c)~~ Such authorized revisions must be consistent with the  
29 intent of the approved operating budget, must be consistent  
30 with legislative policy and intent, and must not conflict with  
31 specific spending policies specified in the General

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1 Appropriations Act. Such authorized revisions, together with  
2 related changes, if any, in the plan for release of  
3 appropriations, shall be transmitted by the state agency or by  
4 the judicial branch to the Comptroller for entry in the  
5 Comptroller's records in the manner and format prescribed by  
6 the Executive Office of the Governor in consultation with the  
7 Comptroller. A copy of such revision shall be furnished to  
8 the Executive Office of the Governor or the Chief Justice, the  
9 chairs of the legislative committees, and the Auditor General.

10 (5)(a) Transfers of appropriations for operations from  
11 the General Revenue Fund in excess of those provided in  
12 subsections (3) and (4) but within a state agency or within  
13 the judicial branch may be authorized by the Executive Office  
14 of the Governor ~~commission~~ for the executive branch and the  
15 Chief Justice for the judicial branch, pursuant to the request  
16 of the agency filed with the Executive Office of the Governor,  
17 or pursuant to the request of an entity of the judicial branch  
18 filed with the Chief Justice of the Supreme Court, if deemed  
19 necessary and in the best interest of the state and consistent  
20 with legislative policy and intent. The provisions of this  
21 paragraph are subject to the notice, review, and objection  
22 procedures set forth in s. 216.177.

23 (b) When an appropriation for a named fixed capital  
24 outlay project is found to be in excess of that needed to  
25 complete that project, at the request of the Executive Office  
26 of the Governor for state agencies or the Chief Justice of the  
27 Supreme Court for the judicial branch the excess may be  
28 transferred, with the approval of the commission or the Chief  
29 Justice, to another project for which there has been an  
30 appropriation in the same fiscal year from the same fund and  
31 within the same department where a deficiency is found to

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1 exist. Further, a fixed capital outlay project may not be  
2 initiated without a specific legislative appropriation, nor  
3 may the scope of a fixed capital outlay project be changed by  
4 the transfer of funds. However, federal funds for fixed  
5 capital outlay projects for the Department of Military Affairs  
6 which do not carry a continuing commitment on future  
7 appropriations are hereby appropriated for the purpose  
8 received.The provisions of this paragraph are subject to the  
9 notice, review, and objection procedures set forth in s.  
10 216.177.

11 (8)

12 (b) Should any state agency or the judicial branch  
13 become more than 90 days delinquent in paying the Division of  
14 Risk Management of the Department of Insurance for insurance  
15 coverage, the Department of Insurance may certify to the  
16 Comptroller the amount due; and the Comptroller shall transfer  
17 the amount due to the Division of Risk Management from any  
18 funds of the agency or the judicial branch available. The  
19 Executive Office of the Governor is authorized to redistribute  
20 the approved operating budget for the special category for  
21 risk management as part of the initial approved financial plan  
22 based on the total appropriation for the Florida Casualty  
23 Insurance Risk Management Trust Fund and distributed in  
24 accordance with the cost allocation schedules provided by the  
25 Division of Risk Management, which includes all state  
26 agencies, the judicial branch, and the legislative branch.

27 Section 16. Paragraphs (a) and (b) of subsection (3)  
28 of section 255.25, Florida Statutes, 1998 Supplement, are  
29 amended to read:

30 255.25 Approval required prior to construction or  
31 lease of buildings.--

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1           (3)(a) Except as provided in paragraph (b) and  
2 subsection (10), no state agency shall enter into a lease as  
3 lessee for the use of 3,000 square feet or more of space in a  
4 privately owned building except upon advertisement for and  
5 receipt of competitive bids and award to the lowest and best  
6 bidder. The Department of Management Services shall have the  
7 authority to approve a lease for 3,000 square feet or more of  
8 space that covers more than 1 fiscal year, subject to the  
9 provisions of ss. 216.311, 255.2501, 255.2502, and 255.2503,  
10 if such lease is, in the judgment of the department, in the  
11 best interests of the state. This paragraph does not apply to  
12 buildings or facilities of any size leased for the purpose of  
13 providing care and living space for persons.

14           (b) The Department of Management Services may approve  
15 extensions of an existing lease of 3,000 square feet or more  
16 of space if such extensions are determined to be in the best  
17 interests of the state, but in no case shall the total of such  
18 extensions exceed 11 months. If at the end of the 11th month  
19 an agency still needs space, such space ~~it~~ shall be procured  
20 by competitive bid in accordance with s. 255.249(2)(b); or, if  
21 an agency determines that it is in its best interest to remain  
22 in the space it currently occupies, the agency may negotiate a  
23 replacement lease with the lessor if an independent market  
24 analysis demonstrates that the rates offered are within market  
25 rates for the space offered, and if the cost of the new lease  
26 does not exceed the cost of a comparable lease plus documented  
27 moving costs. A present value analysis and the consumer price  
28 index shall be used in the calculation of lease costs. The  
29 term of the replacement lease shall not exceed the base term  
30 of the expiring lease.

31

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1 (Redesignate subsequent sections.)

2

3

4 ===== T I T L E A M E N D M E N T =====

5 And the title is amended as follows:

6 On page 1, line 26, after the semicolon

7

8 insert:

9 amending s. 216.023, F.S.; revising the date  
10 for submission of final legislative budget  
11 requests; amending ss. 216.0166, 216.0172,  
12 216.0235, 240.2601, and 240.383, F.S., to  
13 conform; amending s. 216.131, F.S.; making  
14 certain public hearings on legislative budget  
15 requests by the Governor and Chief Justice  
16 optional; amending s. 216.181, F.S.; revising  
17 requirements for approval of amendments to  
18 original approved operating budgets involving  
19 certain information resources management  
20 projects or initiatives; amending s. 216.192,  
21 F.S.; revising requirements relating to release  
22 of appropriations; amending s. 216.231, F.S.;  
23 revising requirements relating to release of  
24 funds for emergencies or deficiencies; removing  
25 a public hearing requirement; amending s.  
26 216.262, F.S.; revising requirements for adding  
27 or deleting authorized positions; removing  
28 public hearing requirements; amending s.  
29 216.292, F.S.; revising requirements relating  
30 to transfer of funds between agencies;  
31 providing for appropriation of federal funds

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1           for fixed capital outlay projects for the  
2           Department of Military Affairs; providing for  
3           redistribution of the approved operating budget  
4           for the special category of risk management;  
5           amending s. 255.25, F.S.; providing  
6           requirements for a replacement lease of space  
7           in privately owned buildings;  
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