

1
2 An act relating to the Florida Statutes;
3 amending ss. 370.025, 370.12, 370.13, 373.461,
4 376.30714, 376.86, 381.0406, 381.734, 381.76,
5 381.78, 381.79, 393.064, 393.505, 395.1027,
6 395.404, 395.701, 400.464, 400.471, 400.491,
7 400.506, 400.805, 400.914, 402.310, 403.086,
8 403.0872, 403.088, 403.42, 403.518, 403.703,
9 403.705, 403.706, 403.708, 403.715, 403.718,
10 403.7191, 403.7199, 403.726, 403.788, 403.9415,
11 404.056, 408.05, 408.061, 408.07, 408.08,
12 408.704, 408.7042, 408.904, 409.145, 409.166,
13 409.1685, 409.1757, 409.2355, 409.2564,
14 409.2673, 409.821, 409.905, 409.910, 409.9116,
15 409.912, 409.913, 411.202, 411.242, 413.46,
16 414.065, 414.28, 414.39, 415.102, 415.1055,
17 415.107, 420.0004, 420.102, 420.37, 420.507,
18 420.508, 420.524, 420.525, 420.602, 420.609,
19 420.9072, 420.9073, 421.10, 421.33, 430.502,
20 435.03, 435.04, 440.02, 440.021, 440.14,
21 440.15, 440.185, 440.25, 440.38, 440.385,
22 440.49, 440.51, 443.036, 443.041, 443.111,
23 443.141, 443.151, 443.171, 443.191, 446.22,
24 446.25, 455.01, 455.557, 455.5651, 455.5653,
25 455.5654, 455.621, 458.311, 458.320, 459.0085,
26 459.018, 460.406, 462.09, 462.14, 466.014,
27 467.0135, 468.1655, 468.1695, 468.307, 468.505,
28 468.605, and 468.828, F.S.; and reenacting ss.
29 372.72(1), 415.1102, and 440.191(1), F.S.,
30 pursuant to s. 11.242, F.S.; deleting
31 provisions which have expired, have become

1 obsolete, have had their effect, have served
2 their purpose, or have been impliedly repealed
3 or superseded; replacing incorrect
4 cross-references and citations; correcting
5 grammatical, typographical, and like errors;
6 removing inconsistencies, redundancies, and
7 unnecessary repetition in the statutes;
8 improving the clarity of the statutes and
9 facilitating their correct interpretation; and
10 confirming the restoration of provisions
11 unintentionally omitted from republication in
12 the acts of the Legislature during the
13 amendatory process.

14

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

16

17 Section 1. Paragraph (c) of subsection (4) of section
18 370.025, Florida Statutes, is amended to read:

19 370.025 Marine fisheries; policy and standards.--

20

21 (4) Pursuant to s. 9, Art. IV of the State
22 Constitution, the commission has full constitutional
23 rulemaking authority over marine life, and listed species as
24 defined in s. 372.072(3), except for:

25

26 (c) Marine aquaculture products produced by an
27 individual certified under s. 597.004. This exception does not
28 apply to snook, prohibited and restricted marine species
29 identified by rule of the commission, and rulemaking authority
30 granted pursuant to s. 370.027 ~~370.027(4)~~.

31

32 Reviser's note.--Amended to conform to the
33 deletion of the subunit designation of the

1 material remaining in s. 370.027 following the
2 repeal of s. 370.027(1), (2), and (3) by s. 40,
3 ch. 99-245, Laws of Florida.

4

5 Section 2. Paragraph (r) of subsection (2) of section
6 370.12, Florida Statutes, is amended to read:

7 370.12 Marine animals; regulation.--

8 (2) PROTECTION OF MANATEES OR SEA COWS.--

9 (r) Except as otherwise provided in this paragraph,
10 any person violating the provisions of this subsection or any
11 rule or ordinance adopted pursuant to this subsection shall be
12 guilty of a misdemeanor, punishable as provided in s.
13 370.021(1)(a) or (b)~~370.021(2)(a) or (b)~~.

14 1. Any person operating a vessel in excess of a posted
15 speed limit shall be guilty of a civil infraction, punishable
16 as provided in s. 327.73, except as provided in subparagraph
17 2.

18 2. This paragraph does not apply to persons violating
19 restrictions governing "No Entry" zones or "Motorboat
20 Prohibited" zones, who, if convicted, shall be guilty of a
21 misdemeanor, punishable as provided in s. 370.021(1)(a) or (b)
22 ~~370.021(2)(a) or (b)~~, or, if such violation demonstrates
23 blatant or willful action, may be found guilty of harassment
24 as described in paragraph (d).

25

26 Reviser's note.--Amended to conform to the
27 redesignation of s. 370.021(2) as s. 370.021(1)
28 by s. 95, ch. 99-245, Laws of Florida.

29

30 Section 3. Subsection (7) of section 370.13, Florida
31 Statutes, is amended to read:

1 370.13 Stone crab; regulation.--

2 (7) ~~Beginning October 1995,~~ Stone crabs shall be
3 designated as a restricted species pursuant to s. 370.01(21)
4 ~~370.01(20)~~.

5
6 Reviser's note.--Amended to delete a provision
7 that has served its purpose and to conform to
8 the redesignation of s. 370.01(20) as s.
9 370.01(21) by s. 94, ch. 99-245, Laws of
10 Florida.

11
12 Section 4. Subsection (1) of section 372.72, Florida
13 Statutes, is reenacted to read:

14 372.72 Disposition of fines, penalties, and
15 forfeitures.--

16 (1) All moneys collected from fines, penalties, or
17 forfeitures of bail of persons convicted under this chapter
18 shall be deposited in the fine and forfeiture fund of the
19 county where such convictions are had, except for the
20 disposition of moneys as provided in subsection (2).

21
22 Reviser's note.--Section 156, ch. 99-245, Laws
23 of Florida, purported to amend entire s.
24 372.72, but failed to publish subsection (1).
25 In the absence of affirmative evidence that the
26 Legislature intended to repeal subsection (1),
27 coupled with the fact that the amendment by s.
28 156, ch. 99-245, affirmatively evidences an
29 intent to preserve the existing subsection
30 structure of s. 372.72, subsection (1) is
31

1 reenacted to confirm that the omission was not
2 intended.

3
4 Section 5. Paragraph (f) of subsection (5) of section
5 373.461, Florida Statutes, is amended to read:

6 373.461 Lake Apopka improvement and management.--

7 (5) PURCHASE OF AGRICULTURAL LANDS.--

8 (f)1. Tangible personal property acquired by the
9 district as part of related facilities pursuant to this
10 section, and classified as surplus by the district, shall be
11 sold by the Department of Management Services. The Department
12 of Management Services shall deposit the proceeds of such sale
13 in the Economic Development Trust Fund in the Executive Office
14 of the Governor. The proceeds shall be used for the purpose of
15 providing economic and infrastructure development in portions
16 of northwestern Orange County and east central Lake County
17 which will be adversely affected economically due to the
18 acquisition of lands pursuant to this subsection.

19 2. The Office of Tourism, Trade, and Economic
20 Development shall, upon presentation of the appropriate
21 documentation justifying expenditure of the funds deposited
22 pursuant to this paragraph, pay any obligation for which it
23 has sufficient funds from the proceeds of the sale of tangible
24 personal property and which meets the limitations specified in
25 paragraph (g)~~(h)~~. The authority of the Office of Tourism,
26 Trade, and Economic Development to expend such funds shall
27 expire 5 years from the effective date of this paragraph. Such
28 expenditures may occur without future appropriation from the
29 Legislature.

30
31

1 3. Funds deposited under this paragraph may not be
2 used for any purpose other than those enumerated in paragraph
3 (g)~~(h)~~.

4
5 Reviser's note.--Amended to conform to the
6 redesignation of paragraph (5)(h) as paragraph
7 (5)(g) following the deletion of proposed
8 paragraph (5)(g) from 1997 Committee Substitute
9 for Senate Bill 1486, which became ch. 97-81,
10 Laws of Florida, by House Amendment 1; see
11 Journal of the House of Representatives 1997,
12 p. 1048.

13
14 Section 6. Paragraph (b) of subsection (1) of section
15 376.30714, Florida Statutes, is amended to read:

16 376.30714 Site rehabilitation agreements.--

17 (1) In addition to the legislative findings provided
18 in s. 376.3071, the Legislature finds and declares:

19 (b) While compliance with the department's rules
20 pertaining to storage tank systems is expected to
21 significantly diminish the occurrence and extent of discharges
22 of petroleum products from petroleum storage systems,
23 discharges from these systems and discharges at sites with
24 existing contamination which have been determined to be
25 eligible for state-funded cleanup may still occur. In some
26 cases, it may be difficult to distinguish between discharges
27 that have been determined to be eligible for state funding and
28 ~~from~~ those discharges reported after December 31, 1998, which
29 are not eligible for state funding.

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

1 Section 7. Subsection (2) of section 376.86, Florida
2 Statutes, is amended to read:

3 376.86 Brownfield Areas Loan Guarantee Program.--

4 (2) The council shall consist of the secretary of the
5 Department of Environmental Protection or the secretary's
6 designee, the secretary of the Department of Community Affairs
7 or the secretary's designee, the Executive Director of the
8 State Board of Administration or the executive director's
9 designee, the Executive Director of the Florida Housing
10 Finance Corporation ~~Agency~~ or the executive director's
11 designee, and the Director of the Governor's Office of
12 Tourism, Trade, and Economic Development or the director's
13 designee. The chairperson of the council shall be the Director
14 of the Governor's Office of Tourism, Trade, and Economic
15 Development. Staff services for activities of the council
16 shall be provided as needed by the member agencies.

17

18 Reviser's note.--Amended to conform to the
19 replacement of the Florida Housing Finance
20 Agency by the Florida Housing Finance
21 Corporation pursuant to s. 7, ch. 97-167, Laws
22 of Florida.

23

24 Section 8. Subsection (13) of section 381.0406,
25 Florida Statutes, is amended to read:

26 381.0406 Rural health networks.--

27 (13) TRAUMA SERVICES.--In those network areas which
28 have an established trauma agency approved by the Department
29 of Health, that trauma agency must be a participant in the
30 network. Trauma services provided within the network area must
31 comply with s. 395.405 ~~395.037~~.

1 Reviser's note.--Amended to conform to the
2 transfer of s. 395.037 to s. 395.405 by s. 43,
3 ch. 92-289, Laws of Florida.

4

5 Section 9. Subsection (2) of section 381.734, Florida
6 Statutes, is amended to read:

7 381.734 Healthy Communities, Healthy People Program.--

8 (2) The department shall consolidate and use existing
9 resources, programs, and program data to develop this program,
10 to avoid duplication of efforts or services. Such resources,
11 programs, and program data shall include, but not be limited
12 to, ~~s. 381.103~~, the comprehensive health improvement project
13 under s. 385.103, and the comprehensive public health plan,
14 public information, and statewide injury control plan under s.
15 381.0011(3), (8), and (12).

16

17 Reviser's note.--Amended to facilitate correct
18 interpretation. At the time the reference to s.
19 381.103 was enacted by s. 109, ch. 92-33, Laws
20 of Florida, no such section existed.

21 Subsequently, a s. 381.103 was created by s.
22 12, ch. 99-356, Laws of Florida.

23

24 Section 10. Paragraph (a) of subsection (1) of section
25 381.76, Florida Statutes, is amended to read:

26 381.76 Eligibility for the brain and spinal cord
27 injury program.--

28 (1) An individual shall be accepted as eligible for
29 the brain and spinal cord injury program following
30 certification by the department that the individual:

31

1 (a) Has been referred to the central registry pursuant
2 to s. 381.74 ~~413.48~~.

3

4 Reviser's note.--Amended to conform to the
5 transfer of s. 413.48 to s. 381.74 by s. 18,
6 ch. 99-240, Laws of Florida.

7

8 Section 11. Subsection (4) of section 381.78, Florida
9 Statutes, is amended to read:

10 381.78 Advisory council on brain and spinal cord
11 injuries.--

12 (4) The council shall:

13 (a) Provide advice and expertise to the division in
14 the preparation, implementation, and periodic review of the
15 brain and spinal cord injury program as referenced in s.
16 381.75 ~~413.49~~.

17 (b) Annually appoint a five-member committee composed
18 of one person who has a brain injury or has a family member
19 with a brain injury, one person who has a spinal cord injury
20 or has a family member with a spinal cord injury, and three
21 members who shall be chosen from among these representative
22 groups: physicians, other allied health professionals,
23 administrators of brain and spinal cord injury programs, and
24 representatives from support groups with expertise in areas
25 related to the rehabilitation of persons who have brain or
26 spinal cord injuries, except that one and only one member of
27 the committee shall be an administrator of a transitional
28 living facility. Membership on the council is not a
29 prerequisite for membership on this committee.

30 1. The committee shall perform onsite visits to those
31 transitional living facilities identified by the Agency for

1 Health Care Administration as being in possible violation of
2 the statutes and rules regulating such facilities. The
3 committee members have the same rights of entry and inspection
4 granted under s. 400.805(8)~~400.805(7)~~to designated
5 representatives of the agency.

6 2. Factual findings of the committee resulting from an
7 onsite investigation of a facility pursuant to subparagraph 1.
8 shall be adopted by the agency in developing its
9 administrative response regarding enforcement of statutes and
10 rules regulating the operation of the facility.

11 3. Onsite investigations by the committee shall be
12 funded by the Health Care Trust Fund.

13 4. Travel expenses for committee members shall be
14 reimbursed in accordance with s. 112.061. Members of the
15 committee shall recuse themselves from participating in any
16 investigation that would create a conflict of interest under
17 state law, and the council shall replace the member, either
18 temporarily or permanently.

19
20 Reviser's note.--Paragraph (4)(a) is amended to
21 conform to the transfer of s. 413.49 to s.
22 381.75 by s. 19, ch. 99-240, Laws of Florida.
23 Paragraph (4)(b) is amended to conform to the
24 redesignation of s. 400.805(7) as s. 400.805(8)
25 by the reviser incident to compiling the 1998
26 Supplement to the Florida Statutes 1997.

27
28 Section 12. Subsection (1) of section 381.79, Florida
29 Statutes, is amended to read:

30 381.79 Brain and Spinal Cord Injury Rehabilitation
31 Trust Fund.--

1 (1) There is created in the State Treasury the Brain
2 and Spinal Cord Injury Rehabilitation Trust Fund. Moneys in
3 the fund shall be appropriated to the department for the
4 purpose of providing the cost of care for brain or spinal cord
5 injuries as a payor of last resort to residents of this state,
6 for multilevel programs of care established pursuant to s.
7 381.75 ~~413.49~~.

8 (a) Authorization of expenditures for brain or spinal
9 cord injury care shall be made only by the department.

10 (b) Authorized expenditures include acute care,
11 rehabilitation, transitional living, equipment, and supplies
12 necessary for activities of daily living, public information,
13 prevention, education, and research.

14
15 Reviser's note.--Amended to conform to the
16 transfer of s. 413.49 to s. 381.75 by s. 19,
17 ch. 99-240, Laws of Florida.

18
19 Section 13. Subsection (2) of section 393.064, Florida
20 Statutes, is amended to read:

21 393.064 Prevention.--

22 (2) Prevention services provided by the developmental
23 services program include services to high-risk and
24 developmentally disabled children from birth to 5 years of
25 age, and their families, to meet the intent of chapter 411.
26 Such services shall include individual evaluations or
27 assessments necessary to diagnose a developmental disability
28 or high-risk condition and to determine appropriate individual
29 family and support services, unless evaluations or assessments
30 are the responsibility of the Division of Children's Medical
31 Services Prevention and Intervention for children ages birth

1 to 3 years eligible for services under this chapter or part H
2 of the Individuals with Disabilities Education Act, and may
3 include:

4 (a) Early intervention services, including
5 developmental training and specialized therapies. Early
6 intervention services, which are the responsibility of the
7 Division of Children's Medical Services Prevention and
8 Intervention for children ages birth to 3 years who are
9 eligible for services under this chapter or under part H of
10 the Individuals with Disabilities Education Act, shall not be
11 provided through the developmental services program unless
12 funding is specifically appropriated to the developmental
13 services program for this purpose.

14 (b) Support services, such as respite care, parent
15 education and training, parent-to-parent counseling, homemaker
16 services, and other services which allow families to maintain
17 and provide quality care to children in their homes. The
18 Division of Children's Medical Services Prevention and
19 Intervention is responsible for the provision of services to
20 children from birth to 3 years who are eligible for services
21 under this chapter.

22
23 Reviser's note.--Amended to conform to the
24 reorganization of divisions of the Department
25 of Health by ch. 99-397, Laws of Florida.

26
27 Section 14. Section 393.505, Florida Statutes, is
28 amended to read:

29 393.505 Comprehensive day treatment services;
30 demonstration projects.--The Department of Children and Family
31 Services ~~Families~~ is authorized to initiate projects to

1 demonstrate the effectiveness of comprehensive day treatment
2 service to the developmentally disabled to remain in their
3 homes and/or communities.

4

5 Reviser's note.--Amended to conform to the
6 official title of the department pursuant to s.
7 20.19.

8

9 Section 15. Subsections (1) and (3) of section
10 395.1027, Florida Statutes, are amended to read:

11 395.1027 Regional poison control centers.--

12 (1) There shall be created three accredited regional
13 poison control centers, one each in the north, central, and
14 southern regions of the state. Each regional poison control
15 center shall be affiliated with and physically located in a
16 certified Level I trauma center. Each regional poison control
17 center shall be affiliated with an accredited medical school
18 or college of pharmacy. The regional poison control centers
19 shall be coordinated under the aegis of the Division of
20 Children's Medical Services Prevention and Intervention in the
21 department.

22 (3) The Legislature hereby finds and declares that it
23 is in the public interest to shorten the time required for a
24 citizen to request and receive directly from designated
25 regional poison control centers telephonic management advice
26 for acute poisoning emergencies. To facilitate rapid and
27 direct access, telephone numbers for designated regional
28 poison control centers shall be given special prominence. The
29 local exchange telecommunications companies shall print
30 immediately below "911" or other emergency calling
31 instructions on the inside front cover of the telephone

1 directory the words "Poison Information Center," the logo of
2 the American Association of Poison Control Centers, and the
3 telephone number of the local, if applicable, or, if not
4 local, other toll-free telephone number of the Florida Poison
5 Information Center Network. This information shall be outlined
6 and be no less than 1 inch in height by 2 inches in width.
7 Only those facilities satisfying criteria established in the
8 current "Criteria for Certification of a Regional Poison
9 Center" set by the American Association of Poison Control
10 Centers, and the "Standards of the Poison Information Center
11 Program" initiated by the Division of Children's Medical
12 Services Prevention and Intervention of the Department of
13 Health shall be permitted to list such facility as a poison
14 information center, poison control center, or poison center.
15 Those centers under a developmental phase-in plan shall be
16 given 2 years from the date of initial 24-hour service
17 implementation to comply with the aforementioned criteria and,
18 as such, will be permitted to be listed as a poison
19 information center, poison control center, or poison center
20 during that allotted time period.

21
22 Reviser's note.--Amended to conform to the
23 reorganization of divisions of the Department
24 of Health by ch. 99-397, Laws of Florida.

25
26 Section 16. Subsection (2) of section 395.404, Florida
27 Statutes, is amended to read:

28 395.404 Review of trauma registry data;
29 confidentiality and limited release.--

30 (2) Notwithstanding the provisions of s. 381.74
31 ~~413.48~~, each trauma center and acute care hospital shall

1 submit severe disability and head-injury registry data to the
2 department as provided by rule in lieu of submitting such
3 registry information to the Department of Labor and Employment
4 Security. Each trauma center and acute care hospital shall
5 continue to provide initial notification of persons who have
6 severe disabilities and head injuries to the Department of
7 Labor and Employment Security within timeframes provided in
8 chapter 413. Such initial notification shall be made in the
9 manner prescribed by the Department of Labor and Employment
10 Security for the purpose of providing timely vocational
11 rehabilitation services to the severely disabled or
12 head-injured person.

13

14 Reviser's note.--Amended to conform to the
15 transfer of s. 413.48 to s. 381.74 by s. 18,
16 ch. 99-240, Laws of Florida.

17

18 Section 17. Paragraph (c) of subsection (1) of section
19 395.701, Florida Statutes, is amended to read:

20 395.701 Annual assessments on net operating revenues
21 to fund public medical assistance; administrative fines for
22 failure to pay assessments when due; exemption.--

23 (1) For the purposes of this section, the term:

24 (c) "Hospital" means a health care institution as
25 defined in s. 395.002(13)~~395.002(11)~~, but does not include
26 any hospital operated by the agency or the Department of
27 Corrections.

28

29 Reviser's note.--Amended to conform to the fact
30 that the term "hospital" was defined in s.

31 395.002(12) in the Florida Statutes 1997 and

1 the redesignation of s. 395.002(12) as s.
2 395.002(13) by the reviser incident to the
3 compilation of the 1998 Supplement to the
4 Florida Statutes 1997.

5
6 Section 18. Paragraph (b) of subsection (6) of section
7 400.464, Florida Statutes, is amended to read:

8 400.464 Home health agencies to be licensed;
9 expiration of license; exemptions; unlawful acts; penalties.--

10 (6) The following are exempt from the licensure
11 requirements of this part:

12 (b) Home health services provided by a state agency,
13 either directly or through a contractor with:

14 1. The Department of Elderly Affairs.

15 2. The Department of Health, a community health
16 center, or a rural health network that furnishes home visits
17 for the purpose of providing environmental assessments, case
18 management, health education, personal care services, family
19 planning, or followup treatment, or for the purpose of
20 monitoring and tracking disease.

21 3. Services provided to persons who have developmental
22 disabilities, as defined in s. 393.063(11).

23 4. Companion and sitter organizations that were
24 registered under s. 400.509(1)~~440.509(1)~~ on January 1, 1999,
25 and were authorized to provide personal services under s.
26 393.063(35) under a developmental services provider
27 certificate on January 1, 1999, may continue to provide such
28 services to past, present, and future clients of the
29 organization who need such services, notwithstanding the
30 provisions of this act.

31 5. The Department of Children and Family Services.

1 Reviser's note.--Amended to facilitate correct
2 interpretation. The referenced s. 440.509(1)
3 does not exist; s. 400.509(1) relates to
4 registration of companion and sitter
5 organizations.

6
7 Section 19. Subsection (2) of section 400.471, Florida
8 Statutes, is amended to read:

9 400.471 Application for license; fee; provisional
10 license; temporary permit.--

11 (2) The applicant must file with the application
12 satisfactory proof that the home health agency is in
13 compliance with this part and applicable rules, including:

14 (a) A listing of services to be provided, either
15 directly by the applicant or through contractual arrangements
16 with existing providers;

17 (b) The number and discipline of professional staff to
18 be employed; and

19 (c) Proof of financial ability to operate.
20

21 If the applicant has applied for a certificate of need under
22 ss. 408.031-408.045 ~~408.0331-408.045~~ within the preceding 12
23 months, the applicant may submit the proof required during the
24 certificate-of-need process along with an attestation that
25 there has been no substantial change in the facts and
26 circumstances underlying the original submission.

27
28 Reviser's note.--Amended to facilitate correct
29 interpretation. The referenced s. 408.0331 does
30 not exist; ss. 408.031-408.045 comprise the
31 Health Facility and Services Development Act.

1 Section 20. Subsection (1) of section 400.491, Florida
2 Statutes, is amended to read:

3 400.491 Clinical records.--

4 (1) The home health agency must maintain for each
5 patient who receives skilled care a clinical record that
6 includes pertinent past and current medical, nursing, social
7 and other therapeutic information, the treatment orders, and
8 other such information as is necessary for the safe and
9 adequate care of the patient. When home health services are
10 terminated, the record must show the date and reason for
11 termination. Such records are considered patient records
12 under s. 455.667 ~~455.241~~, and must be maintained by the home
13 health agency for 5 years following termination of services.
14 If a patient transfers to another home health agency, a copy
15 of his or her record must be provided to the other home health
16 agency upon request.

17

18 Reviser's note.--Amended to conform to the
19 transfer of s. 455.241 to s. 455.667 by s. 82,
20 ch. 97-261, Laws of Florida.

21

22 Section 21. Subsection (13) of section 400.506,
23 Florida Statutes, is amended to read:

24 400.506 Licensure of nurse registries; requirements;
25 penalties.--

26 (13) Each nurse registry must comply with the
27 procedures set forth in s. 400.497(2)~~400.497(3)~~ for
28 maintaining records of the employment history of all persons
29 referred for contract and is subject to the standards and
30 conditions set forth in s. 400.512. However, an initial
31 screening may not be required for persons who have been

1 continuously registered with the nurse registry since
2 September 30, 1990.

3

4 Reviser's note.--Amended to conform to the
5 redesignation of s. 400.497(3) as s. 400.497(2)
6 by s. 9, ch. 99-332, Laws of Florida.

7

8 Section 22. Paragraph (c) of subsection (2) and
9 paragraph (b) of subsection (6) of section 400.805, Florida
10 Statutes, are amended to read:

11 400.805 Transitional living facilities.--

12 (2)

13 (c) The agency may not issue a license to an applicant
14 until the agency receives notice from the department as
15 provided in paragraph (6)(b) ~~(5)(b)~~.

16 (6)

17 (b) The department shall adopt rules in consultation
18 with the agency governing the services provided to clients of
19 transitional living facilities. The department shall enforce
20 all requirements for providing services to the facility's
21 clients. The department must notify the agency when it
22 determines that an applicant for licensure meets the service
23 requirements adopted by the department ~~division~~.

24

25 Reviser's note.--Paragraph (2)(c) is amended to
26 conform to the redesignation of paragraph
27 (5)(b) as paragraph (6)(b) by s. 60, ch.
28 98-171, Laws of Florida. Paragraph (6)(b) is
29 amended to conform to the substitution by s.
30 16, ch. 99-240, Laws of Florida, of the term
31 "department" for the term "division" in all

1 other locations within s. 400.805, including
2 the definition of "division."
3

4 Section 23. Subsection (1) of section 400.914, Florida
5 Statutes, is amended to read:

6 400.914 Rules establishing standards.--

7 (1) Pursuant to the intention of the Legislature to
8 provide safe and sanitary facilities and healthful programs,
9 the agency in conjunction with the Division of Children's
10 Medical Services Prevention and Intervention of the Department
11 of Health shall adopt and publish rules to implement the
12 provisions of this part, which shall include reasonable and
13 fair standards. Any conflict between these standards and those
14 that may be set forth in local, county, or city ordinances
15 shall be resolved in favor of those having statewide effect.
16 Such standards shall relate to:

17 (a) The assurance that PPEC services are family
18 centered and provide individualized medical, developmental,
19 and family training services.

20 (b) The maintenance of PPEC centers, not in conflict
21 with the provisions of chapter 553 and based upon the size of
22 the structure and number of children, relating to plumbing,
23 heating, lighting, ventilation, and other building conditions,
24 including adequate space, which will ensure the health,
25 safety, comfort, and protection from fire of the children
26 served.

27 (c) The appropriate provisions of the most recent
28 edition of the "Life Safety Code" (NFPA-101) shall be applied.

29 (d) The number and qualifications of all personnel who
30 have responsibility for the care of the children served.
31

1 (e) All sanitary conditions within the PPEC center and
2 its surroundings, including water supply, sewage disposal,
3 food handling, and general hygiene, and maintenance thereof,
4 which will ensure the health and comfort of children served.

5 (f) Programs and basic services promoting and
6 maintaining the health and development of the children served
7 and meeting the training needs of the children's legal
8 guardians.

9 (g) Supportive, contracted, other operational, and
10 transportation services.

11 (h) Maintenance of appropriate medical records, data,
12 and information relative to the children and programs. Such
13 records shall be maintained in the facility for inspection by
14 the agency.

15
16 Reviser's note.--Amended to conform to the
17 reorganization of divisions of the Department
18 of Health by ch. 99-397, Laws of Florida.

19
20 Section 24. Paragraph (b) of subsection (1) of section
21 402.310, Florida Statutes, is amended to read:

22 402.310 Disciplinary actions; hearings upon denial,
23 suspension, or revocation of license; administrative fines.--

24 (1)

25 (b) In determining the appropriate disciplinary action
26 to be taken for a violation as provided in paragraph (a), the
27 following factors shall be considered:

28 1. The severity of the violation, including the
29 probability that death or serious harm to the health or safety
30 of any person will result or has resulted, the severity of the
31 actual or potential harm, and the extent to which the

1 provisions of ss. 402.301-402.319 ~~this part~~ have been
2 violated.

3 2. Actions taken by the licensee to correct the
4 violation or to remedy complaints.

5 3. Any previous violations of the licensee.

6
7 Reviser's note.--Amended to improve clarity and
8 facilitate correct interpretation. Chapter 402
9 is not divided into parts; s. 402.310(1)(a)
10 indicates that the section relates to
11 violations of ss. 402.301-402.319.

12
13 Section 25. Subsection (6) of section 403.086, Florida
14 Statutes, is amended to read:

15 403.086 Sewage disposal facilities; advanced and
16 secondary waste treatment.--

17 (6) ~~As of July 10, 1987,~~Any facility covered in
18 paragraph (1)(c) shall be permitted to discharge if it meets
19 the standards set forth in subsections (4) and (5). ~~Facilities~~
20 ~~that do not meet the standards in subsections (4) and (5) as~~
21 ~~of July 10, 1987, may be permitted to discharge under existing~~
22 ~~law until October 1, 1990. On and after October 1, 1990,~~All
23 of the facilities covered in paragraph (1)(c) shall be
24 required to meet the standards set forth in subsections (4)
25 and (5).

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

29
30 Section 26. Subsection (11) of section 403.0872,
31 Florida Statutes, is amended to read:

1 403.0872 Operation permits for major sources of air
2 pollution; annual operation license fee.--Provided that
3 program approval pursuant to 42 U.S.C. s. 7661a has been
4 received from the United States Environmental Protection
5 Agency, beginning January 2, 1995, each major source of air
6 pollution, including electrical power plants certified under
7 s. 403.511, must obtain from the department an operation
8 permit for a major source of air pollution under this section,
9 which is the only department operation permit for a major
10 source of air pollution required for such source. Operation
11 permits for major sources of air pollution, except general
12 permits issued pursuant to s. 403.814, must be issued in
13 accordance with the following procedures and in accordance
14 with chapter 120; however, to the extent that chapter 120 is
15 inconsistent with the provisions of this section, the
16 procedures contained in this section prevail:

17 (11) ~~Commencing in 1993,~~Each major source of air
18 pollution permitted to operate in this state must pay between
19 January 15 and March 1 of each year, upon written notice from
20 the department, an annual operation license fee in an amount
21 determined by department rule. The annual operation license
22 fee shall be terminated immediately in the event the United
23 States Environmental Protection Agency imposes annual fees
24 solely to implement and administer the major source
25 air-operation permit program in Florida under 40 C.F.R. s.
26 70.10(d).

27 (a) The annual fee must be assessed based upon the
28 source's previous year's emissions and must be calculated by
29 multiplying the applicable annual operation license fee factor
30 times the tons of each regulated air pollutant (except carbon
31 monoxide) allowed to be emitted per hour by specific condition

1 of the source's most recent construction or operation permit,
2 times the annual hours of operation allowed by permit
3 condition; provided, however, that:

4 1. ~~For 1993 and 1994, the license fee factor is \$10.~~
5 ~~For 1995, the license fee factor is \$25. In succeeding years,~~
6 The license fee factor is \$25 or another amount determined by
7 department rule which ensures that the revenue provided by
8 each year's operation license fees is sufficient to cover all
9 reasonable direct and indirect costs of the major stationary
10 source air-operation permit program established by this
11 section. The license fee factor may be increased beyond \$25
12 only if the secretary of the department affirmatively finds
13 that a shortage of revenue for support of the major stationary
14 source air-operation permit program will occur in the absence
15 of a fee factor adjustment. The annual license fee factor may
16 never exceed \$35. ~~The department shall retain a nationally~~
17 ~~recognized accounting firm to conduct a study to determine the~~
18 ~~reasonable revenue requirements necessary to support the~~
19 ~~development and administration of the major source~~
20 ~~air-operation permit program as prescribed in paragraph (b).~~
21 ~~The results of that determination must be considered in~~
22 ~~assessing whether a \$25-per-ton fee factor is sufficient to~~
23 ~~adequately fund the major source air-operation permit program.~~
24 ~~The results of the study must be presented to the Governor,~~
25 ~~the President of the Senate, the Speaker of the House of~~
26 ~~Representatives, and the Public Service Commission, including~~
27 ~~the Public Counsel's Office, by no later than October 31,~~
28 ~~1994.~~

29 2. For any source that operates for fewer hours during
30 the calendar year than allowed under its permit, the annual
31 fee calculation must be based upon actual hours of operation

1 rather than allowable hours if the owner or operator of the
2 source documents the source's actual hours of operation for
3 the calendar year. For any source that has an emissions limit
4 that is dependent upon the type of fuel burned, the annual fee
5 calculation must be based on the emissions limit applicable
6 during actual hours of operation.

7 3. For any source whose allowable emission limitation
8 is specified by permit per units of material input or heat
9 input or product output, the applicable input or production
10 amount may be used to calculate the allowable emissions if the
11 owner or operator of the source documents the actual input or
12 production amount. If the input or production amount is not
13 documented, the maximum allowable input or production amount
14 specified in the permit must be used to calculate the
15 allowable emissions.

16 4. For any new source that does not receive its first
17 operation permit until after the beginning of a calendar year,
18 the annual fee for the year must be reduced pro rata to
19 reflect the period during which the source was not allowed to
20 operate.

21 5. For any source that emits less of any regulated air
22 pollutant than allowed by permit condition, the annual fee
23 calculation for such pollutant must be based upon actual
24 emissions rather than allowable emissions if the owner or
25 operator documents the source's actual emissions by means of
26 data from a department-approved certified continuous emissions
27 monitor or from an emissions monitoring method which has been
28 approved by the United States Environmental Protection Agency
29 under the regulations implementing 42 U.S.C. ss. 7651 et seq.,
30 or from a method approved by the department for purposes of
31 this section.

1 6. The amount of each regulated air pollutant in
2 excess of 4,000 tons per year allowed to be emitted by any
3 source, or group of sources belonging to the same Major Group
4 as described in the Standard Industrial Classification Manual,
5 1987, may not be included in the calculation of the fee. Any
6 source, or group of sources, which does not emit any regulated
7 air pollutant in excess of 4,000 tons per year, is allowed a
8 one-time credit not to exceed 25 percent of the first annual
9 licensing fee for the prorated portion of existing
10 air-operation permit application fees remaining upon
11 commencement of the annual licensing fees.

12 7. If the department has not received the fee by
13 February 15 of the calendar year, the permittee must be sent a
14 written warning of the consequences for failing to pay the fee
15 by March 1. If the fee is not postmarked by March 1 of the
16 calendar year, ~~commencing with calendar year 1997,~~the
17 department shall impose, in addition to the fee, a penalty of
18 50 percent of the amount of the fee, plus interest on such
19 amount computed in accordance with s. 220.807. The department
20 may not impose such penalty or interest on any amount
21 underpaid, provided that the permittee has timely remitted
22 payment of at least 90 percent of the amount determined to be
23 due and remits full payment within 60 days after receipt of
24 notice of the amount underpaid. The department may waive the
25 collection of underpayment and shall not be required to refund
26 overpayment of the fee, if the amount due is less than 1
27 percent of the fee, up to \$50. The department may revoke any
28 major air pollution source operation permit if it finds that
29 the permitholder has failed to timely pay any required annual
30 operation license fee, penalty, or interest.

31

1 8. During the years 1993 through 1999, inclusive, no
2 fee shall be required to be paid under this section with
3 respect to emissions from any unit which is an affected unit
4 under 42 U.S.C. s. 7651c.

5 9. Notwithstanding the computational provisions of
6 this subsection, the annual operation license fee for any
7 source subject to this section shall not be less than \$250,
8 except that the annual operation license fee for sources
9 permitted solely through general permits issued under s.
10 403.814 shall not exceed \$50 per year.

11 10. Notwithstanding the provisions of s.
12 403.087(6)(a)4.a., authorizing air pollution construction
13 permit fees, the department may not require such fees for
14 changes or additions to a major source of air pollution
15 permitted pursuant to this section, unless the activity
16 triggers permitting requirements under Title I, Part C or Part
17 D, of the federal Clean Air Act, 42 U.S.C. ss. 7470-7514a.
18 Costs to issue and administer such permits shall be considered
19 direct and indirect costs of the major stationary source
20 air-operation permit program under s. 403.0873. The department
21 shall, however, require fees pursuant to the provisions of s.
22 403.087(6)(a)4.a. for the construction of a new major source
23 of air pollution that will be subject to the permitting
24 requirements of this section once constructed and for
25 activities triggering permitting requirements under Title I,
26 Part C or Part D, of the federal Clean Air Act, 42 U.S.C. ss.
27 7470-7514a.

28 (b) Annual operation license fees collected by the
29 department must be sufficient to cover all reasonable direct
30 and indirect costs required to develop and administer the
31 major stationary source air-operation permit program, which

1 shall consist of the following elements to the extent that
2 they are reasonably related to the regulation of major
3 stationary air pollution sources, in accordance with United
4 States Environmental Protection Agency regulations and
5 guidelines:

- 6 1. Reviewing and acting upon any application for such
7 a permit.
- 8 2. Implementing and enforcing the terms and conditions
9 of any such permit, excluding court costs or other costs
10 associated with any enforcement action.
- 11 3. Emissions and ambient monitoring.
- 12 4. Preparing generally applicable regulations or
13 guidance.
- 14 5. Modeling, analyses, and demonstrations.
- 15 6. Preparing inventories and tracking emissions.
- 16 7. Implementing the Small Business Stationary Source
17 Technical and Environmental Compliance Assistance Program.
- 18 8. ~~The study conducted under subparagraph (a)1. and~~
19 Any audits conducted under paragraph (c).

20 (c) An audit of the major stationary source
21 air-operation permit program must be conducted 2 years after
22 the United States Environmental Protection Agency has given
23 full approval of the program, or by the end of 1996, whichever
24 comes later, to ascertain whether the annual operation license
25 fees collected by the department are used solely to support
26 any reasonable direct and indirect costs as listed in
27 paragraph (b). A program audit must be performed biennially
28 after the first audit.

29
30 Reviser's note.--Amended to delete language
31 that has served its purpose.

1 Section 27. Subsection (1) of section 403.088, Florida
2 Statutes, is amended to read:

3 403.088 Water pollution operation permits;
4 conditions.--

5 (1) No person, without written authorization of the
6 department, shall discharge into waters within the state any
7 waste which, by itself or in combination with the wastes of
8 other sources, reduces the quality of the receiving waters
9 below the classification established for them. However, this
10 section shall not be deemed to prohibit the application of
11 pesticides to waters in the state for the control of insects,
12 aquatic weeds, or algae, provided the application is performed
13 pursuant to a program approved by the Department of Health, in
14 the case of insect control, or the department, in the case of
15 aquatic weed or algae control. The department is directed to
16 enter into interagency agreements to establish the procedures
17 for program approval. Such agreements shall provide for public
18 health, welfare, and safety, as well as environmental factors.
19 Approved programs must provide that only chemicals approved
20 for the particular use by the United States Environmental
21 Protection Agency or by the Department of Agriculture and
22 Consumer Services may be employed and that they be applied in
23 accordance with registered label instructions, state standards
24 for such application, and the provisions of the Florida
25 Pesticide Law, ~~part I of~~ chapter 487.

26
27 Reviser's note.--Amended to conform to the fact
28 that chapter 487 is no longer divided into
29 parts following the repeal of the provisions of
30 former part II by s. 21, ch. 99-4, Laws of
31 Florida.

1 Section 28. Paragraph (b) of subsection (3) of section
2 403.42, Florida Statutes, is amended to read:

3 403.42 Florida Clean Fuel Act.--

4 (3) CLEAN FUEL FLORIDA ADVISORY BOARD ESTABLISHED;
5 MEMBERSHIP; DUTIES AND RESPONSIBILITIES.--

6 (b)1. The advisory board shall consist of the
7 Secretary of Community Affairs, or a designee from that
8 department, the Secretary of Environmental Protection, or a
9 designee from that department, the Commissioner ~~Secretary~~ of
10 Education, or a designee from that department, the Secretary
11 of Transportation, or a designee from that department, the
12 Commissioner of Agriculture, or a designee from the Department
13 of Agriculture and Consumer Services, the Secretary of
14 Management Services, or a designee from that department, and a
15 representative of each of the following, who shall be
16 appointed by the Secretary of Community Affairs within 30 days
17 after the effective date of this act:

- 18 a. The Florida biodiesel industry.
19 b. The Florida electric utility industry.
20 c. The Florida natural gas industry.
21 d. The Florida propane gas industry.
22 e. An automobile manufacturers' association.
23 f. A Florida Clean Cities Coalition designated by the
24 United States Department of Energy.
25 g. Enterprise Florida, Inc.
26 h. EV Ready Broward.
27 i. The Florida petroleum industry.
28 j. The Florida League of Cities.
29 k. The Florida Association of Counties.
30 l. Floridians for Better Transportation.
31 m. A motor vehicle manufacturer.

- 1 n. Florida Local Environment Resource Agencies.
2 o. Project for an Energy Efficient Florida.
3 p. Florida Transportation Builders Association.
4 2. The purpose of the advisory board is to serve as a
5 resource for the department and to provide the Governor, the
6 Legislature, and the Secretary of Community Affairs with
7 private sector and other public agency perspectives on
8 achieving the goal of increasing the use of alternative fuel
9 vehicles in this state.
10 3. Members shall be appointed to serve terms of 1 year
11 each, with reappointment at the discretion of the Secretary of
12 Community Affairs. Vacancies shall be filled for the remainder
13 of the unexpired term in the same manner as the original
14 appointment.
15 4. The board shall annually select a chairperson.
16 5.a. The board shall meet at least once each quarter
17 or more often at the call of the chairperson or the Secretary
18 of Community Affairs.
19 b. Meetings are exempt from the notice requirements of
20 chapter 120, and sufficient notice shall be given to afford
21 interested persons reasonable notice under the circumstances.
22 6. Members of the board are entitled to travel
23 expenses while engaged in the performance of board duties.
24 7. The board shall terminate 5 years after the
25 effective date of this act.

26
27 Reviser's note.--Amended to conform to the
28 title of the head of the Department of
29 Education as provided in s. 20.15.
30
31

1 Section 29. Paragraph (a) of subsection (1) of section
2 403.518, Florida Statutes, is amended to read:

3 403.518 Fees; disposition.--

4 (1) The department shall charge the applicant the
5 following fees, as appropriate, which shall be paid into the
6 Florida Permit Fee Trust Fund:

7 (a) A fee for a notice of intent pursuant to s.
8 403.5063 ~~403.5065~~, in the amount of \$2,500, to be submitted to
9 the department at the time of filing of a notice of intent.
10 The notice-of-intent fee shall be used and disbursed in the
11 same manner as the application fee.

12
13 Reviser's note.--Amended to improve clarity and
14 facilitate correct interpretation. Section
15 403.5065 does not reference a notice of intent;
16 notice of intent is covered in s. 403.5063.

17
18 Section 30. Paragraph (b) of subsection (17) of
19 section 403.703, Florida Statutes, is amended to read:

20 403.703 Definitions.--As used in this act, unless the
21 context clearly indicates otherwise, the term:

22 (17) "Construction and demolition debris" means
23 discarded materials generally considered to be not
24 water-soluble and nonhazardous in nature, including, but not
25 limited to, steel, glass, brick, concrete, asphalt roofing
26 material, pipe, gypsum wallboard, and lumber, from the
27 construction or destruction of a structure as part of a
28 construction or demolition project or from the renovation of a
29 structure, and including rocks, soils, tree remains, trees,
30 and other vegetative matter that normally results from land
31 clearing or land development operations for a construction

1 project, including such debris from construction of structures
2 at a site remote from the construction or demolition project
3 site. Mixing of construction and demolition debris with other
4 types of solid waste will cause it to be classified as other
5 than construction and demolition debris. The term also
6 includes:

7 (b) ~~Effective January 1, 1997,~~ Except as provided in
8 s. 403.707(12)(j)~~403.707(13)(j)~~, unpainted, nontreated wood
9 scraps from facilities manufacturing materials used for
10 construction of structures or their components and unpainted,
11 nontreated wood pallets provided the wood scraps and pallets
12 are separated from other solid waste where generated and the
13 generator of such wood scraps or pallets implements reasonable
14 practices of the generating industry to minimize the
15 commingling of wood scraps or pallets with other solid waste;
16 and

17
18 Reviser's note.--Amended to delete language
19 that has served its purpose and to conform to
20 the redesignation of s. 403.707(13)(j) as s.
21 403.707(12)(j) necessitated by the repeal of
22 former s. 403.707(8) by s. 4, ch. 96-284, Laws
23 of Florida.

24
25 Section 31. Paragraph (f) of subsection (3) of section
26 403.705, Florida Statutes, is amended to read:

27 403.705 State solid waste management program.--

28 (3) The state solid waste management program shall
29 include, at a minimum:

30 (f) Planning guidelines and technical assistance to
31 counties and municipalities to develop and implement programs

1 for alternative disposal or processing or recycling of the
2 solid wastes prohibited from disposal in landfills under s.
3 403.708(13)~~403.708(15)~~and for special wastes.

4
5 Reviser's note.--Amended to conform to the
6 redesignation of s. 403.708(15) as s.
7 403.708(13) necessitated by the deletion of
8 former subsection (10) by s. 18, ch. 93-207,
9 Laws of Florida, and the further redesignation
10 of subunits necessitated by the deletion of
11 former subsection (3) by s. 1, ch. 97-23, Laws
12 of Florida.

13
14 Section 32. Subsection (1) and paragraph (b) of
15 subsection (4) of section 403.706, Florida Statutes, are
16 amended to read:

17 403.706 Local government solid waste
18 responsibilities.--

19 (1) The governing body of a county has the
20 responsibility and power to provide for the operation of solid
21 waste disposal facilities to meet the needs of all
22 incorporated and unincorporated areas of the county. Unless
23 otherwise approved by an interlocal agreement or special act,
24 municipalities may not operate solid waste disposal facilities
25 unless a municipality demonstrates by a preponderance of the
26 evidence that the use of a county designated facility, when
27 compared to alternatives proposed by the municipality, places
28 a significantly higher and disproportionate financial burden
29 on the citizens of the municipality when compared to the
30 financial burden placed on persons residing within the county
31 but outside of the municipality. However, a municipality may

1 construct and operate a resource recovery facility and related
2 onsite solid waste disposal facilities without an interlocal
3 agreement with the county if the municipality can demonstrate
4 by a preponderance of the evidence that the operation of such
5 facility will not significantly impair financial commitments
6 made by the county with respect to solid waste management
7 services and facilities or result in significantly increased
8 solid waste management costs to the remaining persons residing
9 within the county but not served by the municipality's
10 facility. This section shall not prevent a municipality from
11 continuing to operate or use an existing disposal facility
12 permitted on or prior to October 1, 1988. Any municipality
13 which establishes a solid waste disposal facility under this
14 subsection and subsequently abandons such facility shall be
15 responsible for the payment of any capital expansion necessary
16 to accommodate the municipality's solid waste for the
17 remaining projected useful life of the county disposal
18 facility. Pursuant to this section and notwithstanding any
19 other provision of this chapter, counties shall have the power
20 and authority to adopt ordinances governing the disposal of
21 solid waste generated outside of the county at the county's
22 solid waste disposal facility. In accordance with this
23 section, municipalities are responsible for collecting and
24 transporting solid waste from their jurisdictions to a solid
25 waste disposal facility operated by a county or operated under
26 a contract with a county. Counties may charge reasonable fees
27 for the handling and disposal of solid waste at their
28 facilities. The fees charged to municipalities at a solid
29 waste management facility specified by the county shall not be
30 greater than the fees charged to other users of the facility
31 except as provided in s. 403.7049(5)~~403.7049(4)~~. Solid waste

1 management fees collected on a countywide basis shall be used
2 to fund solid waste management services provided countywide.

3 (4)

4 (b) Notwithstanding the limitation on the waste
5 reduction goal in paragraph (a), a county may receive credit
6 for one-half of the goal for waste reduction from one or a
7 combination of the following:

8 1. The use of pelletized paper waste as a supplemental
9 fuel in permitted boilers other than waste-to-energy
10 facilities.

11 2. The use of yard trash, or other clean wood waste or
12 paper waste, in innovative programs including, but not limited
13 to, programs that produce alternative clean-burning fuels such
14 as ethanol or that provide for the conversion of yard trash or
15 other clean wood waste or paper waste to clean-burning fuel
16 for the production of energy for use at facilities other than
17 a waste-to-energy facility as defined in s. 403.7061 ~~403.7895~~.
18 The provisions of this subparagraph only apply if a county can
19 demonstrate that:

20 a. The county has implemented a yard trash mulching or
21 composting program, and

22 b. As part of the program, compost and mulch made from
23 yard trash is available to the general public and in use at
24 county-owned or maintained and municipally owned or maintained
25 facilities in the county and state agencies operating in the
26 county as required by this section.

27

28 Reviser's note.--Subsection (1) is amended to
29 conform to the redesignation of s. 403.7049(4)
30 as s. 403.7049(5) necessitated by the addition
31 of a new subsection (4) by s. 13, ch. 93-207,

1 Laws of Florida. Paragraph (4)(b) is amended to
2 correct an apparent error and facilitate
3 correct interpretation. The term
4 "waste-to-energy facility" is defined in s.
5 403.7061(4); the term does not appear in s.
6 403.7895. The reference to s. 403.7895 was
7 originally cited as "section 57 of this act" by
8 s. 15 of C.S. for H.B. 461, 1993, which became
9 ch. 93-207. Section 57 became s. 403.7895.
10 Section 403.7061 was in s. 57 of the bill as it
11 appeared in a House amendment; a section of
12 that amendment was subsequently deleted without
13 updating the reference to conform.

14
15 Section 33. Subsections (3), (4), (5), and (6) of
16 section 403.708, Florida Statutes, are amended to read:

17 403.708 Prohibition; penalty.--

18 (3) For purposes of subsections (2), (9), and (10)
19 ~~(2), (3), (10), and (11)~~:

20 (a) "Degradable," with respect to any material, means
21 that such material, after being discarded, is capable of
22 decomposing to components other than heavy metals or other
23 toxic substances, after exposure to bacteria, light, or
24 outdoor elements.

25 (b) "Beverage" means soda water, carbonated natural or
26 mineral water, or other nonalcoholic carbonated drinks; soft
27 drinks, whether or not carbonated; beer, ale, or other malt
28 drink of whatever alcoholic content; or a mixed wine drink or
29 a mixed spirit drink.

30 (c) "Beverage container" means an airtight container
31 which at the time of sale contains 1 gallon or less of a

1 beverage, or the metric equivalent of 1 gallon or less, and
2 which is composed of metal, plastic, or glass or a combination
3 thereof.

4 (4) The Division of Alcoholic Beverages and Tobacco of
5 the Department of Business and Professional Regulation may
6 impose a fine of not more than \$100 on any person currently
7 licensed pursuant to s. 561.14 for each violation of the
8 provisions of subsection (2) ~~or subsection (3)~~. If the
9 violation is of a continuing nature, each day during which
10 such violation occurs shall constitute a separate and distinct
11 offense and shall be subject to a separate fine.

12 (5) The Department of Agriculture and Consumer
13 Services may impose a fine of not more than \$100 on any person
14 not currently licensed pursuant to s. 561.14 for each
15 violation of the provisions of subsection (2) ~~or subsection~~
16 ~~(3)~~. If the violation is of a continuing nature, each day
17 during which such violation occurs shall constitute a separate
18 and distinct offense and shall be subject to a separate fine.

19 (6) Fifty percent of each fine collected pursuant to
20 subsections (4) and (5) ~~(5) and (6)~~ shall be deposited into
21 the Solid Waste Management Trust Fund. The balance of fines
22 collected pursuant to subsection (4) ~~(5)~~ shall be deposited
23 into the Alcoholic Beverage and Tobacco Trust Fund for the use
24 of the division for inspection and enforcement of the
25 provisions of this section. The balance of fines collected
26 pursuant to subsection (5) ~~(6)~~ shall be deposited into the
27 General Inspection Trust Fund for the use of the Department of
28 Agriculture and Consumer Services for inspection and
29 enforcement of the provisions of this section.

30
31

1 Reviser's note.--Subsection (3) is amended to
2 conform to the repeal of former s. 403.708(3)
3 by s. 1, ch. 97-23, Laws of Florida, and to
4 conform to the redesignation of subsections
5 (10) and (11) as subsections (9) and (10)
6 necessitated by the repeal of former subsection
7 (3). Subsections (4) and (5) are amended to
8 conform to the repeal of former subsection (3).
9 Subsection (6) is amended to conform to the
10 redesignation of subsections (5) and (6) as
11 subsections (4) and (5), respectively, to
12 conform to the repeal of former subsection (3).
13

14 Section 34. Section 403.715, Florida Statutes, is
15 amended to read:

16 403.715 Certification of resource recovery or
17 recycling equipment.--For purposes of implementing the tax
18 exemption ~~exemptions~~ provided by s. 212.08(7)(p) ~~212.08(5)(e)~~
19 ~~and (7)(p)~~, the department shall establish a system for the
20 examination and certification of resource recovery or
21 recycling equipment. Application for certification of
22 equipment shall be submitted to the department on forms
23 prescribed by it which include such pertinent information as
24 the department may require. The department may require
25 appropriate certification by a certified public accountant or
26 professional engineer that the equipment for which this
27 exemption is ~~these exemptions are~~ being sought complies with
28 the exemption criterion ~~criteria~~ set forth in s. 212.08(7)(p)
29 ~~212.08(5)(e) and (7)(p)~~. Within 30 days after receipt of an
30 application by the department, a representative of the
31 department may inspect the equipment. Within 30 days after

1 such inspection, the department shall issue a written decision
2 granting or denying certification.

3

4 Reviser's note.--Amended to conform to the
5 repeal of former s. 212.08(5)(e) by s. 10, ch.
6 92-173, Laws of Florida.

7

8 Section 35. Subsection (1) of section 403.718, Florida
9 Statutes, is amended to read:

10 403.718 Waste tire fees.--

11 (1) For the privilege of engaging in business, a fee
12 for each new motor vehicle tire sold at retail is imposed on
13 any person engaging in the business of making retail sales of
14 new motor vehicle tires within this state. ~~For the period~~
15 ~~January 1, 1989, through December 31, 1989, such fee shall be~~
16 ~~imposed at the rate of 50 cents for each new tire sold. The~~
17 fee imposed under this section shall be stated separately on
18 the invoice to the purchaser. ~~Beginning January 1, 1990, and~~
19 ~~thereafter,~~Such fee shall be imposed at the rate of \$1 for
20 each new tire sold. The fee imposed shall be paid to the
21 Department of Revenue on or before the 20th day of the month
22 following the month in which the sale occurs. For purposes of
23 this section, a motor vehicle tire sold at retail includes
24 such tires when sold as a component part of a motor vehicle.
25 The terms "sold at retail" and "retail sales" do not include
26 the sale of new motor vehicle tires to a person solely for the
27 purpose of resale provided the subsequent retail sale in this
28 state is subject to the fee. This fee does not apply to
29 recapped tires. Such fee shall be subject to all applicable
30 taxes imposed in chapter 212.

31

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

3
4 Section 36. Subsection (5) of section 403.7191,
5 Florida Statutes, is amended to read:

6 403.7191 Toxics in packaging.--

7 (5) CERTIFICATE OF COMPLIANCE.--~~As soon as feasible~~
8 ~~but not later than July 1, 1994,~~Each manufacturer or
9 distributor of a package or packaging component shall provide,
10 if required, to the purchaser of such package or packaging
11 component, a certificate of compliance stating that the
12 package or packaging component is in compliance with the
13 provisions of this section. If compliance is achieved under
14 any of the exemptions provided in paragraph (4)(b) or
15 paragraph (4)(c), the certificate shall state the specific
16 basis upon which the exemption is claimed. The certificate of
17 compliance shall be signed by an authorized official of the
18 manufacturing or distributing company. The manufacturer or
19 distributor shall retain the certificate of compliance for as
20 long as the package or packaging component is in use. A copy
21 of the certificate of compliance shall be kept on file by the
22 manufacturer or distributor of the package or packaging
23 component for at least 3 years from the date of the last sale
24 or distribution by the manufacturer or distributor.
25 Certificates of compliance, or copies thereof, shall be
26 furnished within 60 days to the department upon the
27 department's request. If the manufacturer or distributor of
28 the package or packaging component reformulates or creates a
29 new package or packaging component, including a reformulation
30 or creation to meet the maximum levels set forth in subsection
31 ~~(3) paragraph (3)(c)~~, the manufacturer or distributor shall

1 provide an amended or new certificate of compliance for the
2 reformulated or new package or packaging component.

3

4 Reviser's note.--Amended to delete language
5 that has served its purpose and to conform to
6 the elimination of paragraph designations from
7 subsection (3) following the repeal of
8 paragraphs (3)(a) and (b) by s. 41, ch. 99-5,
9 Laws of Florida.

10

11 Section 37. Subsection (3) of section 403.7199,
12 Florida Statutes, is amended to read:

13 403.7199 Florida Packaging Council.--

14 (3) On December 1, 1993, and annually thereafter, the
15 council shall issue a summary to the Governor, the President
16 of the Senate, and the Speaker of the House of
17 Representatives, which summary must contain reports on the
18 aluminum, steel, or other metals, paper, glass, plastic, and
19 plastic-coated paper packaging materials. The summary shall
20 include information for each type of plastic resin identified
21 in s. 403.708(8)~~403.708(9)~~, and may contain information for
22 subclassifications of other packaging materials. The reports
23 must attempt to provide specific recommendations and proposed
24 legislation to develop a comprehensive package reduction and
25 market development program, and must contain the following
26 information for each type of packaging material:

27 (a) A comparison of the recovery rate in this state to
28 the national recovery rate, and an explanation of any
29 variance.

30

31

1 (b) A comparison of the recycled content of packaging
2 in this state to the national recycled content of packaging,
3 and an explanation of any variance.

4 (c) A comparison of the source reduction of packaging
5 manufactured from that material in this state to the source
6 reduction of packages manufactured nationally, and an
7 explanation of any variance.

8
9 Reviser's note.--Amended to conform to the
10 redesignation of s. 403.708(9) as s. 403.708(8)
11 necessitated by the repeal of former s.
12 403.708(3) by s. 1, ch. 97-23, Laws of Florida.

13
14 Section 38. Subsection (4) of section 403.726, Florida
15 Statutes, is amended to read:

16 403.726 Abatement of imminent hazard caused by
17 hazardous substance.--

18 (4) The department may implement the provisions of
19 chapter 386 ~~and ss. 387.08 and 387.10~~ in its own name whenever
20 a hazardous substance is being generated, transported,
21 disposed of, stored, or treated in violation of those
22 provisions of law.

23
24 Reviser's note.--Amended to conform to the
25 repeal of ss. 387.08 and 387.10 by s. 125, ch.
26 97-237, Laws of Florida.

27
28 Section 39. Subsection (1) of section 403.788, Florida
29 Statutes, is amended to read:

30 403.788 Final disposition of application.--

31

1 (1) For the purposes of issuing a final order, the
2 board shall serve as the agency head. Within 45 days after
3 receipt of the administrative law judge's recommended order,
4 the board shall issue a final order as provided by s.
5 120.57(1)(1)~~120.57(1)(j)~~, approving the application in whole,
6 approving the application with such modifications or
7 conditions as the board deems appropriate, or denying the
8 issuance of a certification and stating the reasons for
9 issuance or denial.

10
11 Reviser's note.--Amended to conform to the
12 redesignation of s. 120.57(1)(j) as s.
13 120.57(1)(1) by s. 5, ch. 98-200, Laws of
14 Florida.

15
16 Section 40. Subsection (4) of section 403.9415,
17 Florida Statutes, is amended to read:

18 403.9415 Final disposition of application.--

19 (4) In determining whether an application should be
20 approved in whole, approved with modifications or conditions,
21 or denied, the board shall consider whether, and the extent to
22 which, the location of the natural gas transmission pipeline
23 corridor and the construction and maintenance of the natural
24 gas transmission pipeline will effect a reasonable balance
25 between the need for the natural gas transmission pipeline as
26 a means of providing natural gas energy and the impact upon
27 the public and the environment resulting from the location of
28 the natural gas transmission pipeline corridor and the
29 construction, operation, and maintenance of the natural gas
30 transmission pipeline. In effecting this balance, the board
31 shall consider, based on all relevant, competent and

1 substantial evidence in the record, subject to s. 120.57(1)(1)
2 ~~120.57(1)(j)~~, whether and the extent to which the project
3 will:

4 (a) Ensure natural gas delivery reliability and
5 integrity;

6 (b) Meet the natural gas energy needs of the state in
7 an orderly and timely fashion;

8 (c) Comply with the nonprocedural requirements of
9 agencies;

10 (d) Adversely affect historical sites and the natural
11 environment;

12 (e) Adversely affect the health, safety, and welfare
13 of the residents of the affected local government
14 jurisdictions;

15 (f) Be consistent with applicable local government
16 comprehensive plans and land development regulations; and

17 (g) Avoid densely populated areas to the maximum
18 extent feasible. If densely populated areas cannot be
19 avoided, locate, to the maximum extent feasible, within
20 existing utility corridors or rights-of-way.

21

22 Reviser's note.--Amended to conform to the
23 redesignation of s. 120.57(1)(j) as s.

24 120.57(1)(1) by s. 5, ch. 98-200, Laws of
25 Florida.

26

27 Section 41. Paragraph (c) of subsection (2), paragraph
28 (f) of subsection (3), and subsections (4), (5), and (6) of
29 section 404.056, Florida Statutes, are amended to read:

30 404.056 Environmental radiation standards and
31 programs; radon protection.--

1 (2) FLORIDA COORDINATING COUNCIL ON RADON
2 PROTECTION.--

3 (c) Organization.--The council shall be chaired by the
4 Secretary of Community Affairs or his or her authorized
5 designee. A majority of the membership of the council shall
6 constitute a quorum for the conduct of business. The chair
7 shall be responsible for recording and distributing to the
8 members a summary of the proceedings of all council meetings.
9 The council shall meet ~~within 90 days after the effective date~~
10 ~~of this act for the purpose of organizing,~~ and at least
11 semiannually or more frequently as needed. Members of the
12 council shall not receive compensation for their services, but
13 shall be entitled to reimbursement for necessary travel
14 expenses, pursuant to s. 112.061, from the funds derived from
15 surcharges collected pursuant to s. 553.721 ~~subsection (4)~~.
16 The establishment of the council shall not impede the
17 initiation of building code research and development.

18 (3) CERTIFICATION.--

19 (f) The department is authorized to charge and collect
20 nonrefundable fees for the certification and annual
21 recertification of persons who perform radon gas or radon
22 progeny measurements or who perform mitigation of buildings
23 for radon gas or radon progeny. The amount of the initial
24 application fee and certification shall be not less than \$200
25 or more than \$900. The amount of the annual recertification
26 fee shall be not less than \$200 or more than \$900. ~~Effective~~
27 ~~July 1, 1988,~~The fee amounts shall be the minimum fee
28 prescribed in this paragraph, and such fee amounts shall
29 remain in effect until the effective date of a fee schedule
30 promulgated by rule by the department. The fees collected
31 shall be deposited in the Radiation Protection Trust Fund and

1 shall be used only to implement the provisions of this
2 section. The surcharge established pursuant to s. 553.721
3 ~~subsection (3)~~ may be used to supplement the fees established
4 in this paragraph in carrying out the provisions of this
5 subsection.

6 (4) PUBLIC INFORMATION.--The department shall initiate
7 and administer a program designed to educate and inform the
8 public concerning radon gas and radon progeny, which program
9 shall include, but not be limited to, the origin and health
10 effects of radon, how to measure radon, and construction and
11 mitigation techniques to reduce exposure to radon. The
12 surcharge established pursuant to s. 553.721 ~~subsection (4)~~
13 may be used to supplement the fees established in paragraph
14 (3)(f)(5)(e) in carrying out the provisions of this
15 subsection.

16 (5) MANDATORY TESTING.--All public and private school
17 buildings or school sites housing students in kindergarten
18 through grade 12; all state-owned, state-operated,
19 state-regulated, or state-licensed 24-hour care facilities;
20 and all state-licensed day care centers for children or minors
21 which are located in counties designated within the Department
22 of Community Affairs' Florida Radon Protection Map Categories
23 as "Intermediate" or "Elevated Radon Potential" shall be
24 measured to determine the level of indoor radon, using
25 measurement procedures established by the department. Testing
26 shall be completed within the first year of construction in 20
27 percent of the habitable first floor spaces within any of the
28 regulated buildings. Initial measurements shall be completed
29 and reported to the department by July 1 of the year the
30 building is opened for occupancy. Followup testing must be
31 completed in 5 percent of the habitable first floor spaces

1 within any of the regulated buildings after the building has
2 been occupied for 5 years, and results must be reported to the
3 department by July 1 of the 5th year of occupancy. After radon
4 measurements have been made twice, regulated buildings need
5 not undergo further testing unless significant structural
6 changes occur. Where fill soil is required for the
7 construction of a regulated building, initial testing of fill
8 soil must be performed using measurement procedures
9 established by the department, and the results must be
10 reported to the department prior to construction. ~~The~~
11 ~~provisions of paragraph (3)(c) as to confidentiality shall not~~
12 ~~apply to this subsection.~~ No funds collected pursuant to s.
13 553.721 ~~subsection (4)~~ shall be used to carry out the
14 provisions of this subsection.

15 (6) NOTIFICATION ON REAL ESTATE DOCUMENTS. ~~By January~~
16 ~~1, 1989,~~ Notification shall be provided on at least one
17 document, form, or application executed at the time of, or
18 prior to, contract for sale and purchase of any building or
19 execution of a rental agreement for any building. Such
20 notification shall contain the following language:

21
22 "RADON GAS: Radon is a naturally occurring radioactive
23 gas that, when it has accumulated in a building in sufficient
24 quantities, may present health risks to persons who are
25 exposed to it over time. Levels of radon that exceed federal
26 and state guidelines have been found in buildings in Florida.
27 Additional information regarding radon and radon testing may
28 be obtained from your county health department."

29
30 The requirements of this subsection do not apply to any
31 residential transient occupancy, as described in s.

1 509.013(11), provided that such occupancy is 45 days or less
2 in duration.

3
4 Reviser's note.--Paragraph (2)(c) and
5 subsections (4) and (5) are amended to conform
6 to the redesignation of subsection (4) of s.
7 404.056 as subsection (3) necessitated by the
8 repeal of former subsection (2) by s. 28, ch.
9 92-173, Laws of Florida, and the subsequent
10 transfer of subsection (3) to s. 553.721 by s.
11 1, ch. 95-339, Laws of Florida. Paragraph
12 (2)(c) is also amended to delete language that
13 has served its purpose. Paragraph (3)(f) is
14 amended to delete language that has served its
15 purpose and to conform to the transfer of
16 subsection (3) to s. 553.721 by s. 1, ch.
17 95-339. Subsection (4) is also amended to
18 conform to the redesignation of paragraph
19 (5)(e) as paragraph (3)(f) necessitated by the
20 repeal of former subsection (2) by s. 28, ch.
21 92-173, the subsequent transfer of former
22 subsection (3) to s. 553.721 by s. 1, ch.
23 95-339, and the insertion of a new paragraph
24 (3)(e) in s. 404.056 by s. 57, ch. 97-237, Laws
25 of Florida. Subsection (5) is also amended to
26 delete obsolete language referencing
27 confidentiality no longer in the cited
28 provision. Subsection (6) is amended to delete
29 language that has served its purpose.

30
31

1 Section 42. Paragraph (d) of subsection (5) and
2 subsection (9) of section 408.05, Florida Statutes, are
3 amended to read:

4 408.05 State Center for Health Statistics.--

5 (5) PUBLICATIONS; REPORTS; SPECIAL STUDIES.--The
6 center shall provide for the widespread dissemination of data
7 which it collects and analyzes. The center shall have the
8 following publication, reporting, and special study functions:

9 (d) ~~The agency shall prepare and furnish a status~~
10 ~~report on the establishment of the center by April 1, 1993, to~~
11 ~~the Governor, the President of the Senate, and the Speaker of~~
12 ~~the House of Representatives. The report shall include an~~
13 ~~inventory of health data available in this state,~~
14 ~~implementation plans and progress made in implementing the~~
15 ~~functions assigned to the center, and recommendations for~~
16 ~~further legislation or resources needed to fulfill legislative~~
17 ~~intent with regard to the center, particularly with regard to~~
18 ~~establishing a statewide comprehensive health information~~
19 ~~system.~~The center shall thereafter be responsible for
20 publishing and disseminating an annual report on the center's
21 activities.

22 (9) Nothing in this section shall limit, restrict,
23 affect, or control the collection, analysis, release, or
24 publication of data pursuant to the ~~Health Care Cost~~
25 ~~Containment Act of 1988~~ or by any state agency pursuant to its
26 statutory authority, duties, or responsibilities.

27
28 Reviser's note.--Paragraph (5)(d) is amended to
29 delete an obsolete provision. Subsection (9) is
30 amended to conform to the repeal of statutes
31 constituting the Health Care Cost Containment

1 Act of 1988 by s. 82, ch. 92-33, Laws of
2 Florida.

3
4 Section 43. Subsection (9) of section 408.061, Florida
5 Statutes, is amended to read:

6 408.061 Data collection; uniform systems of financial
7 reporting; information relating to physician charges;
8 confidentiality of patient records; immunity.--

9 (9) The identity of any health care provider, health
10 care facility, or health insurer who submits any data which is
11 proprietary business information to the agency pursuant to the
12 provisions of this section shall remain confidential and
13 exempt from the provisions of s. 119.07(1) and s. 24(a), Art.
14 I of the State Constitution. As used in this section,
15 "proprietary business information" shall include, but not be
16 limited to, information relating to specific provider contract
17 reimbursement information; information relating to security
18 measures, systems, or procedures; and information concerning
19 bids or other contractual data, the disclosure of which would
20 impair efforts to contract for goods or services on favorable
21 terms or would injure the affected entity's ability to compete
22 in the marketplace. Notwithstanding the provisions of this
23 subsection, any information obtained or generated pursuant to
24 the provisions of former s. 407.61, either by the former
25 Health Care Cost Containment Board or by the Agency for Health
26 Care Administration upon transfer to that agency of the duties
27 and functions of the former Health Care Cost Containment
28 Board, is not confidential and exempt from the provisions of
29 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.
30 Such proprietary business information may be used in published
31 analyses and reports or otherwise made available for public

1 disclosure in such manner as to preserve the confidentiality
2 of the identity of the provider. This exemption shall not
3 limit the use of any information used in conjunction with
4 investigation or enforcement purposes under the provisions of
5 s. 455.621.

6
7 Reviser's note.--Amended to improve clarity and
8 facilitate correct interpretation. Section
9 407.61 was repealed by s. 19, ch. 98-89, Laws
10 of Florida. The Health Care Cost Containment
11 Board was abolished by ss. 82 and 83, ch.
12 92-33, Laws of Florida.

13
14 Section 44. Subsection (11) of section 408.07, Florida
15 Statutes, is amended to read:

16 408.07 Definitions.--As used in this chapter, with the
17 exception of ss. 408.031-408.045, the term:

18 (11) "Clinical laboratory" means a facility licensed
19 under s. 483.091, excluding: any hospital laboratory defined
20 under s. 483.041(6)~~483.041(5)~~; any clinical laboratory
21 operated by the state or a political subdivision of the state;
22 any blood or tissue bank where the majority of revenues are
23 received from the sale of blood or tissue and where blood,
24 plasma, or tissue is procured from volunteer donors and
25 donated, processed, stored, or distributed on a nonprofit
26 basis; and any clinical laboratory which is wholly owned and
27 operated by physicians who are licensed pursuant to chapter
28 458 or chapter 459 and who practice in the same group
29 practice, and at which no clinical laboratory work is
30 performed for patients referred by any health care provider
31 who is not a member of that same group practice.

1 Reviser's note.--Amended to conform to the
2 redesignation of s. 483.041(5) as s. 483.041(6)
3 by s. 144, ch. 99-397, Laws of Florida.

4
5 Section 45. Subsection (2) of section 408.08, Florida
6 Statutes, is amended to read:

7 408.08 Inspections and audits; violations; penalties;
8 fines; enforcement.--

9 (2) Any health care facility that refuses to file a
10 report, fails to timely file a report, files a false report,
11 or files an incomplete report and upon notification fails to
12 timely file a complete report required under s. 408.061; that
13 violates this section, s. 408.061, or s. 408.20, or rule
14 adopted thereunder; or that fails to provide documents or
15 records requested by the agency under this chapter shall be
16 punished by a fine not exceeding \$1,000 per day for each day
17 in violation, to be imposed and collected by the agency.
18 Pursuant to rules adopted by the agency, the agency may, upon
19 a showing of good cause, grant a one-time extension of any
20 deadline for a health care facility to timely file a report as
21 required by this section, s. 408.061, ~~s. 408.072~~, or s.
22 408.20.

23
24 Reviser's note.--Amended to conform to the
25 repeal of s. 408.072 by s. 19, ch. 98-89, Laws
26 of Florida.

27
28 Section 46. Paragraph (b) of subsection (5) of section
29 408.704, Florida Statutes, is amended to read:

30 408.704 Agency duties and responsibilities related to
31 community health purchasing alliances.--The agency shall

1 assist in developing a statewide system of community health
2 purchasing alliances. To this end, the agency is responsible
3 for:

4 (5) Establishing a data system for accountable health
5 partnerships.

6 (b) The advisory data committee shall issue a report
7 and recommendations on each of the following subjects as each
8 is completed. A final report covering all subjects must be
9 included in the final Florida Health Plan to be submitted to
10 the Legislature on December 31, 1993. The report shall
11 include recommendations regarding:

12 1. Types of data to be collected. Careful
13 consideration shall be given to other data collection projects
14 and standards for electronic data interchanges already in
15 process in this state and nationally, to evaluating and
16 recommending the feasibility and cost-effectiveness of various
17 data collection activities, and to ensuring that data
18 reporting is necessary to support the evaluation of providers
19 with respect to cost containment, access, quality, control of
20 expensive technologies, and customer satisfaction analysis.
21 Data elements to be collected from providers include prices,
22 utilization, patient outcomes, quality, and patient
23 satisfaction. The completion of this task is the first
24 priority of the advisory data committee. The agency shall
25 begin implementing these data collection activities
26 immediately upon receipt of the recommendations, but no later
27 than January 1, 1994. The data shall be submitted by
28 hospitals, other licensed health care facilities, pharmacists,
29 and group practices as defined in s. 455.654(3)(h)
30 ~~455.654(3)(f)~~.

31

1 2. A standard data set, a standard cost-effective
2 format for collecting the data, and a standard methodology for
3 reporting the data to the agency, or its designee, and to the
4 alliances. The reporting mechanisms must be designed to
5 minimize the administrative burden and cost to health care
6 providers and carriers. A methodology shall be developed for
7 aggregating data in a standardized format for making
8 comparisons between accountable health partnerships which
9 takes advantage of national models and activities.

10 3. Methods by which the agency should collect,
11 process, analyze, and distribute the data.

12 4. Standards for data interpretation. The advisory
13 data committee shall actively solicit broad input from the
14 provider community, carriers, the business community, and the
15 general public.

16 5. Structuring the data collection process to:

17 a. Incorporate safeguards to ensure that the health
18 care services utilization data collected is reviewed by
19 experienced, practicing physicians licensed to practice
20 medicine in this state;

21 b. Require that carrier customer satisfaction data
22 conclusions are validated by the agency;

23 c. Protect the confidentiality of medical information
24 to protect the patient's identity and to protect the privacy
25 of individual physicians and patients. Proprietary data
26 submitted by insurers, providers, and purchasers are
27 confidential pursuant to s. 408.061; and

28 d. Afford all interested professional medical and
29 hospital associations and carriers a minimum of 60 days to
30 review and comment before data is released to the public.

31

1 6. Developing a data collection implementation
2 schedule, based on the data collection capabilities of
3 carriers and providers.

4
5 Reviser's note.--Amended to conform to the
6 redesignation of s. 455.654(3)(f) as s.
7 455.654(3)(h) by s. 1, ch. 99-356, Laws of
8 Florida.

9
10 Section 47. Subsection (2) of section 408.7042,
11 Florida Statutes, is amended to read:

12 408.7042 Purchasing health care for state employees
13 and Medicaid recipients through community health purchasing
14 alliances.--

15 (2) When purchasing health care for Medicaid,
16 MedAccess, and Medicaid buy-in recipients through community
17 health purchasing alliances, the agency shall ensure that the
18 claims experiences, rates, and charges for such recipients are
19 not commingled with those of other alliance members. However,
20 the claims experiences, rates, and charges for Medicaid
21 recipients, participants in the MedAccess program, and
22 participants in the Medicaid buy-in program shall not be
23 commingled with those of other alliance members. Prior to
24 providing medical benefits to Medicaid recipients through a
25 community health purchasing alliance, the agency shall seek
26 consultation with the Legislature pursuant to the provisions
27 of s. 216.177(2). The state shall offer to all Medicaid,
28 MedAccess, and Medicaid buy-in recipients the opportunity to
29 select health plans from all accountable health partnerships,
30 including providers that have a Medicaid managed-care contract
31 or MediPass, that has been approved by the United States

1 Health Care Financing Administration, or from physicians and
2 facilities that participate in MediPass, in the district in
3 which the recipient lives. For purposes of the purchase of
4 health care for such recipients, current Medicaid ~~Medicaid~~
5 providers, including providers participating in the MediPass
6 program and entities with Medicaid managed-care contracts are
7 accountable health partnerships. An entity that provides
8 managed-care for Medicaid recipients pursuant to a contract
9 must obtain a certificate of authority from the agency.
10 Purchase of health care for Medicaid, MedAccess, and Medicaid
11 buy-in recipients by the agency through community health
12 purchasing alliances may not result in a reduction of benefits
13 or any increased costs for such recipients without prior
14 legislative approval.

15

16 Reviser's note.--Amended to provide consistent
17 terminology and to conform to the context.

18

19 Section 48. Paragraph (j) of subsection (2) of section
20 408.904, Florida Statutes, is amended to read:

21 408.904 Benefits.--

22 (2) Covered health services include:

23 (j) Outpatient mental health visits and substance
24 abuse treatment. Outpatient mental health visits provided by
25 community mental health centers as provided in chapter 394 and
26 by a mental health therapist licensed under chapter 490 or
27 chapter 491 and substance abuse treatment provided by a center
28 licensed under ~~chapter 396~~ or chapter 397, up to a total of
29 five visits per calendar year per member.

30

31

1 Reviser's note.--Amended to conform to the
2 repeal of chapter 396 by s. 48, ch. 93-39, Laws
3 of Florida.

4

5 Section 49. Paragraph (c) of subsection (3) of section
6 409.145, Florida Statutes, is amended to read:

7 409.145 Care of children.--

8 (3)

9 (c)1. The department is authorized to provide the
10 services of the children's foster care program to an
11 individual who is enrolled full-time in a postsecondary
12 vocational-technical education program, full-time in a
13 community college program leading toward a vocational degree
14 or an associate degree, or full-time in a university or
15 college, if the following requirements are met:

16 a. The individual was committed to the legal custody
17 of the department for placement in foster care as a dependent
18 child;

19 b. The permanency planning goal pursuant to part VII
20 ~~part III~~ of chapter 39 for the individual is long-term foster
21 care or independent living;

22 c. The individual has been accepted for admittance to
23 a postsecondary vocational-technical education program, to a
24 community college, or to a university or college;

25 d. All other resources have been thoroughly explored,
26 and it can be clearly established that there are no
27 alternative resources for placement; and

28 e. A written service agreement which specifies
29 responsibilities and expectations for all parties involved has
30 been signed by a representative of the department, the
31 individual, and the foster parent or licensed child-caring

1 agency providing the placement resources, if the individual is
2 to continue living with the foster parent or placement
3 resource while attending a postsecondary vocational-technical
4 education program, community college, or university or
5 college. An individual who is to be continued in or placed in
6 independent living shall continue to receive services
7 according to the independent living program and agreement of
8 responsibilities signed by the department and the individual.

9 2. Any provision of this chapter or any other law to
10 the contrary notwithstanding, when an individual who meets the
11 requirements of subparagraph 1. is in attendance at a
12 community college, college, or university, the department may
13 make foster care payments to such community college, college,
14 or university in lieu of payment to the foster parents or
15 individual, for the purpose of room and board, if not
16 otherwise provided, but such payments shall not exceed the
17 amount that would have been paid to the foster parents had the
18 individual remained in the foster home.

19 3. The services of the foster care program shall
20 continue only for an individual under this paragraph who is a
21 full-time student but shall continue for not more than:

22 a. Two consecutive years for an individual in a
23 postsecondary vocational-technical education program;

24 b. Two consecutive years or four semesters for an
25 individual enrolled in a community college unless the
26 individual is participating in college preparatory instruction
27 or is requiring additional time to complete the college-level
28 communication and computation skills testing program, in which
29 case such services shall continue for not more than 3
30 consecutive years or six semesters; or

31

1 c. Four consecutive years, 8 semesters, or 12 quarters
2 for an individual enrolled in a college or university unless
3 the individual is participating in college-preparatory
4 instruction or is requiring additional time to complete the
5 college-level communication and computation skills testing
6 programs, in which case such services shall continue for not
7 more than 5 consecutive years, 10 semesters, or 15 quarters.

8 4.a. As a condition for continued foster care
9 services, an individual shall have earned a grade point
10 average of at least 2.0 on a 4.0 scale for the previous term,
11 maintain at least an overall grade point average of 2.0 for
12 only the previous term, and be eligible for continued
13 enrollment in the institution. If the postsecondary
14 vocational-technical school program does not operate on a
15 grade point average as described above, then the individual
16 shall maintain a standing equivalent to the 2.0 grade point
17 average.

18 b. Services shall be terminated upon completion of,
19 graduation from, or withdrawal or permanent expulsion from a
20 postsecondary vocational-technical education program,
21 community college, or university or college. Services shall
22 also be terminated for failure to maintain the required level
23 of academic achievement.

24
25 Reviser's note.--Amended to conform to the
26 redesignation of parts of chapter 39
27 necessitated by the repeal or transfer of
28 sections by ch. 98-403, Laws of Florida.
29 Provisions relating to case planning are in
30 part VII.

31

1 Section 50. Paragraph (c) of subsection (4) of section
2 409.166, Florida Statutes, is amended to read:

3 409.166 Special needs children; subsidized adoption
4 program.--

5 (4) ELIGIBILITY FOR SERVICES.--

6 (c) A child who is handicapped at the time of adoption
7 shall be eligible for services of the Division of Children's
8 Medical Services Network if the child was eligible for such
9 services prior to the adoption.

10
11 Reviser's note.--Amended to conform to the
12 reorganization of divisions of the Department
13 of Health by ch. 99-397, Laws of Florida.

14
15 Section 51. Section 409.1685, Florida Statutes, is
16 amended to read:

17 409.1685 Children in foster care; annual report to
18 Legislature.--The Department of Children and Family Services
19 shall submit a written report to the substantive committees of
20 the Legislature concerning the status of children in foster
21 care and concerning the judicial review mandated by part VIII
22 ~~III~~ of chapter 39. This report shall be submitted by March 1
23 of each year and shall include the following information for
24 the prior calendar year:

25 (1) The number of 6-month and annual judicial reviews
26 completed during that period.

27 (2) The number of children in foster care returned to
28 a parent, guardian, or relative as a result of a 6-month or
29 annual judicial review hearing during that period.

30 (3) The number of termination of parental rights
31 proceedings instituted during that period which shall include:

1 (a) The number of termination of parental rights
2 proceedings initiated pursuant to s. 39.703 ~~part III of~~
3 ~~chapter 39~~; and

4 (b) The total number of terminations of parental
5 rights ordered.

6 (4) The number of foster care children placed for
7 adoption during that period.

8
9 Reviser's note.--Amended to conform to the
10 repeal or transfer of sections of chapter 39 by
11 ch. 98-403, Laws of Florida. Provisions
12 relating to judicial review are located in part
13 VIII of chapter 39, and provisions relating to
14 initiation of termination of parental rights
15 are located at s. 39.703.

16
17 Section 52. Section 409.1757, Florida Statutes, is
18 amended to read:

19 409.1757 Persons not required to be refingerprinted or
20 rescreened.--Any provision of law to the contrary
21 notwithstanding, human resource personnel who have been
22 fingerprinted or screened pursuant to chapters 393, 394, 397,
23 402, and 409, and teachers who have been fingerprinted
24 pursuant to chapter 231, who have not been unemployed for more
25 than 90 days thereafter, and who under the penalty of perjury
26 attest to the completion of such fingerprinting or screening
27 and to compliance with the provisions of this section and the
28 standards for good moral character as contained in such
29 provisions as ss. 110.1127(3), 393.0655(1), 394.457(6),
30 397.451, 402.305(2)~~402.305(1)~~, and 409.175(4), shall not be
31 required to be refingerprinted or rescreened in order to

1 comply with any caretaker screening or fingerprinting
2 requirements.

3

4 Reviser's note.--Amended to conform to the
5 redesignation of s. 402.305(1) as s. 402.305(2)
6 by s. 2, ch. 91-300, Laws of Florida.

7

8 Section 53. Section 409.2355, Florida Statutes, is
9 amended to read:

10 409.2355 Programs for prosecution of males over age 21
11 who commit certain offenses involving girls under age
12 16.--Subject to specific appropriated funds, the Department of
13 Children and Family Services is directed to establish a
14 program by which local communities, through the state
15 attorney's office of each judicial circuit, may apply for
16 grants to fund innovative programs for the prosecution of
17 males over the age of 21 who victimize girls under the age of
18 16 in violation of s. 794.011, s. 794.05, s. 800.04, or s.
19 827.04(3)~~827.04(4)~~.

20

21 Reviser's note.--Amended to conform to the
22 redesignation of s. 827.04(4), as enacted by s.
23 2, ch. 96-215, Laws of Florida, as s. 827.04(3)
24 necessitated by the repeal and redesignation of
25 subunits by s. 10, ch. 96-322, Laws of Florida.

26

27 Section 54. Paragraph (b) of subsection (8) and
28 subsection (11) of section 409.2564, Florida Statutes, are
29 amended to read:

30 409.2564 Actions for support.--

31

1 (8) The director of the Title IV-D agency, or the
2 director's designee, is authorized to subpoena from any person
3 financial and other information necessary to establish,
4 modify, or enforce a child support order.

5 (b) Subpoenas issued by this or any other state's
6 Title IV-D agency may be challenged in accordance with s.
7 120.569(2)(k)1. While a subpoena is being challenged, the
8 Title IV-D agency may not impose a fine as provided for under
9 paragraph (c) until the challenge is complete and the subpoena
10 has been found to be valid.

11 (11) For the purposes of denial, revocation, or
12 limitation of an individual's United States Passport,
13 consistent with 42 U.S.C. s. 652(k)(1)~~42 U.S.C. s. 452(1)(k)~~,
14 the Title IV-D agency shall have procedures to certify to the
15 Secretary of the United States Department of Health and Human
16 Services, in the format and accompanied by such supporting
17 documentation as the secretary may require, a determination
18 that an individual owes arrearages of child support in an
19 amount exceeding \$5,000. Said procedures shall provide that
20 the individual be given notice of the determination and of the
21 consequence thereof and that the individual shall be given an
22 opportunity to contest the accuracy of the determination.

23
24 Reviser's note.--Paragraph (8)(b) is amended to
25 correct a grammatical error. Subsection (11) is
26 amended to improve clarity and facilitate
27 correct interpretation. Section 652(k)(1)
28 references the procedures whereby the Secretary
29 of Health and Human Services certifies child
30 support arrearage information to the Secretary
31

1 of State to be considered for purposes of
2 passport denial, revocation, or limitation.

3
4 Section 55. Subsection (12) of section 409.2673,
5 Florida Statutes, is amended to read:

6 409.2673 Shared county and state health care program
7 for low-income persons; trust fund.--

8 (12) There is created the Shared County and State
9 Program Trust Fund in the Treasury to be used by the Agency
10 for Health Care Administration ~~Department of Health and~~
11 ~~Rehabilitative Services~~ for the purpose of funding the state's
12 portion of the shared county and state program created
13 pursuant to this section.

14
15 Reviser's note.--Amended pursuant to the
16 directive of the Legislature in s. 1, ch.
17 98-224, Laws of Florida, to make specific
18 changes in terminology and any further changes
19 as necessary to conform the Florida Statutes to
20 the organizational changes of the former
21 Department of Health and Rehabilitative
22 Services effected by previous acts of the
23 Legislature.

24
25 Section 56. Section 409.821, Florida Statutes, is
26 amended to read:

27 409.821 Sections 409.810-409.820; confidential
28 information.--Notwithstanding any other law to the contrary,
29 any information contained in an application for determination
30 of eligibility for the Florida Kidcare ~~Kids Health~~ program
31 which identifies applicants, including medical information and

1 family financial information, and any information obtained
2 through quality assurance activities and patient satisfaction
3 surveys which identifies program participants, obtained by the
4 Florida Kidcare ~~Kids Health~~ program under ss. 409.810-409.820,
5 is confidential and is exempt from s. 119.07(1) and s. 24(a),
6 Art. I of the State Constitution. Except as otherwise provided
7 by law, program staff or staff or agents affiliated with the
8 program may not release, without the written consent of the
9 applicant or the parent or guardian of the applicant, to any
10 state or federal agency, to any private business or person, or
11 to any other entity, any confidential information received
12 under ss. 409.810-409.820. This section is subject to the Open
13 Government Sunset Review Act of 1995 in accordance with s.
14 119.15, and shall stand repealed on October 2, 2003, unless
15 reviewed and saved from repeal through reenactment by the
16 Legislature.

17

18 Reviser's note.--Amended to conform to the
19 creation of ss. 409.810-409.820, constituting
20 the Florida Kidcare program, by ss. 32-47, ch.
21 98-288, Laws of Florida.

22

23 Section 57. Paragraph (b) of subsection (5) and
24 subsection (8) of section 409.905, Florida Statutes, are
25 amended to read:

26 409.905 Mandatory Medicaid services.--The agency may
27 make payments for the following services, which are required
28 of the state by Title XIX of the Social Security Act,
29 furnished by Medicaid providers to recipients who are
30 determined to be eligible on the dates on which the services
31 were provided. Any service under this section shall be

1 provided only when medically necessary and in accordance with
2 state and federal law. Nothing in this section shall be
3 construed to prevent or limit the agency from adjusting fees,
4 reimbursement rates, lengths of stay, number of visits, number
5 of services, or any other adjustments necessary to comply with
6 the availability of moneys and any limitations or directions
7 provided for in the General Appropriations Act or chapter 216.

8 (5) HOSPITAL INPATIENT SERVICES.--The agency shall pay
9 for all covered services provided for the medical care and
10 treatment of a recipient who is admitted as an inpatient by a
11 licensed physician or dentist to a hospital licensed under
12 part I of chapter 395. However, the agency shall limit the
13 payment for inpatient hospital services for a Medicaid
14 recipient 21 years of age or older to 45 days or the number of
15 days necessary to comply with the General Appropriations Act.

16 (b) A licensed hospital maintained primarily for the
17 care and treatment of patients having mental disorders or
18 mental diseases is not eligible to participate in the hospital
19 inpatient portion of the Medicaid program except as provided
20 in federal law. However, the department shall apply for a
21 waiver, within 9 months after June 5, 1991, designed to
22 provide hospitalization services for mental health reasons to
23 children and adults in the most cost-effective and lowest cost
24 setting possible. Such waiver shall include a request for the
25 opportunity to pay for care in hospitals known under federal
26 law as "institutions for mental disease" or "IMD's." The
27 waiver proposal shall propose no additional aggregate cost to
28 the state or Federal Government, and shall be conducted in
29 Hillsborough County, Highlands County, Hardee County, Manatee
30 County, and Polk County. The waiver proposal may incorporate
31 competitive bidding for hospital services, comprehensive

1 brokering, prepaid capitated arrangements, or other mechanisms
2 deemed by the department to show promise in reducing the cost
3 of acute care and increasing the effectiveness of preventive
4 care. When developing the waiver proposal, the department
5 shall take into account price, quality, accessibility,
6 linkages of the hospital to community services and family
7 support programs, plans of the hospital to ensure the earliest
8 discharge possible, and the comprehensiveness of the mental
9 health and other health care services offered by participating
10 providers. ~~The department is directed to monitor and evaluate~~
11 ~~the implementation of this waiver program if it is granted and~~
12 ~~report to the chairs of the appropriations committees of the~~
13 ~~Senate and the House of Representatives by February 1, 1992.~~

14 (8) NURSING FACILITY SERVICES.--The agency shall pay
15 for 24-hour-a-day nursing and rehabilitative services for a
16 recipient in a nursing facility licensed under part II of
17 chapter 400 or in a rural hospital, as defined in s. 395.602,
18 or in a Medicare certified skilled nursing facility operated
19 by a hospital, as defined by s. 395.002(11)~~395.002(9)~~, that
20 is licensed under part I of chapter 395, and in accordance
21 with provisions set forth in s. 409.908(2)(a), which services
22 are ordered by and provided under the direction of a licensed
23 physician. However, if a nursing facility has been destroyed
24 or otherwise made uninhabitable by natural disaster or other
25 emergency and another nursing facility is not available, the
26 agency must pay for similar services temporarily in a hospital
27 licensed under part I of chapter 395 provided federal funding
28 is approved and available.

29

30 Reviser's note.--Paragraph (5)(b) is amended to
31 delete language that has had its effect.

1 Subsection (8) is amended to conform to the
2 redesignation of s. 395.002(9) as s.
3 395.002(11) by the reviser incident to the
4 compilation of the 1998 Supplement to the
5 Florida Statutes 1997.

6
7 Section 58. Subsection (17) of section 409.910,
8 Florida Statutes, is amended to read:

9 409.910 Responsibility for payments on behalf of
10 Medicaid-eligible persons when other parties are liable.--

11 (17) A recipient or his or her legal representative or
12 any person representing, or acting as agent for, a recipient
13 or the recipient's legal representative, who has notice,
14 excluding notice charged solely by reason of the recording of
15 the lien pursuant to paragraph (6)(c)~~(6)(d)~~, or who has
16 actual knowledge of the agency's rights to third-party
17 benefits under this section, who receives any third-party
18 benefit or proceeds therefrom for a covered illness or injury,
19 is required either to pay the agency, within 60 days after
20 receipt of settlement proceeds, the full amount of the
21 third-party benefits, but not in excess of the total medical
22 assistance provided by Medicaid, or to place the full amount
23 of the third-party benefits in a trust account for the benefit
24 of the agency pending judicial or administrative determination
25 of the agency's right thereto. Proof that any such person had
26 notice or knowledge that the recipient had received medical
27 assistance from Medicaid, and that third-party benefits or
28 proceeds therefrom were in any way related to a covered
29 illness or injury for which Medicaid had provided medical
30 assistance, and that any such person knowingly obtained
31 possession or control of, or used, third-party benefits or

1 proceeds and failed either to pay the agency the full amount
2 required by this section or to hold the full amount of
3 third-party benefits or proceeds in trust pending judicial or
4 administrative determination, unless adequately explained,
5 gives rise to an inference that such person knowingly failed
6 to credit the state or its agent for payments received from
7 social security, insurance, or other sources, pursuant to s.
8 414.39(4)(b), and acted with the intent set forth in s.
9 812.014(1).

10 (a) In cases of suspected criminal violations or
11 fraudulent activity, the agency may take any civil action
12 permitted at law or equity to recover the greatest possible
13 amount, including, without limitation, treble damages under
14 ss. 772.11 and 812.035(7).

15 (b) The agency is authorized to investigate and to
16 request appropriate officers or agencies of the state to
17 investigate suspected criminal violations or fraudulent
18 activity related to third-party benefits, including, without
19 limitation, ss. 414.39 and 812.014. Such requests may be
20 directed, without limitation, to the Medicaid Fraud Control
21 Unit of the Office of the Attorney General, or to any state
22 attorney. Pursuant to s. 409.913, the Attorney General has
23 primary responsibility to investigate and control Medicaid
24 fraud.

25 (c) In carrying out duties and responsibilities
26 related to Medicaid fraud control, the agency may subpoena
27 witnesses or materials within or outside the state and,
28 through any duly designated employee, administer oaths and
29 affirmations and collect evidence for possible use in either
30 civil or criminal judicial proceedings.

31

1 (d) All information obtained and documents prepared
2 pursuant to an investigation of a Medicaid recipient, the
3 recipient's legal representative, or any other person relating
4 to an allegation of recipient fraud or theft is confidential
5 and exempt from s. 119.07(1):

6 1. Until such time as the agency takes final agency
7 action;

8 2. Until such time as the Department of Legal Affairs
9 refers the case for criminal prosecution;

10 3. Until such time as an indictment or criminal
11 information is filed by a state attorney in a criminal case;
12 or

13 4. At all times if otherwise protected by law.
14

15 Reviser's note.--Amended to conform to the
16 redesignation of s. 409.910(6)(d) as s.
17 409.910(6)(c) by s. 1, ch. 98-411, Laws of
18 Florida.
19

20 Section 59. Section 409.9116, Florida Statutes, is
21 amended to read:

22 409.9116 Disproportionate share/financial assistance
23 program for rural hospitals.--In addition to the payments made
24 under s. 409.911, the Agency for Health Care Administration
25 shall administer a federally matched disproportionate share
26 program and a state-funded financial assistance program for
27 statutory rural hospitals. The agency shall make
28 disproportionate share payments to statutory rural hospitals
29 that qualify for such payments and financial assistance
30 payments to statutory rural hospitals that do not qualify for
31 disproportionate share payments. The disproportionate share

1 program payments shall be limited by and conform with federal
2 requirements. ~~In fiscal year 1993-1994, available funds shall~~
3 ~~be distributed in one payment, as soon as practicable after~~
4 ~~the effective date of this act. In subsequent fiscal years,~~
5 Funds shall be distributed quarterly in each fiscal year for
6 which an appropriation is made. Notwithstanding the provisions
7 of s. 409.915, counties are exempt from contributing toward
8 the cost of this special reimbursement for hospitals serving a
9 disproportionate share of low-income patients.

10 (1) The following formula shall be used by the agency
11 to calculate the total amount earned for hospitals that
12 participate in the rural hospital disproportionate share
13 program or the financial assistance program:

14

$$15 \qquad \qquad \qquad \text{TAERH} = (\text{CCD} + \text{MDD}) / \text{TPD}$$

16

17 Where:

18 CCD = total charity care-other, plus charity care-Hill
19 Burton, minus 50 percent of unrestricted tax revenue from
20 local governments, and restricted funds for indigent care,
21 divided by gross revenue per adjusted patient day; however, if
22 CCD is less than zero, then zero shall be used for CCD.

23 MDD = Medicaid inpatient days plus Medicaid HMO
24 inpatient days.

25 TPD = total inpatient days.

26 TAERH = total amount earned by each rural hospital.

27

28 In computing the total amount earned by each rural hospital,
29 the agency must use the most recent actual data reported in
30 accordance with s. 408.061(4)(a).

31

1 (2) In determining the payment amount for each rural
2 hospital under this section, the agency shall first allocate
3 all available state funds by the following formula:

$$4 \qquad \qquad \qquad 5 \qquad \qquad \qquad \text{DAER} = (\text{TAERH} \times \text{TARH}) / \text{STAERH}$$

6
7 Where:

8 DAER = distribution amount for each rural hospital.

9 STAERH = sum of total amount earned by each rural
10 hospital.

11 TAERH = total amount earned by each rural hospital.

12 TARH = total amount appropriated or distributed under
13 this section.

14
15 Federal matching funds for the disproportionate share program
16 shall then be calculated for those hospitals that qualify for
17 disproportionate share payments under this section.

18 (3) The Agency for Health Care Administration may
19 recommend to the Legislature a formula to be used in
20 subsequent fiscal years to distribute funds appropriated for
21 this section that includes charity care, uncompensated care to
22 medically indigent patients, and Medicaid inpatient days.

23 (4) In the event that federal matching funds for the
24 rural hospital disproportionate share program are not
25 available, state matching funds appropriated for the program
26 may be utilized for the Rural Hospital Financial Assistance
27 Program and shall be allocated to rural hospitals based on the
28 formulas in subsections (1) and (2).

29 (5) In order to receive payments under this section, a
30 hospital must be a rural hospital as defined in s. 395.602 and
31 must meet the following additional requirements:

1 (a) Agree to conform to all agency requirements to
2 ensure high quality in the provision of services, including
3 criteria adopted by agency rule concerning staffing ratios,
4 medical records, standards of care, equipment, space, and such
5 other standards and criteria as the agency deems appropriate
6 as specified by rule.

7 (b) Agree to accept all patients, regardless of
8 ability to pay, on a functional space-available basis.

9 (c) Agree to provide backup and referral services to
10 the county public health departments and other low-income
11 providers within the hospital's service area, including the
12 development of written agreements between these organizations
13 and the hospital.

14 (d) For any hospital owned by a county government
15 which is leased to a management company, agree to submit on a
16 quarterly basis a report to the agency, in a format specified
17 by the agency, which provides a specific accounting of how all
18 funds dispersed under this act are spent.

19 (6) For the 1999-2000 fiscal year only, the Agency for
20 Health Care Administration shall use the following formula for
21 distribution of the funds in Specific Appropriation 236 of the
22 1999-2000 General Appropriations Act for the disproportionate
23 share/financial assistance program for rural hospitals.

24 (a) The agency shall first determine a preliminary
25 payment amount for each rural hospital by allocating all
26 available state funds using the following formula:

27

28

$$\text{PDAER} = (\text{TAERH} \times \text{TARH}) / \text{STAERH}$$

29

30 Where:

31

1 PDAER = preliminary distribution amount for each rural
2 hospital.

3 TAERH = total amount earned by each rural hospital.

4 TARH = total amount appropriated or distributed under
5 this section.

6 STAERH = sum of total amount earned by each rural
7 hospital.

8 (b) Federal matching funds for the disproportionate
9 share program shall then be calculated for those hospitals
10 that qualify for disproportionate share in paragraph (a).

11 (c) The state-funds-only payment amount is then
12 calculated for each hospital using the formula:

13
14 SFOER = Maximum value of (1) SFOL - PDAER or (2) 0
15

16 Where:

17 SFOER = state-funds-only payment amount for each rural
18 hospital.

19 SFOL = state-funds-only payment level, which is set at
20 4 percent of TARH.

21 (d) The adjusted total amount allocated to the rural
22 disproportionate share program shall then be calculated using
23 the following formula:

24
25 $ATARH = (TARH - SSFOER)$
26

27 Where:

28 ATARH = adjusted total amount appropriated or
29 distributed under this section.

30 SSFOER = sum of the state-funds-only payment amount
31 calculated under paragraph (c) for all rural hospitals.

1 (e) The determination of the amount of rural
2 disproportionate share hospital funds is calculated by the
3 following formula:

$$4 \qquad \qquad \qquad \text{TDAERH} = [(\text{TAERH} \times \text{ATARH})/\text{STAERH}]$$

6
7 Where:

8 TDAERH = total distribution amount for each rural
9 hospital.

10 (f) Federal matching funds for the disproportionate
11 share program shall then be calculated for those hospitals
12 that qualify for disproportionate share in paragraph (e).

13 (g) State-funds-only payment amounts calculated under
14 paragraph (c) are then added to the results of paragraph (f)
15 to determine the total distribution amount for each rural
16 hospital.

17 (h) This subsection is repealed on July 1, 2000.

18 (7) This section only applies to hospitals that were
19 defined as statutory rural hospitals, or their
20 successor-in-interest hospital, prior to July 1, 1998. Any
21 additional hospital that is defined as a statutory rural
22 hospital, or its successor-in-interest hospital, on or after
23 July 1, 1998, is not eligible for programs under this section
24 unless additional funds are appropriated each fiscal year
25 specifically to the rural hospital disproportionate share and
26 financial assistance programs in an amount necessary to
27 prevent any hospital, or its successor-in-interest hospital,
28 eligible for the programs prior to July 1, 1998, from
29 incurring a reduction in payments because of the eligibility
30 of an additional hospital to participate in the programs.

31

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

3
4 Section 60. Subsection (26) of section 409.912,
5 Florida Statutes, is amended to read:
6 409.912 Cost-effective purchasing of health care.--The
7 agency shall purchase goods and services for Medicaid
8 recipients in the most cost-effective manner consistent with
9 the delivery of quality medical care. The agency shall
10 maximize the use of prepaid per capita and prepaid aggregate
11 fixed-sum basis services when appropriate and other
12 alternative service delivery and reimbursement methodologies,
13 including competitive bidding pursuant to s. 287.057, designed
14 to facilitate the cost-effective purchase of a case-managed
15 continuum of care. The agency shall also require providers to
16 minimize the exposure of recipients to the need for acute
17 inpatient, custodial, and other institutional care and the
18 inappropriate or unnecessary use of high-cost services.

19 (26) ~~Beginning July 1, 1996,~~The agency shall perform
20 choice counseling, enrollments, and disenrollments for
21 Medicaid recipients who are eligible for MediPass or managed
22 care plans. Notwithstanding the prohibition contained in
23 paragraph (18)(f), managed care plans may perform
24 preenrollments of Medicaid recipients under the supervision of
25 the agency or its agents. For the purposes of this section,
26 "preenrollment" means the provision of marketing and
27 educational materials to a Medicaid recipient and assistance
28 in completing the application forms, but shall not include
29 actual enrollment into a managed care plan. An application
30 for enrollment shall not be deemed complete until the agency
31 or its agent verifies that the recipient made an informed,

1 voluntary choice. The agency, in cooperation with the
2 Department of Children and Family Services, may test new
3 marketing initiatives to inform Medicaid recipients about
4 their managed care options at selected sites. The agency
5 shall report to the Legislature on the effectiveness of such
6 initiatives. The agency may contract with a third party to
7 perform managed care plan and MediPass choice-counseling,
8 enrollment, and disenrollment services for Medicaid recipients
9 and is authorized to adopt rules to implement such services.
10 ~~Until October 1, 1996, or the receipt of necessary federal~~
11 ~~waivers, whichever is earlier, the agency shall adjust the~~
12 ~~capitation rate to cover any implementation, staff, or other~~
13 ~~costs associated with enrollment, disenrollment, and~~
14 ~~choice-counseling activities. Thereafter,~~The agency may
15 adjust the capitation rate only to cover the costs of a
16 third-party choice-counseling, enrollment, and disenrollment
17 contract, and for agency supervision and management of the
18 managed care plan choice-counseling, enrollment, and
19 disenrollment contract.

20

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

23

24 Section 61. Paragraph (d) of subsection (15) of
25 section 409.913, Florida Statutes, is amended to read:

26 409.913 Oversight of the integrity of the Medicaid
27 program.--The agency shall operate a program to oversee the
28 activities of Florida Medicaid recipients, and providers and
29 their representatives, to ensure that fraudulent and abusive
30 behavior and neglect of recipients occur to the minimum extent

31

1 possible, and to recover overpayments and impose sanctions as
2 appropriate.

3 (15) The agency may impose any of the following
4 sanctions on a provider or a person for any of the acts
5 described in subsection (14):

6 (d) Immediate suspension, if the agency has received
7 information of patient abuse or neglect or of any act
8 prohibited by s. 409.920. Upon suspension, the agency must
9 issue an immediate final order under s. 120.569(2)(n)
10 ~~120.59(3)~~.

11
12 Reviser's note.--Amended to conform to the
13 repeal of s. 120.59(3) by s. 24, ch. 96-159,
14 Laws of Florida, and the enactment of identical
15 language in s. 120.569(2)(1) by s. 18, ch.
16 96-159. Section 120.569(2)(1) was subsequently
17 redesignated as s. 120.569(2)(n) by s. 4, ch.
18 98-200, Laws of Florida.

19
20 Section 62. Paragraph (k) of subsection (9) of section
21 411.202, Florida Statutes, is amended to read:

22 411.202 Definitions.--As used in this chapter, the
23 term:

24 (9) "High-risk child" or "at-risk child" means a
25 preschool child with one or more of the following
26 characteristics:

27 (k) The child is a handicapped child as defined in
28 subsection (8)~~(7)~~.

29
30
31

1 Reviser's note.--Amended to conform to the
2 redesignation of s. 411.202(7) as s. 411.202(8)
3 by s. 1, ch. 95-321, Laws of Florida.
4

5 Section 63. Paragraph (a) of subsection (4) of section
6 411.242, Florida Statutes, is amended to read:

7 411.242 Florida Education Now and Babies Later (ENABL)
8 program.--

9 (4) IMPLEMENTATION.--The department must:

10 (a) Implement the ENABL program using the criteria
11 provided in this section. The department must evaluate,
12 select, and monitor the two pilot projects to be funded
13 initially. ~~The initial contract awards must be made no later~~
14 ~~than August 1, 1995.~~The following community-based local
15 contractors may be selected among the first sites to be
16 funded:

17 1. A program based in a local school district, a
18 county health department, or another unit of local government.

19 2. A program based in a local, public or private,
20 not-for-profit provider of services to children and their
21 families.
22

23 Reviser's note.--Amended to delete language
24 that has served its purpose.
25

26 Section 64. Section 413.46, Florida Statutes, is
27 amended to read:

28 413.46 Legislative intent.--It is the intent of the
29 Legislature to ensure the referral of persons who have
30 moderate-to-severe brain or spinal cord injuries to a
31 coordinated rehabilitation program developed and administered

1 by the division. The program shall provide eligible persons,
2 as defined in s. 381.76 ~~413.507~~, the opportunity to obtain the
3 necessary rehabilitative services enabling them to be referred
4 to a vocational rehabilitation program or to return to an
5 appropriate level of functioning in their community. Further,
6 it is intended that permanent disability be avoided, whenever
7 possible, through prevention, early identification, skilled
8 emergency evacuation procedures, and proper medical and
9 rehabilitative treatment.

10

11 Reviser's note.--Amended to conform to the
12 redesignation of s. 413.507 as s. 381.76 by s.
13 20, ch. 99-240, Laws of Florida.

14

15 Section 65. Paragraph (a) of subsection (3) and
16 paragraph (c) of subsection (7) of section 414.065, Florida
17 Statutes, are amended to read:

18 414.065 Work requirements.--

19 (3) EXEMPTION FROM WORK ACTIVITY REQUIREMENTS.--The
20 following individuals are exempt from work activity
21 requirements:

22 (a) A minor child under age 16, except that a child
23 exempted from this provision shall be subject to the
24 requirements of paragraph (1)(j) ~~(i)(i)~~ and s. 414.125.

25 (7) EXCEPTIONS TO NONCOMPLIANCE PENALTIES.--Unless
26 otherwise provided, the situations listed in this subsection
27 shall constitute exceptions to the penalties for noncompliance
28 with participation requirements, except that these situations
29 do not constitute exceptions to the applicable time limit for
30 receipt of temporary cash assistance:

31

1 (c) Noncompliance related to treatment or remediation
2 of past effects of domestic violence.--An individual who is
3 determined to be unable to comply with the work requirements
4 under this section due to mental or physical impairment
5 related to past incidents of domestic violence may be exempt
6 from work requirements for a specified period pursuant to s.
7 414.028(4)(g), except that such individual shall comply with a
8 plan that specifies alternative requirements that prepare the
9 individual for self-sufficiency while providing for the safety
10 of the individual and the individual's dependents. A
11 participant who is determined to be out of compliance with the
12 alternative requirement plan shall be subject to the penalties
13 under subsection (4). The plan must include counseling or a
14 course of treatment necessary for the individual to resume
15 participation. The need for treatment and the expected
16 duration of such treatment must be verified by a physician
17 licensed under chapter 458 or chapter 459; a psychologist
18 licensed under s. 490.005(1), s. 490.006, or the provision
19 identified as s. 490.013(2) in s. 1, chapter 81-235, Laws of
20 Florida; a therapist as defined in s. 491.003(2) or (6); or a
21 treatment professional who is registered under s. 39.905(1)(g)
22 ~~415.605(1)(g)~~, is authorized to maintain confidentiality under
23 s. 90.5036(1)(d), and has a minimum of 2 years experience at a
24 certified domestic violence center. An exception granted under
25 this paragraph does not constitute an exception from the time
26 limitations on benefits specified under s. 414.105.

27
28 Reviser's note.--Paragraph (3)(a) is amended to
29 conform to the redesignation of s.
30 414.065(1)(i) as s. 414.065(1)(j) by s. 42, ch.
31 97-246, Laws of Florida. Paragraph (7)(c) is

1 amended to conform to the redesignation of s.
2 415.605(1)(g) as s. 39.905(1)(g) by s. 117, ch.
3 98-403, Laws of Florida.

4

5 Section 66. Subsection (1) of section 414.28, Florida
6 Statutes, is amended to read:

7 414.28 Public assistance payments to constitute debt
8 of recipient.--

9 (1) CLAIMS.--The acceptance of public assistance
10 creates a debt of the person accepting assistance, which debt
11 is enforceable only after the death of the recipient. The
12 debt thereby created is enforceable only by claim filed
13 against the estate of the recipient after his or her death or
14 by suit to set aside a fraudulent conveyance, as defined in
15 subsection (3). After the death of the recipient and within
16 the time prescribed by law, the department may file a claim
17 against the estate of the recipient for the total amount of
18 public assistance paid to or for the benefit of such
19 recipient, reimbursement for which has not been made. Claims
20 so filed shall take priority as class 3 claims as provided by
21 s. 733.707(1)(c)~~733.707(1)(g)~~.

22

23 Reviser's note.--Amended to improve clarity and
24 facilitate correct interpretation. Class 3
25 claims are provided for in s. 733.707(1)(c).

26

27 Section 67. Subsection (9) of section 414.39, Florida
28 Statutes, is amended to read:

29 414.39 Fraud.--

30 (9) All records relating to investigations of public
31 assistance fraud in the custody of the department and the

1 Agency for Health Care Administration are available for
2 examination by the Department of Law Enforcement pursuant to
3 s. 943.401 ~~11.50~~ and are admissible into evidence in
4 proceedings brought under this section as business records
5 within the meaning of s. 90.803(6).

6

7 Reviser's note.--Amended to conform to the
8 redesignation of s. 11.50 as s. 943.401 by s.
9 5, ch. 99-333, Laws of Florida.

10

11 Section 68. Subsection (4) of section 415.102, Florida
12 Statutes, is amended to read:

13

14 415.102 Definitions of terms used in ss.

15 415.101-415.113.--As used in ss. 415.101-415.113, the term:

16

17 (4) "Caregiver" means a person who has been entrusted
18 with or has assumed the responsibility for frequent and
19 regular care of or services to a disabled adult or an elderly
20 person on a temporary or permanent basis and who has a
21 commitment, agreement, or understanding with that person or
22 that person's guardian that a caregiver role exists.

23

24 "Caregiver" includes, but is not limited to, relatives,
25 household members, guardians, neighbors, and employees and
26 volunteers of facilities as defined in subsection ~~(15)~~ ~~(13)~~.

27

28 For the purpose of departmental investigative jurisdiction,
29 the term "caregiver" does not include law enforcement officers
30 or employees of municipal or county detention facilities or
31 the Department of Corrections while acting in an official
capacity.

29

30 Reviser's note.--Amended to conform to the
31 redesignation of s. 415.102(13) as s.

1 415.102(15) by s. 1, ch. 98-182, Laws of
2 Florida.

3
4 Section 69. Paragraph (f) of subsection (1) of section
5 415.1055, Florida Statutes, is amended to read:

6 415.1055 Notification to administrative entities,
7 subjects, and reporters; notification to law enforcement and
8 state attorneys.--

9 (1) NOTIFICATION TO ADMINISTRATIVE ENTITIES.--

10 (f) If at any time during a protective investigation
11 the department has reasonable cause to believe that an
12 employee of a facility, as defined in s. 415.102(15)
13 ~~415.102(13)~~, is the alleged perpetrator of abuse, neglect, or
14 exploitation of a disabled adult or an elderly person, the
15 department shall notify the Agency for Health Care
16 Administration, Division of Health Quality Assurance, in
17 writing.

18
19 Reviser's note.--Amended to conform to the
20 redesignation of s. 415.102(13) as s.
21 415.102(15) by s. 1, ch. 98-182, Laws of
22 Florida.

23
24 Section 70. Subsection (8) of section 415.107, Florida
25 Statutes, is amended to read:

26 415.107 Confidentiality of reports and records.--

27 (8) The department, upon receipt of the applicable
28 fee, shall search its central abuse registry and tracking
29 system records pursuant to the requirements of ss. 110.1127,
30 393.0655, 394.457, 397.451, 400.506, 400.509, 400.512,
31 402.305(2)~~402.305(1)~~, 402.3055, 402.313, 409.175, 409.176,

1 and 985.407 for the existence of a confirmed report made on
2 the personnel as defined in the foregoing provisions. The
3 department shall report the existence of any confirmed report
4 and advise the authorized licensing agency, applicant for
5 licensure, or other authorized agency or person of the results
6 of the search and the date of the report. Prior to a search
7 being conducted, the department or its designee shall notify
8 such person that an inquiry will be made. The department shall
9 notify each person for whom a search is conducted of the
10 results of the search upon request.

11

12 Reviser's note.--Amended to conform to the
13 redesignation of s. 402.305(1) as s. 402.305(2)
14 by s. 2, ch. 91-300, Laws of Florida.

15

16 Section 71. Section 415.1102, Florida Statutes, is
17 reenacted to read:

18 415.1102 Adult protection teams; services; eligible
19 cases.--Subject to an appropriation, the department may
20 develop, maintain, and coordinate the services of one or more
21 multidisciplinary adult protection teams in each of the
22 districts of the department. Such teams may be composed of,
23 but need not be limited to, representatives of appropriate
24 health, mental health, social service, legal service, and law
25 enforcement agencies.

26 (1) The department shall utilize and convene the teams
27 to supplement the protective services activities of the adult
28 protective services program of the department. This section
29 does not prevent a person from reporting under s. 415.1034 all
30 suspected or known cases of abuse, neglect, or exploitation of
31 a disabled adult or an elderly person. The role of the teams

1 is to support activities of the adult protective services
2 program and to provide services deemed by the teams to be
3 necessary and appropriate to abused, neglected, and exploited
4 disabled adults or elderly persons upon referral. Services
5 must be provided with the consent of the disabled adult, or
6 elderly person or that person's guardian, or through court
7 order. The specialized diagnostic assessment, evaluation,
8 coordination, and other supportive services that an adult
9 protection team must be capable of providing include, but are
10 not limited to:

11 (a) Medical diagnosis and evaluation services,
12 including provision or interpretation of X rays and laboratory
13 tests, and related services, as needed, and documentation of
14 findings relative thereto.

15 (b) Telephone consultation services in emergencies and
16 in other situations.

17 (c) Medical evaluation related to abuse, neglect, or
18 exploitation as defined by department policy or rule.

19 (d) Psychological and psychiatric diagnosis and
20 evaluation services for the disabled adult or elderly person.

21 (e) Short-term psychological treatment. It is the
22 intent of the Legislature that short-term psychological
23 treatment be limited to no more than 6 months' duration after
24 treatment is initiated.

25 (f) Expert medical, psychological, and related
26 professional testimony in court cases.

27 (g) Case staffings to develop, implement, and monitor
28 treatment plans for disabled adults and elderly persons whose
29 cases have been referred to the team. An adult protection
30 team may provide consultation with respect to a disabled adult
31 or elderly person who has not been referred to the team. The

1 consultation must be provided at the request of a
2 representative of the adult protective services program or at
3 the request of any other professional involved with the
4 disabled adult or elderly person or that person's guardian or
5 other caregivers. In every such adult protection team case
6 staffing consultation or staff activity involving a disabled
7 adult or elderly person, an adult protective services program
8 representative shall attend and participate.

9 (h) Service coordination and assistance, including the
10 location of services available from other public and private
11 agencies in the community.

12 (i) Such training services for program and other
13 department employees as is deemed appropriate to enable them
14 to develop and maintain their professional skills and
15 abilities in handling adult abuse, neglect, or exploitation
16 cases.

17 (j) Education and community awareness campaigns on
18 adult abuse, neglect, or exploitation in an effort to enable
19 citizens to prevent, identify, and treat adult abuse, neglect,
20 and exploitation in the community more successfully.

21 (2) The adult abuse, neglect, or exploitation cases
22 that are appropriate for referral by the adult protective
23 services program to adult protection teams for supportive
24 services include, but are not limited to, cases involving:

25 (a) Unexplained or implausibly explained bruises,
26 burns, fractures, or other injuries in a disabled adult or an
27 elderly person.

28 (b) Sexual abuse or molestation, or sexual
29 exploitation, of a disabled adult or elderly person.

30 (c) Reported medical, physical, or emotional neglect
31 of a disabled adult or an elderly person.

1 (d) Reported financial exploitation of a disabled
2 adult or elderly person.

3

4 In all instances in which an adult protection team is
5 providing certain services to abused, neglected, or exploited
6 disabled adults or elderly persons, other offices and units of
7 the department shall avoid duplicating the provisions of those
8 services.

9

10 Reviser's note.--Section 6, ch. 98-182, Laws of
11 Florida, purported to amend paragraph (2)(c),
12 but failed to republish the flush left language
13 at the end of the section. In the absence of
14 affirmative evidence that the Legislature
15 intended to repeal the flush left language, s.
16 415.1102 is reenacted to confirm that the
17 omission was not intended.

18

19 Section 72. Subsections (1), (3), and (4) of section
20 420.0004, Florida Statutes, are amended to read:

21 420.0004 Definitions.--As used in this part, unless
22 the context otherwise indicates:

23 (1) "Adjusted for family size" means adjusted in a
24 manner which results in an income eligibility level which is
25 lower for households with fewer than four people, or higher
26 for households with more than four people, than the base
27 income eligibility determined as provided in subsection(9)
28 ~~(6)~~, subsection(10)~~(7)~~, or subsection(14)~~(11)~~, based upon
29 a formula as established by the United States Department of
30 Housing and Urban Development.

31

1 (3) "Affordable" means that monthly rents or monthly
2 mortgage payments including taxes, insurance, and utilities do
3 not exceed 30 percent of that amount which represents the
4 percentage of the median adjusted gross annual income for the
5 households as indicated in subsection~~(9)~~~~(6)~~, subsection~~(10)~~
6 ~~(7)~~, or subsection~~(14)~~~~(11)~~.

7 (4) "Corporation"~~"Agency"~~ means the Florida Housing
8 Finance Corporation ~~Agency~~.

9
10 Reviser's note.--Subsections (1) and (3) are
11 amended to conform to the redesignation of
12 subsection (6), subsection (7), and subsection
13 (11) as subsection (9), subsection (10), and
14 subsection (14), respectively, by s. 13, ch.
15 90-275, Laws of Florida. Subsection (4) is
16 amended to conform to the redesignation of the
17 Florida Housing Finance Agency as the Florida
18 Housing Finance Corporation by s. 7, ch.
19 97-167, Laws of Florida.

20
21 Section 73. Subsections (5), (11), and (13) of section
22 420.102, Florida Statutes, are amended to read:

23 420.102 Definitions.--As used in this part, the
24 following words and terms have the following meanings unless
25 the context indicates another or different meaning or intent:

26 (5) "Development costs" means the costs which have
27 been approved by the Florida Housing Finance Corporation
28 ~~agency~~ as appropriate expenditures, including but not limited
29 to:

30 (a) Legal, organizational, marketing, and
31 administrative expenses;

1 (b) Payment of fees for preliminary feasibility
2 studies and advances for planning, engineering, and
3 architectural work;

4 (c) Expenses for surveys as to need and market
5 analyses;

6 (d) Necessary application and other fees to federal
7 and other government agencies; and

8 (e) Such other expenses as the Florida Housing Finance
9 Corporation ~~agency~~ may deem appropriate to effectuate the
10 purposes of this chapter.

11 (11) "Low-income or moderate-income persons" means
12 families and persons who cannot afford, as defined by federal
13 law, to pay the amounts at which private enterprise is
14 providing a substantial supply of decent, safe, and sanitary
15 housing and fall within income limitations set by the Florida
16 Housing Finance Corporation ~~agency~~ in its rules.

17 (13) "Project" means a specific work or improvement,
18 including land, buildings, improvements, real and personal
19 property, or any interest therein, acquired, owned,
20 constructed, reconstructed, rehabilitated, or improved with
21 the financial assistance of the Florida Housing Finance
22 Corporation ~~agency~~, including the construction of low-income
23 and moderate-income housing facilities and facilities incident
24 or appurtenant thereto, such as streets, sewers, utilities,
25 parks, site preparation, landscaping, and such other
26 administrative, community, and recreational facilities as the
27 Florida Housing Finance Corporation ~~agency~~ determines to be
28 necessary, convenient, or desirable appurtenances.

29

30 Reviser's note.--Amended to conform to the
31 redesignation of the Florida Housing Finance

1 Agency as the Florida Housing Finance
2 Corporation by s. 7, ch. 97-167, Laws of
3 Florida.

4
5 Section 74. Section 420.37, Florida Statutes, is
6 amended to read:

7 420.37 Additional powers of the Florida Housing
8 Finance Corporation ~~agency~~.--The Florida Housing Finance
9 Corporation ~~agency~~ shall have all powers necessary or
10 convenient to carry out and effectuate the purposes of this
11 part, including the power to provide for the collection and
12 payment of fees and charges, regardless of method of payment,
13 including, but not limited to, reimbursement of costs of
14 financing by the corporation ~~agency~~, credit underwriting fees,
15 servicing charges, and insurance premiums determined by the
16 corporation ~~agency~~ to be reasonable and as approved by the
17 corporation ~~agency~~. The fees and charges may be paid directly
18 by the borrower to the insurer, lender, or servicing agent or
19 may be deducted from the payments collected by such insurer,
20 lender, or servicing agent.

21
22 Reviser's note.--Amended to conform to the
23 redesignation of the Florida Housing Finance
24 Agency as the Florida Housing Finance
25 Corporation by s. 7, ch. 97-167, Laws of
26 Florida.

27
28 Section 75. Subsection (30) of section 420.507,
29 Florida Statutes, is amended to read:

30 420.507 Powers of the corporation.--The corporation
31 shall have all the powers necessary or convenient to carry out

1 and effectuate the purposes and provisions of this part,
2 including the following powers which are in addition to all
3 other powers granted by other provisions of this part:

4 (30) To prepare and submit to the secretary of the
5 department a budget request for purposes of the corporation,
6 which request shall, notwithstanding the provisions of chapter
7 216 and in accordance with s. 216.351, contain a request for
8 operational expenditures and separate requests for other
9 authorized corporation programs. The request shall not be
10 required to contain information on the number of employees,
11 salaries, or any classification thereof, and the approved
12 operating budget therefor need not comply with s.
13 216.181(8)-(10)~~216.181(7)-(9)~~. The secretary is authorized to
14 include within the department's budget request the
15 corporation's budget request in the form as authorized by this
16 section.

17

18 Reviser's note.--Amended to conform to the
19 redesignation of s. 216.181(7)-(9) as s.
20 216.181(8)-(10) by s. 6, ch. 97-286, Laws of
21 Florida.

22

23 Section 76. Paragraph (a) of subsection (3) and
24 subsection (5) of section 420.508, Florida Statutes, are
25 amended to read:

26 420.508 Special powers; multifamily and single-family
27 projects.--The corporation shall have the special power to:

28 (3)(a) Make and participate in the making of, and
29 contract to make or participate in the making of, mortgage
30 loans for permanent or construction financing to sponsors for
31 the purposes of financing development costs of projects,

1 provided each mortgage loan for a project made by the
2 corporation shall:

3 1. Be evidenced by a properly executed note or other
4 evidence of indebtedness and be secured by a properly recorded
5 mortgage;

6 2. Provide for amortization to pay the mortgage loan
7 in full not later than the expiration of the useful life of
8 the property financed with the proceeds of the mortgage loan
9 as determined by the corporation, and in any event not later
10 than 45 years from the date of the mortgage loan;

11 3. Not exceed such percentage of the development costs
12 as the corporation may determine pursuant to rule and, in any
13 event, not more than 95 percent of the development costs;

14 4. If the mortgage loan is to provide financing for
15 the construction of a project, have each advance thereof
16 secured, insured, or guaranteed in such manner as the
17 corporation determines will reasonably protect its interests
18 and those of the bondholders;

19 5. Have the initial review, approval, and origination
20 process accomplished by a lending institution in accordance
21 with such procedure as the corporation may prescribe, which
22 lending institution shall be paid such fees and charges for
23 its services as the corporation may determine; and

24 6. Be serviced by such lending institution or other
25 private entity engaged in the business of servicing mortgage
26 loans in the state as the corporation shall approve in
27 accordance with such procedures as the corporation may
28 prescribe, which servicer shall be paid such fees and charges
29 for its services as the corporation ~~agency~~ may determine.

30 (5) Establish with a qualified depository meeting the
31 requirements of chapter 280, a separate fund to be known as

1 the "Florida Housing Finance Corporation Fund," to be
2 administered by the corporation in accordance with the
3 purposes of this chapter. All fees collected by the
4 corporation directly from the Federal Government for
5 administration of the United States Department of Housing and
6 Urban Development Section 8 housing program, all annual
7 administrative fees collected by trustees for bond programs
8 and remitted to the corporation, all expense fees related to
9 costs of bond issuance collected by trustees and remitted to
10 the corporation, and all tax credit program fees must be
11 deposited into the fund. The fund shall be utilized for the
12 purposes of the corporation, including payment of
13 administrative expenses. ~~Effective January 1, 1998, all~~
14 ~~amounts held in the Housing Finance Agency Trust Fund~~
15 ~~established pursuant to state law must be transferred to the~~
16 ~~corporation for deposit in the Florida Housing Finance~~
17 ~~Corporation Fund, whereupon the Housing Finance Agency Trust~~
18 ~~Fund must be closed.~~ Expenditures from the Florida Housing
19 Finance Corporation Fund shall not be required to be included
20 in the corporation's budget request or be subject to
21 appropriation by the Legislature.

22

23 Reviser's note.--Paragraph (3)(a) is amended to
24 conform to the redesignation of the Florida
25 Housing Finance Agency as the Florida Housing
26 Finance Corporation by s. 7, ch. 97-167, Laws
27 of Florida. Subsection (5) is amended to delete
28 language that has served its purpose.

29

30 Section 77. Subsection (5) of section 420.524, Florida
31 Statutes, is amended to read:

1 420.524 Definitions.--For the purpose of ss.
2 420.521-420.529, the term:

3 (5) "Student" means any person not living with that
4 person's parent or guardian who is eligible to be claimed by
5 that person's parent or guardian as a dependent under the
6 federal income tax code and who is enrolled on at least a
7 half-time basis in a secondary school, vocational-technical
8 center, community college, college, or university. The term
9 does not include a person participating in an educational or
10 training program approved by the corporation ~~agency~~.

11
12 Reviser's note.--Amended to conform to the
13 redesignation of the Florida Housing Finance
14 Agency as the Florida Housing Finance
15 Corporation by s. 7, ch. 97-167, Laws of
16 Florida.

17
18 Section 78. Paragraph (c) of subsection (2) of section
19 420.525, Florida Statutes, is amended to read:

20 420.525 Housing Predevelopment Fund.--

21 (2) All unencumbered funds, loan repayments, proceeds
22 from the sale of any property, existing funds remaining in the
23 following programs, and any other proceeds that would
24 otherwise accrue pursuant to the activities conducted under
25 this program and the provisions of the following programs
26 shall be deposited in the fund and shall not revert to the
27 General Revenue Fund:

28 (c) The Community-Based Organization Loan Program
29 created by the Affordable Housing Planning and Community
30 Assistance Act ~~Florida Affordable Housing Act of 1986~~.

31

1 Reviser's note.--Amended to conform to the
2 redesignation of the Florida Affordable Housing
3 Act of 1986 as the Affordable Housing Planning
4 and Community Assistance Act by s. 27, ch.
5 92-317, Laws of Florida.

6
7 Section 79. Subsection (1) of section 420.602, Florida
8 Statutes, is amended to read:

9 420.602 Definitions.--As used in this part, the
10 following terms shall have the following meanings, unless the
11 context otherwise requires:

12 (1) "Adjusted for family size" means adjusted in a
13 manner which results in an income eligibility level which is
14 lower for households with fewer than four people, or higher
15 for households with more than four people, than the base
16 income eligibility level determined as provided in subsection
17 (8), subsection (9), or subsection (12), based upon a formula
18 as established by rule of the corporation ~~agency~~.

19
20 Reviser's note.--Amended to conform to the
21 redesignation of the Florida Housing Finance
22 Agency as the Florida Housing Finance
23 Corporation by s. 7, ch. 97-167, Laws of
24 Florida.

25
26 Section 80. Subsection (3) of section 420.609, Florida
27 Statutes, is amended to read:

28 420.609 Affordable Housing Study Commission.--Because
29 the Legislature firmly supports affordable housing in Florida
30 for all economic classes:

31

1 (3) The department and the corporation ~~agency~~ shall
2 supply such information, assistance, and facilities as are
3 deemed necessary for the commission to carry out its duties
4 under this section and shall provide such staff assistance as
5 is necessary for the performance of required clerical and
6 administrative functions of the commission.

7
8 Reviser's note.--Amended to conform to the
9 redesignation of the Florida Housing Finance
10 Agency as the Florida Housing Finance
11 Corporation by s. 7, ch. 97-167, Laws of
12 Florida.

13
14 Section 81. Paragraph (a) of subsection (2) of section
15 420.9072, Florida Statutes, is amended to read:

16 420.9072 State Housing Initiatives Partnership
17 Program.--The State Housing Initiatives Partnership Program is
18 created for the purpose of providing funds to counties and
19 eligible municipalities as an incentive for the creation of
20 local housing partnerships, to expand production of and
21 preserve affordable housing, to further the housing element of
22 the local government comprehensive plan specific to affordable
23 housing, and to increase housing-related employment.

24 (2)(a) To be eligible to receive funds under the
25 program, a county or eligible municipality must:

26 1. Submit to the corporation its local housing
27 assistance plan describing the local housing assistance
28 strategies established pursuant to s. 420.9075;

29 2. Within 12 months after adopting the local housing
30 assistance plan, amend the plan to incorporate the local
31

1 housing incentive strategies defined in s. 420.9071(16) and
2 described in s. 420.9076 ~~420.7096~~; and

3 3. Within 24 months after adopting the amended local
4 housing assistance plan to incorporate the local housing
5 incentive strategies, amend its land development regulations
6 or establish local policies and procedures, as necessary, to
7 implement the local housing incentive strategies adopted by
8 the local governing body. A county or an eligible municipality
9 that has adopted a housing incentive strategy pursuant to s.
10 420.9076 before the effective date of this act shall review
11 the status of implementation of the plan according to its
12 adopted schedule for implementation and report its findings in
13 the annual report required by s. 420.9075(9). If as a result
14 of the review, a county or an eligible municipality determines
15 that the implementation is complete and in accordance with its
16 schedule, no further action is necessary. If a county or an
17 eligible municipality determines that implementation according
18 to its schedule is not complete, it must amend its land
19 development regulations or establish local policies and
20 procedures, as necessary, to implement the housing incentive
21 plan within 12 months after the effective date of this act, or
22 if extenuating circumstances prevent implementation within 12
23 months, pursuant to s. 420.9075(12), enter into an extension
24 agreement with the corporation.

25
26 Reviser's note.--Amended to correct an apparent
27 error. Section 420.7096 does not exist. Section
28 420.9076 relates to affordable housing
29 incentive strategies.

30
31

1 Section 82. Subsections (1) and (2) of section
2 420.9073, Florida Statutes, are amended to read:

3 420.9073 Local housing distributions.--

4 (1) Distributions calculated in this section shall be
5 disbursed on a monthly basis by the corporation ~~agency~~
6 beginning the first day of the month after program approval
7 pursuant to s. 420.9072. Each county's share of the funds to
8 be distributed from the portion of the funds in the Local
9 Government Housing Trust Fund received pursuant to s.
10 201.15(6) shall be calculated by the corporation ~~agency~~ for
11 each fiscal year as follows:

12 (a) Each county other than a county that has
13 implemented the provisions of chapter 83-220, Laws of Florida,
14 as amended by chapters 84-270, 86-152, and 89-252, Laws of
15 Florida, shall receive the guaranteed amount for each fiscal
16 year.

17 (b) Each county other than a county that has
18 implemented the provisions of chapter 83-220, Laws of Florida,
19 as amended by chapters 84-270, 86-152, and 89-252, Laws of
20 Florida, may receive an additional share calculated as
21 follows:

22 1. Multiply each county's percentage of the total
23 state population excluding the population of any county that
24 has implemented the provisions of chapter 83-220, Laws of
25 Florida, as amended by chapters 84-270, 86-152, and 89-252,
26 Laws of Florida, by the total funds to be distributed.

27 2. If the result in subparagraph 1. is less than the
28 guaranteed amount as determined in subsection (3), that
29 county's additional share shall be zero.

30 3. For each county in which the result in subparagraph
31 1. is greater than the guaranteed amount as determined in

1 subsection (3), the amount calculated in subparagraph 1. shall
2 be reduced by the guaranteed amount. The result for each such
3 county shall be expressed as a percentage of the amounts so
4 determined for all counties. Each such county shall receive
5 an additional share equal to such percentage multiplied by the
6 total funds received by the Local Government Housing Trust
7 Fund pursuant to s. 201.15(6) reduced by the guaranteed amount
8 paid to all counties.

9 (2) Effective July 1, 1995, distributions calculated
10 in this section shall be disbursed on a monthly basis by the
11 corporation ~~agency~~ beginning the first day of the month after
12 program approval pursuant to s. 420.9072. Each county's share
13 of the funds to be distributed from the portion of the funds
14 in the Local Government Housing Trust Fund received pursuant
15 to s. 201.15(7) shall be calculated by the corporation ~~agency~~
16 for each fiscal year as follows:

17 (a) Each county shall receive the guaranteed amount
18 for each fiscal year.

19 (b) Each county may receive an additional share
20 calculated as follows:

21 1. Multiply each county's percentage of the total
22 state population, by the total funds to be distributed.

23 2. If the result in subparagraph 1. is less than the
24 guaranteed amount as determined in subsection (3), that
25 county's additional share shall be zero.

26 3. For each county in which the result in subparagraph
27 1. is greater than the guaranteed amount, the amount
28 calculated in subparagraph 1. shall be reduced by the
29 guaranteed amount. The result for each such county shall be
30 expressed as a percentage of the amounts so determined for all
31 counties. Each such county shall receive an additional share

1 equal to this percentage multiplied by the total funds
2 received by the Local Government Housing Trust Fund pursuant
3 to s. 201.15(7) as reduced by the guaranteed amount paid to
4 all counties.

5

6 Reviser's note.--Amended to conform to the
7 redesignation of the Florida Housing Finance
8 Agency as the Florida Housing Finance
9 Corporation by s. 7, ch. 97-167, Laws of
10 Florida.

11

12 Section 83. Effective July 1, 2001, subsections (1)
13 and (2) of section 420.9073, Florida Statutes, as amended by
14 section 49 of chapter 99-247, Laws of Florida, are amended to
15 read:

16 420.9073 Local housing distributions.--

17 (1) Distributions calculated in this section shall be
18 disbursed on a monthly basis by the corporation ~~agency~~
19 beginning the first day of the month after program approval
20 pursuant to s. 420.9072. Each county's share of the funds to
21 be distributed from the portion of the funds in the Local
22 Government Housing Trust Fund received pursuant to s.
23 201.15(9) shall be calculated by the corporation ~~agency~~ for
24 each fiscal year as follows:

25 (a) Each county other than a county that has
26 implemented the provisions of chapter 83-220, Laws of Florida,
27 as amended by chapters 84-270, 86-152, and 89-252, Laws of
28 Florida, shall receive the guaranteed amount for each fiscal
29 year.

30 (b) Each county other than a county that has
31 implemented the provisions of chapter 83-220, Laws of Florida,

1 as amended by chapters 84-270, 86-152, and 89-252, Laws of
2 Florida, may receive an additional share calculated as
3 follows:

4 1. Multiply each county's percentage of the total
5 state population excluding the population of any county that
6 has implemented the provisions of chapter 83-220, Laws of
7 Florida, as amended by chapters 84-270, 86-152, and 89-252,
8 Laws of Florida, by the total funds to be distributed.

9 2. If the result in subparagraph 1. is less than the
10 guaranteed amount as determined in subsection (3), that
11 county's additional share shall be zero.

12 3. For each county in which the result in subparagraph
13 1. is greater than the guaranteed amount as determined in
14 subsection (3), the amount calculated in subparagraph 1. shall
15 be reduced by the guaranteed amount. The result for each such
16 county shall be expressed as a percentage of the amounts so
17 determined for all counties. Each such county shall receive
18 an additional share equal to such percentage multiplied by the
19 total funds received by the Local Government Housing Trust
20 Fund pursuant to s. 201.15(9) reduced by the guaranteed amount
21 paid to all counties.

22 (2) Effective July 1, 1995, distributions calculated
23 in this section shall be disbursed on a monthly basis by the
24 corporation ~~agency~~ beginning the first day of the month after
25 program approval pursuant to s. 420.9072. Each county's share
26 of the funds to be distributed from the portion of the funds
27 in the Local Government Housing Trust Fund received pursuant
28 to s. 201.15(10) shall be calculated by the corporation ~~agency~~
29 for each fiscal year as follows:

30 (a) Each county shall receive the guaranteed amount
31 for each fiscal year.

1 (b) Each county may receive an additional share
2 calculated as follows:

3 1. Multiply each county's percentage of the total
4 state population, by the total funds to be distributed.

5 2. If the result in subparagraph 1. is less than the
6 guaranteed amount as determined in subsection (3), that
7 county's additional share shall be zero.

8 3. For each county in which the result in subparagraph
9 1. is greater than the guaranteed amount, the amount
10 calculated in subparagraph 1. shall be reduced by the
11 guaranteed amount. The result for each such county shall be
12 expressed as a percentage of the amounts so determined for all
13 counties. Each such county shall receive an additional share
14 equal to this percentage multiplied by the total funds
15 received by the Local Government Housing Trust Fund pursuant
16 to s. 201.15(10) as reduced by the guaranteed amount paid to
17 all counties.

18
19 Reviser's note.--Amended to conform to the
20 redesignation of the Florida Housing Finance
21 Agency as the Florida Housing Finance
22 Corporation by s. 7, ch. 97-167, Laws of
23 Florida.

24
25 Section 84. Subsection (2) of section 421.10, Florida
26 Statutes, is amended to read:

27 421.10 Rentals and tenant selection.--

28 (2) Nothing contained in this section or s. 421.09,
29 shall be construed as limiting the power of an authority to
30 vest in an obligee the right, in the event of a default by the
31 authority, to take possession of a housing project or cause

1 the appointment of a receiver thereof, free from all the
2 restrictions imposed by this section or s. 421.09 ~~the~~
3 ~~preceding section~~.

4
5 Reviser's note.--Amended to conform to the
6 codification of s. 9, ch. 17981, 1937, Laws of
7 Florida, as s. 421.09. Section 421.10 was
8 enacted by s. 10, ch. 17981, 1937, and included
9 the reference to "the preceding section."

10
11 Section 85. Section 421.33, Florida Statutes, is
12 amended to read:

13 421.33 Housing applications by farmers.--The owner of
14 any farm operated, or worked upon, by farmers of low income in
15 need of safe and sanitary housing may file an application with
16 a housing authority created for a county or a regional housing
17 authority requesting that it provide for a safe and sanitary
18 dwelling or dwellings for occupancy by such farmers of low
19 income. Such applications shall be received and examined by
20 housing authorities in connection with the formulation of
21 projects or programs to provide housing for farmers of low
22 income. Provided, however, that if it becomes necessary for an
23 applicant under this section ~~paragraph~~ to convey any portion
24 of the applicant's then homestead in order to take advantages
25 as provided herein, then in that event, the parting with title
26 to a portion of said homestead shall not affect the remaining
27 portion of same, but all rights that said owner may have in
28 and to same under and by virtue of the Constitution of the
29 state or any law passed pursuant thereto, shall be deemed and
30 held to apply to such remaining portion of said land, the
31 title of which remains in said applicant; it being the

1 intention of the Legislature to permit the owner of any farm
2 operated or worked upon by farmers of low income in need of
3 safe and sanitary housing to take advantage of the provisions
4 of this law without jeopardizing their rights in their then
5 homestead by reason of any requirement that may be necessary
6 in order for them to receive the benefits herein provided; and
7 no court shall ever construe that an applicant who has taken
8 advantage of this law has in any manner, shape or form
9 abandoned his or her rights in any property that is the
10 applicant's then homestead by virtue of such action upon his
11 or her part, but it shall be held, construed and deemed that
12 such action upon the part of any applicant hereunder was not
13 any abandonment of the applicant's then homestead, and that
14 all rights that the applicant then had therein shall be and
15 remain as provided by the Constitution and any law enacted
16 pursuant thereto.

17

18 Reviser's note.--Amended to improve clarity and
19 facilitate correct interpretation. Section
20 421.33 is not divided into paragraphs.

21

22 Section 86. Paragraph (i) of subsection (1) of section
23 430.502, Florida Statutes, is amended to read:

24 430.502 Alzheimer's disease; memory disorder clinics
25 and day care and respite care programs.--

26 (1) There is established:

27 (i) A memory disorder clinic at Tallahassee Memorial
28 Healthcare ~~Regional Medical Center~~;

29

30 for the purpose of conducting research and training in a
31 diagnostic and therapeutic setting for persons suffering from

1 Alzheimer's disease and related memory disorders. However,
2 memory disorder clinics funded as of June 30, 1995, shall not
3 receive decreased funding due solely to subsequent additions
4 of memory disorder clinics in this subsection.

5

6 Reviser's note.--Amended to conform to the
7 current name of the hospital.

8

9 Section 87. Paragraph (z) of subsection (2) and
10 paragraph (a) of subsection (3) of section 435.03, Florida
11 Statutes, are amended to read:

12 435.03 Level 1 screening standards.--

13 (2) Any person for whom employment screening is
14 required by statute must not have been found guilty of,
15 regardless of adjudication, or entered a plea of nolo
16 contendere or guilty to, any offense prohibited under any of
17 the following provisions of the Florida Statutes or under any
18 similar statute of another jurisdiction:

19 (z) Former s. Section 827.05, relating to negligent
20 treatment of children.

21 (3) Standards must also ensure that the person:

22 (a) For employees and employers licensed or registered
23 pursuant to chapter 400, does not have a confirmed report of
24 abuse, neglect, or exploitation as defined in s. 415.102(6)
25 ~~415.102(5)~~, which has been uncontested or upheld under s.
26 415.103.

27

28 Reviser's note.--Paragraph (2)(z) is amended to
29 improve clarity and facilitate correct
30 interpretation. Section 827.05 was repealed by
31 s. 11, ch. 96-322, Laws of Florida, and by s.

1 31, ch. 96-388, Laws of Florida. Paragraph
2 (3)(a) is amended to conform to the
3 redesignation of s. 415.102(5) as s. 415.102(6)
4 by s. 94, ch. 95-418, Laws of Florida.
5

6 Section 88. Paragraph (ee) of subsection (2) and
7 paragraph (a) of subsection (3) of section 435.04, Florida
8 Statutes, are amended to read:

9 435.04 Level 2 screening standards.--

10 (2) The security background investigations under this
11 section must ensure that no persons subject to the provisions
12 of this section have been found guilty of, regardless of
13 adjudication, or entered a plea of nolo contendere or guilty
14 to, any offense prohibited under any of the following
15 provisions of the Florida Statutes or under any similar
16 statute of another jurisdiction:

17 (ee) Former s.~~Section~~ 827.05, relating to negligent
18 treatment of children.

19 (3) Standards must also ensure that the person:

20 (a) For employees or employers licensed or registered
21 pursuant to chapter 400, does not have a confirmed report of
22 abuse, neglect, or exploitation as defined in s. 415.102(6)
23 ~~415.102(5)~~, which has been uncontested or upheld under s.
24 415.103.
25

26 Reviser's note.--Paragraph (2)(ee) is amended
27 to improve clarity and facilitate correct
28 interpretation. Section 827.05 was repealed by
29 s. 11, ch. 96-322, Laws of Florida, and by s.
30 31, ch. 96-388, Laws of Florida. Paragraph
31 (3)(a) is amended to conform to the

1 redesignation of s. 415.102(5) as s. 415.102(6)
2 by s. 94, ch. 95-418, Laws of Florida.

3
4 Section 89. Paragraph (d) of subsection (23) and
5 subsection (33) of section 440.02, Florida Statutes, are
6 amended to read:

7 440.02 Definitions.--When used in this chapter, unless
8 the context clearly requires otherwise, the following terms
9 shall have the following meanings:

10 (23) "Self-insurer" means:

11 (d) A public utility as defined in s. 364.02 or s.
12 366.02 that has assumed by contract the liabilities of
13 contractors or subcontractors pursuant to s. 624.46225
14 ~~440.571~~; or

15 (33) "Insolvent member" means an individual
16 self-insurer which is a member of the Florida Self-Insurers
17 Guaranty Association, Incorporated, or which was a member and
18 has withdrawn pursuant to s. 440.385(1)(b), and which has been
19 found insolvent, as defined in subparagraph (34)(a)1.,
20 subparagraph (34)(a)2., or subparagraph (34)(a)3.~~paragraph~~
21 ~~(34)(a), paragraph (34)(b), or paragraph (34)(c),~~ by a court
22 of competent jurisdiction in this or any other state, or meets
23 the definition of subparagraph (34)(a)4.~~paragraph (34)(d).~~

24
25 Reviser's note.--Paragraph (23)(d) is amended
26 to conform to the redesignation of s. 440.571
27 as s. 624.46225 by s. 81, ch. 93-415, Laws of
28 Florida. Subsection (33) is amended to conform
29 to the redesignation of paragraphs (31)(a),
30 (b), (c), and (d) as subparagraphs (31)(a)1.,
31 2., 3., and 4. by s. 2, ch. 93-415, and the

1 further redesignation of subsection (31) as
2 subsection (34) by s. 1, ch. 98-174, Laws of
3 Florida.

4

5 Section 90. Section 440.021, Florida Statutes, is
6 amended to read:

7 440.021 Exemption of workers' compensation from
8 chapter 120.--Workers' compensation adjudications by judges of
9 compensation claims are exempt from chapter 120, and no judge
10 of compensation claims shall be considered an agency or a part
11 thereof. Communications of the result of investigations by the
12 division pursuant to s. 440.185(4) are exempt from chapter
13 120. In all instances in which the division institutes action
14 to collect a penalty or interest which may be due pursuant to
15 this chapter, the penalty or interest shall be assessed
16 without hearing, and the party against which such penalty or
17 interest is assessed shall be given written notice of such
18 assessment and shall have the right to protest within 20 days
19 of such notice. Upon receipt of a timely notice of protest and
20 after such investigation as may be necessary, the division
21 shall, if it agrees with such protest, notify the protesting
22 party that the assessment has been revoked. If the division
23 does not agree with the protest, it shall refer the matter to
24 the judge of compensation claims for determination pursuant to
25 s. 440.25(2)-(5)~~440.25(3) and (4)~~. Such action of the
26 division is exempt from the provisions of chapter 120.

27

28 Reviser's note.--Amended to conform to the
29 redesignation of s. 440.25(3) and (4) as s.
30 440.25(2)-(5) by s. 30, ch. 93-415, Laws of
31 Florida.

1 Section 91. Subsection (4) of section 440.14, Florida
2 Statutes, is amended to read:

3 440.14 Determination of pay.--

4 (4) Upon termination of the employee or upon
5 termination of the payment of fringe benefits of any employee
6 who is collecting indemnity benefits pursuant to s. 440.15(2)
7 or (3)(b), the employer shall within 7 days of such
8 termination file a corrected 13-week wage statement reflecting
9 the wages paid and the fringe benefits that had been paid to
10 the injured employee as defined in s. 440.02(27)~~440.02(21)~~.

11
12 Reviser's note.--Amended to conform to the
13 redesignation of s. 440.02(21) as s. 440.02(23)
14 by s. 3, ch. 89-289, Laws of Florida; further
15 redesignation as s. 440.02(24) by s. 9, ch.
16 90-201, Laws of Florida; and further
17 redesignation as s. 440.02(27) by s. 1, ch.
18 98-174, Laws of Florida.

19
20 Section 92. Paragraph (f) of subsection (1), paragraph
21 (c) of subsection (2), and paragraph (c) of subsection (10) of
22 section 440.15, Florida Statutes, are amended to read:

23 440.15 Compensation for disability.--Compensation for
24 disability shall be paid to the employee, subject to the
25 limits provided in s. 440.12(2), as follows:

26 (1) PERMANENT TOTAL DISABILITY.--

27 (f)1. If permanent total disability results from
28 injuries that occurred subsequent to June 30, 1955, and for
29 which the liability of the employer for compensation has not
30 been discharged under s. 440.20(11)~~440.20(12)~~, the injured
31 employee shall receive additional weekly compensation benefits

1 equal to 5 percent of her or his weekly compensation rate, as
2 established pursuant to the law in effect on the date of her
3 or his injury, multiplied by the number of calendar years
4 since the date of injury. The weekly compensation payable and
5 the additional benefits payable under this paragraph, when
6 combined, may not exceed the maximum weekly compensation rate
7 in effect at the time of payment as determined pursuant to s.
8 440.12(2). Entitlement to these supplemental payments shall
9 cease at age 62 if the employee is eligible for social
10 security benefits under 42 U.S.C. ss. 402 and 423, whether or
11 not the employee has applied for such benefits. These
12 supplemental benefits shall be paid by the division out of the
13 Workers' Compensation Administration Trust Fund when the
14 injury occurred subsequent to June 30, 1955, and before July
15 1, 1984. These supplemental benefits shall be paid by the
16 employer when the injury occurred on or after July 1, 1984.
17 Supplemental benefits are not payable for any period prior to
18 October 1, 1974.

19 2.a. The division shall provide by rule for the
20 periodic reporting to the division of all earnings of any
21 nature and social security income by the injured employee
22 entitled to or claiming additional compensation under
23 subparagraph 1. Neither the division nor the employer or
24 carrier shall make any payment of those additional benefits
25 provided by subparagraph 1. for any period during which the
26 employee willfully fails or refuses to report upon request by
27 the division in the manner prescribed by such rules.

28 b. The division shall provide by rule for the periodic
29 reporting to the employer or carrier of all earnings of any
30 nature and social security income by the injured employee
31 entitled to or claiming benefits for permanent total

1 disability. The employer or carrier is not required to make
2 any payment of benefits for permanent total disability for any
3 period during which the employee willfully fails or refuses to
4 report upon request by the employer or carrier in the manner
5 prescribed by such rules or if any employee who is receiving
6 permanent total disability benefits refuses to apply for or
7 cooperate with the employer or carrier in applying for social
8 security benefits.

9 3. When an injured employee receives a full or partial
10 lump-sum advance of the employee's permanent total disability
11 compensation benefits, the employee's benefits under this
12 paragraph shall be computed on the employee's weekly
13 compensation rate as reduced by the lump-sum advance.

14 (2) TEMPORARY TOTAL DISABILITY.--

15 (c) Temporary total disability benefits paid pursuant
16 to this subsection shall include such period as may be
17 reasonably necessary for training in the use of artificial
18 members and appliances, and shall include such period as the
19 employee may be receiving training and education under a
20 program pursuant to s. 440.49(1). Notwithstanding s. 440.02(9)
21 ~~440.02(8)~~, the date of maximum medical improvement for
22 purposes of paragraph (3)(b) shall be no earlier than the last
23 day for which such temporary disability benefits are paid.

24 (10) EMPLOYEE ELIGIBLE FOR BENEFITS UNDER THIS CHAPTER
25 AND FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE
26 ACT.--

27 (c) No disability compensation benefits payable for
28 any week, including those benefits provided by paragraph
29 (1)(f)(1)(e), shall be reduced pursuant to this subsection
30 until the Social Security Administration determines the amount
31 otherwise payable to the employee under 42 U.S.C. ss. 402 and

1 423 and the employee has begun receiving such social security
2 benefit payments. The employee shall, upon demand by the
3 division, the employer, or the carrier, authorize the Social
4 Security Administration to release disability information
5 relating to her or him and authorize the Division of
6 Unemployment Compensation to release unemployment compensation
7 information relating to her or him, in accordance with rules
8 to be promulgated by the division prescribing the procedure
9 and manner for requesting the authorization and for compliance
10 by the employee. Neither the division nor the employer or
11 carrier shall make any payment of benefits for total
12 disability or those additional benefits provided by paragraph
13 (1)(f)~~(1)(e)~~ for any period during which the employee
14 willfully fails or refuses to authorize the release of
15 information in the manner and within the time prescribed by
16 such rules. The authority for release of disability
17 information granted by an employee under this paragraph shall
18 be effective for a period not to exceed 12 months, such
19 authority to be renewable as the division may prescribe by
20 rule.

21

22 Reviser's note.--Paragraph (1)(f) is amended to
23 conform to the redesignation of s. 440.20(12)
24 as s. 440.20(11) by s. 26, ch. 93-415, Laws of
25 Florida. Paragraph (2)(c) is amended to conform
26 to the redesignation of s. 440.02(8) as s.
27 440.02(9) by s. 1, ch. 98-174, Laws of Florida.
28 Paragraph (10)(c) is amended to conform to the
29 redesignation of s. 440.15(1)(e) as s.
30 440.15(1)(f) by s. 20, ch. 93-415.

31

1 Section 93. Subsection (7) of section 440.185, Florida
2 Statutes, is amended to read:

3 440.185 Notice of injury or death; reports; penalties
4 for violations.--

5 (7) Every carrier shall file with the division within
6 21 days after the issuance of a policy or contract of
7 insurance such policy information as the division may require,
8 including notice of whether the policy is a minimum premium
9 policy. Notice of cancellation or expiration of a policy as
10 set out in s. 440.42(3)~~440.42(2)~~ shall be mailed to the
11 division in accordance with rules promulgated by the division
12 under chapter 120.

13

14 Reviser's note.--Amended to conform to the
15 redesignation of s. 440.42(2) as s. 440.42(3)
16 by s. 10, ch. 98-174, Laws of Florida.

17

18 Section 94. Subsection (1) of section 440.191, Florida
19 Statutes, is reenacted to read:

20 440.191 Employee Assistance and Ombudsman Office.--

21 (1)(a) In order to effect the self-executing features
22 of the Workers' Compensation Law, this chapter shall be
23 construed to permit injured employees and employers or the
24 employer's carrier to resolve disagreements without undue
25 expense, costly litigation, or delay in the provisions of
26 benefits. It is the duty of all who participate in the
27 workers' compensation system, including, but not limited to,
28 carriers, service providers, health care providers, attorneys,
29 employers, and employees, to attempt to resolve disagreements
30 in good faith and to cooperate with the division's efforts to
31 resolve disagreements between the parties. The division may by

1 rule prescribe definitions that are necessary for the
2 effective administration of this section.

3 (b) An Employee Assistance and Ombudsman Office is
4 created within the Division of Workers' Compensation to inform
5 and assist injured workers, employers, carriers, and health
6 care providers in fulfilling their responsibilities under this
7 chapter. The division may by rule specify forms and procedures
8 for administering requests for assistance provided by this
9 section.

10 (c) The Employee Assistance and Ombudsman Office,
11 Division of Workers' Compensation, shall be a resource
12 available to all employees who participate in the workers'
13 compensation system and shall take all steps necessary to
14 educate and disseminate information to employees and
15 employers.

16
17 Reviser's note.--Section 5, ch. 98-125, Laws of
18 Florida, purported to amend s. 440.191(1), but
19 failed to republish paragraph (1)(c). In the
20 absence of affirmative evidence that the
21 Legislature intended to repeal paragraph
22 (1)(c), subsection (1) is reenacted to confirm
23 that the omission was not intended.

24
25 Section 95. Subsection (3) of section 440.25, Florida
26 Statutes, is amended to read:

27 440.25 Procedures for mediation and hearings.--

28 (3) Such mediation conference shall be conducted
29 informally and does not require the use of formal rules of
30 evidence or procedure. Any information from the files,
31 reports, case summaries, mediator's notes, or other

1 communications or materials, oral or written, relating to a
2 mediation conference under this section obtained by any person
3 performing mediation duties is privileged and confidential and
4 may not be disclosed without the written consent of all
5 parties to the conference. Any research or evaluation effort
6 directed at assessing the mediation program activities or
7 performance must protect the confidentiality of such
8 information. Each party to a mediation conference has a
9 privilege during and after the conference to refuse to
10 disclose and to prevent another from disclosing communications
11 made during the conference whether or not the contested issues
12 are successfully resolved. This subsection and paragraphs
13 (4)(a) and (b) paragraph shall not be construed to prevent or
14 inhibit the discovery or admissibility of any information that
15 is otherwise subject to discovery or that is admissible under
16 applicable law or rule of procedure, except that any conduct
17 or statements made during a mediation conference or in
18 negotiations concerning the conference are inadmissible in any
19 proceeding under this chapter. The Chief Judge shall select a
20 mediator. The mediator shall be employed on a full-time basis
21 by the Office of the Judges of Compensation Claims. A mediator
22 must be a member of The Florida Bar for at least 5 years and
23 must complete a mediation training program approved by the
24 Chief Judge. Adjunct mediators may be employed by the Office
25 of the Judges of Compensation Claims on an as-needed basis and
26 shall be selected from a list prepared by the Chief Judge. An
27 adjunct mediator must be independent of all parties
28 participating in the mediation conference. An adjunct mediator
29 must be a member of The Florida Bar for at least 5 years and
30 must complete a mediation training program approved by the
31 Chief Judge. An adjunct mediator shall have access to the

1 office, equipment, and supplies of the judge of compensation
2 claims in each district. In the event both parties agree, the
3 results of the mediation conference shall be binding and
4 neither party shall have a right to appeal the results. In the
5 event either party refuses to agree to the results of the
6 mediation conference, the results of the mediation conference
7 as well as the testimony, witnesses, and evidence presented at
8 the conference shall not be admissible at any subsequent
9 proceeding on the claim. The mediator shall not be called in
10 to testify or give deposition to resolve any claim for any
11 hearing before the judge of compensation claims. The employer
12 may be represented by an attorney at the mediation conference
13 if the employee is also represented by an attorney at the
14 mediation conference.

15

16 Reviser's note.--Amended to conform to the
17 redesignation of former s. 440.25(3)(b) as s.
18 440.25(3) and (4)(a) and (b) by s. 30, ch.
19 93-415, Laws of Florida.

20

21 Section 96. Paragraphs (d) and (f) of subsection (1)
22 of section 440.38, Florida Statutes, are amended to read:

23 440.38 Security for compensation; insurance carriers
24 and self-insurers.--

25 (1) Every employer shall secure the payment of
26 compensation under this chapter:

27 (d) By entering into an interlocal agreement with
28 other local governmental entities to create a local government
29 pool pursuant to s. 624.4622 ~~440.575~~;

30 (f) By entering into a contract with an individual
31 self-insurer under an approved individual

1 self-insurer-provided self-insurance program as set forth in
2 s. 624.46225 ~~440.571~~. The division may adopt rules to
3 implement this subsection.

4
5 Reviser's note.--Paragraph (1)(d) is amended to
6 conform to the redesignation of s. 440.575 as
7 s. 624.4622 by s. 80, ch. 93-415, Laws of
8 Florida. Paragraph (1)(f) is amended to conform
9 to the redesignation of s. 440.571 as s.
10 624.46225 by s. 81, ch. 93-415.

11
12 Section 97. Paragraph (a) of subsection (1) of section
13 440.385, Florida Statutes, is amended to read:

14 440.385 Florida Self-Insurers Guaranty Association,
15 Incorporated.--

16 (1) CREATION OF ASSOCIATION.--

17 (a) There is created a nonprofit corporation to be
18 known as the "Florida Self-Insurers Guaranty Association,
19 Incorporated," hereinafter referred to as "the association."
20 Upon incorporation of the association, all individual
21 self-insurers as defined in ss. 440.02(23)(a)~~440.02(21)(a)~~
22 and 440.38(1)(b), other than individual self-insurers which
23 are public utilities or governmental entities, shall be
24 members of the association as a condition of their authority
25 to individually self-insure in this state. The association
26 shall perform its functions under a plan of operation as
27 established and approved under subsection (5) and shall
28 exercise its powers and duties through a board of directors as
29 established under subsection (2). The corporation shall have
30 those powers granted or permitted corporations not for profit,
31 as provided in chapter 617.

1 Reviser's note.--Amended to conform to the
2 redesignation of s. 440.02(21)(a) as s.
3 440.02(23)(a) by s. 1, ch. 98-174, Laws of
4 Florida.

5
6 Section 98. Subsections (4) and (5), paragraph (c) of
7 subsection (6), paragraph (e) of subsection (7), and paragraph
8 (b) of subsection (13) of section 440.49, Florida Statutes,
9 are amended to read:

10 440.49 Limitation of liability for subsequent injury
11 through Special Disability Trust Fund.--

12 (4) PERMANENT IMPAIRMENT OR PERMANENT TOTAL
13 DISABILITY, TEMPORARY BENEFITS, MEDICAL BENEFITS, OR ATTENDANT
14 CARE AFTER OTHER PHYSICAL IMPAIRMENT.--

15 (a) Permanent impairment.--If an employee who has a
16 preexisting permanent physical impairment incurs a subsequent
17 permanent impairment from injury or occupational disease
18 arising out of, and in the course of, her or his employment
19 which merges with the preexisting permanent physical
20 impairment to cause a permanent impairment, the employer
21 shall, in the first instance, pay all benefits provided by
22 this chapter; but, subject to the limitations specified in
23 subsection (6), such employer shall be reimbursed from the
24 Special Disability Trust Fund created by subsection (9)~~(8)~~
25 for 50 percent of all impairment benefits which the employer
26 has been required to provide pursuant to s. 440.15(3)(a) as a
27 result of the subsequent accident or occupational disease.

28 (b) Permanent total disability.--If an employee who
29 has a preexisting permanent physical impairment incurs a
30 subsequent permanent impairment from injury or occupational
31 disease arising out of, and in the course of, her or his

1 employment which merges with the preexisting permanent
2 physical impairment to cause permanent total disability, the
3 employer shall, in the first instance, pay all benefits
4 provided by this chapter; but, subject to the limitations
5 specified in subsection (6), such employer shall be reimbursed
6 from the Special Disability Trust Fund created by subsection
7 (9)~~(8)~~for 50 percent of all compensation for permanent total
8 disability.

9 (c) Temporary compensation and medical benefits;
10 aggravation or acceleration of preexisting condition or
11 circumstantial causation.--If an employee who has a
12 preexisting permanent physical impairment experiences an
13 aggravation or acceleration of the preexisting permanent
14 physical impairment as a result of an injury or occupational
15 disease arising out of and in the course of her or his
16 employment, or suffers an injury as a result of a merger as
17 defined in paragraph(2)(c)~~subparagraph (1)(b)2-~~, the employer
18 shall provide all benefits provided by this chapter, but,
19 subject to the limitations specified in subsection (7), the
20 employer shall be reimbursed by the Special Disability Trust
21 Fund created by subsection(9)~~(8)~~for 50 percent of its
22 payments for temporary, medical, and attendant care benefits.

23 (5) WHEN DEATH RESULTS.--If death results from the
24 subsequent permanent impairment contemplated in subsection (4)
25 ~~paragraph (c)~~within 1 year after the subsequent injury, or
26 within 5 years after the subsequent injury when disability has
27 been continuous since the subsequent injury, and it is
28 determined that the death resulted from a merger, the employer
29 shall, in the first instance, pay the funeral expenses and the
30 death benefits prescribed by this chapter; but, subject to the
31 limitations specified in subsection (6), she or he shall be

1 reimbursed from the Special Disability Trust Fund created by
2 subsection (9)~~(8)~~ for the last 50 percent of all compensation
3 allowable and paid for such death and for 50 percent of the
4 amount paid as funeral expenses.

5 (6) EMPLOYER KNOWLEDGE, EFFECT ON REIMBURSEMENT.--

6 (c) An employer's or carrier's right to apportionment
7 or deduction pursuant to ss. 440.02(1), 440.15(5)(b), and
8 440.151(1)(c) does not preclude reimbursement from such fund,
9 except when the merger comes within the definition of
10 paragraph (2)(c)~~subparagraph (2)(b)2.~~ and such apportionment
11 or deduction relieves the employer or carrier from providing
12 the materially and substantially greater permanent disability
13 benefits otherwise contemplated in those paragraphs.

14 (7) REIMBURSEMENT OF EMPLOYER.--

15 (e) For dates of accident on or after January 1, 1994,
16 the Special Disability Trust Fund shall, within 120 days of
17 receipt of notice that a carrier has been required to pay, and
18 has paid over \$10,000 in benefits, serve notice of the
19 acceptance of the claim for reimbursement. Failure of the
20 Special Disability Trust Fund to serve notice of acceptance
21 shall give rise to the right to request a hearing on the claim
22 for reimbursement. If the Special Disability Trust Fund
23 through its representative denies or controverts the claim,
24 the right to such reimbursement shall be barred unless an
25 application for a hearing thereon is filed with the division
26 or administrator at Tallahassee within 60 days after notice to
27 the employer or carrier of such denial or controversion. When
28 such application for a hearing is timely filed, the claim
29 shall be heard and determined in accordance with the procedure
30 prescribed in s. 440.25, to the extent that such procedure is
31 applicable, and in accordance with the workers' compensation

1 rules of procedure. In such proceeding on a claim for
2 reimbursement, the Special Disability Trust Fund shall be made
3 the party respondent, and no findings of fact made with
4 respect to the claim of the injured employee or the dependents
5 for compensation, including any finding made or order entered
6 pursuant to s. 440.20(11)~~440.20(12)~~, shall be res judicata.
7 The Special Disability Trust Fund may not be joined or made a
8 party to any controversy or dispute between an employee and
9 the dependents and the employer or between two or more
10 employers or carriers without the written consent of the fund.

11 (13) SPECIAL DISABILITY TRUST FUND PRIVATIZATION
12 COMMISSION.--

13 (b) Consistent with the closing of the fund provided
14 in subsection (11), the Special Disability Trust Fund
15 Privatization Commission is authorized to contract with an
16 administrator to review, allow, deny, compromise, controvert,
17 and litigate claims of the Special Disability Trust Fund under
18 this section. The commission, in consultation with the
19 division, is authorized to contract with a qualified entity to
20 assume the reimbursement obligations of the Special Disability
21 Trust Fund for claims which have previously been ~~have~~ accepted
22 for reimbursement by the Special Disability Trust Fund and
23 claims which are determined to be reimbursable by the Special
24 Disability Trust Fund. The qualified entity and the
25 administrator shall not be affiliates of the other, and shall
26 not establish or maintain a financial or contractual agreement
27 with each other for purposes of this section. On or before
28 July 1, 1999, the commission, in consultation with the
29 division, may develop and issue a request for proposal for the
30 transfer and assumption of liabilities, and administration of
31 certain functions related to claims of the Special Disability

1 Trust Fund. The administrator shall have experience in
2 workers' compensation claims management of sufficient scope
3 and size to undertake the duties and responsibilities of this
4 section and shall demonstrate the ability to meet the criteria
5 established by the commission, which shall include the ability
6 to substantially reduce the overall costs of reviewing and
7 reimbursing claims, and to settle and extinguish the
8 liabilities of the Special Disability Trust Fund in a more
9 cost-efficient and more timely manner than presently provided
10 by the division. In the event liabilities on the Special
11 Disabilities Trust Fund are transferred to and assumed by a
12 qualified entity, such entity shall provide the state with
13 financial assurance as to the satisfaction of any such
14 liabilities or claims and the state and the Special Disability
15 Trust Fund shall have no further liability with respect to
16 those liabilities and claims. The financial assurances may
17 include, but are not limited to, cash reserves, reinsurance,
18 guarantees, or letters of credit.

19
20 Reviser's note.--Subsections (4) and (5) are
21 amended to conform to the redesignation of
22 subunits of s. 440.49 by s. 43, ch. 93-415,
23 Laws of Florida. Paragraphs (4)(c) and (6)(c)
24 are amended to conform to the definition of
25 "merger" in paragraph (2)(c). Paragraph (7)(e)
26 is amended to conform to the redesignation of
27 s. 440.20(12) as s. 440.20(11) by s. 26, ch.
28 93-415. Paragraph (13)(b) is amended to improve
29 clarity and facilitate correct interpretation.

30
31

1 Section 99. Paragraph (b) of subsection (1) and
2 subsection (5) of section 440.51, Florida Statutes, are
3 amended to read:

4 440.51 Expenses of administration.--

5 (1) The division shall estimate annually in advance
6 the amounts necessary for the administration of this chapter,
7 in the following manner.

8 (b) The total expenses of administration shall be
9 prorated among the insurance companies writing compensation
10 insurance in the state and self-insurers. The net premiums
11 collected by the companies and the amount of premiums a
12 self-insurer would have to pay if insured are the basis for
13 computing the amount to be assessed. This amount may be
14 assessed as a specific amount or as a percentage of net
15 premiums payable as the division may direct, provided such
16 amount so assessed shall not exceed 4 percent of such net
17 premiums. The insurance companies may elect to make the
18 payments required under s. 440.15(1)(f)~~440.15(1)(e)~~ rather
19 than having these payments made by the division. In that
20 event, such payments will be credited to the insurance
21 companies, and the amount due by the insurance company under
22 this section will be reduced accordingly.

23 (5) Any amount so assessed against and paid by an
24 insurance carrier, self-insurer authorized pursuant to s.
25 624.4621 ~~440.57~~, or commercial self-insurance fund authorized
26 under ss. 624.460-624.488 shall be allowed as a deduction
27 against the amount of any other tax levied by the state upon
28 the premiums, assessments, or deposits for workers'
29 compensation insurance on contracts or policies of said
30 insurance carrier, self-insurer, or commercial self-insurance
31 fund.

1 Reviser's note.--Paragraph (1)(b) is amended to
2 conform to the redesignation of s. 440.15(1)(e)
3 as s. 440.15(1)(f) by s. 20, ch. 93-415, Laws
4 of Florida. Subsection (5) is amended to
5 conform to the redesignation of s. 440.57 as s.
6 624.4621 by s. 79, ch. 93-415.

7
8 Section 100. Paragraph (n) of subsection (21) of
9 section 443.036, Florida Statutes, is amended to read:
10 443.036 Definitions.--As used in this chapter, unless
11 the context clearly requires otherwise:

12 (21) EMPLOYMENT.--"Employment," subject to the other
13 provisions of this chapter, means any service performed by an
14 employee for the person employing him or her.

15 (n) Exclusions generally.--The term "employment" does
16 not include:

17 1. Domestic service in a private home, local college
18 club, or local chapter of a college fraternity or sorority,
19 except as provided in paragraph (g).

20 2. Service performed on or in connection with a vessel
21 or aircraft not an American vessel or American aircraft, if
22 the employee is employed on and in connection with such vessel
23 or aircraft when outside the United States.

24 3. Service performed by an individual in, or as an
25 officer or member of the crew of a vessel while it is engaged
26 in, the catching, taking, harvesting, cultivating, or farming
27 of any kind of fish, shellfish, crustacea, sponges, seaweeds,
28 or other aquatic forms of animal and vegetable life, including
29 service performed by any such individual as an ordinary
30 incident to any such activity, except:

31

- 1 a. Service performed in connection with the catching
2 or taking of salmon or halibut for commercial purposes.
- 3 b. Service performed on, or in connection with, a
4 vessel of more than 10 net tons, determined in the manner
5 provided for determining the register tonnage of merchant
6 vessels under the laws of the United States.
- 7 4. Service performed by an individual in the employ of
8 his or her son, daughter, or spouse, including step
9 relationships, and service performed by a child, or stepchild,
10 under the age of 21 in the employ of his or her father or
11 mother, or stepfather or stepmother.
- 12 5. Service performed in the employ of the United
13 States Government or of an instrumentality of the United
14 States which is:
- 15 a. Wholly or partially owned by the United States.
- 16 b. Exempt from the tax imposed by s. 3301 of the
17 Internal Revenue Code by virtue of any provision of federal
18 law which specifically refers to such section, or the
19 corresponding section of prior law, in granting such
20 exemption; except that to the extent that the Congress shall
21 permit states to require any instrumentalities of the United
22 States to make payments into an unemployment fund under a
23 state unemployment compensation law, all of the provisions of
24 this law shall be applicable to such instrumentalities, and to
25 services performed for such instrumentalities, in the same
26 manner, to the same extent, and on the same terms as to all
27 other employers, employing units, individuals, and services.
28 If this state is not certified for any year by the Secretary
29 of Labor under s. 3304 of the federal Internal Revenue Code,
30 the payments required of such instrumentalities with respect
31 to such year shall be refunded by the division from the fund

1 in the same manner and within the same period as is provided
2 in s. 443.141(6) with respect to contributions erroneously
3 collected.

4 6. Service performed in the employ of a state, or any
5 political subdivision thereof, or any instrumentality of any
6 one or more of the foregoing which is wholly owned by one or
7 more states or political subdivisions, except as provided in
8 paragraph (b), and any service performed in the employ of any
9 instrumentality of one or more states or political
10 subdivisions, to the extent that the instrumentality is, with
11 respect to such service, immune under the Constitution of the
12 United States from the tax imposed by s. 3301 of the Internal
13 Revenue Code.

14 7. Service performed in the employ of a corporation,
15 community chest, fund, or foundation, organized and operated
16 exclusively for religious, charitable, scientific, testing for
17 public safety, literary, or educational purposes, or for the
18 prevention of cruelty to children or animals, no part of the
19 net earnings of which inures to the benefit of any private
20 shareholder or individual, no substantial part of the
21 activities of which is carrying on propaganda or otherwise
22 attempting to influence legislation, and which does not
23 participate in, or intervene in (including the publishing or
24 distributing of statements), any political campaign on behalf
25 of any candidate for public office, except as provided in
26 paragraph (c).

27 8. Service with respect to which unemployment
28 compensation is payable under an unemployment compensation
29 system established by an Act of Congress.

30 9.a. Service performed in any calendar quarter in the
31 employ of any organization exempt from income tax under s.

1 501(a) of the Internal Revenue Code, other than an
2 organization described in s. 401(a), or under s. 521, if the
3 remuneration for such service is less than \$50.

4 b. Service performed in the employ of a school,
5 college, or university, if such service is performed by a
6 student who is enrolled and is regularly attending classes at
7 such school, college, or university.

8 10. Service performed in the employ of a foreign
9 government, including service as a consular or other officer
10 or employee of a nondiplomatic representative.

11 11. Service performed in the employ of an
12 instrumentality wholly owned by a foreign government:

13 a. If the service is of a character similar to that
14 performed in foreign countries by employees of the United
15 States Government or of an instrumentality thereof; and

16 b. The Secretary of State shall certify to the
17 Secretary of the Treasury that the foreign government, with
18 respect to whose instrumentality exemption is claimed, grants
19 an equivalent exemption with respect to similar service
20 performed in the foreign country by employees of the United
21 States Government and of instrumentalities thereof.

22 12. Service performed as a student nurse in the employ
23 of a hospital or a nurses' training school by an individual
24 who is enrolled and is regularly attending classes in a
25 nurses' training school chartered or approved pursuant to a
26 state law; service performed as an intern in the employ of a
27 hospital by an individual who has completed a 4-year course in
28 a medical school chartered or approved pursuant to state law;
29 and service performed by a patient of a hospital for such
30 hospital.

31

1 13. Service performed by an individual for a person as
2 an insurance agent or as an insurance solicitor, if all such
3 service performed by such individual for such person is
4 performed for remuneration solely by way of commission, except
5 for such services performed in accordance with 26 U.S.C.S. s.
6 3306(c)(7) and (8). For purposes of this subsection, those
7 benefits excluded from the definition of wages pursuant to
8 subparagraphs (40)(b)2.-6.~~(33)(b)2.-6.~~, inclusive, shall not
9 be considered remuneration.

10 14. Service performed by an individual for a person as
11 a real estate salesperson or agent, if all such service
12 performed by such individual for such person is performed for
13 remuneration solely by way of commission.

14 15. Service performed by an individual under the age
15 of 18 in the delivery or distribution of newspapers or
16 shopping news, not including delivery or distribution to any
17 point for subsequent delivery or distribution.

18 16. Service covered by an arrangement between the
19 division and the agency charged with the administration of any
20 other state or federal unemployment compensation law pursuant
21 to which all services performed by an individual for an
22 employing unit during the period covered by such employing
23 unit's duly approved election are deemed to be performed
24 entirely within such agency's state or under such federal law.

25 17. Service performed by an individual who is enrolled
26 at a nonprofit or public educational institution which
27 normally maintains a regular faculty and curriculum and
28 normally has a regularly organized body of students in
29 attendance at the place where its educational activities are
30 carried on as a student in a full-time program, taken for
31 credit at such institution, which combines academic

1 instruction with work experience, if such service is an
2 integral part of such program, and such institution has so
3 certified to the employer, except that this subparagraph does
4 not apply to service performed in a program established for or
5 on behalf of an employer or group of employers.

6 18. Service performed by an individual for a person as
7 a barber, if all such service performed by such individual for
8 such person is performed for remuneration solely by way of
9 commission.

10 19. Casual labor not in the course of the employer's
11 trade or business.

12 20. Service performed by a speech therapist,
13 occupational therapist, or physical therapist who is
14 nonsalaried and working pursuant to a written contract with a
15 home health agency as defined in s. 400.462.

16 21. Service performed by a direct seller. For purposes
17 of this subparagraph, the term "direct seller" means a person:

18 a.(I) Who is engaged in the trade or business of
19 selling or soliciting the sale of consumer products to buyers
20 on a buy-sell basis or a deposit-commission basis, or on any
21 similar basis, for resale in the home or in any other place
22 that is not a permanent retail establishment; or

23 (II) Who is engaged in the trade or business of
24 selling or soliciting the sale of consumer products in the
25 home or in any other place that is not a permanent retail
26 establishment;

27 b. Substantially all of whose remuneration for
28 services described in sub-subparagraph a., whether or not paid
29 in cash, is directly related to sales or other output, rather
30 than to the number of hours worked; and

31

1 c. Who performs such services pursuant to a written
2 contract with the person for whom the services are performed,
3 which contract provides that the person will not be treated as
4 an employee with respect to such services for federal tax
5 purposes.

6 22. Service performed by a nonresident alien
7 individual for the period he or she is temporarily present in
8 the United States as a nonimmigrant under subparagraph (F) or
9 subparagraph (J) of s. 101(a)(15) of the Immigration and
10 Nationality Act, and which is performed to carry out the
11 purpose specified in subparagraph (F) or subparagraph (J), as
12 the case may be.

13 23. Service performed by an individual for
14 remuneration for a private, for-profit delivery or messenger
15 service, if the individual:

16 a. Is free to accept or reject jobs from the delivery
17 or messenger service and the delivery or messenger service has
18 no control over when the individual works;

19 b. Is remunerated for each delivery, or the
20 remuneration is based on factors that relate to the work
21 performed, including receipt of a percentage of any rate
22 schedule;

23 c. Pays all expenses and the opportunity for profit or
24 loss rests solely with the individual;

25 d. Is responsible for operating costs, including fuel,
26 repairs, supplies, and motor vehicle insurance;

27 e. Determines the method of performing the service,
28 including selection of routes and order of deliveries;

29 f. Is responsible for the completion of a specific job
30 and is liable for any failure to complete that job;

31

1 g. Enters into a contract with the delivery or
2 messenger service which specifies the relationship of the
3 individual to the delivery or messenger service to be that of
4 an independent contractor and not that of an employee; and

5 h. Provides the vehicle used to perform the service.

6 24. Service performed in agricultural labor by an
7 individual who is an alien admitted to the United States to
8 perform service in agricultural labor pursuant to ss.
9 101(a)(15)(H) and 214(c) of the Immigration and Nationality
10 Act.

11 25. Service performed by a person who is an inmate of
12 a penal institution.

13
14 Reviser's note.--Amended to conform to the
15 redesignation of subparagraphs (33)(b)2.-6. of
16 s. 443.036 as subparagraphs (40)(b)2.-6. by s.
17 4, ch. 98-149, Laws of Florida.

18
19 Section 101. Paragraph (b) of subsection (2) of
20 section 443.041, Florida Statutes, is amended to read:

21 443.041 Waiver of rights; fees; privileged
22 communications.--

23 (2) FEES.--

24 (b) An attorney at law representing a claimant for
25 benefits in any district court of appeal of this state or in
26 the Supreme Court of Florida is entitled to counsel fees
27 payable by the division as fixed by the court if the petition
28 for review or appeal is initiated by the claimant and results
29 in a decision awarding more benefits than did the decision
30 from which appeal was taken. The amount of the fee may not
31

1 exceed 50 percent of the regular benefits awarded under s.
2 443.111(5)(a)~~443.111(4)(a)~~ during the benefit year.

3
4 Reviser's note.--Amended to conform to the
5 redesignation of s. 443.111(4)(a) as s.
6 443.111(5)(a) by s. 5, ch. 96-378, Laws of
7 Florida, and s. 21, ch. 96-423, Laws of
8 Florida.

9
10 Section 102. Paragraphs (f), (g), and (h) of
11 subsection (7) of section 443.111, Florida Statutes, are
12 amended to read:

13 443.111 Payment of benefits.--

14 (7) SHORT-TIME COMPENSATION PROGRAM.--

15 (f) Weekly short-time compensation benefit
16 amount.--The weekly short-time compensation benefit amount
17 payable to an individual shall be an amount equal to the
18 product of her or his weekly benefit amount as provided in
19 subsection (3)~~(2)~~ and the ratio of the number of normal
20 weekly hours of work for which the employer would not
21 compensate the individual to the individual's normal weekly
22 hours of work. Such benefit amount, if not a multiple of \$1,
23 shall be rounded downward to the next lower multiple of \$1.

24 (g) Total short-time compensation benefit amount.--No
25 individual shall be paid benefits under this paragraph in any
26 benefit year for more than the maximum entitlement provided in
27 subsection (5)~~(4)~~, nor shall an individual be paid short-time
28 compensation benefits for more than 26 weeks in any benefit
29 year.

30 (h) Effect of short-time compensation benefits
31 relating to the payment of regular and extended benefits.--

1 1. The short-time compensation benefits paid to an
2 individual shall be deducted from the total benefit amount
3 established for that individual as provided in subsection(5)
4 ~~(4)~~.

5 2. An individual who has received all of the
6 short-time compensation or combined unemployment compensation
7 and short-time compensation available in a benefit year shall
8 be considered an exhaustee for purposes of the extended
9 benefits program as provided in subsection(6)~~(5)~~and, if
10 otherwise eligible under those provisions, shall be eligible
11 to receive extended benefits.

12 3. No otherwise eligible individual shall be
13 disqualified from benefits for leaving employment instead of
14 accepting a reduction in hours pursuant to the implementation
15 of an approved plan.

16
17 Reviser's note.--Amended to conform to the
18 redesignation of subunits of s. 443.111 by s.
19 5, ch. 96-378, Laws of Florida, and s. 21, ch.
20 96-423, Laws of Florida.

21
22 Section 103. Subsection (5) of section 443.141,
23 Florida Statutes, is amended to read:

24 443.141 Collection of contributions.--

25 (5) PRIORITIES UNDER LEGAL DISSOLUTION OR
26 DISTRIBUTIONS.--In the event of any distribution of any
27 employer's assets pursuant to an order of any court under the
28 laws of this state, including any receivership, assignment for
29 the benefit of creditors, adjudicated insolvency, composition,
30 administration of estates of decedents, or other similar
31 proceeding, contributions then or thereafter due shall be paid

1 in full prior to all other claims except claims for wages of
2 not more than \$250 to each claimant, earned within 6 months of
3 the commencement of the proceeding, and on a parity with all
4 other tax claims wherever such tax claims have been given
5 priority. In the administration of the estate of any
6 decedent, the filing of notice of lien shall be deemed a
7 proceeding required upon protest of the claim filed by the
8 division for contributions due under this chapter, and such
9 claim shall be allowed by the circuit judge. However, the
10 personal representative of the decedent may by petition to the
11 circuit court object to the validity of the claim of the
12 division, and proceedings shall be had in the circuit court
13 for the determination of the validity of the claim of the
14 division. Further, the bond of the personal representative
15 shall not be discharged until such claim is finally determined
16 by the circuit court; and, when no bond has been given by the
17 personal representative, none of the assets of the estate
18 shall be distributed until such final determination by the
19 circuit court. Upon distribution of the assets of the estate
20 of any decedent, the claim of the division shall have class 8
21 ~~7~~ priority established in s. 733.707(1)(h)~~733.707(1)(g)~~,
22 subject to the above limitations with reference to wages. In
23 the event of any employer's adjudication in bankruptcy,
24 judicially confirmed extension proposal, or composition, under
25 the Federal Bankruptcy Act of 1898, as amended, contributions
26 then or thereafter due shall be entitled to such priority as
27 is provided in s. 64B of that act (U.S.C. Title II, s. 104(b),
28 as amended).

29

30 Reviser's note.--Amended to conform to the
31 redesignation of class 7 priority in s.

1 733.707(1)(g) as class 8 priority in s.
2 733.707(1)(h) by s. 20, ch. 93-208, Laws of
3 Florida.

4
5 Section 104. Paragraph (a) of subsection (3) and
6 paragraph (e) of subsection (6) of section 443.151, Florida
7 Statutes, are amended to read:

8 443.151 Procedure concerning claims.--

9 (3) DETERMINATION.--

10 (a) In general.--An initial determination upon a claim
11 filed pursuant to subsection (2) shall be made promptly by an
12 examiner designated by the division, shall include a statement
13 as to whether and in what amount claimant is entitled to
14 benefits, and, in the event of a denial, shall state the
15 reasons therefor. A determination with respect to the first
16 week of a benefit year shall also include a statement as to
17 whether the claimant has been paid the wages required under s.
18 443.091(1)(f)~~443.091(1)(e)~~and, if so, the first day of the
19 benefit year, the claimant's weekly benefit amount, and the
20 maximum total amount of benefits payable to the claimant with
21 respect to a benefit year. The claimant, the claimant's most
22 recent employing unit, and all employers whose accounts would
23 be charged with benefits pursuant to such determination shall
24 be promptly notified of such initial determination; and such
25 determination shall be final unless within 20 days after the
26 mailing of such notices to the parties' last known addresses,
27 or in the absence of such mailing, within 20 days after the
28 delivery of such notice, appeal or written request for
29 reconsideration is filed by the claimant or other party
30 entitled to such notice.

31 (6) RECOVERY AND RECOUPMENT.--

1 (e) Notwithstanding any other provision of this
2 chapter, any person who has been determined by either this
3 state, a cooperating state agency, the United States Secretary
4 of Labor, or a court of competent jurisdiction to have
5 received any payments under the Trade Act of 1974, as amended,
6 to which the person was not entitled shall have such sum
7 deducted from any regular benefits, as defined in s.
8 443.111(6)(a)5.~~443.111(5)(a)5.~~, payable to her or him under
9 this chapter; except that no single deduction under this
10 paragraph shall exceed 50 percent of the amount otherwise
11 payable. The amounts so deducted shall be paid to the agency
12 which issued the payments under the Trade Act of 1974, as
13 amended, for return to the United States Treasury. However,
14 except for overpayments determined by a court of competent
15 jurisdiction, no deduction may be made under this paragraph
16 until a determination by the state agency or the United States
17 Secretary of Labor has become final.

18
19 Reviser's note.--Paragraph (3)(a) is amended to
20 conform to the redesignation of s.
21 443.091(1)(e) as s. 443.091(1)(f) by s. 3, ch.
22 94-347, Laws of Florida. Paragraph (6)(e) is
23 amended to conform to the redesignation of s.
24 443.111(5)(a)5. as s. 443.111(6)(a)5. by s. 5,
25 ch. 96-378, Laws of Florida, and s. 21, ch.
26 96-423, Laws of Florida.

27
28 Section 105. Subsection (7) and paragraph (a) of
29 subsection (11) of section 443.171, Florida Statutes, are
30 amended to read:

31

1 443.171 Division and commission; powers and duties;
2 rules; advisory council; records and reports.--
3 (7) RECORDS AND REPORTS.--Each employing unit shall
4 keep true and accurate work records, containing such
5 information as the division may prescribe. Such records shall
6 be open to inspection and be subject to being copied by the
7 division at any reasonable time and as often as may be
8 necessary. The division or an appeals referee may require from
9 any employing unit any sworn or unsworn reports, with respect
10 to persons employed by it, deemed necessary for the effective
11 administration of this chapter. However, a state or local
12 governmental agency performing intelligence or
13 counterintelligence functions need not report an employee if
14 the head of such agency has determined that reporting the
15 employee could endanger the safety of the employee or
16 compromise an ongoing investigation or intelligence mission.
17 Information revealing the employing unit's or individual's
18 identity thus obtained from the employing unit or from any
19 individual pursuant to the administration of this chapter,
20 shall, except to the extent necessary for the proper
21 presentation of a claim or upon written authorization of the
22 claimant who has a workers' compensation claim pending, be
23 held confidential and exempt from the provisions of s.
24 119.07(1). Such information shall be available only to public
25 employees in the performance of their public duties, including
26 employees of the Department of Education in obtaining
27 information for the Florida Education and Training Placement
28 Information Program and the Office of Tourism, Trade, and
29 Economic Development ~~Department of Commerce~~ in its
30 administration of the qualified defense contractor tax refund
31 program authorized by s. 288.1045 ~~288.104~~, the qualified

1 target industry business tax refund program authorized by s.
2 288.106. Any claimant, or the claimant's legal representative,
3 at a hearing before an appeals referee or the commission shall
4 be supplied with information from such records to the extent
5 necessary for the proper presentation of her or his claim. Any
6 employee or member of the commission or any employee of the
7 division, or any other person receiving confidential
8 information, who violates any provision of this subsection is
9 guilty of a misdemeanor of the second degree, punishable as
10 provided in s. 775.082 or s. 775.083. However, the division
11 may furnish to any employer copies of any report previously
12 submitted by such employer, upon the request of such employer,
13 and the division is authorized to charge therefor such
14 reasonable fee as the division may by rule prescribe not to
15 exceed the actual reasonable cost of the preparation of such
16 copies. Fees received by the division for copies provided
17 under this subsection shall be deposited to the credit of the
18 Employment Security Administration Trust Fund.

19 (11) STATE-FEDERAL COOPERATION.--

20 (a)1. In the administration of this chapter, the
21 division shall cooperate with the United States Department of
22 Labor to the fullest extent consistent with the provisions of
23 this chapter and shall take such action, through the adoption
24 of appropriate rules, administrative methods, and standards,
25 as may be necessary to secure to this state and its citizens
26 all advantages available under the provisions of the Social
27 Security Act that relate to unemployment compensation, the
28 Federal Unemployment Tax Act, the Wagner-Peyser Act, and the
29 Federal-State Extended Unemployment Compensation Act of 1970,
30 or other federal manpower acts.

31

1 2. In the administration of the provisions in s.
2 443.111(6)~~443.111(5)~~, which are enacted to conform with the
3 requirements of the Federal-State Extended Unemployment
4 Compensation Act of 1970, the division shall take such action
5 as may be necessary to ensure that the provisions are so
6 interpreted and applied as to meet the requirements of such
7 federal act as interpreted by the United States Department of
8 Labor and to secure to this state the full reimbursement of
9 the federal share of extended benefits paid under this chapter
10 that are reimbursable under the federal act.

11 3. The division shall comply with the regulations of
12 the United States Department of Labor relating to the receipt
13 or expenditure by this state of moneys granted under any of
14 such acts; shall make such reports, in such form and
15 containing such information, as the United States Department
16 of Labor may from time to time require; and shall comply with
17 such provisions as the United States Department of Labor may
18 from time to time find necessary to assure the correctness and
19 verification of such reports.

20
21 Reviser's note.--Subsection (7) is amended to
22 conform to the substitution of the Office of
23 Tourism, Trade, and Economic Development for
24 the Department of Commerce for purposes of s.
25 288.106 by s. 44, ch. 96-320, Laws of Florida,
26 and the repeal of s. 288.104 by s. 8, ch.
27 96-348, Laws of Florida, and the enactment of
28 new s. 288.1045 governing the qualified defense
29 contractor tax refund program by s. 1, ch.
30 96-348. Paragraph (11)(a) is amended to conform
31 to the redesignation of s. 443.111(5) as s.

1 443.111(6) by s. 5, ch. 96-378, Laws of
2 Florida, and s. 21, ch. 96-423, Laws of
3 Florida.

4
5 Section 106. Paragraph (a) of subsection (5) of
6 section 443.191, Florida Statutes, is amended to read:

7 443.191 Unemployment Compensation Trust Fund;
8 establishment and control.--

9 (5) MONEY CREDITED UNDER SECTION 903 OF THE SOCIAL
10 SECURITY ACT.--

11 (a) Money credited to the account of this state in the
12 Unemployment Compensation Trust Fund by the Secretary of the
13 Treasury of the United States pursuant to s. 903 of the Social
14 Security Act may not be requisitioned from this state's
15 account or used except for the payment of benefits and for the
16 payment of expenses incurred for the administration of this
17 law. Such money may be requisitioned pursuant to subsection
18 (3) for the payment of benefits. Such money may also be
19 requisitioned and used for the payment of expenses incurred
20 for the administration of this law but only pursuant to a
21 specific appropriation by the Legislature and only if the
22 expenses are incurred and the money is requisitioned after the
23 enactment of an appropriation law which:

- 24 1. Specifies the purposes for which such money is
25 appropriated and the amounts appropriated therefor;
26 2. Limits the period within which such money may be
27 obligated to a period ending not more than 2 years after the
28 date of the enactment of the appropriation law; and
29 3. Limits the amount which may be obligated during any
30 12-month period beginning on July 1 and ending on the next
31 June 30 to an amount which does not exceed the amount by which

1 the aggregate of the amounts credited to the account of this
2 state pursuant to s. 903 of the Social Security Act during the
3 same 12-month period and the 34 preceding 12-month periods,
4 exceeds the aggregate of the amounts obligated for
5 administration and paid out for benefits and charged against
6 the amounts credited to the account of this state during such
7 35 12-month periods.

8 4. Notwithstanding this paragraph ~~subparagraph 1~~,
9 money credited with respect to federal fiscal years 1999,
10 2000, and 2001 shall be used solely for the administration of
11 the unemployment compensation program and such money shall not
12 otherwise be subject to the requirements of this paragraph
13 ~~subparagraph 1~~ when appropriated by the Legislature.

14
15 Reviser's note.--Amended to improve clarity and
16 facilitate correct interpretation and to
17 conform to the reference as specified in
18 federal model language.

19
20 Section 107. Subsections (1) and (9) of section
21 446.22, Florida Statutes, are amended to read:

22 446.22 Definitions.--As used in this act, the
23 following words and phrases shall have the meanings set forth
24 herein, except where the context otherwise requires:

25 (1) "Advisory council" means the State Human Resource
26 Investment ~~Job Training Coordinating~~ Council, as created and
27 described by s. 446.20(2).

28 (9) "Private industry council" means an organization
29 comprised of private businesses, local government, education,
30 welfare agencies, organized labor, and community-based
31 organizations designated by the State Human Resource

1 Investment ~~Job Training Coordinating~~ Council under the federal
2 Job Training Partnership Act to deliver training and
3 educational services to youth and unemployed persons.

4
5 Reviser's note.--Amended to conform to the
6 redesignation of the State Job Training
7 Coordinating Council as the State Human
8 Resource Investment Council by s. 7, ch.
9 96-404, Laws of Florida.

10
11 Section 108. Subsection (3) of section 446.25, Florida
12 Statutes, is amended to read:

13 446.25 Implementation.--

14 (3) The State Human Resource Investment ~~Job Training~~
15 ~~Coordinating~~ Council shall review proposed operational
16 policies and rules associated with the program and shall act
17 as advisory council to this program for the purpose of:

18 (a) Establishing general performance standards in
19 conjunction with the department guidelines.

20 (b) Making recommendations to the department with
21 regard to the establishment of program criteria.

22 (c) Assisting in the development of linkages with
23 potential public and private sector participants in the
24 program.

25 (d) Advising the department of changes to the federal
26 Job Training Partnership Act which may impact this program.

27 (e) Providing for followup studies and evaluating the
28 program in conjunction with the Department of Labor and
29 Employment Security.

30
31

1 Reviser's note.--Amended to conform to the
2 redesignation of the State Job Training
3 Coordinating Council as the State Human
4 Resource Investment Council by s. 7, ch.
5 96-404, Laws of Florida.

6
7 Section 109. Subsection (1) of section 455.01, Florida
8 Statutes, is amended to read:

9 455.01 Definitions.--As used in this part, the term:

10 (1) "Board" means any board or commission, or other
11 statutorily created entity to the extent such entity is
12 authorized to exercise regulatory or rulemaking functions,
13 within the department, including the Florida Real Estate
14 Commission; except that, for ss. 455.201-455.245
15 ~~455.201-455.261~~, "board" means only a board, or other
16 statutorily created entity to the extent such entity is
17 authorized to exercise regulatory or rulemaking functions,
18 within the Division of Certified Public Accounting, the
19 Division of Professions, or the Division of Real Estate.

20
21 Reviser's note.--Amended to conform to the
22 transfer of s. 455.261 to s. 455.707 by s. 94,
23 ch. 97-261, Laws of Florida. The last section
24 of the range, which pertains to professions
25 regulated by the Department of Business and
26 Professional Regulation, is now s. 455.245.
27 Section 455.707 pertains to professions
28 regulated by the Department of Health.

29
30 Section 110. Paragraph (a) of subsection (2) of
31 section 455.557, Florida Statutes, is repealed, and paragraph

1 (b) of subsection (3) and subsections (5), (8), and (9) of
2 that section are amended to read:

3 455.557 Standardized credentialing for health care
4 practitioners.--

5 (3) STANDARDIZED CREDENTIALS VERIFICATION PROGRAM.--

6 (b) The department shall:

7 1. Maintain a complete, current file of core
8 credentials data on each health care practitioner, which shall
9 include all updates provided in accordance with subparagraph
10 (a)2.

11 2. Release the core credentials data that is otherwise
12 confidential or exempt from the provisions of chapter 119 and
13 s. 24(a), Art. I of the State Constitution and any
14 corrections, updates, and modifications thereto, if authorized
15 by the health care practitioner.

16 3. Charge a fee to access the core credentials data,
17 which may not exceed the actual cost, including prorated setup
18 and operating costs, pursuant to the requirements of chapter
19 119. ~~The actual cost shall be set in consultation with the~~
20 ~~advisory council.~~

21 4. ~~Develop, in consultation with the advisory council,~~
22 ~~standardized forms to be used by the health care practitioner~~
23 ~~or designated credentials verification organization for the~~
24 ~~initial reporting of core credentials data, for the health~~
25 ~~care practitioner to authorize the release of core credentials~~
26 ~~data, and for the subsequent reporting of corrections,~~
27 ~~updates, and modifications thereto.~~

28 5. ~~Establish a Credentials Advisory Council,~~
29 ~~consisting of 13 members, to assist the department as provided~~
30 ~~in this section. The secretary, or his or her designee, shall~~
31 ~~serve as one member and chair of the council and shall appoint~~

1 ~~the remaining 12 members. Except for any initial lesser term~~
2 ~~required to achieve staggering, such appointments shall be for~~
3 ~~4-year staggered terms, with one 4-year reappointment, as~~
4 ~~applicable. Three members shall represent hospitals, and two~~
5 ~~members shall represent health maintenance organizations. One~~
6 ~~member shall represent health insurance entities. One member~~
7 ~~shall represent the credentials verification industry. Two~~
8 ~~members shall represent physicians licensed under chapter 458.~~
9 ~~One member shall represent osteopathic physicians licensed~~
10 ~~under chapter 459. One member shall represent chiropractic~~
11 ~~physicians licensed under chapter 460. One member shall~~
12 ~~represent podiatric physicians licensed under chapter 461.~~

13 (5) STANDARDS AND REGISTRATION.--Any credentials
14 verification organization that does business in this state
15 must be fully accredited or certified as a credentials
16 verification organization by a national accrediting
17 organization as specified in paragraph (2)(b) and must
18 register with the department. The department may charge a
19 reasonable registration fee, ~~set in consultation with the~~
20 ~~advisory council,~~not to exceed an amount sufficient to cover
21 its actual expenses in providing and enforcing such
22 registration. The department shall establish by rule for
23 biennial renewal of such registration. Failure by a registered
24 credentials verification organization to maintain full
25 accreditation or certification, to provide data as authorized
26 by the health care practitioner, to report to the department
27 changes, updates, and modifications to a health care
28 practitioner's records within the time period specified in
29 subparagraph (3)(a)2., or to comply with the prohibition
30 against collection of duplicate core credentials data from a
31 practitioner may result in denial of an application for

1 renewal of registration or in revocation or suspension of a
2 registration.

3 (8) ~~RULES.--The department, in consultation with the~~
4 ~~advisory council,~~ shall adopt rules necessary to develop and
5 implement the standardized core credentials data collection
6 program established by this section.

7 (9) ~~COUNCIL ABOLISHED~~ DEPARTMENT AUTHORITY.--~~The~~
8 ~~council shall be abolished October 1, 1999. After the council~~
9 ~~is abolished,~~ All duties of the department required under this
10 section ~~to be in consultation with the council~~ may be carried
11 out by the department ~~on its own.~~

12

13 Reviser's note.--Amended to conform to the
14 abolishment of the Credentials Advisory Council
15 on October 1, 1999, pursuant to s. 75, ch.
16 99-397, Laws of Florida.

17

18 Section 111. Subsections (1) and (2) of section
19 455.5651, Florida Statutes, are amended to read:

20 455.5651 Practitioner profile; creation.--

21 (1) Beginning July 1, 1999, the Department of Health
22 shall compile the information submitted pursuant to s. 455.565
23 ~~section 1~~ into a practitioner profile of the applicant
24 submitting the information, except that the Department of
25 Health may develop a format to compile uniformly any
26 information submitted under s. 455.565(4)(b) ~~paragraph~~
27 ~~1(4)(b).~~

28 (2) On the profile required under subsection (1), the
29 department shall indicate if the information provided under s.
30 455.565(1)(a) ~~7. section 1(1)(a)7.~~ is not corroborated by a
31 criminal history check conducted according to this subsection.

1 If the information provided under s. 455.565(1)(a)7.~~section~~
2 ~~1(1)(a)7.~~ is corroborated by the criminal history check, the
3 fact that the criminal history check was performed need not be
4 indicated on the profile. The department, or the board having
5 regulatory authority over the practitioner acting on behalf of
6 the department, shall investigate any information received by
7 the department or the board when it has reasonable grounds to
8 believe that the practitioner has violated any law that
9 relates to the practitioner's practice.

10

11 Reviser's note.--Amended to correct apparent
12 errors, facilitate correct interpretation, and
13 conform to redesignation of references by the
14 reviser incident to compiling the Florida
15 Statutes 1997. The references to "section 1,"
16 "paragraph 1(4)(b)," and "section 1(1)(a)7." in
17 s. 128, ch. 97-237, Laws of Florida, and s. 4,
18 ch. 97-273, Laws of Florida, were not updated
19 to conform to the final location of that
20 material in the laws. The references became
21 "section 127," "paragraph 127(4)(b), and
22 "section 127(1)(a)7.," respectively, for ch.
23 97-237 and "section 3," "paragraph 3(4)(b),"
24 and "section 3(1)(a)7.," respectively, for ch.
25 97-273. The references were codified as "s.
26 455.565," "s. 455.565(4)(b)," and "s.
27 455.565(1)(a)7.," respectively, by the reviser.

28

29 Section 112. Section 455.5653, Florida Statutes, is
30 amended to read:

31

1 455.5653 Practitioner profiles; data
2 storage.--Effective upon this act becoming a law, the
3 Department of Health must develop or contract for a computer
4 system to accommodate the new data collection and storage
5 requirements under this act pending the development and
6 operation of a computer system by the Department of Health for
7 handling the collection, input, revision, and update of data
8 submitted by physicians as a part of their initial licensure
9 or renewal to be compiled into individual practitioner
10 profiles. The Department of Health must incorporate any data
11 required by this act into the computer system used in
12 conjunction with the regulation of health care professions
13 under its jurisdiction. The department must develop, by the
14 year 2000, a schedule and procedures for each practitioner
15 within a health care profession regulated within the Division
16 of Medical Quality Assurance to submit relevant information to
17 be compiled into a profile to be made available to the public.
18 The Department of Health is authorized to contract with and
19 negotiate any interagency agreement necessary to develop and
20 implement the practitioner profiles. The Department of Health
21 shall have access to any information or record maintained by
22 the Agency for Health Care Administration, including any
23 information or record that is otherwise confidential and
24 exempt from the provisions of chapter 119 and s. 24(a), Art. I
25 of the State Constitution, so that the Department of Health
26 may corroborate any information that physicians are required
27 to report under s. 455.565 ~~section 1 of this act~~.

28
29 Reviser's note.--Amended to correct an apparent
30 error, facilitate correct interpretation, and
31 conform to redesignation of references by the

1 reviser incident to compiling the Florida
2 Statutes 1997. The references to "section 1 of
3 this act" in s. 130, ch. 97-237, Laws of
4 Florida, and s. 6, ch. 97-273, Laws of Florida,
5 were not updated to conform to the final
6 location of that material in the laws. The
7 references became "section 127" for ch. 97-237
8 and "section 3" for ch. 97-273. The material
9 was codified as s. 455.565 by the reviser.

10

11 Section 113. Section 455.5654, Florida Statutes, is
12 amended to read:

13 455.5654 Practitioner profiles; rules;
14 workshops.--Effective upon this act becoming a law, the
15 Department of Health shall adopt rules for the form of a
16 practitioner profile that the agency is required to prepare.
17 The Department of Health, pursuant to chapter 120, must hold
18 public workshops for purposes of rule development to implement
19 this section. An agency to which information is to be
20 submitted under this act may adopt by rule a form for the
21 submission of the information required under s. 455.565
22 ~~section 1~~.

23

24 Reviser's note.--Amended to correct an apparent
25 error, facilitate correct interpretation, and
26 conform to redesignation of references by the
27 reviser incident to compiling the Florida
28 Statutes 1997. The references to "section 1" by
29 s. 131, ch. 97-237, Laws of Florida, and s. 7,
30 ch. 97-273, Laws of Florida, were not updated
31 to conform to the final location of that

1 material in the laws. The references became
2 "section 127" for ch. 97-237 and "section 3"
3 for ch. 97-273. The material was codified as s.
4 455.565 by the reviser.

5
6 Section 114. Subsection (6) of section 455.621,
7 Florida Statutes, is amended to read:

8 455.621 Disciplinary proceedings.--Disciplinary
9 proceedings for each board shall be within the jurisdiction of
10 the department.

11 (6) The appropriate board, with those members of the
12 panel, if any, who reviewed the investigation pursuant to
13 subsection (4)~~(5)~~ being excused, or the department when there
14 is no board, shall determine and issue the final order in each
15 disciplinary case. Such order shall constitute final agency
16 action. Any consent order or agreed-upon settlement shall be
17 subject to the approval of the department.

18
19 Reviser's note.--Amended to improve clarity and
20 facilitate correct interpretation. Subsection
21 (4) provides for a probable cause panel.

22
23 Section 115. Subsection (5) of section 458.311,
24 Florida Statutes, is amended to read:

25 458.311 Licensure by examination; requirements;
26 fees.--

27 (5) The board may not certify to the department for
28 licensure any applicant who is under investigation in another
29 jurisdiction for an offense which would constitute a violation
30 of this chapter until such investigation is completed. Upon
31 completion of the investigation, the provisions of s. 458.331

1 shall apply. Furthermore, the department may not issue an
2 unrestricted license to any individual who has committed any
3 act or offense in any jurisdiction which would constitute the
4 basis for disciplining a physician pursuant to s. 458.331.
5 When the board finds that an individual has committed an act
6 or offense in any jurisdiction which would constitute the
7 basis for disciplining a physician pursuant to s. 458.331,
8 then the board may enter an order imposing one or more of the
9 terms set forth in subsection (8)~~(9)~~.

10

11 Reviser's note.--Amended to conform to the
12 redesignation of s. 458.311(9) as s. 458.311(8)
13 necessitated by the repeal of former subsection
14 (8) by s. 20, ch. 95-145, Laws of Florida.

15

16 Section 116. Paragraph (b) of subsection (4) of
17 section 458.320, Florida Statutes, is amended to read:

18 458.320 Financial responsibility.--

19 (4)

20 (b) If financial responsibility requirements are met
21 by maintaining an escrow account or letter of credit as
22 provided in this section, upon the entry of an adverse final
23 judgment arising from a medical malpractice arbitration award,
24 from a claim of medical malpractice either in contract or
25 tort, or from noncompliance with the terms of a settlement
26 agreement arising from a claim of medical malpractice either
27 in contract or tort, the licensee shall pay the entire amount
28 of the judgment together with all accrued interest, or the
29 amount maintained in the escrow account or provided in the
30 letter of credit as required by this section, whichever is
31 less, within 60 days after the date such judgment became final

1 and subject to execution, unless otherwise mutually agreed to
2 in writing by the parties. If timely payment is not made by
3 the physician, the department shall suspend the license of the
4 physician pursuant to procedures set forth in subparagraphs
5 (5)(g)3., 4., and 5.~~(5)(g)2., 3., and 4.~~ Nothing in this
6 paragraph shall abrogate a judgment debtor's obligation to
7 satisfy the entire amount of any judgment.

8
9 Reviser's note.--Amended to conform to the
10 redesignation of s. 458.320(5)(g)2., 3., and 4.
11 as s. 458.320(5)(g)3., 4., and 5.,
12 respectively, by s. 144, ch. 97-237, Laws of
13 Florida, and s. 20, ch. 97-273, Laws of
14 Florida.

15
16 Section 117. Paragraph (b) of subsection (4) of
17 section 459.0085, Florida Statutes, is amended to read:

18 459.0085 Financial responsibility.--

19 (4)

20 (b) If financial responsibility requirements are met
21 by maintaining an escrow account or letter of credit as
22 provided in this section, upon the entry of an adverse final
23 judgment arising from a medical malpractice arbitration award,
24 from a claim of medical malpractice either in contract or
25 tort, or from noncompliance with the terms of a settlement
26 agreement arising from a claim of medical malpractice either
27 in contract or tort, the licensee shall pay the entire amount
28 of the judgment together with all accrued interest or the
29 amount maintained in the escrow account or provided in the
30 letter of credit as required by this section, whichever is
31 less, within 60 days after the date such judgment became final

1 and subject to execution, unless otherwise mutually agreed to
2 in writing by the parties. If timely payment is not made by
3 the osteopathic physician, the department shall suspend the
4 license of the osteopathic physician pursuant to procedures
5 set forth in subparagraphs (5)(g)3., 4., and 5.~~(5)(g)2., 3.,~~
6 ~~and 4.~~ Nothing in this paragraph shall abrogate a judgment
7 debtor's obligation to satisfy the entire amount of any
8 judgment.

9
10 Reviser's note.--Amended to conform to the
11 redesignation of s. 459.0085(5)(g)2., 3., and
12 4. as s. 459.0085(5)(g)3., 4., and 5.,
13 respectively, by s. 145, ch. 97-237, Laws of
14 Florida, and s. 21, ch. 97-273, Laws of
15 Florida.

16
17 Section 118. Section 459.018, Florida Statutes, is
18 amended to read:

19 459.018 Search warrants for certain violations.--When
20 the department has reason to believe that violations of s.
21 459.015(1)(t)~~459.015(1)(u)~~ or s. 459.015(1)(u)~~459.015(1)(v)~~
22 have occurred or are occurring, its agents or other duly
23 authorized persons may search an osteopathic physician's place
24 of practice for purposes of securing such evidence as may be
25 needed for prosecution. Such evidence shall not include any
26 medical records of patients unless pursuant to the patient's
27 written consent. Notwithstanding the consent of the patient,
28 such records maintained by the department are confidential and
29 exempt from s. 119.07(1). This section shall not limit the
30 psychotherapist-patient privileges of s. 90.503. Prior to a
31 search, the department shall secure a search warrant from any

1 judge authorized by law to issue search warrants. The search
2 warrant shall be issued upon probable cause, supported by oath
3 or affirmation particularly describing the things to be
4 seized. The application for the warrant shall be sworn to and
5 subscribed, and the judge may require further testimony from
6 witnesses, supporting affidavits, or depositions in writing to
7 support the application. The application and supporting
8 information, if required, must set forth the facts tending to
9 establish the grounds of the application or probable cause
10 that they exist. If the judge is satisfied that probable cause
11 exists, he or she shall issue a search warrant signed by him
12 or her with the judge's name of office to any agent or other
13 person duly authorized by the department to execute process,
14 commanding the agent or person to search the place described
15 in the warrant for the property specified. The search warrant
16 shall be served only by the agent or person mentioned in it
17 and by no other person except an aide of the agent or person
18 when such agent or person is present and acting in its
19 execution.

20

21 Reviser's note.--Amended to conform to the
22 redesignation of subunits necessitated by the
23 repeal of former s. 459.015(1)(k) by s. 2, ch.
24 92-178, Laws of Florida.

25

26 Section 119. Subsection (4) of section 460.406,
27 Florida Statutes, is amended to read:

28 460.406 Licensure by examination.--

29 (4) The department shall submit written notification
30 within 5 working days to applicants who have successfully
31 completed the requirements of paragraphs (1)(a)-(e)~~(1)(a)-(f)~~

1 and who have successfully passed the state licensure
2 examination. An applicant who is notified in writing by the
3 department of the successful completion of requirements in
4 paragraphs (1)(a)-(e) ~~(1)(a)-(f)~~ and who has successfully
5 passed the state licensure examination may lawfully practice
6 pending receipt of the certificate of licensure, and the
7 written notification shall act as evidence of licensure
8 entitling the chiropractic physician to practice for a maximum
9 period of 45 days or until the licensing fee is received by
10 the department whichever is sooner.

11

12 Reviser's note.--Amended to conform to the
13 redesignation of paragraphs (1)(a)-(f) as
14 paragraphs (1)(a)-(e) by s. 106, ch. 99-397,
15 Laws of Florida.

16

17 Section 120. Section 462.09, Florida Statutes, is
18 amended to read:

19 462.09 Disposition of fees.--All fees received under
20 this chapter shall be deposited into the Medical Quality
21 Assurance ~~Professional Regulation~~ Trust Fund. The Legislature
22 shall appropriate funds from this trust fund sufficient to
23 carry out the provisions of this chapter. The department
24 shall prepare and submit a proposed budget in accordance with
25 law.

26

27 Reviser's note.--Amended to conform to the
28 transfer of the regulation of health care
29 professionals from the Department of Business
30 and Professional Regulation to the Department
31 of Health. The Medical Quality Assurance Trust

1 Fund in s. 20.435(1)(d) provides administrative
2 support for the regulation.

3
4 Section 121. Paragraph (t) of subsection (1) of
5 section 462.14, Florida Statutes, is amended to read:

6 462.14 Grounds for disciplinary action; action by the
7 department.--

8 (1) The following acts constitute grounds for which
9 the disciplinary actions specified in subsection (2) may be
10 taken:

11 (t) Gross or repeated malpractice or the failure to
12 practice naturopathic medicine with that level of care, skill,
13 and treatment which is recognized by a reasonably prudent
14 similar physician as being acceptable under similar conditions
15 and circumstances. The department shall give great weight to
16 the provisions of s. 766.102 ~~768.45~~ when enforcing this
17 paragraph.

18
19 Reviser's note.--Amended to conform to the
20 redesignation of s. 768.45 as s. 766.102 by the
21 reviser incident to compiling the 1988
22 Supplement to the Florida Statutes 1987.

23
24 Section 122. Section 466.014, Florida Statutes, is
25 amended to read:

26 466.014 Continuing education; dental hygienists.--In
27 addition to the other requirements for relicensure for dental
28 hygienists set out in this act, the board shall require each
29 licensed dental hygienist to complete not less than 24 hours
30 or more than 36 hours of continuing professional education in
31 dental subjects, biennially, in programs prescribed or

1 approved by the board or in equivalent programs of continuing
2 education. Programs of continuing education approved by the
3 board shall be programs of learning which, in the opinion of
4 the board, contribute directly to the dental education of the
5 dental hygienist. The board shall adopt rules and guidelines
6 to administer and enforce the provisions of this section. In
7 applying for license renewal, the dental hygienist shall
8 submit a sworn affidavit, on a form acceptable to the
9 department, attesting that she or he has completed the
10 continuing education required in this section in accordance
11 with the guidelines and provisions of this section and listing
12 the date, location, sponsor, subject matter, and hours of
13 completed continuing education courses. The applicant shall
14 retain in her or his records such receipts, vouchers, or
15 certificates as may be necessary to document completion of the
16 continuing education courses listed in accordance with this
17 section. With cause, the board may request such documentation
18 by the applicant, and the board may request such documentation
19 from applicants selected at random without cause. Compliance
20 with the continuing education requirements shall be mandatory
21 for issuance of the renewal certificate. The board shall have
22 the authority to excuse licensees, as a group or as
23 individuals, from the continuing educational requirements, or
24 any part thereof, in the event an unusual circumstance,
25 emergency, or hardship has prevented compliance with this
26 section ~~subsection~~.

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Reviser's note.--Amended to improve clarity and
facilitate correct interpretation. Section
466.014 is not divided into subsections.

1 Section 123. Section 467.0135, Florida Statutes, is
2 amended to read:

3 467.0135 Fees.--The department shall establish fees
4 for application, examination, initial licensure, renewal of
5 licensure, licensure by endorsement, inactive status,
6 delinquent status, and reactivation of an inactive license.
7 The appropriate fee must be paid at the time of application
8 and is payable to the Department of Health, in accordance with
9 rules adopted by the department. A fee is nonrefundable,
10 unless otherwise provided by rule. A fee may not exceed:

- 11 (1) Five hundred dollars for examination.
12 (2) Five hundred dollars for initial licensure.
13 (3) Five hundred dollars for renewal of licensure.
14 (4) Two hundred dollars for application, which fee is
15 nonrefundable.
16 (5) Five hundred dollars for reactivation of an
17 inactive license.
18 (6) Five hundred dollars for licensure by endorsement.

19
20 A fee for inactive status, reactivation of an inactive
21 license, or delinquency may not exceed the fee established by
22 the department for biennial renewal of an active license. All
23 fees collected under this section shall be deposited in the
24 Medical Quality Assurance ~~Professional Regulation~~ Trust Fund.

25
26 Reviser's note.--Amended to conform to the
27 transfer of the regulation of health care
28 professionals from the Department of Business
29 and Professional Regulation to the Department
30 of Health. The Medical Quality Assurance Trust
31

1 Fund in s. 20.435(1)(d) provides administrative
2 support for the regulation.

3
4 Section 124. Subsection (5) of section 468.1655,
5 Florida Statutes, is amended to read:

6 468.1655 Definitions.--As used in this part:

7 (5) "Nursing home" means an institution or facility
8 licensed as such under part II † of chapter 400.

9
10 Reviser's note.--Amended to conform to the
11 redesignation of part I of chapter 400 as part
12 II necessitated by the creation of a new part I
13 incident to the compilation of ss. 1-16, ch.
14 93-177, Laws of Florida.

15
16 Section 125. Subsection (4) of section 468.1695,
17 Florida Statutes, is repealed, and subsection (2) of that
18 section is amended to read:

19 468.1695 Licensure by examination.--

20 (2) ~~Beginning October 1, 1992,~~The department shall
21 examine each applicant who the board certifies has completed
22 the application form and remitted an examination fee set by
23 the board not to exceed \$250 and who:

24 (a)1. Holds a baccalaureate degree from an accredited
25 college or university and majored in health care
26 administration or has credit for at least 60 semester hours in
27 subjects, as prescribed by rule of the board, which prepare
28 the applicant for total management of a nursing home; and

29 2. Has fulfilled the requirements of a
30 college-affiliated or university-affiliated internship in
31

1 nursing home administration or of a 1,000-hour nursing home
2 administrator-in-training program prescribed by the board; or

3 (b)1. Holds a baccalaureate degree from an accredited
4 college or university; and

5 2.a. Has fulfilled the requirements of a 2,000-hour
6 nursing home administrator-in-training program prescribed by
7 the board; or

8 b. Has 1 year of management experience allowing for
9 the application of executive duties and skills, including the
10 staffing, budgeting, and directing of resident care, dietary,
11 and bookkeeping departments within a skilled nursing facility,
12 hospital, hospice, assisted living facility with a minimum of
13 60 licensed beds, or geriatric residential treatment program
14 and, if such experience is not in a skilled nursing facility,
15 has fulfilled the requirements of a 1,000-hour nursing home
16 administrator-in-training program prescribed by the board.

17
18 Reviser's note.--Subsection (2) is amended to
19 delete language that has served its purpose.
20 Subsection (4) is repealed to delete language
21 that is obsolete; persons exempted from
22 qualifications specified in current subsection
23 (2) have already been grandfathered in as
24 nursing home administrators.

25
26 Section 126. Paragraph (a) of subsection (2) of
27 section 468.307, Florida Statutes, is amended to read:

28 468.307 Certificate; issuance; possession; display.--

29 (2)(a) The department may, at its discretion, issue a
30 temporary certificate to:

31

1 1. An applicant who has completed an educational
2 program and is awaiting examination for a certificate
3 specified in s. 468.302(2)(b), (c), (e), or (f), if the
4 applicant has met all other requirements established pursuant
5 to s. 468.304.

6 2. A basic X-ray machine operator, if such person is
7 under the direct supervision of a licensed practitioner and
8 the licensed practitioner has not requested issuance of a
9 temporary certificate within the previous 18 months, upon
10 application by a licensed practitioner who is practicing in an
11 office of five or ~~of~~ fewer licensed practitioners.

12 3. A basic X-ray machine operator-podiatric medicine,
13 if such person is under the direct supervision of a licensed
14 podiatric physician and the licensed podiatric physician has
15 not requested issuance of a temporary certificate within the
16 previous 18 months, upon application by a licensed podiatric
17 physician who is practicing in an office of five or fewer
18 licensed podiatric physicians.

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

22
23 Section 127. Paragraph (1) of subsection (1) of
24 section 468.505, Florida Statutes, is amended to read:

25 468.505 Exemptions; exceptions.--

26 (1) Nothing in this part may be construed as
27 prohibiting or restricting the practice, services, or
28 activities of:

29 (1) A person employed by a nursing facility exempt
30 from licensing under s. 395.002(13)~~395.002(14)~~, or a person
31 exempt from licensing under s. 464.022.

1 Reviser's note.--Amended to conform to the
2 redesignation of s. 395.002(14) as s.
3 395.002(13) by the reviser incident to the
4 compilation of the 1998 Supplement to the
5 Florida Statutes 1997.

6
7 Section 128. Paragraph (c) of subsection (2) of
8 section 468.605, Florida Statutes, is amended to read:
9 468.605 Florida Building Code Administrators and
10 Inspectors Board.--

11 (2) The board shall consist of nine members, as
12 follows:

13 (c) Two members serving as inspectors ~~inspector~~.

14
15 None of the board members described in paragraph (a) or
16 paragraph (f) may be an employee of a municipal, county, or
17 state governmental agency.

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

21
22 Section 129. Subsection (1) of section 468.828,
23 Florida Statutes, is amended to read:

24 468.828 Background screening information; rulemaking
25 authority.--

26 (1) The Agency for Health Care Administration shall
27 allow the department to electronically access its background
28 screening database and records, and the Department of Children
29 and Family Services ~~Families~~ shall allow the department to
30 electronically access its central abuse registry and tracking
31 system under chapter 415.

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Reviser's note.--Amended to conform to the
official title of the department pursuant to s.
20.19.