

Bill No. CS for CS for CS for SB 2548

Amendment No.

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11	Senator Kirkpatrick moved the following amendment:		
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13	Senate Amendment (with title amendment)		
14	On page 159, line 9, delete that line		
15			
16	and insert:		
17	Section 76. <u>Section 20.171, Florida Statutes, is</u>		
18	<u>repealed effective January 1, 2001.</u>		
19	Section 77. <u>(1) Effective July 1, 2000, the Division</u>		
20	<u>of Workers' Compensation and the Office of the Judges of</u>		
21	<u>Compensation Claims are transferred by a type one transfer, as</u>		
22	<u>defined in section 20.06(1), Florida Statutes, from the</u>		
23	<u>Department of Labor and Employment Security to the Department</u>		
24	<u>of Insurance.</u>		
25	<u>(2) Effective July 1, 2000, all powers, duties,</u>		
26	<u>functions, rules, records, personnel, property, and unexpended</u>		
27	<u>balances of appropriations, allocations, and other funds of</u>		
28	<u>the Division of Workforce and Employment Opportunities related</u>		
29	<u>to the regulation of labor organizations under chapter 447,</u>		
30	<u>Florida Statutes; the administration of child labor laws under</u>		
31	<u>chapter 450, Florida Statutes; and the administration of</u>		

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1 migrant labor and farm labor laws under chapter 450, Florida
2 Statutes, are transferred by a type two transfer, as defined
3 in section 20.06(2), Florida Statutes, from the Department of
4 Labor and Employment Security to the Bureau of Workplace
5 Regulation in the Division of Workers' Compensation of the
6 Department of Insurance.

7 (3) Effective July 1, 2000, any other powers, duties,
8 functions, rules, records, personnel, property, and unexpended
9 balances of appropriations, allocations, and other funds of
10 the Department of Labor and Employment Security, not otherwise
11 transferred by this act, relating to workplace regulation and
12 enforcement, including, but not limited to, those under
13 chapter 448, Florida Statutes, are transferred by a type two
14 transfer, as defined in section 20.06(2), Florida Statutes,
15 from the department to the Bureau of Workplace Regulation in
16 the Division of Workers' Compensation of the Department of
17 Insurance.

18 (4) Effective July 1, 2000, the records, property, and
19 unexpended balances of appropriations, allocations, and other
20 funds and resources of the Office of the Secretary and the
21 Office of Administrative Services of the Department of Labor
22 and Employment Security which support the activities and
23 functions transferred under subsections (1), (2), and (3) are
24 transferred as provided in section 20.06(2), Florida Statutes,
25 to the Division of Worker's Compensation and the Office of the
26 Judges of Compensation Claims. The Department of Insurance, in
27 consultation with the Department of Labor and Employment
28 Security, shall determine the number of positions needed for
29 administrative support of the programs within the Division of
30 Workers' Compensation and the Office of the Judges of
31 Compensation Claims as transferred to the Department of

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1 Insurance. The number of administrative support positions that
2 the Department of Insurance determines are needed shall not
3 exceed the number of administrative support positions that
4 prior to the transfer were authorized to the Department of
5 Labor and Employment Security for this purpose. Upon transfer
6 of the Division of Workers' Compensation and the Office of the
7 Judges of Compensation Claims, the number of required
8 administrative support positions as determined by the
9 Department of Insurance shall be authorized within the
10 Department of Insurance. The Department of Insurance may
11 transfer and reassign positions as deemed necessary to
12 effectively integrate the activities of the Division of
13 Workers' Compensation. Appointments to time-limited positions
14 under this act and authorized positions under this section may
15 be made without regard to the provisions of 60K-3, 4 and 17,
16 Florida Administrative Code. Notwithstanding the provisions of
17 section 216.181(8), Florida Statutes, the Department of
18 Insurance is authorized, during Fiscal Year 2000-2001, to
19 exceed the approved salary in the budget entities affected by
20 this act.

21 Section 78. Subsection (2) of section 20.13, Florida
22 Statutes, is amended, and subsection (7) is added to that
23 section, to read:

24 20.13 Department of Insurance.--There is created a
25 Department of Insurance.

26 (2) The following divisions of the Department of
27 Insurance are established:

- 28 (a) Division of Insurer Services.
- 29 (b) Division of Insurance Consumer Services.
- 30 (c) Division of Agents and Agencies Services.
- 31 (d) Division of Rehabilitation and Liquidation.

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- 1 (e) Division of Risk Management.
- 2 (f) Division of State Fire Marshal.
- 3 (g) Division of Insurance Fraud.
- 4 (h) Division of Administration.
- 5 (i) Division of Treasury.
- 6 (j) Division of Legal Services.
- 7 (k) Division of Workers' Compensation.
- 8 (7)(a) A Bureau of Workplace Regulation is created
- 9 within the Division of Workers' Compensation.
- 10 (b) A Bureau of Workplace Safety is created within the
- 11 Division of Workers' Compensation.
- 12 Section 79. Effective January 1, 2001, the Division of
- 13 Unemployment Compensation is transferred by a type two
- 14 transfer, as defined in section 20.06(2), Florida Statutes,
- 15 from the Department of Labor and Employment Security to the
- 16 Agency for Workforce Innovation, except that all powers,
- 17 duties, functions, rules, records, personnel, property, and
- 18 unexpended balances of appropriations, allocations, and other
- 19 funds of the division related to the resolution of disputed
- 20 claims for unemployment compensation benefits through the use
- 21 of appeals referees are transferred by a type two transfer, as
- 22 defined in section 20.06(2), Florida Statutes, to the
- 23 Unemployment Appeals Commission. Additionally, by January 1,
- 24 2001, the Agency for Workforce Innovation shall enter into a
- 25 contract with the Department of Revenue to have the Department
- 26 of Revenue provide unemployment tax administration and
- 27 collection services to the Agency for Workforce Innovation.
- 28 Upon entering into such contract with the Agency for Workforce
- 29 Innovation to provide unemployment tax administration and
- 30 collection services, the Department of Revenue may transfer
- 31 from the agency or is authorized to establish the number of

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1 positions determined by that contract. The Department of
2 Revenue, as detailed in that contract, may exercise all and
3 any authority that is provided in law to the Division of
4 Unemployment Compensation to fulfill the duties of that
5 contract as the division's tax-administration and
6 collection-services agent including, but not limited to, the
7 promulgating of rules necessary to administer and collect
8 unemployment taxes. The Department of Revenue is authorized to
9 contract with the Department of Management Services or other
10 appropriate public or private entities for professional
11 services, regarding the development, revision, implementation,
12 maintenance, and monitoring of electronic data systems and
13 management information systems associated with the
14 administration and collection of unemployment taxes.

15 Section 80. Effective January 1, 2001, the Office of
16 Information Systems is transferred by a type two transfer, as
17 defined in section 20.06(2), Florida Statutes, from the
18 Department of Labor and Employment Security to the Department
19 of Management Services, except that all powers, duties,
20 functions, rules, records, personnel, property, and unexpended
21 balances of appropriations, allocations, and other funds of
22 the office related to workforce information systems planning
23 are transferred effective October 1, 2000, by a type two
24 transfer as defined in section 20.06(2), Florida Statutes, to
25 the Agency for Workforce Innovation.

26 Section 81. Effective October 1, 2000, the Minority
27 Business Advocacy and Assistance Office is transferred by a
28 type two transfer as defined in section 20.06(2), Florida
29 Statutes, from the Department of Labor and Employment Security
30 to the Department of Management Services.

31 Section 82. (1) Effective upon this act becoming a

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1 law, the Florida Task Force on Workplace Safety is established
2 within the Department of Insurance. All members of the task
3 force shall be appointed prior to July 15, 2000, and the task
4 force shall hold its first meeting by August 15, 2000. The
5 task force shall be composed of 15 members as follows:

6 (a) Five members appointed by the Governor, one of
7 whom must be a representative of a statewide business
8 organization, one of whom must be a representative of
9 organized labor, and three of whom must be from private-sector
10 businesses. The Governor shall name one of the appointees
11 under this paragraph as chair of the task force;

12 (b) Four members appointed by the President of the
13 Senate, one of whom must be a representative of a statewide
14 business organization, one of whom must be a representative of
15 organized labor, and two of whom must be from private-sector
16 businesses;

17 (c) Four members appointed by the Speaker of the House
18 of Representatives, one of whom must be a representative of a
19 statewide business organization, one of whom must be a
20 representative of organized labor, and two of whom must be
21 from private-sector businesses;

22 (d) One member appointed from the private-sector by
23 the Insurance Commissioner; and

24 (e) The president of Enterprise Florida, Inc., or his
25 or her designee from the organization.

26
27 The Insurance Commissioner or the commissioner's designee from
28 the Department of Insurance shall serve as an ex officio
29 nonvoting member of the task force.

30 (2) The purpose of the task force is to develop
31 findings and issue recommendations on innovative ways in which

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1 the state may employ state or federal resources to reduce the
2 incidence of employee accidents, occupational diseases, and
3 fatalities compensable under the workers' compensation law.
4 The task force shall address issues including, but not limited
5 to:

6 (a) Alternative organizational structures for the
7 delivery of workplace safety assistance services to businesses
8 following the repeal of the Division of Safety of the
9 Department of Labor and Employment Security under chapter
10 99-240, Laws of Florida;

11 (b) The extent to which workplace safety assistance
12 services are or may be provided through private-sector
13 sources;

14 (c) The potential contribution of workplace safety
15 assistance services to a reduction in workers' compensation
16 rates for employers;

17 (d) Differences in the workplace safety needs of
18 businesses based upon the size of the businesses and the
19 nature of the businesses;

20 (e) Differences in the workplace safety needs of
21 private-sector employers and public-sector employers;

22 (f) The relationship between federal and state
23 workplace safety activities; and

24 (g) The impact of workplace safety and workers'
25 compensation on the economic development efforts of the state.

26 (3) The task force shall be located in the Department
27 of Insurance, and staff of the department shall serve as staff
28 for the task force.

29 (4) Members of the task force shall serve without
30 compensation but will be entitled to per diem and travel
31 expenses pursuant to section 112.061, Florida Statutes, while

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1 in the performance of their duties.

2 (5) The task force may procure information and
3 assistance from any officer or agency of the state or any
4 subdivision thereof. All such officials and agencies shall
5 give the task force all relevant information and assistance on
6 any matter within their knowledge or control.

7 (6) The task force shall submit a report and
8 recommendations to the Governor, the Insurance Commissioner,
9 the President of the Senate, and the Speaker of the House of
10 Representatives no later than January 1, 2001. The report
11 shall include recommendations on the organizational structure,
12 mission, staffing structure and qualifications, and funding
13 level for the Bureau of Workplace Safety within the Division
14 of Workers' Compensation of the Department of Insurance. The
15 report also shall include any specific recommendations for
16 legislative action during the 2001 Regular Session of the
17 Legislature.

18 (7)(a) During Fiscal Year 2000-2001, the Division of
19 Workers' Compensation of the Department of Insurance is
20 authorized to establish 40 time-limited positions on July 1,
21 2000, responsible for the 21(d) federal grant from the
22 Occupational Safety and Health Administration and for the core
23 responsibilities under a program for enforcement of safety and
24 health regulations in the public sector.

25 (b) After the Task Force on Workplace Safety has
26 issued its report and recommendations, the Division of
27 Workers' Compensation may eliminate the 40 time-limited
28 positions and establish and classify permanent positions as
29 authorized in the Fiscal Year 2000-2001 General Appropriations
30 Act or seek a budget amendment as provided in chapter 216,
31 Florida Statutes, to implement the recommendations of the task

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1 force.

2 (c) All records, property, and equipment of the
3 Division of Safety of the Department of Labor and Employment
4 Security, repealed under chapter 99-240, Laws of Florida,
5 shall be transferred to the Bureau of Workplace Safety of the
6 Division of Workers' Compensation of the Department of
7 Insurance for the bureau to retain, use, and maintain during
8 the deliberations of the task force.

9 (8) The task force shall terminate upon submission of
10 its report.

11 Section 83. Effective upon this act becoming a law,
12 section 39 of chapter 99-240, Laws of Florida, is amended to
13 read:

14 Section 39. Effective October 1, 2000 ~~January 1, 2001~~,
15 the Division of Blind Services is transferred by a type two
16 transfer as defined in section 20.06(2)~~20.06(5)~~, Florida
17 Statutes, from the Department of Labor and Employment Security
18 to the Department of Management Services ~~Education~~.

19 Section 84. (1) It is the intent of the Legislature
20 that the transfer of responsibilities from the Department of
21 Labor and Employment Security to other units of state
22 government as prescribed by this act be accomplished with
23 minimal disruption of services provided to the public and with
24 minimal disruption to the employees of the department. To that
25 end, the Legislature believes that a transition period during
26 which the activities of the department can be systematically
27 reduced and the activities of the other applicable units of
28 state government can be strategically increased is appropriate
29 and warranted.

30 (2) The Department of Labor and Employment Security
31 and the Department of Management Services shall provide

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1 coordinated reemployment assistance to employees of the
2 Department of Labor and Employment Security who are dislocated
3 as a result of this act. The state Workforce Development
4 Board, the regional workforce boards, and staff of the
5 one-stop career centers shall provide assistance to the
6 departments in carrying out the provisions of this section.

7 (3) The state and its political subdivisions shall
8 give preference in the appointment and the retention of
9 employment to employees of the Department of Labor and
10 Employment Security who are dislocated as a result of this
11 act. Furthermore, for those positions for which an examination
12 is used to determine the qualifications for entrance into
13 employment with the state or its political subdivisions, 10
14 points shall be added to the earned ratings of any employee of
15 the Department of Labor and Employment Security who is
16 dislocated as a result of this act if such person has obtained
17 a qualifying score on the examination for the position.
18 Preference is considered to have expired once such person has
19 been employed by any state agency or any agency of a political
20 subdivision of the state.

21 (4)(a) There is created the Labor and Employment
22 Security Transition Team, which will be responsible for
23 coordinating and overseeing actions necessary to ensure the
24 timely, comprehensive, efficient, and effective implementation
25 of the provisions of this act, as well as implementation of
26 any statutory changes to the Department of Labor and
27 Employment Security's provision of workforce placement and
28 development services through the Division of Workforce and
29 Employment Opportunities. By February 1, 2001, the transition
30 team shall submit to the Governor, the President of the
31 Senate, and the Speaker of the House of Representatives a

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1 comprehensive report on the transition of the Department of
2 Labor and Employment Security. The report shall include any
3 recommendations on legislative action necessary during the
4 2001 Regular Session of the Legislature to address substantive
5 or technical issues related to the department's transition.
6 The transition team shall terminate on May 15, 2001.

7 (b) The transition team shall consist of the following
8 members:

9 1. The Governor or the Governor's designee, who shall
10 serve as chair of the transition team and who shall convene
11 meetings of the transition team;

12 2. The Secretary of Labor and Employment Security or
13 the secretary's designee;

14 3. The Secretary of Management Services or the
15 secretary's designee;

16 4. The Commissioner of Insurance or the commissioner's
17 designee;

18 5. The executive director of the Department of Revenue
19 or the executive director's designee;

20 6. The director of the Agency for Workforce Innovation
21 or the director's designee;

22 7. The president of Workforce Florida, Inc., or the
23 president's designee;

24 8. The Chief Information Officer for the State; and

25 9. Any other members as deemed necessary by and
26 appointed by the Governor.

27 (c) Staff of the Office of Policy and Budget in the
28 Executive Office of the Governor shall serve as staff for the
29 transition team. In addition, each member of the transition
30 team shall appoint appropriate staff members from the
31 organization that he or she represents to serve as liaisons to

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1 the transition team and to assist the transition team as
2 necessary. Each member of the transition team shall be
3 responsible for ensuring that the organization that he or she
4 represents cooperates fully in the implementation of this act.

5 (d) Between the date this act becomes a law and
6 January 1, 2001, the transition team shall submit bimonthly to
7 the President of the Senate and the Speaker of the House of
8 Representatives brief status reports on the progress and on
9 any significant problems in implementing this act.

10 (5) The transfer of any programs, activities, and
11 functions under this act shall include the transfer of any
12 records and unexpended balances of appropriations,
13 allocations, or other funds related to such programs,
14 activities, and functions. Any surplus records and unexpended
15 balances of appropriations, allocations, or other funds not so
16 transferred shall be transferred to the Department of
17 Management Services for proper disposition. The Department of
18 Management Services shall become the custodian of any property
19 of the Department of Labor and Employment Security which is
20 not otherwise transferred for the purposes of chapter 273,
21 Florida Statutes. The Department of Management Services is
22 authorized to permit the use of such property by organizations
23 as necessary to implement the provisions of this act.

24 (6) The transition team, in conjunction with the
25 Office of the Attorney General, may use any unexpended
26 balances of the Department of Labor and Employment Security to
27 settle any claims or leases, pay out personnel annual leave or
28 sick leave, or close out other costs owed by the department,
29 regardless of whether such costs relate to federal, state, or
30 local governments; department employees; or the private
31 sector. Any remaining balances of the department shall be

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1 transferred as directed by this act or by budget amendment.

2 (7) The transition team shall monitor any personnel
3 plans of the Department of Labor and Employment Security and
4 any implementation activities of the department required by
5 this act. The department shall not fill a vacant position or
6 transfer an employee laterally between any divisions or other
7 units of the department without the approval of the transition
8 team.

9 (8) The transition team may submit proposals to the
10 Governor and recommend budget amendments to ensure the
11 effective implementation of this act, maintenance of federal
12 funding, and continuation of services to customers without
13 interruption. Prior to October 1, 2000, the transition team,
14 through the Office of Policy and Budget, shall prepare a
15 budget amendment to allocate the resources of the Office of
16 the Secretary, Office of Administrative Services, Division of
17 Unemployment Compensation, and other resources of the
18 Department of Labor and Employment Security not otherwise
19 transferred by this act. The allocation of resources under
20 this budget amendment must provide for the maintenance of the
21 department until January 1, 2001, in order to complete
22 activities related to the dissolution of the department and
23 must reserve any remaining funds or positions.

24 (9) This section shall take effect upon this act
25 becoming a law.

26 Section 85. To expedite the acquisition of goods and
27 services for implementing the provisions of this act, the
28 Department of Revenue, the Department of Insurance, the
29 Department of Management Services, and the Agency for
30 Workforce Innovation are exempt from the provisions of chapter
31 287, Florida Statutes, when contracting for the purchase or

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1 lease of goods or services under this act. This section shall
2 take effect upon this act becoming a law and shall expire
3 January 1, 2001.

4 Section 86. To expedite the leasing of facilities for
5 implementing the provisions of this act, the Department of
6 Revenue, the Department of Insurance, the Department of
7 Management Services, and the Agency for Workforce Innovation
8 are exempt from the requirements of any state laws relating to
9 the leasing of space, including, but not limited to, the
10 requirements imposed by section 255.25, Florida Statutes, and
11 any rules adopted under such laws, provided, however, that all
12 leases entered into under this act through January 1, 2001,
13 must be submitted for approval to the Department of Management
14 Services at the earliest practicable time. This section shall
15 take effect upon this act becoming a law and shall expire
16 January 1, 2001.

17 Section 87. Notwithstanding the provisions of chapter
18 120, Florida Statutes, to the contrary, the Department of
19 Revenue, the Department of Insurance, the Department of
20 Management Services, and the Agency for Workforce Innovation
21 are authorized to develop emergency rules relating to and in
22 furtherance of the orderly implementation of the provisions of
23 this act. These emergency rules shall be valid for a period of
24 270 days after the effective date of this act.

25 Section 88. (1) The Department of Revenue shall
26 develop and issue notification to all businesses registered
27 with the Department of Labor and Employment Security for the
28 purpose of paying unemployment compensation tax imposed
29 pursuant to chapter 443, Florida Statutes. Such notification
30 shall include, but not be limited to, information on the
31 transfer of responsibilities from the Department of Labor and

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1 Employment Security to the Department of Revenue and other
 2 agencies relating to unemployment compensation activities.

3 (2) The Department of Revenue is authorized to issue
 4 any notices, forms, documents, or publications relating to the
 5 unemployment compensation tax which the Division of
 6 Unemployment Compensation of the Department of Labor and
 7 Employment Security was authorized to issue or publish under
 8 chapter 443, Florida Statutes, prior to the transfer of any
 9 responsibilities under this act.

10 (3) The Department of Revenue is authorized to
 11 determine the most efficient and effective method for
 12 administering, collecting, enforcing, and auditing the
 13 unemployment compensation tax in consultation with the
 14 businesses that pay such tax and consistent with the
 15 provisions of chapter 443, Florida Statutes.

16 Section 89. Effective October 1, 2000, subsection (19)
 17 of section 287.012, Florida Statutes, is amended to read:

18 287.012 Definitions.--The following definitions shall
 19 apply in this part:

20 (19) "Office" means the Minority Business Advocacy and
 21 Assistance Office of the Department of Management Services
 22 ~~Labor and Employment Security~~.

23 Section 90. Effective October 1, 2000, subsection (1)
 24 of section 287.0947, Florida Statutes, is amended to read:

25 287.0947 Florida Council on Small and Minority
 26 Business Development; creation; membership; duties.--

27 (1) On or after October 1, 2000 ~~1996~~, the secretary of
 28 the Department of Management Services ~~Labor and Employment~~
 29 ~~Security~~ may create the Florida Advisory Council on Small and
 30 Minority Business Development with the purpose of advising and
 31 assisting the secretary in carrying out the secretary's duties

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1 with respect to minority businesses and economic and business
2 development. It is the intent of the Legislature that the
3 membership of such council include practitioners, laypersons,
4 financiers, and others with business development experience
5 who can provide invaluable insight and expertise for this
6 state in the diversification of its markets and networking of
7 business opportunities. The council shall initially consist of
8 19 persons, each of whom is or has been actively engaged in
9 small and minority business development, either in private
10 industry, in governmental service, or as a scholar of
11 recognized achievement in the study of such matters.

12 Initially, the council shall consist of members representing
13 all regions of the state and shall include at least one member
14 from each group identified within the definition of "minority
15 person" in s. 288.703(3), considering also gender and
16 nationality subgroups, and shall consist of the following:

17 (a) Four members consisting of representatives of
18 local and federal small and minority business assistance
19 programs or community development programs.

20 (b) Eight members composed of representatives of the
21 minority private business sector, including certified minority
22 business enterprises and minority supplier development
23 councils, among whom at least two shall be women and at least
24 four shall be minority persons.

25 (c) Two representatives of local government, one of
26 whom shall be a representative of a large local government,
27 and one of whom shall be a representative of a small local
28 government.

29 (d) Two representatives from the banking and insurance
30 industry.

31 (e) Two members from the private business sector,

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1 representing the construction and commodities industries.

2 (f) The chairperson of the Florida Black Business
3 Investment Board or the chairperson's designee.

4
5 A candidate for appointment may be considered if eligible to
6 be certified as an owner of a minority business enterprise, or
7 if otherwise qualified under the criteria above. Vacancies may
8 be filled by appointment of the secretary, in the manner of
9 the original appointment.

10 Section 91. Effective October 1, 2000, subsections (2)
11 and (3) and paragraph (h) of subsection (4) of section
12 287.09451, Florida Statutes, are amended to read:

13 287.09451 Minority Business Advocacy and Assistance
14 Office; powers, duties, and functions.--

15 (2) The Minority Business Advocacy and Assistance
16 Office is established within the Department of Management
17 Services ~~Labor and Employment Security~~ to assist minority
18 business enterprises in becoming suppliers of commodities,
19 services, and construction to state government.

20 (3) The Secretary of the Department of Management
21 Services ~~secretary~~ shall appoint an executive director for the
22 Minority Business Advocacy and Assistance Office, who shall
23 serve at the pleasure of the secretary.

24 (4) The Minority Business Advocacy and Assistance
25 Office shall have the following powers, duties, and functions:

26 (h) To develop procedures to investigate complaints
27 against minority business enterprises or contractors alleged
28 to violate any provision related to this section or s.
29 287.0943, that may include visits to worksites or business
30 premises, and to refer all information on businesses suspected
31 of misrepresenting minority status to the Department of

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1 Management Services Labor and Employment Security for
2 investigation. When an investigation is completed and there is
3 reason to believe that a violation has occurred, the
4 Department of Management Services Labor and Employment
5 Security shall refer the matter to the office of the Attorney
6 General, Department of Legal Affairs, for prosecution.

7 Section 92. Effective upon this act becoming a law,
8 subsections (3), (4), and (6) of section 20.15, Florida
9 Statutes, are amended and paragraph (d) is added to subsection
10 (5) of that section to read:

11 20.15 Department of Education.--There is created a
12 Department of Education.

13 (3) DIVISIONS.--The following divisions of the
14 Department of Education are established:

15 (a) Division of Community Colleges.

16 (b) Division of Public Schools and Community
17 Education.

18 (c) Division of Universities.

19 (d) Division of Workforce Development.

20 (e) Division of Human Resource Development.

21 (f) Division of Administration.

22 (g) Division of Financial Services.

23 (h) Division of Support Services.

24 (i) Division of Technology.

25 (j) Division of Occupational Access and Opportunity.

26 (4) DIRECTORS.--The Board of Regents is the director
27 of the Division of Universities, the Occupational Access and
28 Opportunity Commission is the director of the Division of
29 Occupational Access and Opportunity,and the State Board of
30 Community Colleges is the director of the Division of
31 Community Colleges, pursuant to chapter 240. The directors of

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1 all other divisions shall be appointed by the commissioner
2 subject to approval by the state board.

3 (5) POWERS AND DUTIES.--The State Board of Education
4 and the Commissioner of Education:

5 (d) Shall assign to the Division of Occupational
6 Access and Opportunity such powers, duties, responsibilities,
7 and functions as are necessary to ensure the coordination,
8 efficiency, and effectiveness of its programs, including, but
9 not limited to, vocational rehabilitation and independent
10 living services to persons with disabilities which services
11 are funded under the Rehabilitation Act of 1973, as amended,
12 except:

13 1. Those duties specifically assigned to the Division
14 of Blind Services of the Department of Management Services;

15 2. Those duties specifically assigned to the
16 Commissioner of Education in ss. 229.512 and 229.551;

17 3. Those duties concerning physical facilities in
18 chapter 235;

19 4. Those duties assigned to the State Board of
20 Community Colleges in chapter 240; and

21 5. Those duties assigned to the Division of Workforce
22 Development in chapter 239.

23
24 Effective October 1, 2000, the Occupational Access and
25 Oppportunity Commission shall assume all responsibilities
26 necessary to be the designated state agency for purposes of
27 compliance with the Rehabilitation Act of 1973, as amended.

28 (6) COUNCILS AND COMMITTEES.--Notwithstanding anything
29 contained in law to the contrary, the Commissioner of
30 Education shall appoint all members of all councils and
31 committees of the Department of Education, except the Board of

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1 Regents, the State Board of Community Colleges, the community
 2 college district boards of trustees, the Postsecondary
 3 Education Planning Commission, the Education Practices
 4 Commission, the Education Standards Commission, the State
 5 Board of Independent Colleges and Universities, the
 6 Occupational Access and Opportunity Commission, the Florida
 7 Rehabilitation Council, the Florida Independent Living
 8 Council, and the State Board of Nonpublic Career Education.

9 Section 93. Subsection (16) is added to section
 10 120.80, Florida Statutes, to read:

11 120.80 Exceptions and special requirements;
 12 agencies.--

13 (16) OCCUPATIONAL ACCESS AND OPPORTUNITY
 14 COMMISSION.--Notwithstanding s. 120.57(1)(a), hearings
 15 concerning determinations by the Occupational Access and
 16 Opportunity Commission on eligibility, plans of services, or
 17 closure need not be conducted by an administrative law judge
 18 assigned by the division. The commission may choose to
 19 contract with another appropriate resource in these matters.

20 Section 94. Effective October 1, 2000, section
 21 413.011, Florida Statutes, is amended to read:

22 413.011 Division of Blind Services, internal
 23 organizational structure; Florida Rehabilitation Advisory
 24 Council for ~~the~~ Blind Services.--

25 (1) The internal organizational structure of the
 26 Division of Blind Services shall be designed for the purpose
 27 of ensuring the greatest possible efficiency and effectiveness
 28 of services to the blind and to be consistent with chapter 20.
 29 The Division of Blind Services shall ~~plan, supervise, and~~
 30 carry out the following activities under planning and policy
 31 guidance from the Florida Rehabilitation Council for Blind

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1 Services:

2 (a) Implement the provisions of the 5-year strategic
3 plan prepared by the council under paragraph (3)(a) to provide
4 services to individuals who are blind.

5 (b)~~(a)~~ Recommend personnel as may be necessary to
6 carry out the purposes of this section.

7 (c)~~(b)~~ Cause to be compiled and maintained a complete
8 register of individuals in the state who are the blind in the
9 state, which shall describe the condition, cause of blindness,
10 and capacity for education and industrial training, with such
11 other facts as may seem to the division to be of value. Any
12 information in the register of individuals who are the blind
13 which, when released, could identify an individual is
14 confidential and exempt from the provisions of s. 119.07(1).

15 (d)~~(c)~~ Inquire into the cause of blindness, inaugurate
16 preventive measures, and provide for the examination and
17 treatment of individuals who are the blind, or those
18 threatened with blindness, for the benefit of such persons,
19 and shall pay therefor, including necessary incidental
20 expenses.

21 (e)~~(d)~~ Contract with community-based rehabilitation
22 providers, to the maximum extent allowable under federal law,
23 to assist individuals who are blind in obtaining Aid the blind
24 in finding employment, teach them trades and occupations
25 within their capacities, assist them in disposing of products
26 made by them in home industries, assist them in obtaining
27 funds for establishing enterprises where federal funds
28 reimburse the state, and do such things as will contribute to
29 the efficiency of self-support of individuals who are the
30 blind.

31 (f)~~(e)~~ Establish one or more training schools and

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1 workshops for the employment of suitable individuals who are
2 blind ~~persons~~; make expenditures of funds for such purposes;
3 receive moneys from sales of commodities involved in such
4 activities and from such funds make payments of wages,
5 repairs, insurance premiums and replacements of equipment. All
6 of the activities provided for in this section may be carried
7 on in cooperation with private workshops for individuals who
8 are the blind, except that all tools and equipment furnished
9 by the division shall remain the property of the state.

10 (g)(f) Contract with community-based rehabilitation
11 providers, to the maximum extent allowable under federal law,
12 to provide special services and benefits for individuals who
13 are the blind in order to assist them in ~~for~~ developing their
14 social life through community activities and recreational
15 facilities.

16 (h)(g) Undertake such other activities as may
17 ameliorate the condition of ~~blind~~ citizens of this state who
18 are blind.

19 (i)(h) Cooperate with other agencies, public or
20 private, especially the Division of the Blind and Physically
21 Handicapped of the Library of Congress and the Division of
22 Library and Information Services of the Department of State,
23 to provide library service to individuals who are the blind
24 and individuals who have other disabilities ~~other handicapped~~
25 ~~persons~~ as defined in federal law and regulations in carrying
26 out any or all of the provisions of this law.

27 (j)(i) Recommend contracts and agreements with
28 federal, state, county, municipal and private corporations,
29 and individuals.

30 (k)(j) Receive moneys or properties by gift or bequest
31 from any person, firm, corporation, or organization for any of

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1 the purposes herein set out, but without authority to bind the
2 state to any expenditure or policy except such as may be
3 specifically authorized by law. All such moneys or properties
4 so received by gift or bequest as herein authorized may be
5 disbursed and expended by the division upon its own warrant
6 for any of the purposes herein set forth, and such moneys or
7 properties shall not constitute or be considered a part of any
8 legislative appropriation made by the state for the purpose of
9 carrying out the provisions of this law.

10 (l)(k) Prepare and make available to individuals who
11 are the blind, in braille and on electronic recording
12 equipment, Florida Statutes chapters 20, 120, 121, and 413, in
13 their entirety.

14 (m)(i) Adopt by rule procedures necessary to comply
15 with any plans prepared by the council for providing
16 vocational rehabilitation services for individuals who are the
17 blind.

18 (n)(m) Adopt by rule forms and instructions to be used
19 by the division in its general administration.

20 (o) Recommend to the Legislature a method to privatize
21 the Business Enterprise Program established under s. 413.051
22 by creating a not-for-profit entity. The entity shall conform
23 to requirements of the federal Randolph Sheppard Act and shall
24 be composed of blind licensees with expertise in operating
25 business enterprises. The division shall submit its
26 recommendations to the Governor, the President of the Senate,
27 and the Speaker of the House of Representatives, as well as to
28 the appropriate substantive committees of the Legislature, by
29 January 1, 2001.

30 (2) As used in this section:

31 (a) "Act," unless the context indicates otherwise,

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1 means the Rehabilitation Act of 1973, 29 U.S.C. ss. 701-797,
2 as amended.

3 (b) "Blind" or "blindness" means the condition of any
4 person for whom blindness is a disability as defined by the
5 Rehabilitation Act of 1973, 29 U.S.C. s. 706(8)(b).

6 (c) "Community-based rehabilitation provider" means a
7 provider of services to individuals in a community setting
8 which has as its primary function services directed toward
9 individuals who are blind.

10 (d) "Council" means the Florida Rehabilitation Council
11 for Blind Services.

12 (e)~~(c)~~ "Department" means the Department of Management
13 Services Labor and Employment Security.

14 (f) "Plan" means the 5-year strategic plan developed
15 by the council under paragraph (3)(a).

16 (g) "State plan" means the state plan for vocational
17 rehabilitation required by the federal Rehabilitation Act of
18 1973, as amended.

19 (3) There is ~~hereby~~ created in the department the
20 Florida Rehabilitation Advisory Council for the Blind
21 Services. The council shall be established in accordance with
22 the act and must include at least four representatives of
23 private-sector businesses that are not providers of vocational
24 rehabilitation services. Members of the council shall serve
25 without compensation, but may be reimbursed for per diem and
26 travel expenses pursuant to s. 112.061.~~to assist the division~~
27 ~~in the planning and development of statewide rehabilitation~~
28 ~~programs and services, to recommend improvements to such~~
29 ~~programs and services, and to perform the functions provided~~
30 ~~in this section.~~

31 (a) ~~The advisory council shall be composed of:~~

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- 1 ~~1. At least one representative of the Independent~~
- 2 ~~Living Council, which representative may be the chair or other~~
- 3 ~~designee of the council;~~
- 4 ~~2. At least one representative of a parent training~~
- 5 ~~and information center established pursuant to s. 631(c)(9) of~~
- 6 ~~the Individuals with Disabilities Act, 20 U.S.C. s.~~
- 7 ~~1431(c)(9);~~
- 8 ~~3. At least one representative of the client~~
- 9 ~~assistance program established under the act;~~
- 10 ~~4. At least one vocational rehabilitation counselor~~
- 11 ~~who has knowledge of and experience in vocational~~
- 12 ~~rehabilitation services for the blind, who shall serve as an~~
- 13 ~~ex officio nonvoting member of the council if the counselor is~~
- 14 ~~an employee of the department;~~
- 15 ~~5. At least one representative of community~~
- 16 ~~rehabilitation program service providers;~~
- 17 ~~6. Four representatives of business, industry, and~~
- 18 ~~labor;~~
- 19 ~~7. At least one representative of a disability~~
- 20 ~~advocacy group representing individuals who are blind;~~
- 21 ~~8. At least one parent, family member, guardian,~~
- 22 ~~advocate, or authorized representative of an individual who is~~
- 23 ~~blind, has multiple disabilities, and either has difficulties~~
- 24 ~~representing himself or herself or is unable, due to~~
- 25 ~~disabilities, to represent himself or herself;~~
- 26 ~~9. Current or former applicants for, or recipients of,~~
- 27 ~~vocational rehabilitation services; and~~
- 28 ~~10. The director of the division, who shall be an ex~~
- 29 ~~officio member of the council.~~
- 30 ~~(b) Members of the council shall be appointed by the~~
- 31 ~~Governor, who shall select members after soliciting~~

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- 1 ~~recommendations from representatives of organizations~~
2 ~~representing a broad range of individuals who have~~
3 ~~disabilities, and organizations interested in those~~
4 ~~individuals.~~
- 5 ~~(c) A majority of council members shall be persons who~~
6 ~~are:~~
- 7 ~~1. Blind; and~~
8 ~~2. Not employed by the division.~~
- 9 ~~(d) The council shall select a chair from among its~~
10 ~~membership.~~
- 11 ~~(e) Each member of the council shall serve for a term~~
12 ~~of not more than 3 years, except that:~~
- 13 ~~1. A member appointed to fill a vacancy occurring~~
14 ~~prior to the expiration of the term for which a predecessor~~
15 ~~was appointed shall be appointed for the remainder of such~~
16 ~~term; and~~
- 17 ~~2. The terms of service of the members initially~~
18 ~~appointed shall be, as specified by the Governor, for such~~
19 ~~fewer number of years as will provide for the expiration of~~
20 ~~terms on a staggered basis.~~
- 21 ~~(f) No member of the council may serve more than two~~
22 ~~consecutive full terms.~~
- 23 ~~(g) Any vacancy occurring in the membership of the~~
24 ~~council shall be filled in the same manner as the original~~
25 ~~appointment. A vacancy does not affect the power of the~~
26 ~~remaining members to execute the duties of the council.~~
- 27 ~~(a)(h)~~ In addition to the other functions specified in
28 the act ~~this section~~, the council shall:
- 29 1. Review, analyze, and direct ~~advise~~ the division
30 regarding the performance of the responsibilities of the
31 division under Title I of the act, particularly

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1 responsibilities relating to:

2 a. Eligibility, including order of selection;

3 b. The extent, scope, and effectiveness of services
4 provided; and

5 c. Functions performed by state agencies that affect
6 or potentially affect the ability of individuals who are blind
7 to achieve rehabilitation goals and objectives under Title I.

8 2. Advise the department and the division, and provide
9 direction for, at the discretion of the department or
10 division, assist in the preparation of applications, the state
11 plan as required by federal law, the strategic plan, and
12 amendments to the plans, reports, needs assessments, and
13 evaluations required by Title I.

14 3. Prepare by March 1, 2001, and begin implementing,
15 by July 1, 2001, subject to approval by the Federal
16 Government, a 5-year strategic plan to provide services to
17 individuals who are blind. The council must consult with
18 stakeholders and conduct public hearings as part of the
19 development of the plan. The plan must be submitted to the
20 Governor, the President of the Senate, and the Speaker of the
21 House of Representatives. The council annually shall make
22 amendments to the plan, which also must be submitted to the
23 Governor, the President of the Senate, and the Speaker of the
24 House of Representatives. The plan must provide for the
25 maximum use of community-based rehabilitation providers for
26 the delivery of services and a corresponding reduction in the
27 number of state employees in the division to the minimum
28 number necessary to carry out the functions required under
29 this section. The plan also must provide for 90 percent of the
30 funds provided for services to individuals who are blind to be
31 used for direct customer services.

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1 ~~4.3.~~ To the extent feasible, conduct a review and
2 analysis of the effectiveness of, and consumer satisfaction
3 with:

4 a. The functions performed by state agencies and other
5 public and private entities responsible for performing
6 functions for individuals who are blind.

7 b. Vocational rehabilitation services:

8 (I) Provided or paid for from funds made available
9 under the act or through other public or private sources.

10 (II) Provided by state agencies and other public and
11 private entities responsible for providing vocational
12 rehabilitation services to individuals who are blind.

13 ~~5.4.~~ Prepare and submit an annual report on the status
14 of vocational rehabilitation services for individuals who are
15 ~~the~~ blind in the state to the Governor and the Commissioner of
16 the Rehabilitative Services Administration, established under
17 s. 702 of the act, and make the report available to the
18 public.

19 ~~6.5.~~ Coordinate with other councils within the state,
20 including the Independent Living Council, the advisory panel
21 established under s. 613(a)(12) of the Individuals with
22 Disabilities Education Act, 20 U.S.C. 1413(a)(12), the State
23 Planning Council described in s. 124 of the Developmental
24 Disabilities Assistance and Bill of Rights Act, 42 U.S.C. s.
25 6024, and the state mental health planning council established
26 under s. 1916(e) of the Public Health Service Act, 42 U.S.C.
27 300X-4(e), the Occupational Access and Opportunity Commission,
28 and the state Workforce Development Board under the federal
29 Workforce Investment Act.

30 ~~7.6.~~ Advise the department and division and provide
31 for coordination and the establishment of working

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1 relationships among the department, the division, the
2 Independent Living Council, and centers for independent living
3 in the state.

4 ~~8.7.~~ Perform such other functions consistent with the
5 purposes of the act as the council determines to be
6 appropriate that are comparable to functions performed by the
7 council.

8 ~~(b)(i)~~1. The council shall prepare, in conjunction
9 with the division, a plan for the provision of such resources,
10 including such staff and other personnel, as may be necessary
11 to carry out the functions of the council. The resource plan
12 shall, to the maximum extent possible, rely on the use of
13 resources in existence during the period of implementation of
14 the plan.

15 ~~2. If there is a disagreement between the council and~~
16 ~~the division in regard to the resources necessary to carry out~~
17 ~~the functions of the council as set forth in this section, the~~
18 ~~disagreement shall be resolved by the Governor.~~

19 ~~2.3.~~ The council shall, consistent with law, supervise
20 and evaluate such staff and other personnel as may be
21 necessary to carry out its functions.

22 ~~3.4.~~ While assisting the council in carrying out its
23 duties, staff and other personnel shall not be assigned duties
24 by the division or any other state agency or office that would
25 create a conflict of interest.

26 ~~(c)(j)~~ No council member shall cast a vote on any
27 matter that would provide direct financial benefit to the
28 member or otherwise give the appearance of a conflict of
29 interest under state law.

30 ~~(d)(k)~~ The council shall convene at least four
31 meetings each year. These meetings shall occur in such places

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1 as the council deems necessary to conduct council business.
2 The council may conduct such forums or hearings as the council
3 considers appropriate. The meetings, hearings, and forums
4 shall be publicly announced. The meetings shall be open and
5 accessible to the public. To the maximum extent possible, the
6 meetings shall be held in locations that are accessible to
7 individuals with disabilities.The council shall make a report
8 of each meeting which shall include a record of its
9 discussions and recommendations, all of which reports shall be
10 made available to the public.

11 Section 95. Effective October 1, 2000, section
12 413.014, Florida Statutes, is amended to read:

13 413.014 Community-based rehabilitation providers
14 programs.--The 5-year plan prepared under s. 413.011(3)(a)3.
15 shall require the Division of Blind Services to ~~shall~~ enter
16 into cooperative agreements with community-based
17 rehabilitation providers ~~programs~~ to be the service providers
18 for the blind citizens of their communities. State employees,
19 however, shall provide all services that may not be delegated
20 under federal law.The division shall, as rapidly as feasible,
21 increase the amount of such services provided by
22 community-based rehabilitation providers ~~programs~~. The goal
23 shall be to decrease the amount of such services provided by
24 division employees and to increase to the maximum extent
25 allowed by federal law the amount of such services provided
26 through cooperative agreements with community-based service
27 providers. The division shall seek, to the maximum extent
28 allowed by federal and state law and regulation, all available
29 federal funds for such purposes. Funds and in-kind matching
30 contributions from community and private sources shall be used
31 to maximize federal funds. Unless prohibited by federal law or

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1 regulation, the share of the federal vocational rehabilitation
 2 grant apportioned for services to the blind shall be not less
 3 than 17 percent. By December 31 of each year, the division
 4 shall submit to the Governor, the President of the Senate, and
 5 the Speaker of the House of Representatives a status report on
 6 its progress on increasing the amount of services provided by
 7 community-based rehabilitation providers as required by this
 8 section. The report shall include recommendations on
 9 reductions in the number of division employees based upon
 10 increased use of community-based rehabilitation providers.

11 Section 96. Effective October 1, 2000, subsection (1)
 12 of section 413.034, Florida Statutes, is amended to read:

13 413.034 Commission established; membership.--

14 (1) There is created within the Department of
 15 Management Services the Commission for Purchase from the Blind
 16 or Other Severely Handicapped, to be composed of the secretary
 17 of the Department of Management Services; the director of the
 18 Division of Occupational Access and Opportunity ~~Vocational~~
 19 ~~Rehabilitation~~ of the Department of Education ~~Labor and~~
 20 ~~Employment Security~~, who shall be an ex officio member with
 21 voting rights; the director of the Division of Blind Services
 22 of the Department of Management Services ~~Labor and Employment~~
 23 ~~Security~~; and four members to be appointed by the Governor,
 24 which four members shall be an executive director of a
 25 nonprofit agency for the blind, an executive director of a
 26 nonprofit agency for other severely handicapped persons, a
 27 representative of private enterprise, and a representative of
 28 other political subdivisions. All appointed members shall
 29 serve for terms of 4 years. Appointed commission members
 30 shall serve subject to confirmation by the Senate.

31 Section 97. Effective October 1, 2000, paragraph (a)

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1 of subsection (2) and subsection (3) of section 413.051,
2 Florida Statutes, are amended to read:

3 413.051 Eligible blind persons; operation of vending
4 stands.--

5 (2) As used in this section:

6 (a) "Blind licensee" means any person who is blind and
7 who is ~~person~~ trained and licensed by the Division of Blind
8 Services of the Department of Management Services ~~Labor and~~
9 ~~Employment Security~~ to operate a vending stand.

10 (3) Blind licensees shall be given the first
11 opportunity to participate in the operation of vending stands
12 on all state properties acquired after July 1, 1979, when such
13 facilities are operated under the supervision of the Division
14 of Blind Services of the Department of Management Services
15 ~~Labor and Employment Security~~.

16 Section 98. Effective October 1, 2000, section
17 413.064, Florida Statutes, is amended to read:

18 413.064 Rules.--The Department of Management Services
19 ~~Labor and Employment Security~~ shall adopt all necessary rules
20 pertaining to the conduct of a solicitation for the benefit of
21 individuals who are blind ~~persons~~, including criteria for
22 approval of an application for a permit for such solicitation.

23 Section 99. Effective October 1, 2000, section
24 413.066, Florida Statutes, is amended to read:

25 413.066 Revocation of permit.--Any failure on the part
26 of a person or organization holding a permit under the
27 provisions of ss. 413.061-413.068 to comply with the law or
28 with all rules promulgated by the Department of Management
29 Services ~~Labor and Employment Security~~ as authorized by s.
30 413.064 constitutes a ground for revocation of the permit by
31 the Division of Blind Services.

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1 Section 100. Effective October 1, 2000, section
2 413.067, Florida Statutes, is amended to read:

3 413.067 Penalty.--Any person who violates the
4 provisions of ss. 413.061-413.068 or any rule promulgated by
5 the Department of Management Services ~~Labor and Employment~~
6 ~~Security~~ pursuant thereto commits a misdemeanor of the second
7 degree, punishable as provided in s. 775.082 or s. 775.083.

8 Section 101. Effective October 1, 2000, subsection (1)
9 of section 413.395, Florida Statutes, is amended to read:

10 413.395 Florida Independent Living Council.--

11 (1) There is created the Florida Independent Living
12 Council to assist the division and the Division of Blind
13 Services of the Department of Management Services ~~Labor and~~
14 ~~Employment Security~~, as well as other state agencies and local
15 planning and administrative entities assisted under Title VII
16 of the act, in the expansion and development of statewide
17 independent living policies, programs, and concepts and to
18 recommend improvements for such programs and services. The
19 council shall function independently of the division and,
20 unless the council elects to incorporate as a not-for-profit
21 corporation, is assigned to the division for administrative
22 purposes only. The council may elect to be incorporated as a
23 Florida corporation not for profit and, upon such election,
24 shall be assisted in the incorporation by the division for the
25 purposes stated in this section. The appointed members of the
26 council may constitute the board of directors for the
27 corporation.

28 Section 102. It is the intent of the Legislature that
29 the provisions of this act relating to services for
30 individuals who are blind not conflict with any federal
31 statute or implementing regulation governing federal

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1 grant-in-aid programs administered by the Division of Blind
2 Services or the Florida Rehabilitation Council for Blind
3 Services. Whenever such a conflict is asserted by the U.S.
4 Department of Education or other applicable agency of the
5 Federal Government, the council shall submit to the U.S.
6 Department of Education or other applicable federal agency a
7 request for a favorable policy interpretation of the
8 conflicting portions of such statute or regulation. If the
9 request is approved, as certified in writing by the Secretary
10 of the U.S. Department of Education or the head of the other
11 applicable federal agency, the council or the division is
12 authorized to adjust the plan as necessary to achieve
13 conformity with federal statutes or regulations. Before
14 adjusting the plan, the council or the division shall provide
15 to the President of the Senate and the Speaker of the House of
16 Representatives an explanation and justification of the
17 position of the council or division and shall outline all
18 feasible alternatives that are consistent with this act. These
19 alternatives may include the state supervision of local
20 service agencies by the council or the division if the
21 agencies are designated by the Governor.

22 Section 103. Effective upon this act becoming a law,
23 section 413.82, Florida Statutes, is amended to read:

24 413.82 Definitions.--As used in ss. 413.81-413.93, the
25 term:

26 (1) "Commission" means the Commission on Occupational
27 Access and Opportunity.

28 (2) "Community rehabilitation provider" means a
29 provider of services to people in a community setting which
30 has as its primary function services directed toward
31 employment outcomes for people with disabilities.

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1 ~~(3)(2)~~ "Corporation" means the Occupational Access and
2 Opportunity Corporation.

3 ~~(4)(3)~~ "Division" means the Division of Occupational
4 Access and Opportunity ~~Vocational Rehabilitation~~.

5 (5) "Plan" means the plan required by ss.
6 413.81-413.93.~~(4)~~ "Office" means the ~~Executive Office of the~~
7 ~~Governor~~.

8 ~~(6)(5)~~ "State plan" means the state plan for
9 vocational rehabilitation required by Title I of the federal
10 Rehabilitation Act of 1973, as amended, ~~and ss. 413.81-413.93.~~

11 ~~(7)(6)~~ "Region" means a service area for a regional
12 workforce development board established by the Workforce
13 Development Board.

14 Section 104. Effective upon this act becoming a law,
15 subsections (2), (3), (6), (7), (8), and (10) of section
16 413.83, Florida Statutes, are amended to read:

17 413.83 Occupational Access and Opportunity Commission;
18 creation; purpose; membership.--

19 (2) The commission shall consist of 16 voting members,
20 including 15 members appointed, as provided in this section
21 herein, by the Governor, the President of the Senate, and the
22 Speaker of the House of Representatives, and four ex-officio,
23 nonvoting members. ~~The commission must contain a minimum of 50~~
24 ~~percent representation from the private sector.~~Appointment of
25 members is subject to confirmation by the Senate. The
26 membership of the commission may not include more than two
27 individuals who are, or are employed by, community
28 rehabilitation providers who contract to provide vocational
29 rehabilitation services to individuals who qualify for the
30 program.The members of the commission shall include:

31 (a) The Commissioner of Education, or his or her

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1 designee, who shall serve as chair until October 1, 2000;
2 after October 1, 2000, the commission shall elect a chair from
3 its membership;

4 (b) Eight employers from the private sector, three of
5 whom shall be appointed by the Governor for a term of 4 years,
6 three of whom shall be appointed by the President of the
7 Senate for a term of 4 years, and two of whom shall be
8 appointed by the Speaker of the House of Representatives for a
9 term of 4 years;

10 (c) An individual who is a consumer of vocational
11 rehabilitation services, who shall be appointed by the
12 Governor for a term of 4 years;

13 (d) A community rehabilitation provider who contracts
14 to provide vocational rehabilitation services to individuals
15 who qualify for the program and who shall be appointed by the
16 Governor for a term of 4 years;

17 (e) Five representatives of business, workforce
18 development, education, state government, local government, a
19 consumer advocate group, or a community organization, three of
20 whom shall be appointed by the Governor for a term of 4 years,
21 one of whom shall be appointed by the President of the Senate
22 for a term of 4 years, and one of whom shall be appointed by
23 the Speaker of the House of Representatives for a term of 4
24 years; and

25 (f) As exofficio, nonvoting members:

26 1. The executive director or his or her designee from
27 the Advocacy Center for Persons with Disabilities;

28 2. The chair of the Florida Rehabilitation Council;

29 3. The chair of the Council for Independent Living;

30 and

31 4. The chair of the Commission for the Purchase from

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1 the Blind or Other Severely Handicapped.

2 ~~(b) The chair of the Florida Rehabilitation Council;~~

3 ~~(c) The chair of the Council for Independent Living;~~

4 ~~(d) The chair of the Commission for the Purchase from~~
5 ~~the Blind or Other Severely Handicapped;~~

6 ~~(e) A community rehabilitation provider who contracts~~
7 ~~to provide vocational rehabilitation services to individuals~~
8 ~~who qualify for the program, who shall be appointed by the~~
9 ~~Governor for a term of 4 years;~~

10 ~~(f) A representative from the Advocacy Center for~~
11 ~~Persons With Disabilities, who shall be appointed by the~~
12 ~~President of the Senate for a term of 4 years;~~

13 ~~(g) A consumer of vocational rehabilitation services,~~
14 ~~who shall be appointed by the Speaker of the House of~~
15 ~~Representatives for a term of 4 years; and~~

16 ~~(h) Other individuals with disabilities and~~
17 ~~representatives of business, workforce development, education,~~
18 ~~state government, local government, consumer advocate groups,~~
19 ~~employers of individuals with disabilities, or community~~
20 ~~organizations.~~

21 (3) By September 1, 2000, after receiving
22 recommendations from the commission, the Governor, the
23 President of the Senate, and the Speaker of the House of
24 Representatives shall consult together and take actions
25 necessary to bring the membership of the commission into
26 compliance with the requirements of this section. In taking
27 such action, initial terms shall be staggered as necessary to
28 ensure that the terms of no more than one-fourth of the
29 commission's total appointed membership shall expire in any
30 1-year period. Initially, the Governor, the President of the
31 Senate, and the Speaker of the House of Representatives shall

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1 ~~each appoint as members meeting the qualifications contained~~
2 ~~in paragraph (2)(h), one member for a term of 3 years, one~~
3 ~~member for a term of 2 years, and one member for a term of 1~~
4 ~~year.~~ Thereafter, after receiving recommendations from the
5 commission, the Governor, the President of the Senate, and the
6 Speaker of the House of Representatives shall appoint all
7 members for terms of 4 years. Any vacancy shall be filled by
8 appointment by the original appointing authority for the
9 unexpired portion of the term by a person who possesses the
10 proper qualifications for the vacancy.

11 (6) ~~The Governor shall name the chair of the~~
12 ~~commission from its appointed members.~~ The commission shall
13 biennially elect one of its members as vice chair, who shall
14 preside in the absence of the chair. Neither the chair, nor
15 the vice chair, may be a provider of client services funded
16 through the commission.

17 (7) The Rehabilitation Council created by s. 413.405
18 ~~shall serve the commission and shall continue to perform its~~
19 ~~designated duties, with the commission as the designated state~~
20 vocational rehabilitation agency. ~~The commission shall~~
21 ~~consider the recommendations made by the council.~~

22 (8) The commission may appoint advisory committees
23 that the commission considers appropriate, which may include
24 members from outside the commission to study special problems
25 or issues and advise the commission on those subjects. The
26 commission shall establish an advisory council composed of
27 representatives from not-for-profit organizations that have
28 submitted a resolution requesting membership and have had the
29 request approved by the commission. ~~Any existing advisory~~
30 ~~board, commission, or council may seek to become an official~~
31 ~~advisory committee to the commission by submitting to the~~

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1 ~~commission a resolution requesting affiliation and having the~~
2 ~~request approved by the commission.~~The commission shall
3 establish the operating procedures of the committees.

4 (10) The members of the commission may rely on and are
5 subject to ~~are entitled to be reimbursed for reasonable and~~
6 ~~necessary expenses of attending meetings and performing~~
7 ~~commission duties, including per diem and travel expenses, and~~
8 ~~for personal care attendants and interpreters needed by~~
9 ~~members during meetings, as provided in s. 413.273.~~

10 Section 105. Effective upon this act becoming a law,
11 section 413.84, Florida Statutes, is amended to read:

12 413.84 Powers and duties.--The commission:

13 (1) Effective July 1, 2000, shall serve as the
14 director of the Division of Occupational Access and
15 Opportunity of the Department of Education.

16 (2) Is responsible for establishing policy, planning,
17 and quality assurance for the programs assigned and funded to
18 the division, including, but not limited to, vocational
19 rehabilitation and independent living services to persons with
20 disabilities which services are funded under the federal
21 Rehabilitation Act of 1973, as amended, in a coordinated,
22 efficient, and effective manner. The Occupational Access and
23 Opportunity Commission has authority to adopt rules pursuant
24 to ss. 120.536(1) and 120.54 to implement provisions of law
25 conferring duties upon it. Such rules and policies shall be
26 submitted to the State Board of Education for approval. If any
27 rule is not disapproved by the State Board of Education within
28 45 days after its receipt by the State Board of Education, the
29 rule shall be filed immediately with the Department of State.
30 Effective October 1, 2000, rules adopted by the commission do
31 not require approval by the State Board of Education.

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1 (3) Shall, in consultation with the Commissioner of
2 Education, hire a division director to be responsible to the
3 commission for operation and maintenance of the programs
4 assigned and funded to the division.

5 ~~(4)(1)~~ Shall, no later than January July 1, 2001 2000,
6 after consulting with stakeholders and holding public
7 hearings, develop and implement a 5-year plan to promote
8 occupational access and opportunities for Floridians with
9 disabilities, ~~and to fulfill the federal plan requirements.~~
10 The plan must be submitted to the Governor, the President of
11 the Senate, and the Speaker of the House of Representatives.
12 The commission may make amendments annually to the plan, which
13 must be submitted to the Governor, the President of the
14 Senate, and the Speaker of the House of Representatives by the
15 first of January.

16 (a) The plan must explore the use of Individual
17 Training Accounts, as described in the federal Workforce Act
18 of 1998, Pub. L. No. 105-220, for eligible clients. If
19 developed, these accounts must be distributed under a written
20 memorandum of understanding with One-Stop Career Center
21 operators.

22 (b) The plan must include an emergency response
23 component to address economic downturns.

24 (c) The plan must designate an administrative entity
25 that will support the commission's work; provide technical
26 assistance, training, and capacity-building assistance; help
27 raise additional federal, state, and local funds; and promote
28 innovative contracts that upgrade or enhance direct services
29 to Floridians with disabilities.

30 (d) The plan must require that the commission enter
31 into cooperative agreements with community-based

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1 rehabilitation programs by workforce region to be the service
2 providers for the program; however, state ~~career service~~
3 employees shall provide all services that may not be delegated
4 under ~~mandated by~~ federal law. The commission shall, as
5 rapidly as is feasible, increase the amount of such services
6 provided by community-based rehabilitation programs. The plan
7 must incorporate, to the maximum extent allowed by federal and
8 state law and regulation, all available funds for such
9 purposes. Funds and in-kind contributions from community and
10 private sources shall be used to enhance federal and state
11 resources.

12 (e) The plan must include recommendations regarding
13 specific performance standards and measurable outcomes, and
14 must outline procedures for monitoring operations of the
15 commission, the corporation, the division,~~commission's~~ and
16 all providers of services under contract to the commission's
17 ~~designated administrative entity's~~ operations to ensure that
18 performance data is maintained and supported by records of
19 such entities. The commission shall consult with the Office of
20 Program Policy Analysis and Government Accountability in the
21 establishment of performance standards, measurable outcomes,
22 and monitoring procedures.

23 ~~(5)(2)~~ Notwithstanding the provisions of part I of
24 chapter 287, shall contract, no later than July 1, 2000, with
25 the corporation ~~administrative entity designated in the plan~~
26 to execute the services, functions, and programs prescribed in
27 the plan. The commission shall serve as contract
28 administrator. ~~If approved by the federal Department of~~
29 ~~Education, the administrative entity may be a direct-support~~
30 ~~organization.~~The commission shall define the terms of the
31 contract.

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1 (6)~~(3)~~ Shall work with the employer community to
2 better define, address, and meet its business needs with
3 qualified Floridians with disabilities.

4 (7)~~(4)~~ Is responsible for the prudent use of all
5 public and private funds provided for the commission's use,
6 ensuring that the use of all funds is in accordance with all
7 applicable laws, bylaws, and contractual requirements.

8 (8)~~(5)~~ Shall develop an operational structure to carry
9 out the plan developed by the commission.

10 (9)~~(6)~~ May appear on its own behalf before the
11 Legislature, boards, commissions, departments, or other
12 agencies of municipal, county, state, or Federal Government.

13 (10)~~(7)~~ In the performance of its duties, may
14 undertake or commission research and studies.

15 (11)~~(8)~~ Shall develop a budget, which is in keeping
16 with the plan, for the operation and activities of the
17 commission and functions of its designated administrative
18 entity. The budget shall be submitted to the Governor for
19 inclusion in the Governor's budget recommendations.

20 (12)~~(9)~~ May assign staff from the ~~office or~~ division
21 to assist in implementing the provisions of this act relating
22 to the Occupational Access and Opportunity Commission.

23 Section 106. Effective upon this act becoming a law,
24 subsections (1), (3), and (4) of section 413.85, Florida
25 Statutes, are amended to read:

26 413.85 Occupational Access and Opportunity
27 Corporation; use of property; board of directors; duties;
28 audit.--

29 (1) ESTABLISHMENT.--If the commission elects to
30 contract with the corporation to provide services ~~designate a~~
31 ~~direct support organization as its administrative entity, such~~

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1 organization shall be designated the Occupational Access and
2 Opportunity Corporation:

3 (a) Which is a corporation not for profit, as defined
4 in s. 501(c)s. 501(c)(6) of the Internal Revenue Code of
5 1986, as amended, and is incorporated under the provisions of
6 chapter 617 and approved by the Department of State.

7 (b) Which is organized and operated exclusively to
8 carry out such activities and tasks as the commission assigns
9 through contract.~~request, receive, hold, invest, and~~
10 ~~administer property and to manage and make expenditures for~~
11 ~~the operation of the activities, services, functions, and~~
12 ~~programs of the provisions of this act relating to the~~
13 ~~Occupational Access and Opportunity Commission.~~

14 (c) Which the commission, after review, has certified
15 to be operating in a manner consistent with the policies and
16 goals of the commission and the plan.

17 (d) Which shall not be considered an agency for the
18 purposes of chapters 120, ~~and~~ 216, ~~and~~ 287; ss. 255.25 and
19 255.254, relating to leasing of buildings; ss. 283.33 and
20 283.35, relating to bids for printing; s. 215.31; and parts IV
21 through VIII of chapter 112.

22 (e) Which shall be subject to the provisions of
23 chapter 119, relating to public records; ~~and~~ the provisions
24 of chapter 286, relating to public meetings; and the
25 provisions of s. 768.28 as a corporation primarily acting as
26 an instrumentality of this state.

27 (3) BOARD OF DIRECTORS.--The board of directors of the
28 corporation shall be composed of no fewer than 7 and no more
29 than 15 members appointed by the commission, and a majority of
30 its members must be members of the commission ~~15 members,~~
31 ~~appointed by the commission from its own membership.~~ The vice

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1 chair of the commission shall serve as chair of the
2 corporation's board of directors.

3 (4) POWERS AND DUTIES.--The corporation, in the
4 performance of its duties:

5 (a) May make and enter into contracts and assume such
6 other functions as are necessary to carry out the provisions
7 of the plan and the corporation's contract with the commission
8 which are not inconsistent with this or any other provision of
9 law.

10 (b) May develop a program to leverage the existing
11 federal and state funding and to provide upgraded or expanded
12 services to Floridians with disabilities if directed by the
13 commission.

14 (c) May commission and adopt, in cooperation with the
15 commission, an official business name and logo to be used in
16 all promotional materials directly produced by the
17 corporation.

18 (d) The corporation shall establish cooperative and
19 collaborative memoranda of understanding with One-Stop Career
20 Center operators to increase, upgrade, or expand services to
21 Floridians with disabilities who are seeking employment and
22 self-sufficiency.

23 (e) May hire any individual who, as of June 30, 2000,
24 is employed by the Division of Vocational Rehabilitation. Such
25 hiring may be done through a lease agreement established by
26 the Department of Management Services for the corporation.
27 Under such agreement, the employee shall retain his or her
28 status as a state employee, but shall work under the direct
29 supervision of the corporation. Retention of state employee
30 status shall include the right to participate in the Florida
31 Retirement System. The Department of Management Services shall

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1 establish the terms and conditions of such lease agreements.

2 Section 107. Effective upon this act becoming a law,
3 section 413.86, Florida Statutes, is amended to read:

4 413.86 Public-private partnerships.--The Division of
5 Occupational Access and Opportunity ~~Vocational Rehabilitation~~
6 will enter into local public-private partnerships to the
7 extent that it is beneficial to increasing employment outcomes
8 for persons with disabilities and ensuring their full
9 involvement in the comprehensive workforce investment system.

10 Section 108. Effective upon this act becoming law,
11 section 413.865, Florida Statutes, is created to read:

12 413.865 Coordination with workforce system.--

13 (1) The Occupational Access and Opportunity
14 Commission, the Division of Occupational Access and
15 Opportunity, the corporation, and community-based service
16 providers shall coordinate and integrate their planning,
17 programs, and services with the planning, programs, and
18 services of Workforce Florida, Inc., the Agency for Workforce
19 Innovation, regional workforce boards, and one-stop center
20 operators to ensure that persons with disabilities can easily
21 receive all intended and available federal, state, and local
22 program services.

23 (2) These public and private partners shall work
24 together to ensure and provide continuity of service to
25 persons with disabilities throughout the state, as well as to
26 provide consistent and upgraded services to persons with
27 disabilities throughout the state.

28 (3) These public and private partners shall work
29 together to ensure that Florida's design and implementation of
30 the federal Workforce Investment Act:

31 (a) Integrates these partners in the One-Stop Delivery

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1 System through memorandums of understanding;

2 (b) Includes qualified and eligible providers of
3 services to persons with disabilities in consumer reports to
4 promote choice;

5 (c) Develops, using the Untried Worker Placement and
6 Employment Incentive Act, a tailored Individual Training
7 Account design for persons with disabilities; and

8 (d) Provides electronic access for persons with
9 disabilities to workforce development services.

10 (4) These partners, with resources under their control
11 or by budget amendment, shall establish the collaboration
12 prescribed by this section. The Commission and Workforce
13 Florida, Inc., may adopt a joint agreement that commits,
14 contracts, redirects, and obligates resources under their
15 control to support the strategy detailed in this section.

16 (5) The commission, in cooperation with its public and
17 private partners, shall be responsible for developing and
18 implementing comprehensive performance measurement
19 methodologies to monitor and evaluate the progress of the
20 commission and its public and private partners in meeting the
21 statutory responsibilities for providing services to
22 individuals with disabilities. These methodologies shall
23 include, but are not limited to, measures to evaluate the
24 performance of community rehabilitation providers who contract
25 with the commission. The commission shall emphasize
26 integration with performance measurement methodologies of the
27 state's workforce development system.

28 Section 109. Effective upon this act becoming a law,
29 subsection (2) of section 413.87, Florida Statutes, is amended
30 to read:

31 413.87 Annual audit.--

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1 (2) The corporation shall provide to the commission a
2 quarterly report that:

3 (a) Updates its progress and impact in creating
4 employment and increasing the personal income of individuals
5 with disabilities;

6 (b) Provides detailed, unaudited financial statements
7 of sources and uses of public and private funds;

8 (c) Measures progress towards annual goals and
9 objectives set forth in the contract ~~commission's plan~~;

10 (d) Reviews all pertinent research findings and
11 training efforts; and

12 (e) Provides other measures of accountability as
13 requested by the commission.

14 Section 110. Effective upon this act becoming a law,
15 section 413.88, Florida Statutes, is amended to read:

16 413.88 Annual report of the Occupational Access and
17 Opportunity Commission; audits.--

18 (1) Before January 1 of each year, the commission
19 shall submit to the Governor, the President of the Senate, and
20 the Speaker of the House of Representatives a complete and
21 detailed report setting forth for itself and its designated
22 administrative entity:

23 (a) Its operations and accomplishments during the
24 fiscal year.

25 (b) Its business and operational plan.

26 (c) The assets and liabilities of the corporation
27 ~~designated administrative entity~~ at the end of its most recent
28 fiscal year.

29 (d) A copy of the annual financial and compliance
30 audit.

31 (2) The Auditor General may, pursuant to his or her

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1 own authority or at the direction of the Legislative Auditing
2 Committee, conduct an audit of the commission or the
3 corporation ~~its designated administrative entity.~~

4 Section 111. Effective upon this act becoming a law,
5 section 413.89, Florida Statutes, is amended to read:

6 413.89 State vocational rehabilitation plan;
7 preparation and submittal; administration.--Effective July 1,
8 2000, the Department of Education is the designated state
9 agency and the Division of Occupational Access and Opportunity
10 is the designated state unit for purposes of compliance with
11 the federal Rehabilitation Act of 1973, as amended. Effective
12 October 1, 2000,~~Upon appointment,~~the Occupational Access and
13 Opportunity Commission is the designated state agency for
14 purposes of compliance with the Rehabilitation Act of 1973, as
15 amended, and authorized to prepare and submit the federally
16 required state vocational rehabilitation plan and to serve as
17 the governing authority of programs administered by the
18 commission, including, but not limited to: administering the
19 state's plan under the Rehabilitation Act of 1973, as amended;
20 receiving federal funds as the state vocational rehabilitation
21 agency; directing the expenditure of legislative
22 appropriations for rehabilitative services through its
23 designated administrative entity or other agents; and, if
24 necessary, making any changes to the plan that the commission
25 considers necessary to maintain compliance with the federal
26 Rehabilitation Act of 1973, as amended, and implementing such
27 changes in order to continue to qualify and maintain federal
28 funding support. During the period of time between July 1,
29 2000, and October 1, 2000, the department and ~~the appointment~~
30 ~~of the commission and the designation of the administrative~~
31 ~~entity,~~the commission ~~and the division~~ may, by agreement,

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1 provide for continued administration consistent with federal
2 and state law.

3 Section 112. Effective upon this act becoming a law,
4 section 413.90, Florida Statutes, is amended to read:

5 413.90 Designated State Agency and Designated State
6 Unit Designation of administrative entity.--Effective July 1,
7 2000, The division must comply with the transitional direction
8 of the plan. If the commission designates an administrative
9 entity other than the division, all powers, duties, and
10 functions of and all related records, property, and equipment
11 and all contractual rights, obligations of, and unexpended
12 balances of appropriations and other funds or allocations of
13 the division's component programs of the Division of
14 Vocational Rehabilitation of the Department of Labor and
15 Employment Security shall be transferred to the Division of
16 Occupational Access and Opportunity of the Department of
17 Education commission as provided in the plan, pursuant to s.
18 20.06(2). The commission and the Department of Education, in
19 establishing the Division of Occupational Access and
20 Opportunity, may establish no more than 700 positions
21 inclusive of those positions leased by the corporation. These
22 positions may be filled initially by former employees of the
23 Division of Vocational Rehabilitation. By October 1, 2000, the
24 division shall reduce the number of positions to no more than
25 300. Notwithstanding the provisions of s. 110.227, if a layoff
26 becomes necessary with respect to the Division of Occupational
27 Access and Opportunity, the competitive area identified for
28 such layoff shall not include any other division of the
29 Department of Education. If unforeseen transition activities
30 occur in moving service delivery from division employees to
31 community rehabilitation providers and create situations

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1 negatively affecting client services, and the remedy to those
2 temporary situations would require more than 300 positions,
3 the division may request a budget amendment to retain
4 positions. The request must provide full justification for the
5 continuation and include the number of positions and duration
6 of time required. In no instance shall the time required
7 exceed 3 months. Effective July 1, 2000, the records,
8 property, and unexpended balances of appropriations,
9 allocations, and other funds and resources of the Office of
10 the Secretary and the Office of Administrative Services of the
11 Department of Labor and Employment Security which support the
12 activities and functions of the Division of Vocational
13 Rehabilitation are transferred as provided in s. 20.06(2), to
14 the Division of Occupational Access and Opportunity at the
15 Department of Education.The Department of Labor and
16 Employment Security shall assist the commission in carrying
17 out the intent of this chapter and achieving an orderly
18 transition. The Office of Planning and Budget shall submit the
19 necessary budget amendments to the Legislature in order to
20 bring the budget into compliance with the plan.

21 Section 113. Effective upon this act becoming a law,
22 section 413.91, Florida Statutes, is amended to read:

23 413.91 Service providers; quality assurance and
24 fitness for responsibilities.--The Occupational Access and
25 Opportunity Commission shall assure that all contractors ~~the~~
26 ~~designated administrative entity~~ and providers of direct
27 service maintain an internal system of quality assurance, have
28 proven functional systems, and are subject to a due-diligence
29 inquiry for their fitness to undertake service
30 responsibilities regardless of whether a contract for services
31 is competitively or noncompetitively procured.

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1 Section 114. Effective upon this act becoming a law,
2 section 413.92, Florida Statutes, is amended to read:

3 413.92 Conflict of laws.--It is the intent of the
4 Legislature that the provisions of this act relating to the
5 Occupational Access and Opportunity Commission not conflict
6 with any federal statute or implementing regulation governing
7 federal grant-in-aid programs administered by the division or
8 the commission. Whenever such a conflict is asserted by the
9 applicable agency of the Federal Government, until October 1,
10 2000, the department, and after October 1, 2000, the
11 commission shall submit to the federal Department of
12 Education, or other applicable federal agency, a request for a
13 favorable policy interpretation of the conflicting portions.
14 If the request is approved, as certified in writing by the
15 secretary of the federal Department of Education, or the head
16 of the other applicable federal agency, the commission or the
17 division is authorized to make the adjustments in the plan
18 which are necessary for achieving conformity to federal
19 statutes and regulations. Before making such adjustments, the
20 commission or the division shall provide to the President of
21 the Senate and the Speaker of the House of Representatives an
22 explanation and justification of the position of the division
23 or the commission and shall outline all feasible alternatives
24 that are consistent with this section. These alternatives may
25 include the state supervision of local service agencies by the
26 commission or the division if the agencies are designated by
27 the Governor.

28 Section 115. Effective upon this act becoming a law,
29 section 413.93, Florida Statutes, is repealed.

30 Section 116. Subsections (11) and (13) of section
31 440.02, Florida Statutes, are amended to read:

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1 440.02 Definitions.--When used in this chapter, unless
2 the context clearly requires otherwise, the following terms
3 shall have the following meanings:

4 (11) "Department" means the Department of Insurance
5 ~~Labor and Employment Security~~.

6 (13) "Division" means the Division of Workers'
7 Compensation of the Department of Insurance ~~Labor and~~
8 ~~Employment Security~~.

9 Section 117. Subsection (1) of section 440.207,
10 Florida Statutes, is amended to read:

11 440.207 Workers' compensation system guide.--

12 (1) The Division of Workers' Compensation of the
13 Department of Insurance ~~Labor and Employment Security~~ shall
14 educate all persons providing or receiving benefits pursuant
15 to this chapter as to their rights and responsibilities under
16 this chapter.

17 Section 118. Subsections (2), (4), (5), (6), (9), and
18 (10); paragraph (c) of subsection (3); and paragraph (a) of
19 subsection (8) of section 440.385, Florida Statutes, are
20 amended to read:

21 440.385 Florida Self-Insurers Guaranty Association,
22 Incorporated.--

23 (2) BOARD OF DIRECTORS.--The board of directors of the
24 association shall consist of nine persons and shall be
25 organized as established in the plan of operation. ~~With~~
26 ~~respect to initial appointments, the Secretary of Labor and~~
27 ~~Employment Security shall, by July 15, 1982, approve and~~
28 ~~appoint to the board persons who are experienced with~~
29 ~~self-insurance in this state and who are recommended by the~~
30 ~~individual self-insurers in this state required to become~~
31 ~~members of the association pursuant to the provisions of~~

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1 ~~paragraph (1)(a). In the event the secretary finds that any~~
2 ~~person so recommended does not have the necessary~~
3 ~~qualifications for service on the board and a majority of the~~
4 ~~board has been appointed, the secretary shall request the~~
5 ~~directors thus far approved and appointed to recommend another~~
6 ~~person for appointment to the board. Each director shall serve~~
7 ~~for a 4-year term and may be reappointed. Appointments other~~
8 ~~than initial appointments shall be made by the Insurance~~
9 ~~Commissioner and Treasurer Secretary of Labor and Employment~~
10 ~~Security upon recommendation of members of the association.~~
11 Any vacancy on the board shall be filled for the remaining
12 period of the term in the same manner as appointments other
13 than initial appointments are made. Each director shall be
14 reimbursed for expenses incurred in carrying out the duties of
15 the board on behalf of the association.

16 (3) POWERS AND DUTIES.--

17 (c)1. To the extent necessary to secure funds for the
18 payment of covered claims and also to pay the reasonable costs
19 to administer them, the Department of Insurance ~~Labor and~~
20 ~~Employment Security~~, upon certification of the board of
21 directors, shall levy assessments based on the annual normal
22 premium each employer would have paid had the employer not
23 been self-insured. Every assessment shall be made as a
24 uniform percentage of the figure applicable to all individual
25 self-insurers, provided that the assessment levied against any
26 self-insurer in any one year shall not exceed 1 percent of the
27 annual normal premium during the calendar year preceding the
28 date of the assessment. Assessments shall be remitted to and
29 administered by the board of directors in the manner specified
30 by the approved plan. Each employer so assessed shall have at
31 least 30 days' written notice as to the date the assessment is

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1 due and payable. The association shall levy assessments
2 against any newly admitted member of the association so that
3 the basis of contribution of any newly admitted member is the
4 same as previously admitted members, provision for which shall
5 be contained in the plan of operation.

6 2. If, in any one year, funds available from such
7 assessments, together with funds previously raised, are not
8 sufficient to make all the payments or reimbursements then
9 owing, the funds available shall be prorated, and the unpaid
10 portion shall be paid as soon thereafter as sufficient
11 additional funds become available.

12 3. No state funds of any kind shall be allocated or
13 paid to the association or any of its accounts except those
14 state funds accruing to the association by and through the
15 assignment of rights of an insolvent employer.

16 (4) ~~INSOLVENCY FUND.--Upon the adoption of a plan of~~
17 ~~operation or the adoption of rules by the Department of Labor~~
18 ~~and Employment Security pursuant to subsection (5), there~~
19 shall be created an Insolvency Fund to be managed by the
20 association.

21 (a) The Insolvency Fund is created for purposes of
22 meeting the obligations of insolvent members incurred while
23 members of the association and after the exhaustion of any
24 bond, as required under this chapter. However, if such bond,
25 surety, or reinsurance policy is payable to the Florida
26 Self-Insurers Guaranty Association, the association shall
27 commence to provide benefits out of the Insolvency Fund and be
28 reimbursed from the bond, surety, or reinsurance policy. The
29 method of operation of the Insolvency Fund shall be defined in
30 the plan of operation as provided in subsection (5).

31 (b) The department shall have the authority to audit

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1 the financial soundness of the Insolvency Fund annually.

2 (c) The department may offer certain amendments to the
3 plan of operation to the board of directors of the association
4 for purposes of assuring the ongoing financial soundness of
5 the Insolvency Fund and its ability to meet the obligations of
6 this section.

7 (d) The department actuary may make certain
8 recommendations to improve the orderly payment of claims.

9 (5) PLAN OF OPERATION. --~~By September 15, 1982, The~~
10 board of directors shall use ~~submit to the Department of Labor~~
11 ~~and Employment Security~~ a proposed plan of operation for the
12 administration of the association and the Insolvency Fund.

13 (a) The purpose of the plan of operation shall be to
14 provide the association and the board of directors with the
15 authority and responsibility to establish the necessary
16 programs and to take the necessary actions to protect against
17 the insolvency of a member of the association. In addition,
18 the plan shall provide that the members of the association
19 shall be responsible for maintaining an adequate Insolvency
20 Fund to meet the obligations of insolvent members provided for
21 under this act and shall authorize the board of directors to
22 contract and employ those persons with the necessary expertise
23 to carry out this stated purpose.

24 ~~(b) The plan of operation, and any amendments thereto,~~
25 ~~shall take effect upon approval in writing by the department.~~
26 ~~If the board of directors fails to submit a plan by September~~
27 ~~15, 1982, or fails to make required amendments to the plan~~
28 ~~within 30 days thereafter, the department shall promulgate~~
29 ~~such rules as are necessary to effectuate the provisions of~~
30 ~~this subsection. Such rules shall continue in force until~~
31 ~~modified by the department or superseded by a plan submitted~~

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1 ~~by the board of directors and approved by the department.~~

2 (b)~~(c)~~ All member employers shall comply with the plan
3 of operation.

4 (c)~~(d)~~ The plan of operation shall:

5 1. Establish the procedures whereby all the powers and
6 duties of the association under subsection (3) will be
7 performed.

8 2. Establish procedures for handling assets of the
9 association.

10 3. Establish the amount and method of reimbursing
11 members of the board of directors under subsection (2).

12 4. Establish procedures by which claims may be filed
13 with the association and establish acceptable forms of proof
14 of covered claims. Notice of claims to the receiver or
15 liquidator of the insolvent employer shall be deemed notice to
16 the association or its agent, and a list of such claims shall
17 be submitted periodically to the association or similar
18 organization in another state by the receiver or liquidator.

19 5. Establish regular places and times for meetings of
20 the board of directors.

21 6. Establish procedures for records to be kept of all
22 financial transactions of the association and its agents and
23 the board of directors.

24 7. Provide that any member employer aggrieved by any
25 final action or decision of the association may appeal to the
26 department within 30 days after the action or decision.

27 8. Establish the procedures whereby recommendations of
28 candidates for the board of directors shall be submitted to
29 the department.

30 9. Contain additional provisions necessary or proper
31 for the execution of the powers and duties of the association.

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1 ~~(e)~~ (d) The plan of operation may provide that any or
 2 all of the powers and duties of the association, except those
 3 specified under subparagraphs (c)1. ~~(d)1.~~ and 2., be delegated
 4 to a corporation, association, or other organization which
 5 performs or will perform functions similar to those of this
 6 association or its equivalent in two or more states. Such a
 7 corporation, association, or organization shall be reimbursed
 8 as a servicing facility would be reimbursed and shall be paid
 9 for its performance of any other functions of the association.
 10 A delegation of powers or duties under this subsection shall
 11 take effect only with the approval of both the board of
 12 directors and the department and may be made only to a
 13 corporation, association, or organization which extends
 14 protection which is not substantially less favorable and
 15 effective than the protection provided by this section.

16 (6) POWERS AND DUTIES OF DEPARTMENT OF INSURANCE ~~LABOR~~
 17 ~~AND EMPLOYMENT SECURITY.~~ --

18 (a) The department shall:

19 1. Notify the association of the existence of an
 20 insolvent employer not later than 3 days after it receives
 21 notice of the determination of insolvency.

22 2. Upon request of the board of directors, provide the
 23 association with a statement of the annual normal premiums of
 24 each member employer.

25 (b) The department may:

26 1. Require that the association notify the member
 27 employers and any other interested parties of the
 28 determination of insolvency and of their rights under this
 29 section. Such notification shall be by mail at the last known
 30 address thereof when available; but, if sufficient information
 31 for notification by mail is not available, notice by

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1 publication in a newspaper of general circulation shall be
2 sufficient.

3 2. Suspend or revoke the authority of any member
4 employer failing to pay an assessment when due or failing to
5 comply with the plan of operation to self-insure in this
6 state. As an alternative, the department may levy a fine on
7 any member employer failing to pay an assessment when due.
8 Such fine shall not exceed 5 percent of the unpaid assessment
9 per month, except that no fine shall be less than \$100 per
10 month.

11 3. Revoke the designation of any servicing facility if
12 the department finds that claims are being handled
13 unsatisfactorily.

14 (8) PREVENTION OF INSOLVENCIES.--To aid in the
15 detection and prevention of employer insolvencies:

16 (a) Upon determination by majority vote that any
17 member employer may be insolvent or in a financial condition
18 hazardous to the employees thereof or to the public, it shall
19 be the duty of the board of directors to notify the Department
20 of Insurance Labor and Employment Security of any information
21 indicating such condition.

22 (9) EXAMINATION OF THE ASSOCIATION.--The association
23 shall be subject to examination and regulation by the
24 Department of Insurance Labor and Employment Security. No
25 later than March 30 of each year, the board of directors shall
26 submit a financial report for the preceding calendar year in a
27 form approved by the department.

28 (10) IMMUNITY.--There shall be no liability on the
29 part of, and no cause of action of any nature shall arise
30 against, any member employer, the association or its agents or
31 employees, the board of directors, or the Department of

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1 ~~Insurance Labor and Employment Security~~ or its representatives
2 for any action taken by them in the performance of their
3 powers and duties under this section.

4 Section 119. Subsection (6) of section 440.44, Florida
5 Statutes, is amended to read:

6 440.44 Workers' compensation; staff organization.--

7 (6) SEAL.--The division, the judges of compensation
8 claims, and the Chief Judge shall have a seal upon which shall
9 be inscribed the words "State of Florida Department of
10 ~~Insurance Labor and Employment Security~~--Seal."

11 Section 120. Subsections (1) and (3) of section
12 440.4416, Florida Statutes, are amended to read:

13 440.4416 Workers' Compensation Oversight Board.--

14 (1) There is created within the Department of
15 ~~Insurance Labor and Employment Security~~ the Workers'
16 Compensation Oversight Board. The board shall be composed of
17 the following members, each of whom has knowledge of, or
18 experience with, the workers' compensation system:

19 (a) Six members selected by the Governor, none of whom
20 shall be a member of the Legislature at the time of
21 appointment, consisting of the following:

22 1. Two representatives of employers.

23 2. Four representatives of employees, one of whom must
24 be a representative of an employee's union whose members are
25 covered by workers' compensation pursuant to this chapter.

26 (b) Three members selected by the President of the
27 Senate, none of whom shall be members of the Legislature at
28 the time of appointment, consisting of:

29 1. A representative of employers who employs at least
30 10 employees in Florida for which workers' compensation
31 coverage is provided pursuant to this chapter, and who is a

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1 licensed general contractor actively engaged in the
2 construction industry in this state.

3 2. A representative of employers who employs fewer
4 than 10 employees in Florida for which workers' compensation
5 coverage is provided pursuant to this chapter.

6 3. A representative of employees.

7 (c) Three members selected by the Speaker of the House
8 of Representatives, none of whom shall be members of the
9 Legislature at the time of appointment, consisting of:

10 1. A representative of employers who employs fewer
11 than 10 employees in Florida and who is a licensed general
12 contractor actively engaged in the construction industry in
13 this state for which workers' compensation coverage is
14 provided pursuant to this chapter.

15 2. A representative of employers who employs at least
16 10 employees in Florida for which workers' compensation
17 coverage is provided pursuant to this chapter.

18 3. A representative of employees.

19 (d) Additionally, the Insurance Commissioner ~~and the~~
20 ~~secretary of the Department of Labor and Employment Security~~
21 shall be a nonvoting ex officio member members.

22 (e) The original appointments to the board shall be
23 made on or before January 1, 1994. Vacancies in the membership
24 of the board shall be filled in the same manner as the
25 original appointments. Except as to ex officio members of the
26 board, three appointees of the Governor, two appointees of the
27 President of the Senate, and two appointees of the Speaker of
28 the House of Representatives shall serve for terms of 2 years,
29 and the remaining appointees shall serve for terms of 4 years.
30 Thereafter, all members shall serve for terms of 4 years;
31 except that a vacancy shall be filled by appointment for the

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1 remainder of the term. The board shall have an organizational
2 meeting on or before March 1, 1994, the time and place of such
3 meeting to be determined by the Governor.

4 (f) Each member is accountable to the Governor for
5 proper performance of his or her duties as a member of the
6 board. The Governor may remove from office any member for
7 malfeasance, misfeasance, neglect of duty, drunkenness,
8 incompetence, permanent inability to perform official duties,
9 or for pleading guilty or nolo contendere to, or having been
10 adjudicated guilty of, a first degree misdemeanor or a felony.

11 (g) A vacancy shall occur upon failure of a member to
12 attend four consecutive meetings of the board or 50 percent of
13 the meetings of the board during a 12-month period, unless the
14 board by majority votes to excuse the absence of such member.

15 (3) EXECUTIVE DIRECTOR; EXPENSES.--

16 (a) The board shall appoint an executive director to
17 direct and supervise the administrative affairs and general
18 management of the board who shall be subject to the provisions
19 of part IV of chapter 110. The executive director may employ
20 persons and obtain technical assistance as authorized by the
21 board and shall attend all meetings of the board. Board
22 employees shall be exempt from part II of chapter 110.

23 (b) In addition to per diem and travel expenses
24 authorized by s. 112.061, board members shall receive
25 compensation of \$50 for each full day allocable to business of
26 the board. The board shall promulgate procedures defining
27 "business" for purposes of receiving compensation. Such
28 procedures shall require each member to maintain time records
29 and submit such records to the executive director on a monthly
30 basis. Failure to timely file such monthly record shall
31 extinguish the member's entitlement to compensation for the

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1 subject period. Travel outside this state shall be approved by
2 the Insurance Commissioner and Treasurer ~~secretary of the~~
3 ~~department~~. Expenses associated with the administration of
4 this section shall be appropriated and paid for from the trust
5 fund created by s. 440.50.

6 Section 121. Subsection (1) of section 440.45, Florida
7 Statutes, is amended to read:

8 440.45 Office of the Judges of Compensation Claims.--

9 (1) There is hereby created the Office of the Judges
10 of Compensation Claims within the Department of Insurance
11 ~~Labor and Employment Security~~. The Office of the Judges of
12 Compensation Claims shall be headed by a Chief Judge. The
13 Chief Judge shall be appointed by the Governor for a term of 4
14 years from a list of three names submitted by the statewide
15 nominating commission created under subsection (2). The Chief
16 Judge must possess the same qualifications for appointment as
17 a judge of compensation claims, and the procedure for
18 reappointment of the Chief Judge will be the same as for
19 reappointment of a judge of compensation claims. The office
20 shall be a separate budget entity and the Chief Judge shall be
21 its agency head for all purposes. The Department of Insurance
22 ~~Labor and Employment Security~~ shall provide administrative
23 support and service to the office to the extent requested by
24 the Chief Judge but shall not direct, supervise, or control
25 the Office of the Judges of Compensation Claims in any manner,
26 including, but not limited to, personnel, purchasing,
27 budgetary matters, or property transactions. The operating
28 budget of the Office of the Judges of Compensation Claims
29 shall be paid out of the Workers' Compensation Administration
30 Trust Fund established in s. 440.50.

31 Section 122. Paragraph (e) of subsection (9) of

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1 section 440.49, Florida Statutes, is amended to read:

2 440.49 Limitation of liability for subsequent injury
3 through Special Disability Trust Fund.--

4 (9) SPECIAL DISABILITY TRUST FUND.--

5 (e) The Department of Insurance ~~Labor and Employment~~
6 ~~Security~~ or administrator shall report annually on the status
7 of the Special Disability Trust Fund. The report shall update
8 the estimated undiscounted and discounted fund liability, as
9 determined by an independent actuary, change in the total
10 number of notices of claim on file with the fund in addition
11 to the number of newly filed notices of claim, change in the
12 number of proofs of claim processed by the fund, the fee
13 revenues refunded and revenues applied to pay down the
14 liability of the fund, the average time required to reimburse
15 accepted claims, and the average administrative costs per
16 claim. The department or administrator shall submit its
17 report to the Governor, the President of the Senate, and the
18 Speaker of the House of Representatives by December 1 of each
19 year.

20 Section 123. Effective October 1, 2000, section
21 215.311, Florida Statutes, is amended to read:

22 215.311 State funds; exceptions.--The provisions of s.
23 215.31 shall not apply to funds collected by and under the
24 direction and supervision of the Division of Blind Services of
25 the Department of Management Services ~~Labor and Employment~~
26 ~~Security~~ as provided under ss. 413.011, 413.041, and 413.051;
27 however, nothing in this section shall be construed to except
28 from the provisions of s. 215.31 any appropriations made by
29 the state to the division.

30 Section 124. Effective October 1, 2000, subsection (1)
31 of section 413.091, Florida Statutes, is amended to read:

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1 413.091 Identification cards.--

2 (1) The Division of Blind Services of the Department
3 of Management Services ~~Labor and Employment Security~~ is hereby
4 empowered to issue identification cards to persons known to be
5 blind or partially sighted, upon the written request of such
6 individual.

7 Section 125. Subsection (3) of section 440.102,
8 Florida Statutes, is amended to read:

9 440.102 Drug-free workplace program requirements.--The
10 following provisions apply to a drug-free workplace program
11 implemented pursuant to law or to rules adopted by the Agency
12 for Health Care Administration:

13 (3) NOTICE TO EMPLOYEES AND JOB APPLICANTS.--

14 (a) One time only, prior to testing, an employer shall
15 give all employees and job applicants for employment a written
16 policy statement which contains:

17 1. A general statement of the employer's policy on
18 employee drug use, which must identify:

19 a. The types of drug testing an employee or job
20 applicant may be required to submit to, including
21 reasonable-suspicion drug testing or drug testing conducted on
22 any other basis.

23 b. The actions the employer may take against an
24 employee or job applicant on the basis of a positive confirmed
25 drug test result.

26 2. A statement advising the employee or job applicant
27 of the existence of this section.

28 3. A general statement concerning confidentiality.

29 4. Procedures for employees and job applicants to
30 confidentially report to a medical review officer the use of
31 prescription or nonprescription medications to a medical

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1 review officer both before and after being tested.

2 5. A list of the most common medications, by brand
3 name or common name, as applicable, as well as by chemical
4 name, which may alter or affect a drug test. A list of such
5 medications as developed by the Agency for Health Care
6 Administration shall be available to employers through the
7 Division of Workers' Compensation of the Department of
8 Insurance ~~Labor and Employment Security~~.

9 6. The consequences of refusing to submit to a drug
10 test.

11 7. A representative sampling of names, addresses, and
12 telephone numbers of employee assistance programs and local
13 drug rehabilitation programs.

14 8. A statement that an employee or job applicant who
15 receives a positive confirmed test result may contest or
16 explain the result to the medical review officer within 5
17 working days after receiving written notification of the test
18 result; that if an employee's or job applicant's explanation
19 or challenge is unsatisfactory to the medical review officer,
20 the medical review officer shall report a positive test result
21 back to the employer; and that a person may contest the drug
22 test result pursuant to law or to rules adopted by the Agency
23 for Health Care Administration.

24 9. A statement informing the employee or job applicant
25 of his or her responsibility to notify the laboratory of any
26 administrative or civil action brought pursuant to this
27 section.

28 10. A list of all drugs for which the employer will
29 test, described by brand name or common name, as applicable,
30 as well as by chemical name.

31 11. A statement regarding any applicable collective

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1 bargaining agreement or contract and the right to appeal to
2 the Public Employees Relations Commission or applicable court.

3 12. A statement notifying employees and job applicants
4 of their right to consult with a medical review officer for
5 technical information regarding prescription or
6 nonprescription medication.

7 (b) An employer not having a drug-testing program
8 shall ensure that at least 60 days elapse between a general
9 one-time notice to all employees that a drug-testing program
10 is being implemented and the beginning of actual drug testing.
11 An employer having a drug-testing program in place prior to
12 July 1, 1990, is not required to provide a 60-day notice
13 period.

14 (c) An employer shall include notice of drug testing
15 on vacancy announcements for positions for which drug testing
16 is required. A notice of the employer's drug-testing policy
17 must also be posted in an appropriate and conspicuous location
18 on the employer's premises, and copies of the policy must be
19 made available for inspection by the employees or job
20 applicants of the employer during regular business hours in
21 the employer's personnel office or other suitable locations.

22 Section 126. Subsection (1) of section 440.125,
23 Florida Statutes, is amended to read:

24 440.125 Medical records and reports; identifying
25 information in employee medical bills; confidentiality.--

26 (1) Any medical records and medical reports of an
27 injured employee and any information identifying an injured
28 employee in medical bills which are provided to the Division
29 of Workers' Compensation of the Department of Insurance ~~Labor~~
30 ~~and Employment Security~~ pursuant to s. 440.13 are confidential
31 and exempt from the provisions of s. 119.07(1) and s. 24(a),

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1 Art. I of the State Constitution, except as otherwise provided
2 by this chapter.

3 Section 127. Paragraph (a) of subsection (11) of
4 section 440.13, Florida Statutes, is amended to read:

5 440.13 Medical services and supplies; penalty for
6 violations; limitations.--

7 (11) AUDITS BY DIVISION; JURISDICTION.--

8 (a) The Division of Workers' Compensation of the
9 Department of Insurance ~~Labor and Employment Security~~ may
10 investigate health care providers to determine whether
11 providers are complying with this chapter and with rules
12 adopted by the division, whether the providers are engaging in
13 overutilization, and whether providers are engaging in
14 improper billing practices. If the division finds that a
15 health care provider has improperly billed, overutilized, or
16 failed to comply with division rules or the requirements of
17 this chapter it must notify the provider of its findings and
18 may determine that the health care provider may not receive
19 payment from the carrier or may impose penalties as set forth
20 in subsection (8) or other sections of this chapter. If the
21 health care provider has received payment from a carrier for
22 services that were improperly billed or for overutilization,
23 it must return those payments to the carrier. The division may
24 assess a penalty not to exceed \$500 for each overpayment that
25 is not refunded within 30 days after notification of
26 overpayment by the division or carrier.

27 Section 128. Paragraph (f) of subsection (4) and
28 paragraph (b) of subsection (5) of section 440.25, Florida
29 Statutes, are amended to read:

30 (4)

31 (f) Each judge of compensation claims is required to

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1 submit a special report to the Chief Judge in each contested
2 workers' compensation case in which the case is not determined
3 within 14 days of final hearing. Said form shall be provided
4 by the Chief Judge and shall contain the names of the judge of
5 compensation claims and of the attorneys involved and a brief
6 explanation by the judge of compensation claims as to the
7 reason for such a delay in issuing a final order. The Chief
8 Judge shall compile these special reports into an annual
9 public report to the Governor, the Insurance Commissioner
10 ~~Secretary of Labor and Employment Security~~, the Legislature,
11 The Florida Bar, and the appellate district judicial
12 nominating commissions.

13 (5)

14 (b) An appellant may be relieved of any necessary
15 filing fee by filing a verified petition of indigency for
16 approval as provided in s. 57.081(1) and may be relieved in
17 whole or in part from the costs for preparation of the record
18 on appeal if, within 15 days after the date notice of the
19 estimated costs for the preparation is served, the appellant
20 files with the judge of compensation claims a copy of the
21 designation of the record on appeal, and a verified petition
22 to be relieved of costs. A verified petition filed prior to
23 the date of service of the notice of the estimated costs shall
24 be deemed not timely filed. The verified petition relating to
25 record costs shall contain a sworn statement that the
26 appellant is insolvent and a complete, detailed, and sworn
27 financial affidavit showing all the appellant's assets,
28 liabilities, and income. Failure to state in the affidavit all
29 assets and income, including marital assets and income, shall
30 be grounds for denying the petition with prejudice. The
31 division shall promulgate rules as may be required pursuant to

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1 this subsection, including forms for use in all petitions
2 brought under this subsection. The appellant's attorney, or
3 the appellant if she or he is not represented by an attorney,
4 shall include as a part of the verified petition relating to
5 record costs an affidavit or affirmation that, in her or his
6 opinion, the notice of appeal was filed in good faith and that
7 there is a probable basis for the District Court of Appeal,
8 First District, to find reversible error, and shall state with
9 particularity the specific legal and factual grounds for the
10 opinion. Failure to so affirm shall be grounds for denying the
11 petition. A copy of the verified petition relating to record
12 costs shall be served upon all interested parties, including
13 the division and the Office of the General Counsel, Department
14 of Insurance ~~Labor and Employment Security~~, in Tallahassee.
15 The judge of compensation claims shall promptly conduct a
16 hearing on the verified petition relating to record costs,
17 giving at least 15 days' notice to the appellant, the
18 division, and all other interested parties, all of whom shall
19 be parties to the proceedings. The judge of compensation
20 claims may enter an order without such hearing if no objection
21 is filed by an interested party within 20 days from the
22 service date of the verified petition relating to record
23 costs. Such proceedings shall be conducted in accordance with
24 the provisions of this section and with the workers'
25 compensation rules of procedure, to the extent applicable. In
26 the event an insolvency petition is granted, the judge of
27 compensation claims shall direct the division to pay record
28 costs and filing fees from the Workers' Compensation Trust
29 Fund pending final disposition of the costs of appeal. The
30 division may transcribe or arrange for the transcription of
31 the record in any proceeding for which it is ordered to pay

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1 the cost of the record. In the event the insolvency petition
2 is denied, the judge of compensation claims may enter an order
3 requiring the petitioner to reimburse the division for costs
4 incurred in opposing the petition, including investigation and
5 travel expenses.

6 Section 129. Section 440.525, Florida Statutes, is
7 amended to read:

8 440.525 Examination of carriers.--~~Beginning July 1,~~
9 ~~1994,~~The Division of Workers' Compensation of the Department
10 of Insurance ~~Labor and Employment Security~~ may examine each
11 carrier as often as is warranted to ensure that carriers are
12 fulfilling their obligations under the law, and shall examine
13 each carrier not less frequently than once every 3 years. The
14 examination must cover the preceding 3 fiscal years of the
15 carrier's operations and must commence within 12 months after
16 the end of the most recent fiscal year being covered by the
17 examination. The examination may cover any period of the
18 carrier's operations since the last previous examination.

19 Section 130. Subsections (1) and (2) of section
20 440.59, Florida Statutes, are amended to read:

21 440.59 Reporting requirements.--

22 (1) The Department of Insurance ~~Labor and Employment~~
23 ~~Security~~ shall annually prepare a report of the administration
24 of this chapter for the preceding calendar year, including a
25 detailed statement of the receipts of and expenditures from
26 the fund established in s. 440.50 and a statement of the
27 causes of the accidents leading to the injuries for which the
28 awards were made, together with such recommendations as the
29 department considers advisable. On or before September 15 of
30 each year, the department shall submit a copy of the report to
31 the Governor, the President of the Senate, the Speaker of the

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1 House of Representatives, the Democratic and Republican
2 Leaders of the Senate and the House of Representatives, and
3 the chairs of the legislative committees having jurisdiction
4 over workers' compensation.

5 (2) The Division of Workers' Compensation of the
6 Department of Insurance ~~Labor and Employment Security~~ shall
7 complete on a quarterly basis an analysis of the previous
8 quarter's injuries which resulted in workers' compensation
9 claims. The analysis shall be broken down by risk
10 classification, shall show for each such risk classification
11 the frequency and severity for the various types of injury,
12 and shall include an analysis of the causes of such injuries.
13 The division shall distribute to each employer and
14 self-insurer in the state covered by the Workers' Compensation
15 Law the data relevant to its workforce. The report shall also
16 be distributed to the insurers authorized to write workers'
17 compensation insurance in the state.

18 Section 131. Effective January 1, 2001, subsections
19 (1), (4), and (5) of section 443.012, Florida Statutes, are
20 amended to read:

21 443.012 Unemployment Appeals Commission.--

22 (1) There is created within the Department of
23 Management Services ~~Labor and Employment Security~~ an
24 Unemployment Appeals Commission, hereinafter referred to as
25 the "commission." The commission shall consist of a chair and
26 two other members to be appointed by the Governor, subject to
27 confirmation by the Senate. Not more than one appointee must
28 be a person who, on account of previous vocation, employment,
29 or affiliation, is classified as a representative of
30 employers; and not more than one such appointee must be a
31 person who, on account of previous vocation, employment, or

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1 affiliation, is classified as a representative of employees.

2 (a) The chair shall devote his or her entire time to
3 commission duties and shall be responsible for the
4 administrative functions of the commission.

5 (b) The chair shall have the authority to appoint a
6 general counsel, a chief appeals referee, and such other
7 personnel as may be necessary to carry out the duties and
8 responsibilities of the commission.

9 (c) The chair shall have the qualifications required
10 by law for a judge of the circuit court and shall not engage
11 in any other business vocation or employment. Notwithstanding
12 any other provisions of existing law, the chair shall be paid
13 a salary equal to that paid under state law to a judge of the
14 circuit court.

15 (d) The remaining members shall be paid a stipend of
16 \$100 for each day they are engaged in the work of the
17 commission. The chair and other members shall also be
18 reimbursed for travel expenses, as provided in s. 112.061.

19 (e) The total salary and travel expenses of each
20 member of the commission shall be paid from the Employment
21 Security Administration Trust Fund.

22 (4) The property, personnel, and appropriations
23 relating to the specified authority, powers, duties, and
24 responsibilities of the commission shall be provided to the
25 commission by the Department of Management Services ~~Labor and~~
26 ~~Employment Security~~.

27 (5) The commission shall not be subject to control,
28 supervision, or direction by the Department of Management
29 Services ~~Labor and Employment Security~~ in the performance of
30 its powers and duties under this chapter.

31 Section 132. Effective January 1, 2001, all powers,

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1 duties, functions, rules, records, personnel, property, and
 2 unexpended balances of appropriations, allocations, and other
 3 funds of the Unemployment Appeals Commission relating to the
 4 commission's specified authority, powers, duties, and
 5 responsibilities are transferred by a type two transfer, as
 6 defined in section 20.06(2), Florida Statutes, to the
 7 Department of Management Services.

8 Section 133. Effective January 1, 2001, subsections
 9 (12) and (15) of section 443.036, Florida Statutes, are
 10 amended to read:

11 443.036 Definitions.--As used in this chapter, unless
 12 the context clearly requires otherwise:

13 (12) COMMISSION.--"Commission" means the Unemployment
 14 Appeals Commission ~~of the Department of Labor and Employment~~
 15 ~~Security.~~

16 (15) DIVISION.--"Division" means the Division of
 17 Unemployment Compensation of the Agency for Workforce
 18 Innovation ~~Department of Labor and Employment Security.~~

19 Section 134. Effective January 1, 2001, paragraph (a)
 20 of subsection (4) and subsection (8) of section 443.151,
 21 Florida Statutes, are amended to read:

22 443.151 Procedure concerning claims.--

23 (4) APPEALS.--

24 (a) Appeals referees.--The commission ~~division~~ shall
 25 appoint one or more impartial salaried appeals referees
 26 selected in accordance with s. 443.171(4) to hear and decide
 27 appealed or disputed claims. Such appeals referees shall have
 28 such qualifications as may be established by the Department of
 29 Management Services upon the advice and consent of the
 30 commission ~~division~~. No person shall participate on behalf of
 31 the commission ~~division~~ as an appeals referee in any case in

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1 which she or he is an interested party. The commission
2 ~~division~~ may designate alternates to serve in the absence or
3 disqualification of any appeals referee upon a temporary basis
4 and pro hac vice which alternate shall be possessed of the
5 same qualifications required of appeals referees. The
6 Department of Management Services ~~division~~ shall provide the
7 commission and the appeals referees with proper facilities and
8 assistance for the execution of their functions.

9 (8) BILINGUAL REQUIREMENTS.--

10 (a) Based on the estimated total number of households
11 in a county which speak the same non-English language, a
12 single-language minority, the division shall provide printed
13 bilingual instructional and educational materials in the
14 appropriate language in those counties in which 5 percent or
15 more of the households in the county are classified as a
16 single-language minority.

17 (b) The division shall ensure that one-stop career
18 ~~centers jobs and benefits offices and appeals bureaus~~ in
19 counties subject to the requirements of paragraph (c)
20 prominently post notices in the appropriate languages that
21 translators are available in those offices and bureaus.

22 (c) Single-language minority refers to households
23 which speak the same non-English language and which do not
24 contain an adult fluent in English. The division shall develop
25 estimates of the percentages of single-language minority
26 households for each county by using data made available by the
27 United States Bureau of the Census.

28 Section 135. Effective January 1, 2001, subsections
29 (1), (5), and (7) of section 443.171, Florida Statutes, are
30 amended to read:

31 443.171 Division and commission; powers and duties;

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1 rules; advisory council; records and reports.--

2 (1) POWERS AND DUTIES OF DIVISION.--It shall be the
3 duty of the division to administer this chapter; and it shall
4 have power and authority to employ such persons, make such
5 expenditures, require such reports, make such investigations,
6 and take such other action as it deems necessary or suitable
7 to that end. The division shall determine its own
8 organization and methods of procedure in accordance with the
9 provisions of this chapter. Not later than March 15 of each
10 year, the division, through the Agency for Workforce
11 Innovation and in conjunction with the Unemployment Appeals
12 Commission ~~Department of Labor and Employment Security~~, shall
13 submit to the Governor a report covering the administration
14 and operation of this chapter during the preceding calendar
15 year and shall make such recommendations for amendment to this
16 chapter as it deems proper.

17 (5) UNEMPLOYMENT COMPENSATION ADVISORY COUNCIL.--There
18 is created a state Unemployment Compensation Advisory Council
19 to assist the division in reviewing the unemployment insurance
20 program and to recommend improvements for such program.

21 (a) The council shall consist of 18 members, including
22 equal numbers of employer representatives and employee
23 representatives who may fairly be regarded as representative
24 because of their vocations, employments, or affiliations, and
25 representatives of the general public.

26 (b) The members of the council shall be appointed by
27 the executive director ~~secretary~~ of the Agency for Workforce
28 Innovation ~~Department of Labor and Employment Security~~.
29 ~~Initially, the secretary shall appoint five members for terms~~
30 ~~of 4 years, five members for terms of 3 years, five members~~
31 ~~for terms of 2 years, and three members for terms of 1 year.~~

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1 ~~Thereafter~~, Members shall be appointed for 4-year terms. A
2 vacancy shall be filled for the remainder of the unexpired
3 term.

4 (c) The council shall meet at the call of its chair,
5 at the request of a majority of its membership, at the request
6 of the division, or at such times as may be prescribed by its
7 rules, but not less than twice a year. The council shall make
8 a report of each meeting, which shall include a record of its
9 discussions and recommendations. The division shall make such
10 reports available to any interested person or group.

11 (d) Members of the council shall serve without
12 compensation but shall be entitled to receive reimbursement
13 for per diem and travel expenses as provided in s. 112.061.

14 (7) RECORDS AND REPORTS.--Each employing unit shall
15 keep true and accurate work records, containing such
16 information as the division may prescribe. Such records shall
17 be open to inspection and be subject to being copied by the
18 division at any reasonable time and as often as may be
19 necessary. The division or an appeals referee may require from
20 any employing unit any sworn or unsworn reports, with respect
21 to persons employed by it, deemed necessary for the effective
22 administration of this chapter. However, a state or local
23 governmental agency performing intelligence or
24 counterintelligence functions need not report an employee if
25 the head of such agency has determined that reporting the
26 employee could endanger the safety of the employee or
27 compromise an ongoing investigation or intelligence mission.
28 Information revealing the employing unit's or individual's
29 identity thus obtained from the employing unit or from any
30 individual pursuant to the administration of this chapter,
31 shall, except to the extent necessary for the proper

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1 presentation of a claim or upon written authorization of the
2 claimant who has a workers' compensation claim pending, be
3 held confidential and exempt from the provisions of s.
4 119.07(1). Such information shall be available only to public
5 employees in the performance of their public duties, including
6 employees of the Department of Education in obtaining
7 information for the Florida Education and Training Placement
8 Information Program and the Office of Tourism, Trade, and
9 Economic Development ~~Department of Commerce~~ in its
10 administration of the qualified defense contractor tax refund
11 program authorized by s. 288.1045 ~~s. 288.104~~, the qualified
12 target industry business tax refund program authorized by s.
13 288.106. Any claimant, or the claimant's legal representative,
14 at a hearing before an appeals referee or the commission shall
15 be supplied with information from such records to the extent
16 necessary for the proper presentation of her or his claim. Any
17 employee or member of the commission or any employee of the
18 division, or any other person receiving confidential
19 information, who violates any provision of this subsection is
20 guilty of a misdemeanor of the second degree, punishable as
21 provided in s. 775.082 or s. 775.083. However, the division
22 may furnish to any employer copies of any report previously
23 submitted by such employer, upon the request of such employer,
24 and the division is authorized to charge therefor such
25 reasonable fee as the division may by rule prescribe not to
26 exceed the actual reasonable cost of the preparation of such
27 copies. Fees received by the division for copies provided
28 under this subsection shall be deposited to the credit of the
29 Employment Security Administration Trust Fund.

30 Section 136. Effective January 1, 2001, subsections
31 (1) and (2) of section 443.211, Florida Statutes, are amended

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1 to read:

2 443.211 Employment Security Administration Trust Fund;
3 appropriation; reimbursement.--

4 (1) EMPLOYMENT SECURITY ADMINISTRATION TRUST
5 FUND.--There is created in the State Treasury a special fund
6 to be known as the "Employment Security Administration Trust
7 Fund." All moneys that are deposited into this fund remain
8 continuously available ~~to the division~~ for expenditure in
9 accordance with the provisions of this chapter and do not
10 lapse at any time and may not be transferred to any other
11 fund. All moneys in this fund which are received from the
12 Federal Government or any agency thereof or which are
13 appropriated by this state for the purposes described in ss.
14 443.171 and 443.181, except money received under s.
15 443.191(5)(c), must be expended solely for the purposes and in
16 the amounts found necessary by the authorized cooperating
17 federal agencies for the proper and efficient administration
18 of this chapter. The fund shall consist of all moneys
19 appropriated by this state; all moneys received from the
20 United States or any agency thereof; all moneys received from
21 any other source for such purpose; any moneys received from
22 any agency of the United States or any other state as
23 compensation for services or facilities supplied to such
24 agency; any amounts received pursuant to any surety bond or
25 insurance policy or from other sources for losses sustained by
26 the Employment Security Administration Trust Fund or by reason
27 of damage to equipment or supplies purchased from moneys in
28 such fund; and any proceeds realized from the sale or
29 disposition of any such equipment or supplies which may no
30 longer be necessary for the proper administration of this
31 chapter. Notwithstanding any provision of this section, all

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1 money requisitioned and deposited in this fund under s.
2 443.191(5)(c) remains part of the Unemployment Compensation
3 Trust Fund and must be used only in accordance with the
4 conditions specified in s. 443.191(5). All moneys in this
5 fund must be deposited, administered, and disbursed in the
6 same manner and under the same conditions and requirements as
7 is provided by law for other special funds in the State
8 Treasury. Such moneys must be secured by the depository in
9 which they are held to the same extent and in the same manner
10 as required by the general depository law of the state, and
11 collateral pledged must be maintained in a separate custody
12 account. All payments from the Employment Security
13 Administration Trust Fund must be approved by the division,
14 the commission, or by a duly authorized agent and must be made
15 by the Treasurer upon warrants issued by the Comptroller. Any
16 balances in this fund do not lapse at any time and must remain
17 continuously available ~~to the division~~ for expenditure
18 consistent with this chapter.

19 (2) SPECIAL EMPLOYMENT SECURITY ADMINISTRATION TRUST
20 FUND.--There is created in the State Treasury a special fund,
21 to be known as the "Special Employment Security Administration
22 Trust Fund," into which shall be deposited or transferred all
23 interest on contributions, penalties, and fines or fees
24 collected under this chapter. Interest on contributions,
25 penalties, and fines or fees deposited during any calendar
26 quarter in the clearing account in the Unemployment
27 Compensation Trust Fund shall, as soon as practicable after
28 the close of such calendar quarter and upon certification of
29 the division, be transferred to the Special Employment
30 Security Administration Trust Fund. However, there shall be
31 withheld from any such transfer the amount certified by the

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1 division to be required under this chapter to pay refunds of
2 interest on contributions, penalties, and fines or fees
3 collected and erroneously deposited into the clearing account
4 in the Unemployment Compensation Trust Fund. Such amounts of
5 interest and penalties so certified for transfer shall be
6 deemed to have been erroneously deposited in the clearing
7 account, and the transfer thereof to the Special Employment
8 Security Administration Trust Fund shall be deemed to be a
9 refund of such erroneous deposits. All moneys in this fund
10 shall be deposited, administered, and disbursed in the same
11 manner and under the same conditions and requirements as are
12 provided by law for other special funds in the State Treasury.
13 These moneys shall not be expended or be available for
14 expenditure in any manner which would permit their
15 substitution for, or permit a corresponding reduction in,
16 federal funds which would, in the absence of these moneys, be
17 available to finance expenditures for the administration of
18 the Unemployment Compensation Law. But nothing in this
19 section shall prevent these moneys from being used as a
20 revolving fund to cover expenditures, necessary and proper
21 under the law, for which federal funds have been duly
22 requested but not yet received, subject to the charging of
23 such expenditures against such funds when received. The
24 moneys in this fund, with the approval of the Executive Office
25 of the Governor, shall be used by the Division of Unemployment
26 Compensation, the Unemployment Appeals Commission, and the
27 Agency for Workforce Innovation ~~Division of Jobs and Benefits~~
28 for the payment of costs of administration which are found not
29 to have been properly and validly chargeable against funds
30 obtained from federal sources. All moneys in the Special
31 Employment Security Administration Trust Fund shall be

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1 continuously available ~~to the division~~ for expenditure in
2 accordance with the provisions of this chapter and shall not
3 lapse at any time. All payments from the Special Employment
4 Security Administration Trust Fund shall be approved by the
5 division or by a duly authorized agent thereof and shall be
6 made by the Treasurer upon warrants issued by the Comptroller.
7 The moneys in this fund are hereby specifically made available
8 to replace, as contemplated by subsection (3), expenditures
9 from the Employment Security Administration Trust Fund,
10 established by subsection (1), which have been found by the
11 Bureau of Employment Security, or other authorized federal
12 agency or authority, because of any action or contingency, to
13 have been lost or improperly expended. The Treasurer shall be
14 liable on her or his official bond for the faithful
15 performance of her or his duties in connection with the
16 Special Employment Security Administration Trust Fund.

17 Section 137. Subsection (3) of section 447.02, Florida
18 Statutes, is amended to read:

19 447.02 Definitions.--The following terms, when used in
20 this chapter, shall have the meanings ascribed to them in this
21 section:

22 (3) The term "department" ~~"division"~~ means the
23 ~~Division of Jobs and Benefits of the Bureau of Workplace~~
24 ~~Regulation of the Division of Workers' Compensation of the~~
25 ~~Department of Insurance Labor and Employment Security.~~

26 Section 138. Subsections (2), (3), and (4) of section
27 447.04, Florida Statutes, are amended to read:

28 447.04 Business agents; licenses, permits.--

29 (2)(a) Every person desiring to act as a business
30 agent in this state shall, before doing so, obtain a license
31 or permit by filing an application under oath therefor with

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1 ~~the Division of Jobs and Benefits of the department of Labor~~
2 ~~and Employment Security~~, accompanied by a fee of \$25 and a
3 full set of fingerprints of the applicant taken by a law
4 enforcement agency qualified to take fingerprints. There
5 shall accompany the application a statement signed by the
6 president and the secretary of the labor organization for
7 which he or she proposes to act as agent, showing his or her
8 authority to do so. The department ~~division~~ shall hold such
9 application on file for a period of 30 days, during which time
10 any person may file objections to the issuing of such license
11 or permit.

12 (b) The department ~~division~~ may also conduct an
13 independent investigation of the applicant; and, if objections
14 are filed, it may hold, or cause to be held, a hearing in
15 accordance with the requirements of chapter 120. The
16 objectors and the applicant shall be permitted to attend such
17 hearing and present evidence.

18 (3) After the expiration of the 30-day period,
19 regardless of whether or not any objections have been filed,
20 the department ~~division~~ shall review the application, together
21 with all information that it may have, including, but not
22 limited to, any objections that may have been filed to such
23 application, any information that may have been obtained
24 pursuant to an independent investigation, and the results of
25 any hearing on the application. If the department ~~division~~,
26 from a review of the information, finds that the applicant is
27 qualified, pursuant to the terms of this chapter, it shall
28 issue such license or permit; and such license or permit shall
29 run for the calendar year for which issued, unless sooner
30 surrendered, suspended, or revoked.

31 (4) Licenses and permits shall expire at midnight,

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1 December 31, but may be renewed by the department division on
2 a form prescribed by it; however, if any such license or
3 permit has been surrendered, suspended, or revoked during the
4 year, then such applicant must go through the same formalities
5 as a new applicant.

6 Section 139. Section 447.041, Florida Statutes, is
7 amended to read:

8 447.041 Hearings.--

9 (1) Any person or labor organization denied a license,
10 permit, or registration shall be afforded the opportunity for
11 a hearing by the department division in accordance with the
12 requirements of chapter 120.

13 (2) The department division may, pursuant to the
14 requirements of chapter 120, suspend or revoke the license or
15 permit of any business agent or the registration of any labor
16 organization for the violation of any provision of this
17 chapter.

18 Section 140. Section 447.045, Florida Statutes, is
19 amended to read:

20 447.045 Information confidential.--Neither the
21 department division nor any investigator or employee of the
22 department division shall divulge in any manner the
23 information obtained pursuant to the processing of applicant
24 fingerprint cards, and such information is confidential and
25 exempt from the provisions of s. 119.07(1).

26 Section 141. Section 447.06, Florida Statutes, is
27 amended to read:

28 447.06 Registration of labor organizations required.--

29 (1) Every labor organization operating in the state
30 shall make a report under oath, in writing, to ~~the Division of~~
31 ~~Jobs and Benefits of the department of Labor and Employment~~

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1 ~~Security~~ annually, on or before December 31. Such report shall
2 be filed by the secretary or business agent of such labor
3 organization, shall be in such form as the department
4 prescribes ~~division may prescribe~~, and shall show the
5 following facts:

- 6 (a) The name of the labor organization;
7 (b) The location of its office; and
8 (c) The name and address of the president, secretary,
9 treasurer, and business agent.
- 10 (2) At the time of filing such report, it shall be the
11 duty of every such labor organization to pay the department
12 ~~division~~ an annual fee therefor in the sum of \$1.

13 Section 142. Section 447.12, Florida Statutes, is
14 amended to read:

15 447.12 Fees for registration.--All fees collected by
16 ~~the Division of Jobs and Benefits of the department under this~~
17 ~~part of Labor and Employment Security hereunder~~ shall be paid
18 to the Treasurer and credited to the General Revenue Fund.

19 Section 143. Section 447.16, Florida Statutes, is
20 amended to read:

21 447.16 Applicability of chapter ~~when effective~~--Any
22 labor business agent licensed on July 1, 1965, may renew such
23 license each year on forms provided by ~~the Division of Jobs~~
24 ~~and Benefits of the department of Labor and Employment~~
25 ~~Security~~ without submitting fingerprints so long as such
26 license or permit has not expired or has not been surrendered,
27 suspended, or revoked. The fingerprinting requirements of
28 this act shall become effective for a new applicant for a
29 labor business agent license immediately upon this act
30 becoming a law.

31 Section 144. Paragraph (a) of subsection (13) of

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1 section 447.203, Florida Statutes, is amended to read:

2 447.203 Definitions.--As used in this part:

3 (13) "Professional employee" means:

4 (a) Any employee engaged in work requiring advanced
5 knowledge in a field of science or learning customarily
6 acquired by a prolonged course of specialized intellectual
7 instruction and study in an institution of higher learning or
8 a hospital, as distinguished from a general academic
9 education, an apprenticeship, or training in the performance
10 of routine mental or physical processes and in any two or more
11 of the following categories:

12 1. Work predominantly intellectual and varied in
13 character as opposed to routine mental, manual, mechanical, or
14 physical work;

15 2. Work involving the consistent exercise of
16 discretion and judgment in its performance; and

17 3. Work of such a character that the output produced
18 or the result accomplished cannot be standardized in relation
19 to a given period of time. ~~and~~

20 ~~4. Work requiring advanced knowledge in a field of~~
21 ~~science or learning customarily acquired by a prolonged course~~
22 ~~of specialized intellectual instruction and study in an~~
23 ~~institution of higher learning or a hospital, as distinguished~~
24 ~~from a general academic education, an apprenticeship, or~~
25 ~~training in the performance of routine mental or physical~~
26 ~~processes.~~

27 Section 145. Effective October 1, 2000, subsections
28 (1), (3), and (4) of section 447.205, Florida Statutes, are
29 amended to read:

30 447.205 Public Employees Relations Commission.--

31 (1) There is hereby created within the Department of

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1 Management Services Labor and Employment Security the Public
2 Employees Relations Commission, hereinafter referred to as the
3 "commission." The commission shall be composed of a chair and
4 two full-time members to be appointed by the Governor, subject
5 to confirmation by the Senate, from persons representative of
6 the public and known for their objective and independent
7 judgment, who shall not be employed by, or hold any commission
8 with, any governmental unit in the state or any employee
9 organization, as defined in this part, while in such office.
10 In no event shall more than one appointee be a person who, on
11 account of previous vocation, employment, or affiliation, is,
12 or has been, classified as a representative of employers; and
13 in no event shall more than one such appointee be a person
14 who, on account of previous vocation, employment, or
15 affiliation, is, or has been, classified as a representative
16 of employees or employee organizations. The commissioners
17 shall devote full time to commission duties and shall not
18 engage in any other business, vocation, or employment while in
19 such office. ~~Beginning January 1, 1980, the chair shall be~~
20 ~~appointed for a term of 4 years, one commissioner for a term~~
21 ~~of 1 year, and one commissioner for a term of 2 years.~~
22 ~~Thereafter,~~ Every term of office shall be for 4 years; and
23 each term of the office of chair shall commence on January 1
24 of the second year following each regularly scheduled general
25 election at which a Governor is elected to a full term of
26 office. In the event of a vacancy prior to the expiration of
27 a term of office, an appointment shall be made for the
28 unexpired term of that office. The chair shall be responsible
29 for the administrative functions of the commission and shall
30 have the authority to employ such personnel as may be
31 necessary to carry out the provisions of this part. Once

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1 appointed to the office of chair, the chair shall serve as
2 chair for the duration of the term of office of chair.
3 Nothing contained herein prohibits a chair or commissioner
4 from serving multiple terms.

5 (3) The commission, in the performance of its powers
6 and duties under this part, shall not be subject to control,
7 supervision, or direction by the Department of Management
8 Services ~~Labor and Employment Security~~.

9 (4) The property, personnel, and appropriations
10 related to the commission's specified authority, powers,
11 duties, and responsibilities shall be provided to the
12 commission by the Department of Management Services ~~Labor and~~
13 ~~Employment Security~~.

14 Section 146. Subsections (1) and (3) of section
15 447.208, Florida Statutes, are amended to read:

16 447.208 Procedure with respect to certain appeals
17 under s. 447.207.--

18 (1) Any person filing an appeal, charge, or petition
19 pursuant to subsection (6), subsection (8), or subsection (9)
20 of s. 447.207 shall be entitled to a hearing pursuant to
21 subsections (4) and (5) of s. 447.503 and in accordance with
22 chapter 120; however, the hearing shall be conducted within 30
23 days of the filing of an appeal with the commission, unless an
24 extension of time is granted by the commission for good cause
25 or unless the basis for the appeal is an allegation of abuse
26 or neglect under s. 415.1075, in which case the hearing by the
27 Public Employees Relations Commission may not be held until
28 the confirmed report of abuse or neglect has been upheld
29 pursuant to the procedures for appeal in s. 415.1075.
30 Discovery may be granted only upon a showing of extraordinary
31 circumstances. A party requesting discovery shall demonstrate

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1 a substantial need for the information requested and an
2 inability to obtain relevant information by other means. To
3 the extent that chapter 120 is inconsistent with these
4 provisions, the procedures contained in this section shall
5 govern.

6 (3) With respect to career service appeal hearings
7 relating to demotions, suspensions, or dismissals pursuant to
8 the provisions of this section:

9 (a) Upon a finding that just cause existed for the
10 demotion, suspension, or dismissal, the commission shall
11 affirm the demotion, suspension, or dismissal.

12 (b) Upon a finding that just cause did not exist for
13 the demotion, suspension, or dismissal, the commission may
14 order the reinstatement of the employee, with or without back
15 pay.

16 (c) Upon a finding that just cause for disciplinary
17 action existed, but did not justify the severity of the action
18 taken, the commission may, in its limited discretion, reduce
19 the penalty.

20 (d) The commission is limited in its discretionary
21 reduction of dismissals and suspensions to consider only the
22 following circumstances:

23 1. The seriousness of the conduct as it relates to the
24 employee's duties and responsibilities.

25 2. Action taken with respect to similar conduct by
26 other employees.

27 3. The previous employment record and disciplinary
28 record of the employee.

29 4. Extraordinary circumstances beyond the employee's
30 control which temporarily diminished the employee's capacity
31 to effectively perform his or her duties or which

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1 substantially contributed to the violation for which
2 punishment is being considered.

3

4 The agency may present evidence to refute the existence of
5 these circumstances.

6 (e) Any order of the commission issued pursuant to
7 this subsection may include back pay, if applicable, and an
8 amount, to be determined by the commission and paid by the
9 agency, for reasonable attorney's fees, witness fees, and
10 other out-of-pocket expenses incurred during the prosecution
11 of an appeal against an agency in which the commission
12 sustains the employee. In determining the amount of an
13 attorney's fee, the commission shall consider only the number
14 of hours reasonably spent on the appeal, comparing the number
15 of hours spent on similar Career Service System appeals and
16 the reasonable hourly rate charged in the geographic area for
17 similar appeals, but not including litigation over the amount
18 of the attorney's fee. This paragraph applies to future and
19 pending cases.

20 Section 147. Subsection (4) of section 447.305,
21 Florida Statutes, is amended to read:

22 447.305 Registration of employee organization.--

23 (4) Notification of registrations and renewals of
24 registration shall be furnished at regular intervals by the
25 commission to the Bureau of Workplace Regulation of the
26 Division of Workers' Compensation ~~Division of Jobs and~~
27 ~~Benefits~~ of the Department of Insurance ~~Labor and Employment~~
28 ~~Security~~.

29 Section 148. Paragraph (b) of subsection (3) of
30 section 447.307, Florida Statutes, is amended to read:

31 447.307 Certification of employee organization.--

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1 (3)

2 (b) When an employee organization is selected by a
3 majority of the employees voting in an election, the
4 commission shall certify the employee organization as the
5 exclusive collective bargaining representative of all
6 employees in the unit. Certification is effective upon the
7 issuance of the final order by the commission or, if the final
8 order is appealed, at the time the appeal is exhausted or any
9 stay is vacated by the commission or the court. A party may
10 petition the commission, pursuant to its established
11 procedures, to modify an existing certification due to changed
12 circumstances, an inadvertent mistake by the commission in the
13 original bargaining unit description, or newly created or
14 deleted jobs, or to recognize a name change of the employee
15 organization.

16 Section 149. Paragraph (a) of subsection (5) of
17 section 447.503, Florida Statutes, is amended to read:

18 447.503 Charges of unfair labor practices.--It is the
19 intent of the Legislature that the commission act as
20 expeditiously as possible to settle disputes regarding alleged
21 unfair labor practices. To this end, violations of the
22 provisions of s. 447.501 shall be remedied by the commission
23 in accordance with the following procedures and in accordance
24 with chapter 120; however, to the extent that chapter 120 is
25 inconsistent with the provisions of this section, the
26 procedures contained in this section shall govern:

27 (5) Whenever the proceeding involves a disputed issue
28 of material fact and an evidentiary hearing is to be
29 conducted:

30 (a) The commission shall issue and serve upon all
31 parties a notice of hearing before an assigned hearing officer

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1 at a time and place specified therein. Such notice shall be
2 issued at least 14 days prior to the scheduled hearing. If a
3 party fails to appear for the hearing, the hearing officer
4 shall, after waiting a reasonable time, open the record, note
5 the nonappearance, and close the hearing. Thereafter, the
6 hearing may be reconvened only if the party establishes that
7 the failure to appear was due to circumstances beyond his or
8 her control.

9 Section 150. Subsection (4) of section 447.504,
10 Florida Statutes, is amended to read:

11 447.504 Judicial review.--

12 (4) The commencement of proceedings under this section
13 shall not, unless specifically ordered by the district court
14 of appeal, operate as a stay of the commission's order.
15 However, the commission may stay determination of the amount
16 of back pay, benefits, or attorney's fees until the court
17 decides the appeal.

18 Section 151. Effective October 1, 2000, all powers,
19 duties, functions, rules, records, personnel, property, and
20 unexpended balances of appropriations, allocations, and other
21 funds of the Public Employees Relations Commission relating to
22 the commission's specified authority, powers, duties, and
23 responsibilities are transferred by a type two transfer, as
24 defined in section 20.06, Florida Statutes, to the Department
25 of Management Services.

26 Section 152. Section 447.609, Florida Statutes, is
27 repealed.

28 Section 153. Subsection (4) of section 450.012,
29 Florida Statutes, is amended to read:

30 450.012 Definitions.--For the purpose of this chapter,
31 the word, phrase, or term:

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1 (4) "Department" "~~Division~~" means the Bureau of
 2 Workplace Regulation of the Division of Workers' Compensation
 3 ~~Division of Jobs and Benefits~~ of the Department of Insurance
 4 ~~Labor and Employment Security~~.

5 Section 154. Subsection (3) of section 450.061,
 6 Florida Statutes, is amended to read:

7 450.061 Hazardous occupations prohibited;
 8 exemptions.--

9 (3) No minor under 18 years of age, whether such
 10 person's disabilities of nonage have been removed by marriage
 11 or otherwise, shall be employed or permitted or suffered to
 12 work in any place of employment or at any occupation hazardous
 13 or injurious to the life, health, safety, or welfare of such
 14 minor, as such places of employment or occupations may be
 15 determined and declared by ~~the Division of Jobs and Benefits~~
 16 ~~of the department of Labor and Employment Security~~ to be
 17 hazardous and injurious to the life, health, safety, or
 18 welfare of such minor.

19 Section 155. Paragraph (c) of subsection (5) of
 20 section 450.081, Florida Statutes, is amended to read:

21 450.081 Hours of work in certain occupations.--

22 (5) The provisions of subsections (1) through (4)
 23 shall not apply to:

24 (c) Minors enrolled in a public educational
 25 institution who qualify on a hardship basis such as economic
 26 necessity or family emergency. Such determination shall be
 27 made by the school superintendent or his or her designee, and
 28 a waiver of hours shall be issued to the minor and the
 29 employer. The form and contents thereof shall be prescribed by
 30 the department ~~division~~.

31 Section 156. Section 450.095, Florida Statutes, is

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1 amended to read:

2 450.095 Waivers.--In extenuating circumstances when it
3 clearly appears to be in the best interest of the child, the
4 department ~~division~~ may grant a waiver of the restrictions
5 imposed by the Child Labor Law on the employment of a child.
6 Such waivers shall be granted upon a case-by-case basis and
7 shall be based upon such factors as the department ~~division~~,
8 by rule, establishes as determinative of whether such waiver
9 is in the best interest of a child.

10 Section 157. Subsections (1), (2), and (5) of section
11 450.121, Florida Statutes, are amended to read:

12 450.121 Enforcement of Child Labor Law.--

13 (1) The department ~~Division of Jobs and Benefits~~ shall
14 administer this chapter. It shall employ such help as is
15 necessary to effectuate the purposes of this chapter. Other
16 agencies of the state may cooperate with the department
17 ~~division~~ in the administration and enforcement of this part.
18 To accomplish this joint, cooperative effort, the department
19 ~~division~~ may enter into intergovernmental agreements with
20 other agencies of the state whereby the other agencies may
21 assist the department ~~division~~ in the administration and
22 enforcement of this part. Any action taken by an agency
23 pursuant to an intergovernmental agreement entered into
24 pursuant to this section shall be considered to have been
25 taken by the department ~~division~~.

26 (2) It is the duty of the department ~~division~~ and its
27 agents and all sheriffs or other law enforcement officers of
28 the state or of any municipality of the state to enforce the
29 provisions of this law, to make complaints against persons
30 violating its provisions, and to prosecute violations of the
31 same. The department ~~division~~ and its agents have authority to

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1 enter and inspect at any time any place or establishment
2 covered by this law and to have access to age certificates
3 kept on file by the employer and such other records as may aid
4 in the enforcement of this law. A designated school
5 representative acting in accordance with s. 232.17 shall
6 report to the department ~~division~~ all violations of the Child
7 Labor Law that may come to his or her knowledge.

8 (5) The department ~~division~~ may adopt rules:

9 (a) Defining words, phrases, or terms used in the
10 child labor rule or in this part, as long as the word, phrase,
11 or term is not a word, phrase, or term defined in s. 450.012.

12 (b) Prescribing additional documents that may be used
13 to prove the age of a minor and the procedure to be followed
14 before a person who claims his or her disability of nonage has
15 been removed by a court of competent jurisdiction may be
16 employed.

17 (c) Requiring certain safety equipment and a safe
18 workplace environment for employees who are minors.

19 (d) Prescribing the deadlines applicable to a response
20 to a request for records under subsection (2).

21 (e) Providing an official address from which child
22 labor forms, rules, laws, and posters may be requested and
23 prescribing the forms to be used in connection with this part.

24 Section 158. Subsections (1), (2), (3), (4), and (5)
25 of section 450.132, Florida Statutes, are amended to read:

26 450.132 Employment of children by the entertainment
27 industry; rules; procedures.--

28 (1) Children within the protection of our child labor
29 statutes may, notwithstanding such statutes, be employed by
30 the entertainment industry in the production of motion
31 pictures, legitimate plays, television shows, still

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1 photography, recording, publicity, musical and live
2 performances, circuses, and rodeos, in any work not determined
3 by the department ~~Division of Jobs and Benefits~~ to be
4 hazardous, or detrimental to their health, morals, education,
5 or welfare.

6 (2) The department ~~Division of Jobs and Benefits~~
7 shall, as soon as convenient, and after such investigation as
8 to the department ~~division~~ may seem necessary or advisable,
9 determine what work in connection with the entertainment
10 industry is not hazardous or detrimental to the health,
11 morals, education, or welfare of minors within the purview and
12 protection of our child labor laws. When so adopted, such
13 rules shall have the force and effect of law in this state.

14 (3) Entertainment industry employers or agents wishing
15 to qualify for the employment of minors in work not hazardous
16 or detrimental to their health, morals, or education shall
17 make application to the department ~~division~~ for a permit
18 qualifying them to employ minors in the entertainment
19 industry. The form and contents thereof shall be prescribed by
20 the department ~~division~~.

21 (4) Any duly qualified entertainment industry employer
22 may employ any minor. However, if any entertainment industry
23 employer employing a minor causes, permits, or suffers such
24 minor to be placed under conditions which are dangerous to the
25 life or limb or injurious or detrimental to the health or
26 morals or education of the minor, the right of that
27 entertainment industry employer and its representatives and
28 agents to employ minors as provided herein shall stand
29 revoked, unless otherwise ordered by the department ~~division~~,
30 and the person responsible for such unlawful employment is
31 guilty of a misdemeanor of the second degree, punishable as

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1 provided in s. 775.082 or s. 775.083.

2 (5) Any entertainment industry employer and its agents
3 employing minors hereunder are required to notify the
4 department ~~division~~, showing the date of the commencement of
5 work, the number of days worked, the location of the work, and
6 the date of termination.

7 Section 159. Subsections (2) and (3) of section
8 450.141, Florida Statutes, are amended to read:

9 450.141 Employing minor children in violation of law;
10 penalties.--

11 (2) Any person, firm, corporation, or governmental
12 agency, or agent thereof, that has employed minors in
13 violation of this part, or any rule adopted pursuant thereto,
14 may be subject by the department ~~division~~ to fines not to
15 exceed \$2,500 per offense. The department ~~division~~ shall
16 adopt, by rule, disciplinary guidelines specifying a
17 meaningful range of designated penalties based upon the
18 severity and repetition of the offenses, and which distinguish
19 minor violations from those which endanger a minor's health
20 and safety.

21 (3) If the department ~~division~~ has reasonable grounds
22 for believing there has been a violation of this part or any
23 rule adopted pursuant thereto, it shall give written notice to
24 the person alleged to be in violation. Such notice shall
25 include the provision or rule alleged to be violated, the
26 facts alleged to constitute such violation, and requirements
27 for remedial action within a time specified in the notice. No
28 fine may be levied unless the person alleged to be in
29 violation fails to take remedial action within the time
30 specified in the notice.

31 Section 160. Paragraph (j) of subsection (1) of

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1 section 450.191, Florida Statutes, is amended to read:

2 450.191 Executive Office of the Governor; powers and
3 duties.--

4 (1) The Executive Office of the Governor is authorized
5 and directed to:

6 (j) Cooperate with the regional workforce boards and
7 one-stop career centers ~~farm labor office of the Florida State~~
8 ~~Employment Service~~ in the recruitment and referral of migrant
9 laborers and other persons for the planting, cultivation, and
10 harvesting of agricultural crops in Florida.

11 Section 161. Subsection (2) of section 450.28, Florida
12 Statutes, is amended to read:

13 450.28 Definitions.--

14 (2) "Department" ~~"Division"~~ means the Bureau of
15 Workplace Regulation of the Division of Workers' Compensation
16 ~~Jobs and Benefits~~ of the Department of Insurance ~~Labor and~~
17 ~~Employment Security~~.

18 Section 162. Section 450.30, Florida Statutes, is
19 amended to read:

20 450.30 Requirement of certificate of registration;
21 education and examination program.--

22 (1) No person may act as a farm labor contractor until
23 a certificate of registration has been issued to him or her by
24 the department ~~division~~ and unless such certificate is in full
25 force and effect and is in his or her possession.

26 (2) No certificate of registration may be transferred
27 or assigned.

28 (3) Unless sooner revoked, each certificate of
29 registration, regardless of the date of issuance, shall be
30 renewed on the last day of the birth month following the date
31 of issuance and, thereafter, each year on the last day of the

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1 birth month of the registrant. The date of incorporation shall
2 be used in lieu of birthdate for registrants that are
3 corporations. Applications for certificates of registration
4 and renewal thereof shall be on a form prescribed by the
5 department division.

6 (4) The department division shall provide a program of
7 education and examination for applicants under this part. The
8 program may be provided by the department division or through
9 a contracted agent. The program shall be designed to ensure
10 the competency of those persons to whom the department
11 division issues certificates of registration.

12 (5) The department division shall require each
13 applicant to demonstrate competence by a written or oral
14 examination in the language of the applicant, evidencing that
15 he or she is knowledgeable concerning the duties and
16 responsibilities of a farm labor contractor. The examination
17 shall be prepared, administered, and evaluated by the
18 department division or through a contracted agent.

19 (6) The department division shall require an applicant
20 for renewal of a certificate of registration to retake the
21 examination only if:

22 (a) During the prior certification period, the
23 division issued a final order assessing a civil monetary
24 penalty or revoked or refused to renew or issue a certificate
25 of registration; or

26 (b) The department division determines that new
27 requirements related to the duties and responsibilities of a
28 farm labor contractor necessitate a new examination.

29 (7) The department division shall charge each
30 applicant a \$35 fee for the education and examination program.
31 Such fees shall be deposited in the Crew Chief Registration

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1 Trust Fund.

2 (8) The department ~~division~~ may adopt rules
3 prescribing the procedures to be followed to register as a
4 farm labor contractor.

5 Section 163. Subsections (1), (2), and (4) of section
6 450.31, Florida Statutes, are amended to read:

7 450.31 Issuance, revocation, and suspension of, and
8 refusal to issue or renew, certificate of registration.--

9 (1) The department ~~division~~ shall not issue to any
10 person a certificate of registration as a farm labor
11 contractor, nor shall it renew such certificate, until:

12 (a) Such person has executed a written application
13 therefor in a form and pursuant to regulations prescribed by
14 the department ~~division~~ and has submitted such information as
15 the department ~~division~~ may prescribe.

16 (b) Such person has obtained and holds a valid federal
17 certificate of registration as a farm labor contractor, or a
18 farm labor contractor employee, unless exempt by federal law.

19 (c) Such person pays to the department ~~division~~, in
20 cash, certified check, or money order, a nonrefundable
21 application fee of \$75. Fees collected by the department
22 ~~division~~ under this subsection shall be deposited in the State
23 Treasury into the Crew Chief Registration Trust Fund, which is
24 hereby created, and shall be utilized for administration of
25 this part.

26 (d) Such person has successfully taken and passed the
27 farm labor contractor examination.

28 (2) The department ~~division~~ may revoke, suspend, or
29 refuse to renew any certificate of registration when it is
30 shown that the farm labor contractor has:

31 (a) Violated or failed to comply with any provision of

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1 this part or the rules adopted pursuant to s. 450.36.

2 (b) Made any misrepresentation or false statement in
3 his or her application for a certificate of registration.

4 (c) Given false or misleading information concerning
5 terms, conditions, or existence of employment to persons who
6 are recruited or hired to work on a farm.

7 (4) The department ~~division~~ may refuse to issue or
8 renew, or may suspend or revoke, a certificate of registration
9 if the applicant or holder is not the real party in interest
10 in the application or certificate of registration and the real
11 party in interest is a person who has been refused issuance or
12 renewal of a certificate, has had a certificate suspended or
13 revoked, or does not qualify under this section for a
14 certificate.

15 Section 164. Subsections (1), (4), (5), (6), (8), (9),
16 and (10) of section 450.33, Florida Statutes, are amended to
17 read:

18 450.33 Duties of farm labor contractor.--Every farm
19 labor contractor must:

20 (1) Carry his or her certificate of registration with
21 him or her at all times and exhibit it to all persons with
22 whom the farm labor contractor intends to deal in his or her
23 capacity as a farm labor contractor prior to so dealing and,
24 upon request, to persons designated by the department
25 ~~division~~.

26 (4) Display prominently, at the site where the work is
27 to be performed and on all vehicles used by the registrant for
28 the transportation of employees, a single posting containing a
29 written statement in English and in the language of the
30 majority of the non-English-speaking employees disclosing the
31 terms and conditions of employment in a form prescribed by the

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1 ~~department division~~ or by the United States Department of
2 Labor for this purpose.

3 (5) Take out a policy of insurance with any insurance
4 carrier which policy insures such registrant against liability
5 for damage to persons or property arising out of the operation
6 or ownership of any vehicle or vehicles for the transportation
7 of individuals in connection with his or her business,
8 activities, or operations as a farm labor contractor. In no
9 event may the amount of such liability insurance be less than
10 that required by the provisions of the financial
11 responsibility law of this state. Any insurance carrier that
12 is licensed to operate in this state and that has issued a
13 policy of liability insurance to operate a vehicle used to
14 transport farm workers shall notify the ~~department division~~
15 when it intends to cancel such policy.

16 (6) Maintain such records as may be designated by the
17 ~~department division~~.

18 (8) File, within such time as the ~~department division~~
19 may prescribe, a set of his or her fingerprints.

20 (9) Produce evidence to the ~~department division~~ that
21 each vehicle he or she uses for the transportation of
22 employees complies with the requirements and specifications
23 established in chapter 316, s. 316.620, or Pub. L. No. 93-518
24 as amended by Pub. L. No. 97-470 meeting Department of
25 Transportation requirements or, in lieu thereof, bears a valid
26 inspection sticker showing that the vehicle has passed the
27 inspection in the state in which the vehicle is registered.

28 (10) Comply with all applicable statutes, rules, and
29 regulations of the United States and of the State of Florida
30 for the protection or benefit of labor, including, but not
31 limited to, those providing for wages, hours, fair labor

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1 standards, social security, workers' compensation,
2 unemployment compensation, child labor, and transportation.
3 The department ~~division~~ shall not suspend or revoke a
4 certificate of registration pursuant to this subsection
5 unless:

6 (a) A court or agency of competent jurisdiction
7 renders a judgment or other final decision that a violation of
8 one of the laws, rules, or regulations has occurred and, if
9 invoked, the appellate process is exhausted;

10 (b) An administrative hearing pursuant to ss. 120.569
11 and 120.57 is held on the suspension or revocation and the
12 administrative law judge finds that a violation of one of the
13 laws, rules, or regulations has occurred and, if invoked, the
14 appellate process is exhausted; or

15 (c) The holder of a certificate of registration
16 stipulates that a violation has occurred or defaults in the
17 administrative proceedings brought to suspend or revoke his or
18 her registration.

19 Section 165. Section 450.35, Florida Statutes, is
20 amended to read:

21 450.35 Certain contracts prohibited.--It is unlawful
22 for any person to contract for the employment of farm workers
23 with any farm labor contractor as defined in this act until
24 the labor contractor displays to him or her a current
25 certificate of registration issued by the department ~~division~~
26 pursuant to the requirements of this part.

27 Section 166. Section 450.36, Florida Statutes, is
28 amended to read:

29 450.36 Rules and regulations.--The department ~~division~~
30 may adopt rules necessary to enforce and administer this part.

31 Section 167. Section 450.37, Florida Statutes, is

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1 amended to read:

2 450.37 Cooperation with federal agencies.--The
3 department ~~division~~ shall, whenever appropriate, cooperate
4 with any federal agency.

5 Section 168. Subsections (2), (3), and (4) of section
6 450.38, Florida Statutes, are amended to read:

7 450.38 Enforcement of farm labor contractor laws.--

8 (2) Any person who, on or after June 19, 1985, commits
9 a violation of this part or of any rule adopted thereunder may
10 be assessed a civil penalty of not more than \$1,000 for each
11 such violation. Such assessed penalties shall be paid in cash,
12 certified check, or money order and shall be deposited into
13 the General Revenue Fund. The department ~~division~~ shall not
14 institute or maintain any administrative proceeding to assess
15 a civil penalty under this subsection when the violation is
16 the subject of a criminal indictment or information under this
17 section which results in a criminal penalty being imposed, or
18 of a criminal, civil, or administrative proceeding by the
19 United States government or an agency thereof which results in
20 a criminal or civil penalty being imposed. The department
21 ~~division~~ may adopt rules prescribing the criteria to be used
22 to determine the amount of the civil penalty and to provide
23 notification to persons assessed a civil penalty under this
24 section.

25 (3) Upon a complaint of the department ~~division~~ being
26 filed in the circuit court of the county in which the farm
27 labor contractor may be doing business, any farm labor
28 contractor who fails to obtain a certificate of registration
29 as required by this part may, in addition to such penalties,
30 be enjoined from engaging in any activity which requires the
31 farm labor contractor to possess a certificate of

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1 registration.

2 (4) For the purpose of any investigation or proceeding
3 conducted by the department division, the secretary of the
4 department or the secretary's designee shall have the power to
5 administer oaths, take depositions, make inspections when
6 authorized by statute, issue subpoenas which shall be
7 supported by affidavit, serve subpoenas and other process, and
8 compel the attendance of witnesses and the production of
9 books, papers, documents, and other evidence. The secretary of
10 the department or the secretary's designee shall exercise this
11 power on the secretary's own initiative.

12 Section 169. (1) In anticipation of its assumption of
13 responsibilities from the Department of Labor and Employment
14 Security relating to unemployment compensation, as provided in
15 this act, the Department of Revenue shall prepare a report
16 with recommendations on the fiscal management of funds under
17 the Unemployment Compensation Trust Fund and any other funds
18 related to unemployment compensation activities conducted
19 under state or federal law. The report shall include, but is
20 not limited to, an analysis of options and recommendations for
21 distributing unemployment compensation funds to units of state
22 government with responsibilities under the unemployment
23 compensation program and for allocating costs associated with
24 such program and funds. The report and recommendations shall
25 be submitted to the Governor, the President of the Senate, the
26 Speaker of the House of Representatives, and members of the
27 Labor and Employment Security Transition Team by September 1,
28 2000.

29 (2) The Department of Revenue shall conduct a
30 feasibility study regarding the privatization of unemployment
31 tax collection services or other functions of the state

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1 related to unemployment compensation activities conducted
2 under state or federal law. The study findings and
3 recommendations shall be submitted in a report to the
4 Governor, the President of the Senate, and the Speaker of the
5 House of Representatives by March 1, 2001.

6 (3) This section shall take effect upon this act
7 becoming a law.

8 Section 170. (1) The Department of Labor and
9 Employment Security, in conjunction with the Department of
10 Management Services, may offer, subject to the provisions of
11 this section, active employees of the Department of Labor and
12 Employment Security who have 27 or more years of creditable
13 service in a state-administered retirement system, a one-time
14 voluntary reduction-in-force payment. Such payment shall
15 represent a payment of insurance costs and shall be paid as an
16 annuity to be purchased by the Department of Labor and
17 Employment Security within the amounts appropriated for salary
18 and benefits in the General Appropriations Act for fiscal year
19 2000-2001, which shall include funds derived from eliminating
20 vacated positions. There shall be no annualization costs
21 associated with this plan. The Secretary of Labor and
22 Employment Security shall be deemed to be the public employer
23 for purposes of negotiating the terms and conditions related
24 to the reduction-in-force payments authorized by this section.
25 All persons retiring under this program must do so by
26 September 30, 2000.

27 (2) The department, in consultation with the
28 Department of Management Services, shall prepare a plan to
29 implement the reduction-in-force payment authority for
30 approval by the Office of Policy and Budget. The plan must
31 meet all applicable federal requirements regarding the

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1 expenditure of federal funds; all applicable federal tax laws;
2 and all other federal and state laws regarding special
3 compensation to employees, including the Age Discrimination in
4 Employment Act and the Older Workers' Benefit Protection Act.
5 The plan must specify the savings created through the payment
6 mechanism and the reduction-in-force, specify the source of
7 funding of the payments, and delineate a timetable for
8 implementation.

9 (3) If approved by the Office of Policy and Budget,
10 the plan shall be submitted to the Legislature subject to the
11 notice, review, and objection process authorized in section
12 216.177, Florida Statutes.

13 (4) This section shall take effect upon this act
14 becoming a law.

15 Section 171. Notwithstanding any other provision of
16 law, any binding contract or interagency agreement existing on
17 or before January 1, 2001, between the Department of Labor and
18 Employment Security, or an entity or agent of the department,
19 and any other agency, entity, or person shall continue as a
20 binding contract or agreement for the remainder of the term of
21 such contract or agreement with the successor department,
22 agency, or entity responsible for the program, activity, or
23 functions relative to the contract or agreement.

24 Section 172. This act does not affect the validity of
25 any judicial or administrative proceeding involving the
26 Department of Labor and Employment Security which is pending
27 as of the effective date of any transfer under this act. The
28 successor department, agency, or entity responsible for the
29 program, activity, or function relative to the proceeding
30 shall be substituted, as of the effective date of the
31 applicable transfer under this act, for the Department of

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1 Labor and Employment Security as a party in interest in any
2 such proceedings.

3 Section 173. If any provision of this act or its
4 application to any person or circumstance is held invalid, the
5 invalidity does not affect other provisions or applications of
6 the act which can be given effect without the invalid
7 provision or application, and to this end the provisions of
8 this act are severable.

9 Section 174. Except as otherwise expressly provided in
10 this act, this act shall take effect July 1, 2000, except that
11 this act shall not take effect unless Committee Substitute for
12 Senate Bill 2050, or similar legislation reassigning
13 responsibilities of the Division of Workforce and Employment
14 Opportunities of the Department of Labor and Employment
15 Security to another agency or entity, becomes a law.

16
17

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

19 And the title is amended as follows:

20 On page 14, lines 1 and 2, delete those lines

21

22 and insert:

23 Development Trust Fund; repealing s. 20.171,
24 F.S., relating to the authority and
25 organizational structure of the Department of
26 Labor and Employment Security; providing for a
27 type one transfer of the Division of Workers'
28 Compensation and the Office of the Judges of
29 Compensation Claims to the Department of
30 Insurance; providing for a type two transfer of
31 certain functions of the Division of Workforce

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1 and Employment Opportunities relating to labor
2 organizations and child labor to the Department
3 of Insurance; providing for a type two transfer
4 of certain functions of the Division of
5 Workforce and Employment Opportunities relating
6 to migrant and farm labor registration to the
7 Department of Insurance; providing for a type
8 two transfer of other workplace regulation
9 functions to the Department of Insurance;
10 providing for a transfer of certain
11 administrative resources of the Department of
12 Labor and Employment Security to the Department
13 of Insurance; providing exceptions relating to
14 hiring and salary requirements; amending s.
15 20.13, F.S.; providing for a Division of
16 Workers' Compensation in the Department of
17 Insurance; creating a Bureau of Workplace
18 Regulation and a Bureau of Workplace Safety
19 within the Division of Workers' Compensation of
20 the Department of Insurance; providing for a
21 type two transfer of the Division of
22 Unemployment Compensation to the Agency for
23 Workforce Innovation; providing an exception;
24 providing for transfer of unemployment appeals
25 referees to the Unemployment Appeals
26 Commission; requiring a contract for the
27 Department of Revenue to provide unemployment
28 tax administration and collection services;
29 providing for transfer of the Office of
30 Information Systems from the Department of
31 Labor and Employment Security to the Department

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1 of Management Services; providing an exception
2 for certain portions of the office to be
3 transferred to the Agency for Workforce
4 Innovation; providing for a type two transfer
5 of the Minority Business Advocacy and
6 Assistance Office from the Department of Labor
7 and Employment Security to the Department of
8 Management Services; creating the Florida Task
9 Force on Workplace Safety; prescribing
10 membership of the task force; providing a
11 purpose for the task force; providing for
12 staffing, administration, and information
13 sharing; requiring a report; authorizing the
14 Division of Workers' Compensation to establish
15 time-limited positions related to workplace
16 safety; authorizing the division to establish
17 permanent positions upon completion of the task
18 force report; providing for transfer of certain
19 records and property; providing for termination
20 of the task force; amending s. 39 of ch.
21 99-240, Laws of Florida; providing for the
22 transfer of the Division of Blind Services to
23 the Department of Management Services rather
24 than the Department of Education; revising the
25 effective date of such transfer; providing
26 legislative intent on the transfer of functions
27 of the Department of Labor and Employment
28 Security; providing for reemployment assistance
29 to dislocated department employees; providing
30 for hiring preferences for such employees;
31 providing for the transfer of certain records

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1 and funds; creating the Labor and Employment
2 Security Transition Team; prescribing
3 membership of the transition team; providing
4 for staffing; requiring reports; providing for
5 the termination of the transition team;
6 authorizing the transition team to use
7 unexpended funds to settle certain claims;
8 requiring the transition team to approve
9 certain personnel hirings and transfers;
10 requiring the submission of a budget amendment
11 to allocate resources of the Department of
12 Labor and Employment Security; exempting
13 specified state agencies, on a temporary basis,
14 from provisions relating to procurement of
15 property and services and leasing of space;
16 authorizing specified state agencies to develop
17 temporary emergency rules relating to the
18 implementation of this act; requiring the
19 Department of Revenue to notify businesses
20 relating to the transfer of unemployment
21 compensation tax responsibilities; amending s.
22 287.012, F.S.; revising a definition to conform
23 to the transfer of the Minority Business
24 Advocacy and Assistance Office to the
25 Department of Management Services; amending s.
26 287.0947, F.S.; providing for the Florida
27 Advisory Council on Small and Minority Business
28 Development to be created within the Department
29 of Management Services; amending s. 287.09451,
30 F.S.; reassigning the Minority Business
31 Advocacy and Assistance Office to the

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1 Department of Management Services; conforming
2 provisions; amending s. 20.15, F.S.;
3 establishing the Division of Occupational
4 Access and Opportunity within the Department of
5 Education; providing that the Occupational
6 Access and Opportunity Commission is the
7 director of the division; requiring the
8 department to assign certain powers, duties,
9 responsibilities, and functions to the
10 division; excepting from appointment by the
11 Commissioner of Education members of the
12 commission, the Florida Rehabilitation Council,
13 and the Florida Independent Living Council;
14 amending s. 120.80, F.S.; providing that
15 hearings on certain vocational rehabilitation
16 determinations by the Occupational Access and
17 Opportunity Commission need not be conducted by
18 an administrative law judge; amending s.
19 413.011, F.S.; revising the internal
20 organizational structure of the Division of
21 Blind Services; requiring the division to
22 implement the provisions of a 5-year plan;
23 requiring the division to contract with
24 community-based rehabilitation providers for
25 the delivery of certain services; revising
26 references to blind persons; requiring the
27 Division of Blind Services to issue
28 recommendations to the Legislature on a method
29 of privatizing the Business Enterprise Program;
30 providing definitions for the terms
31 "community-based rehabilitation provider,"

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1 "council," "plan," and "state plan"; renaming
2 the Advisory Council for the Blind; revising
3 the membership and functions of the council to
4 be consistent with federal law; requiring the
5 council to prepare a 5-year strategic plan;
6 requiring the council to coordinate with
7 specified entities; deleting provisions
8 providing for the Governor to resolve funding
9 disagreements between the division and the
10 council; directing that meetings be held in
11 locations accessible to individuals with
12 disabilities; amending s. 413.014, F.S.;
13 requiring the Division of Blind Services to
14 report on use of community-based providers to
15 deliver services; amending s. 413.034, F.S.;
16 revising the membership of the Commission for
17 Purchase from the Blind or Other Severely
18 Handicapped to conform to transfer of the
19 Division of Blind Services and renaming of the
20 Division of Vocational Rehabilitation; amending
21 ss. 413.051, 413.064, 413.066, 413.067,
22 413.345, F.S.; conforming departmental
23 references to reflect the transfer of the
24 Division of Blind Services to the Department of
25 Management Services; expressing the intent of
26 the Legislature that the provisions of this act
27 relating to blind services not conflict with
28 federal law; providing procedures in the event
29 such conflict is asserted; amending s. 413.82,
30 F.S.; providing definitions for the terms
31 "community rehabilitation provider," "plan,"

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1 and "state plan"; conforming references;
2 amending s. 413.83, F.S.; specifying that
3 appointment of members to the commission is
4 subject to Senate confirmation; revising
5 composition of and appointments to the
6 commission; eliminating a requirement that the
7 Rehabilitation Council serve the commission;
8 authorizing the commission to establish an
9 advisory council composed of representatives
10 from not-for-profit organizations under certain
11 conditions; clarifying the entitlement of
12 commission members to reimbursement for certain
13 expenses; amending s. 413.84, F.S.; designating
14 the commission as the director of the Division
15 of Occupational Access and Opportunity;
16 specifying responsibilities of the commission;
17 authorizing the commission to make
18 administrative rules; authorizing the
19 commission to hire a division director;
20 revising time for implementation of the 5-year
21 plan prepared by the commission; expanding the
22 authority of the commission to contract with
23 the corporation; removing a requirement for
24 federal approval to contract with a
25 direct-support organization; authorizing the
26 commission to appear on its own behalf before
27 the Legislature; amending s. 413.85, F.S.;
28 eliminating limitations on the tax status of
29 the Occupational Access and Opportunity
30 Corporation; specifying that the corporation is
31 not an agency for purposes of certain

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1 government procurement laws; applying
2 provisions relating to waiver of sovereign
3 immunity to the corporation; providing that the
4 board of directors of the corporation be
5 composed of no fewer than seven and no more
6 than 15 members and that a majority of its
7 members be members of the commission;
8 authorizing the corporation to hire certain
9 individuals employed by the Division of
10 Vocational Rehabilitation; providing for a
11 lease agreement governing such employees;
12 prescribing terms of such lease agreement;
13 amending s. 413.86, F.S.; conforming an
14 organizational reference; creating s. 413.865,
15 F.S.; requiring coordination between vocational
16 rehabilitation and other workforce activities;
17 requiring development of performance
18 measurement methodologies; amending s. 413.87,
19 F.S.; conforming provision to changes made in
20 the act; amending s. 413.88, F.S.; conforming
21 provision to changes made in the act; amending
22 s. 413.89, F.S.; designating the department the
23 state agency effective July 1, 2000, and the
24 commission the state agency effective October
25 1, 2000, for purposes of federal law; deleting
26 an obsolete reference; authorizing the
27 department and the commission to provide for
28 continued administration during the time
29 between July 1, 2000, and October 1, 2000;
30 amending s. 413.90, F.S.; deleting provision
31 relating to designation of an administrative

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1 entity; designating a state agency and state
2 unit for specified purposes; transferring
3 certain components of the Division of
4 Vocational Rehabilitation to the Department of
5 Education; requiring a reduction in positions;
6 providing for a budget amendment; providing for
7 a transfer of certain administrative resources
8 of the Department of Labor and Employment
9 Security to the Department of Education;
10 amending s. 413.91, F.S.; deleting reference to
11 designated administrative entity; requiring the
12 commission to assure that all contractors
13 maintain quality control and are fit to
14 undertake responsibilities; amending s. 413.92,
15 F.S.; specifying entities answerable to the
16 Federal Government in the event of a conflict
17 with federal law; repealing s. 413.93, F.S.,
18 relating to the designated state agency under
19 federal law; amending s. 440.02, F.S.;
20 conforming the definitions of "department" and
21 "division" to the transfer of the Division of
22 Workers' Compensation to the Department of
23 Insurance; amending s. 440.207, F.S.;
24 conforming a departmental reference; amending
25 s. 440.385, F.S.; deleting obsolete provisions;
26 conforming departmental references relating to
27 the Florida Self-Insurance Guaranty
28 Association, Inc.; amending s. 440.44, F.S.;
29 conforming provisions; amending s. 440.4416,
30 F.S.; reassigning the Workers' Compensation
31 Oversight Board to the Department of Insurance;

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1 amending s. 440.45, F.S.; reassigning the
2 Office of the Judges of Compensation Claims to
3 the Department of Insurance; amending s.
4 440.49, F.S.; reassigning responsibility for a
5 report on the Special Disability Trust Fund to
6 the Department of Insurance; amending ss.
7 215.311, 413.091, 440.102, 440.125, 440.13,
8 440.25, 440.525, and 440.59, F.S.; conforming
9 agency references to reflect the transfer of
10 programs from the Department of Labor and
11 Employment Security to the Department of
12 Management Services and the Department of
13 Insurance; amending s. 443.012, F.S.; providing
14 for the Unemployment Appeals Commission to be
15 created within the Department of Management
16 Services rather than the Department of Labor
17 and Employment Security; conforming provisions;
18 providing for the transfer of the Unemployment
19 Appeals Commission to the Department of
20 Management Services by a type two transfer;
21 amending s. 443.036, F.S.; conforming the
22 definition of "commission" to the transfer of
23 the Unemployment Appeals Commission to the
24 Department of Management Services; conforming
25 the definition of "division" to the transfer of
26 the Division of Unemployment Compensation to
27 the Agency for Workforce Innovation; amending
28 s. 443.151, F.S.; providing for unemployment
29 compensation appeals referees to be appointed
30 by the Unemployment Appeals Commission;
31 requiring the Department of Management Services

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1 to provide facilities to the appeals referees
2 and the commission; requiring the Division of
3 Unemployment Compensation to post certain
4 notices in one-stop career centers; amending s.
5 443.171, F.S.; conforming duties of the
6 Division of Unemployment Compensation and
7 appointment of the Unemployment Compensation
8 Advisory Council to reflect program transfer to
9 the Agency for Workforce Innovation; conforming
10 cross-references; amending s. 443.211, F.S.;
11 conforming provisions; authorizing the
12 Unemployment Appeals Commission to approve
13 payments from the Employment Security
14 Administration Trust Fund; providing for use of
15 funds in the Special Employment Security
16 Administration Trust Fund by the Unemployment
17 Appeals Commission and the Agency for Workforce
18 Innovation; amending ss. 447.02, 447.04,
19 447.041, 447.045, 447.06, 447.12, 447.16, F.S.;
20 providing for part I of ch. 447, F.S., relating
21 to the regulation of labor organizations, to be
22 administered by the Department of Insurance;
23 deleting references to the Division of Jobs and
24 Benefits and the Department of Labor and
25 Employment Security; amending s. 447.203, F.S.;
26 clarifying the definition of professional
27 employee; amending s. 447.205, F.S.; conforming
28 provisions to reflect the transfer of the
29 Public Employees Relations Commission to the
30 Department of Management Services and deleting
31 obsolete provisions; amending s. 447.208, F.S.;

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1 clarifying the procedure for appeals, charges,
2 and petitions; amending s. 447.305, F.S.,
3 relating to the registration of employee
4 organizations; providing for the Public
5 Employees Relations Commission to share
6 registration information with the Department of
7 Insurance; amending s. 447.307, F.S.;
8 authorizing the commission to modify existing
9 bargaining units; amending s. 447.503, F.S.;
10 specifying procedures when a party fails to
11 appear for a hearing; amending s. 447.504,
12 F.S.; authorizing the commission to stay
13 certain procedures; providing for the transfer
14 of the commission to the Department of
15 Management Services by a type two transfer;
16 repealing s. 447.609, F.S., relating to
17 representation in certain public employee
18 proceedings; amending ss. 450.012, 450.061,
19 450.081, 450.095, 450.121, 450.132, 450.141,
20 F.S.; providing for part I of ch. 450, F.S.,
21 relating to child labor, to be administered by
22 the Department of Insurance; deleting
23 references to the Division of Jobs and Benefits
24 and the Department of Labor and Employment
25 Security; amending s. 450.191, F.S., relating
26 to the duties of the Executive Office of the
27 Governor with respect to migrant labor;
28 conforming provisions to changes made by the
29 act; amending ss. 450.28, 450.30, 450.31,
30 450.33, 450.35, 450.36, 450.37, 450.38, F.S.,
31 relating to farm labor registration; providing

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1 for part III of ch. 450, F.S., to be
2 administered by the Department of Insurance;
3 deleting references to the Division of Jobs and
4 Benefits and the Department of Labor and
5 Employment Security; requiring the Department
6 of Revenue to report on disbursement and
7 cost-allocation of unemployment compensation
8 funds; requiring the Department of Revenue to
9 conduct a feasibility study on privatization of
10 unemployment compensation activities;
11 authorizing the Department of Labor and
12 Employment Security to offer a voluntary
13 reduction-in-force payment to certain
14 employees; providing terms and conditions
15 relating to such payments; requiring a plan to
16 meet specified criteria; providing for
17 legislative review; providing for the
18 continuation of contracts or agreements of the
19 Department of Labor and Employment Security;
20 providing for a successor department, agency,
21 or entity to be substituted for the Department
22 of Labor and Employment Security as a party in
23 interest in pending proceedings; providing for
24 severability; providing a conditional effective
25 date.

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