

1                                   A bill to be entitled  
2           An act relating to operations of correctional  
3           work programs; revising provisions relating to  
4           leased or managed work programs to conform to  
5           current operations and applications; amending  
6           ss. 946.502, 946.5025, 946.5026, 946.503,  
7           946.506, 946.509, 946.511, 946.514, 946.516,  
8           946.518, 946.520, F.S.; conforming internal  
9           cross-references; deleting obsolete provisions;  
10          clarifying a definition; changing a reporting  
11          date; amending s. 957.04, F.S., to conform a  
12          cross-reference; providing a declaration of  
13          important state interest; creating s. 946.525,  
14          F.S.; establishing participation requirements;  
15          providing an effective date.

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

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19           Section 1. Subsections (2), (3), and (4) of section  
20 946.502, Florida Statutes, are amended to read:

21           946.502 Legislative intent with respect to operation  
22 of correctional work programs.--

23           (2) It is further the intent of the Legislature that,  
24 once one such nonprofit corporation is organized, no other  
25 nonprofit corporation be organized for the purpose of carrying  
26 out this part ~~ss. 946.502-946.518~~. In carrying out this part  
27 ~~ss. 946.502-946.518~~, the corporation is not an "agency" within  
28 the meaning of s. 20.03(11).

29           (3) It is further the intent of the Legislature that,  
30 ~~by July 1, 1985,~~ the corporation shall lease ~~have leased~~ all  
31 correctional work programs from the department.

1           (4) It is further the intent of the Legislature that  
2 the state shall have a continuing interest in assuring  
3 continuity and stability in the operation of correctional work  
4 programs and that this part ~~ss. 946.502-946.518~~ be construed  
5 in furtherance of such goals.

6           Section 2. Section 946.5025, Florida Statutes, is  
7 amended to read:

8           946.5025 Authorization of corporation to enter into  
9 contracts.--The corporation established under this part  
10 ~~chapter~~ may enter into contracts to operate correctional work  
11 programs with any county or municipal authority that operates  
12 a correctional facility or with a contractor authorized under  
13 chapter 944 or chapter 957 to operate a private correctional  
14 facility. The corporation has the same powers, privileges, and  
15 immunities in carrying out such contracts as it has under this  
16 chapter.

17           Section 3. Section 946.5026, Florida Statutes, is  
18 amended to read:

19           946.5026 Sovereign immunity in tort actions.--The  
20 provisions of s. 768.28 shall be applicable to the corporation  
21 established under this part ~~pursuant to s. 946.504(1)~~, which  
22 is deemed to be a corporation primarily acting as an  
23 instrumentality of the state.

24           Section 4. Section 946.503, Florida Statutes, is  
25 amended to read:

26           946.503 Definitions to be used with respect to  
27 correctional work programs.--As used in this part ~~ss.~~  
28 ~~946.502-946.518~~, the term:

29           (1) "Corporation" means the private nonprofit  
30 corporation established pursuant to s. 946.504(1), or a  
31 private nonprofit corporation whose sole member is the private

1 nonprofit corporation established pursuant to s. 946.504(1),  
2 and at least 51 percent of the board of which contains members  
3 of the board of directors of the private nonprofit corporation  
4 established pursuant to s. 946.504(1), to carry out this part  
5 ~~ss. 946.502-946.518.~~

6 (2) "Correctional work program" means any program  
7 presently a part of the prison industries program operated by  
8 the department or any other correctional work program carried  
9 on at any state correctional facility presently or in the  
10 future, but the term does not include any program authorized  
11 by s. 945.091 or s. 946.40.

12 (3) "Department" means the Department of Corrections.

13 (4) "Facilities" means the buildings and land used in  
14 the operation of an industry program on state property.

15 (5) "Inmate" means any person incarcerated within any  
16 state, county, municipal, or private correctional facility.

17 (6) "Private correctional facility" means a facility  
18 authorized by chapter 944 or chapter 957.

19 Section 5. Section 946.506, Florida Statutes, is  
20 amended to read:

21 946.506 Modification or termination of correctional  
22 work program by the corporation.--This part does Sections  
23 ~~946.502-946.518~~ do not prevent the corporation from modifying,  
24 altering, or terminating any correctional work program, once  
25 assumed, so long as the corporation is otherwise carrying out  
26 the provisions of this part ~~ss. 946.502-946.518.~~

27 Section 6. Subsection (1) of section 946.509, Florida  
28 Statutes, is amended to read:

29 946.509 Insurance of property leased or acquired by  
30 the corporation.--

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1           (1) The State Risk Management Trust Fund created under  
2 s. 284.30 shall insure all property eligible for coverage  
3 under part I of chapter 284 which is leased by the department  
4 to the corporation or which is subsequently acquired and owned  
5 or leased by the corporation and subject to the reversionary  
6 ownership interest of the state established in s. 946.505.

7           Section 7. Subsection (1) of section 946.511, Florida  
8 Statutes, is amended to read:

9           946.511 Provision of inmate labor to operate  
10 correctional work programs; policies and procedures.--

11           (1) Inmates shall be evaluated and identified during  
12 the reception process to determine basic literacy, employment  
13 skills, academic skills, vocational skills, and remedial and  
14 rehabilitative needs. The evaluation shall prescribe  
15 education, work, and work-training for each inmate. Assignment  
16 to programs shall be based on the evaluation and the length of  
17 time the inmate will be in the custody of the department.  
18 Assignment to programs shall be reviewed every 6 months to  
19 ensure proper placement based on bed space availability.  
20 Assignment of inmates shall be governed by the following  
21 objectives and priorities:

22           (a) Inmates shall be assigned to meet the needs of the  
23 work requirements of the Department of Corrections, including  
24 essential operational functions and revenue-generating  
25 contracts.

26           (b) Inmates shall be assigned to correctional  
27 education.

28           (c) Inmates shall be assigned to meet all other work  
29 requirements of the department, including remaining  
30 operational functions and nonrevenue-generating contracts.

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1 As used in this subsection, the term "revenue-generating  
 2 contracts" includes contracts with the Department of  
 3 Transportation, the corporation authorized to conduct the  
 4 correctional work programs under this part ~~¶¶~~, the corporation  
 5 and private sector businesses operating programs authorized  
 6 under s. 946.523 ~~946.006(3)~~, and federal, state, or local  
 7 governmental entities or subdivisions authorized under s.  
 8 944.10(7).

9 Section 8. Subsections (1) and (2) of section 946.514,  
 10 Florida Statutes, are amended to read:

11 946.514 Civil rights of inmates; inmates not state  
 12 employees; liability of corporation for inmate injuries.--

13 (1) Nothing contained in this part ~~ss. 946.502-946.517~~  
 14 is intended to restore in whole or in part the civil rights of  
 15 inmates.

16 (2) No inmate compensated under this part ~~ss.~~  
 17 ~~946.502-946.517~~ or by the corporation or the department shall  
 18 be considered as an employee of the state, the department, or  
 19 the corporation.

20 Section 9. Subsection (1) of section 946.516, Florida  
 21 Statutes, is amended to read:

22 946.516 Report to Governor, Legislature, and Auditor  
 23 General by the corporation; Department of Corrections report;  
 24 annual financial audit.--

25 (1) The corporation shall submit to the Governor and  
 26 the Legislature, on or before July ~~January~~ 1 of each year, a  
 27 report on the status of the correctional work programs,  
 28 including, but not limited to, the proposed use of the profits  
 29 from such programs, a breakdown of the amount of noninmate  
 30 labor used, work subcontracted to other vendors, use of  
 31 consultants, finished goods purchased for resale, and the

1 number of inmates working in the correctional work programs at  
2 the time of such report. In addition, the corporation shall  
3 submit to the department, the Governor, the Legislature, and  
4 the Auditor General an annual financial audit report and such  
5 other information as may be requested by the Legislature,  
6 together with recommendations relating to provisions for  
7 reasonable tax incentives to private enterprises which employ  
8 inmates, parolees, or former inmates who have participated in  
9 correctional work programs.

10 Section 10. Section 946.518, Florida Statutes, is  
11 amended to read:

12 946.518 Sale of goods made by prisoners; when  
13 prohibited, when permitted.--Goods, wares, or merchandise  
14 manufactured or mined in whole or in part by prisoners (except  
15 prisoners on parole or probation) may not be sold or offered  
16 for sale in this state by any person or by any federal  
17 authority or state or political subdivision thereof; however,  
18 this section does not forbid the sale, exchange, or  
19 disposition of such goods within the limitations set forth in  
20 s. 946.515, s. 946.523, or s. 946.524.

21 Section 11. Section 946.520, Florida Statutes, is  
22 amended to read:

23 946.520 Assignment of inmates by Department of  
24 Corrections.--

25 (1) The department shall exert its best efforts to  
26 assign inmates to the corporation, or the private sector  
27 business authorized under this part ~~of this chapter~~, who  
28 have not less than 1 nor more than 5 years remaining before  
29 their tentative release dates. Beginning January 1, 1998, the  
30 department shall maintain the assignment of at least 60  
31 percent of inmates to all correctional work programs

1 collectively to the corporation, or to the private sector  
2 business authorized under this part ~~I of this chapter~~, who  
3 have less than 10 years remaining before their tentative  
4 release dates. This 60-percent requirement does not apply to  
5 any correctional work program, or private sector business  
6 authorized under this part ~~I of this chapter~~, within an  
7 institution for any year in which, as of January 1 of that  
8 year, the average years remaining before the tentative release  
9 date of all inmates assigned to that institution exceeds 12  
10 years.

11 (2) The department may not remove an inmate once  
12 assigned to the corporation or to the private sector business  
13 authorized under this part ~~I of this chapter~~, except upon  
14 request of or consent of such corporation or private sector  
15 business or for the purposes of population management, for  
16 inmate conduct that may subject the inmate to disciplinary  
17 confinement or loss of gain-time, or for security and safety  
18 concerns specifically set forth in writing to the corporation  
19 or private sector business.

20 Section 12. Paragraph (f) of subsection (1) of section  
21 957.04, Florida Statutes, is amended to read:

22 957.04 Contract requirements.--

23 (1) A contract entered into under this chapter for the  
24 operation of private correctional facilities shall maximize  
25 the cost savings of such facilities and shall:

26 (f) Require the contractor to be responsible for a  
27 range of dental, medical, and psychological services; diet;  
28 education; and work programs at least equal to those provided  
29 by the department in comparable facilities. The work and  
30 education programs must be designed to reduce recidivism, and  
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1 include opportunities to participate in such work programs as  
2 authorized pursuant to s. 946.523 ~~946.006~~.

3       Section 13. The Legislature finds that a proper and  
4 legitimate state purpose is served when employees of the  
5 corporation established under this part, which is primarily an  
6 instrumentality of the state and carries out a vital state  
7 purpose under the direction of a board of directors which is  
8 appointed by the Governor and confirmed by the Senate, are  
9 given additional choices for the basic protections afforded by  
10 group health and prescription drug coverage programs that also  
11 permit the continued operation of a competitive marketplace  
12 and assure that affordable and available coverage is extended  
13 to all interested parties. Therefore, the Legislature  
14 determines and declares that section 946.525, Florida  
15 Statutes, fulfills an important state interest.

16       Section 14. Section 946.525, Florida Statutes, is  
17 created to read:

18       946.525 Participation by the corporation in the state  
19 group health insurance and prescription drug programs.--

20       (1) The board of directors of the corporation  
21 established under this part may apply for participation in the  
22 state group health insurance program authorized in s. 110.123  
23 and the prescription drug coverage program authorized by s.  
24 110.12315 by submitting an application along with a \$500  
25 nonrefundable fee to the Department of Management Services.

26       (2) As a prerequisite to the adoption of a resolution  
27 for participation in the state group health insurance and  
28 prescription drug coverage program, the corporation shall seek  
29 proposals to provide health insurance and prescription drug  
30 coverage which coverages are equivalent to those offered  
31 currently by the corporation and coverages equivalent to the



1 state group health insurance and prescription drug coverage  
2 program. The corporation shall review and consider all  
3 responsive proposals prior to the adoption of any resolution  
4 for participation in the state group health insurance and  
5 prescription drug coverage program.

6 (3) If the Department of Management Services  
7 determines that the corporation is eligible to enroll, the  
8 corporation must agree to the following terms and conditions:

9 (a) The minimum enrollment or contractual period will  
10 be 3 years.

11 (b) The corporation must pay to the Department of  
12 Management Services an initial administrative fee not less  
13 than \$2.61 per enrollee per month, or such other amount  
14 established annually to fully reimburse the Department of  
15 Management Services for its costs.

16 (c) Termination of participation of the corporation  
17 requires written notice 1 year before the termination date.

18 (d) If participation is terminated, the corporation  
19 may not reapply for participation for a period of 2 years.

20 (e) The corporation shall reimburse the state for 100  
21 percent of its costs, including administrative costs.

22 (f) If the corporation fails to make the payments  
23 required by this section to fully reimburse the state, the  
24 Department of Revenue or the Department of Banking and Finance  
25 shall, upon the request of the Department of Management  
26 Services, deduct the amount owed by the employer from any  
27 funds to be distributed by it to the corporation. The amounts  
28 so deducted shall be transferred to the Department of  
29 Management Services for further distribution to the trust  
30 funds in accordance with this chapter.

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1           (g) The corporation shall furnish the Department of  
2 Management Services any information requested by the  
3 Department of Management Services which the Department of  
4 Management Services considers necessary to administer the  
5 state group health insurance program and the prescription drug  
6 program.

7           (4) The provisions of ss. 624.436-624.446 do not apply  
8 to the State Group Insurance Program or to this section.

9           (5) The Department of Management Services may adopt  
10 rules necessary to administer this section.

11           Section 15. The Department of Management Services  
12 shall request from the Internal Revenue Service, by October 1,  
13 2001, a written determination letter and a favorable private  
14 letter ruling, stating that the State Group Self-Insurance  
15 Program, as amended by section 946.525, Florida Statutes, is a  
16 facially qualified plan. The department shall notify the  
17 President of the Senate and the Speaker of the House of  
18 Representatives within 30 days after the receipt of the  
19 favorable or unfavorable letters.

20           Section 16. This act shall take effect upon becoming a  
21 law, except that section 14 shall take effect only when the  
22 Department of Management Services receives the favorable  
23 letters requested by section 15. If the favorable letters are  
24 not received, section 14 shall not take effect.