

By Senator Lee

rb01sb-02

1 A reviser's bill to be entitled
2 An act relating to the Florida Statutes;
3 amending ss. 11.45, 14.203, 14.29, 15.091,
4 20.171, 20.23, 20.255, 20.41, 20.435, 27.015,
5 27.345, 27.709, 39.01, 83.806, 101.27, 110.123,
6 110.191, 110.205, 112.313, 121.052, 121.22,
7 159.39, 163.3177, 189.412, 189.418, 196.1983,
8 199.1055, 201.15, 202.18, 202.20, 202.37,
9 206.46, 218.76, 267.1732, 282.102, 287.057,
10 288.9604, 288.9610, 316.515, 318.21, 320.08058,
11 320.645, 322.095, 327.301, 339.2405, 349.03,
12 370.0603, 373.042, 373.608, 381.6024, 395.2050,
13 395.4045, 399.125, 400.119, 400.141, 400.426,
14 402.313, 402.45, 402.731, 404.056, 408.045,
15 409.906, 409.91196, 420.503, 420.624, 440.14,
16 463.016, 464.203, 468.1135, 483.901, 494.003,
17 494.006, 550.2633, 550.6305, 553.73, 553.80,
18 625.171, 626.032, 626.202, 626.874, 627.702,
19 633.111, 660.27, 680.1031, 709.08, 723.06116,
20 731.201, 732.219, 733.501, 733.617, 734.101,
21 765.5185, 765.5215, 765.5216, 766.305, 784.074,
22 806.13, 921.0022, 985.03, 985.04, 985.231,
23 985.315, and 985.3155, F.S.; reenacting and
24 amending ss. 320.64 and 402.73(5), F.S.;
25 reenacting ss. 320.27(9), 409.9117(2),
26 458.347(7), 550.2625(7), 582.18(1), 658.26, and
27 766.1115(4), F.S.; and repealing ss. 15.18(5),
28 288.99(8)(e), 381.895(7), 450.211(10), 468.721,
29 624.408(1)(b)1., 627.072(4)(b)4., 627.192(11),
30 627.211(4), 627.311(4)(o), 697.20, 697.201,
31 697.202, 697.204, 697.205, and 697.206, F.S.,

1 pursuant to s. 11.242, F.S.; deleting
2 provisions which have expired, have become
3 obsolete, have had their effect, have served
4 their purpose, or have been impliedly repealed
5 or superseded; replacing incorrect
6 cross-references and citations; correcting
7 grammatical, typographical, and like errors;
8 removing inconsistencies, redundancies, and
9 unnecessary repetition in the statutes;
10 improving the clarity of the statutes and
11 facilitating their correct interpretation; and
12 confirming the restoration of provisions
13 unintentionally omitted from republication in
14 the acts of the Legislature during the
15 amendatory process.

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

18
19 Section 1. Paragraph (a) of subsection (3) and
20 subsection (5) of section 11.45, Florida Statutes, are amended
21 to read:

22 11.45 Definitions; duties; authorities; reports;
23 rules.--

24 (3) AUTHORITY FOR AUDITS AND OTHER ENGAGEMENTS.--

25 (a) The Auditor General may, pursuant to his or her
26 own authority, or at the direction of the Legislative Auditing
27 Committee, conduct audits or other engagements as determined
28 appropriate by the Auditor General of:

29 1. The accounts and records of any governmental entity
30 created or established by law.

31

1 2. The information technology programs, activities,
2 functions, or systems of any governmental entity created or
3 established by law.

4 3. The accounts and records of any charter school
5 created or established by law.

6 4. The accounts and records of any direct-support
7 organization or citizen support organization created or
8 established by law. The Auditor General is authorized to
9 require and receive any records from the direct-support
10 organization or citizen support organization, or from its
11 independent auditor.

12 5. The public records associated with any
13 appropriation made by the General Appropriations Act to a
14 nongovernmental agency, corporation, or person. All records of
15 a nongovernmental agency, corporation, or person with respect
16 to the receipt and expenditure of such an appropriation shall
17 be public records and shall be treated in the same manner as
18 other public records are under general law.

19 6. State financial assistance provided to any nonstate
20 entity.

21 7. The Tobacco Settlement Financing Corporation
22 created pursuant to s. 215.56005.

23 8. The Florida Virtual ~~On-Line~~ High School created
24 pursuant to s. 228.082.

25 9. Any purchases of federal surplus lands for use as
26 sites for correctional facilities as described in s. 253.037.

27 10. Enterprise Florida, Inc., including any of its
28 boards, advisory committees, or similar groups created by
29 Enterprise Florida, Inc., and programs. The audit report may
30 not reveal the identity of any person who has anonymously made
31 a donation to Enterprise Florida, Inc., pursuant to this

1 subparagraph. The identity of a donor or prospective donor to
2 Enterprise Florida, Inc., who desires to remain anonymous and
3 all information identifying such donor or prospective donor
4 are confidential and exempt from the provisions of s.
5 119.07(1) and s. 24(a), Art. I of the State Constitution. Such
6 anonymity shall be maintained in the auditor's report.

7 11. The Florida Development Finance Corporation or the
8 capital development board or the programs or entities created
9 by the board. The audit or report may not reveal the identity
10 of any person who has anonymously made a donation to the board
11 pursuant to this subparagraph. The identity of a donor or
12 prospective donor to the board who desires to remain anonymous
13 and all information identifying such donor or prospective
14 donor are confidential and exempt from the provisions of s.
15 119.07(1) and s. 24(a), Art. I of the State Constitution. Such
16 anonymity shall be maintained in the auditor's report.

17 12. The records pertaining to the use of funds from
18 voluntary contributions on a motor vehicle registration
19 application or on a driver's license application authorized
20 pursuant to ss. 320.023 and 322.081.

21 13. The records pertaining to the use of funds from
22 the sale of specialty license plates described in chapter 320.

23 14. The transportation corporations under contract
24 with the Department of Transportation that are acting on
25 behalf of the state to secure and obtain rights-of-way for
26 urgently needed transportation systems and to assist in the
27 planning and design of such systems pursuant to ss.
28 339.401-339.421.

29 15. The acquisitions and divestitures related to the
30 Florida Communities Trust Program created pursuant to chapter
31 380.

1 16. The Florida Water Pollution Control Financing
2 Corporation created pursuant to s. 403.1837.

3 17. The Florida Partnership for School Readiness
4 created pursuant to s. 411.01.

5 18. The Occupational Access and Opportunity Commission
6 created pursuant to s. 413.83.

7 19. The Florida Special Disability Trust Fund
8 Financing Corporation created pursuant to s. 440.49.

9 20. Workforce Florida, Inc., or the programs or
10 entities created by Workforce Florida, Inc., created pursuant
11 to s. 445.004.

12 21. The corporation defined in s. 455.32 that is under
13 contract with the Department of Business and Professional
14 Regulation to provide administrative, investigative,
15 examination, licensing, and prosecutorial support services in
16 accordance with the provisions of s. 455.32 and the practice
17 act of the relevant profession.

18 22. The Florida Engineers Management Corporation
19 created pursuant to chapter 471.

20 23. The Investment Fraud Restoration Financing
21 Corporation created pursuant to chapter 517.

22 24. The books and records of any permitholder that
23 conducts race meetings or jai alai exhibitions under chapter
24 550.

25 25. The corporation defined in part II of chapter 946,
26 known as the Prison Rehabilitative Industries and Diversified
27 Enterprises, Inc., or PRIDE Enterprises.

28 (5) PETITION FOR AN AUDIT BY THE AUDITOR GENERAL.--The
29 Legislative Auditing Committee shall direct the Auditor
30 General to make a financial audit of any municipality whenever
31 petitioned to do so by at least 20 percent of the electors of

1 that municipality. The supervisor of elections of the county
2 in which the municipality is located shall certify whether or
3 not the petition contains the signatures of at least 20
4 percent of the electors of the municipality. After the
5 completion of the audit, the Auditor General shall determine
6 whether the municipality has the fiscal resources necessary to
7 pay the cost of the audit. The municipality shall pay the cost
8 of the audit within 90 days after the Auditor General's
9 determination that the municipality has the available
10 resources. If the municipality fails to pay the cost of the
11 audit, the Department of Revenue shall, upon certification of
12 the Auditor General, withhold from that portion of the
13 distribution pursuant to s. 212.20(6)(d)6. ~~212.20(6)(e)6.~~
14 which is distributable to such municipality, a sum sufficient
15 to pay the cost of the audit and shall deposit that sum into
16 the General Revenue Fund of the state.

17

18 Reviser's note.--Paragraph (3)(a) is amended to
19 conform to the redesignation of the Florida
20 On-Line High School as the Florida Virtual High
21 School by s. 28, ch. 2001-170, Laws of Florida.
22 Subsection (5) is amended to conform to the
23 redesignation of s. 212.20(6)(e)6. as s.
24 212.20(6)(d)6. by s. 29, ch. 2001-140, Laws of
25 Florida.

26

27 Section 2. Subsection (2) of section 14.203, Florida
28 Statutes, as created by s. 50, ch. 94-249, Laws of Florida,
29 and amended by s. 4, ch. 97-79, Laws of Florida, is amended to
30 read:

31

1 14.203 State Council on Competitive Government.--It is
2 the policy of this state that all state services be performed
3 in the most effective and efficient manner in order to provide
4 the best value to the citizens of the state. The state also
5 recognizes that competition among service providers may
6 improve the quality of services provided, and that
7 competition, innovation, and creativity among service
8 providers should be encouraged.

9 (2) There is hereby created the State Council on
10 Competitive Government, which shall be composed of the
11 Governor and Cabinet, sitting as the Administration Commission
12 as defined in s. 14.202. The council, on its own initiative,
13 or the Office of Program Policy Analysis and Government
14 Accountability, created pursuant to s. 11.51, ~~or the~~
15 ~~Commission on Government Accountability to the People, created~~
16 ~~pursuant to s. 286.30,~~ may identify commercial activities
17 currently being performed by state agencies and, if it is
18 determined that such services may be better provided by
19 requiring competition with private sources or other state
20 agency service providers, may recommend that a state agency
21 engage in any process, including competitive bidding, that
22 creates competition with private sources or other state agency
23 service providers.

24
25 Reviser's note.--Amended to conform to the
26 repeal of s. 286.30, which created the
27 Commission on Government Accountability to the
28 People, by s. 25, ch. 2001-89, Laws of Florida.

29
30 Section 3. Subsection (4) of section 14.29, Florida
31 Statutes, is amended to read:

1 14.29 Florida Commission on Community Service.--
2 (4) Members of the commission shall serve for terms of
3 3 years, ~~except that of those voting members initially~~
4 ~~appointed, no less than five and up to eight shall serve for~~
5 ~~terms of 1 year and no less than five and up to eight shall~~
6 ~~serve for terms of 2 years.~~ Members may be reappointed for
7 successive terms. A vacancy shall be filled for the remainder
8 of the unexpired term in the same manner as the original
9 appointment.

10

11 Reviser's note.--Amended to delete obsolete
12 language relating to initial terms of
13 membership.

14

15 Section 4. Subsection (6) of section 15.091, Florida
16 Statutes, is amended to read:

17 15.091 Processing fees; filing under chapter 679,
18 Uniform Commercial Code.--The nonrefundable processing fees
19 for filing of any financing statement or other writing
20 required or permitted to be filed by any provision of chapter
21 679 of the Uniform Commercial Code are:

22 (6) For use, pursuant to s. 679.525(1)(d) ~~679.402(8)~~,
23 of a nonapproved form, \$5.

24

25 Reviser's note.--Amended to conform to the
26 repeal of s. 679.402(8) by s. 4, ch. 2001-198,
27 Laws of Florida, and creation of a new
28 provision for a fee for use of nonapproved
29 forms in s. 679.525(1)(d) by s. 6, ch.
30 2001-198.

31

1 Section 5. Subsection (5) of section 15.18, Florida
2 Statutes, is repealed.

3
4 Reviser's note.--The cited subsection relates
5 to the requirement to maintain a list relating
6 to recognition of foreign money judgments that
7 was deleted from s. 55.605(2)(g) by s. 11, ch.
8 2001-154, Laws of Florida.

9
10 Section 6. Paragraph (c) of subsection (2) of section
11 20.171, Florida Statutes, is amended to read:

12 20.171 Department of Labor and Employment
13 Security.--There is created a Department of Labor and
14 Employment Security. The department shall operate its programs
15 in a decentralized fashion.

16 (2)

17 (c) The managers of all divisions and offices
18 specifically named in this section and the directors of the
19 five field offices are exempt from part II of chapter 110 and
20 are included in the Senior Management Service in accordance
21 with s. 110.205(2)(j)~~110.205(2)(i)~~. No other assistant
22 secretaries or senior management positions at or above the
23 division level, except those established in chapter 110, may
24 be created without specific legislative authority.

25
26 Reviser's note.--Amended to conform to the
27 redesignation of s. 110.205(2)(i) as s.
28 110.205(2)(j) by s. 2, ch. 2001-261, Laws of
29 Florida.

1 Section 7. Subsection (5) of section 20.23, Florida
2 Statutes, is amended to read:

3 20.23 Department of Transportation.--There is created
4 a Department of Transportation which shall be a decentralized
5 agency.

6 (5) Notwithstanding the provisions of s. 110.205, the
7 Department of Management Services is authorized to exempt
8 positions within the Department of Transportation which are
9 comparable to positions within the Senior Management Service
10 pursuant to s. 110.205(2)(j)~~110.205(2)(i)~~ or positions which
11 are comparable to positions in the Selected Exempt Service
12 under s. 110.205(2)(m)~~110.205(2)(l)~~.

13
14 Reviser's note.--Amended to conform to the
15 redesignation of s. 110.205(2)(i) as s.
16 110.205(2)(j) and the redesignation of s.
17 110.205(2)(l) as s. 110.205(2)(m) by s. 2, ch.
18 2001-261, Laws of Florida.

19
20 Section 8. Subsections (2) and (7) of section 20.255,
21 Florida Statutes, are amended to read:

22 20.255 Department of Environmental Protection.--There
23 is created a Department of Environmental Protection.

24 (2)(a) There shall be three deputy secretaries who are
25 to be appointed by and shall serve at the pleasure of the
26 secretary. The secretary may assign any deputy secretary the
27 responsibility to supervise, coordinate, and formulate policy
28 for any division, office, or district. The following special
29 offices are established and headed by managers, each of whom
30 is to be appointed by and serve at the pleasure of the
31 secretary:

- 1 1. Office of Chief of Staff,
- 2 2. Office of General Counsel,
- 3 3. Office of Inspector General,
- 4 4. Office of External Affairs,
- 5 5. Office of Legislative and Government Affairs, and
- 6 6. Office of Greenways and Trails.

7 (b) There shall be six administrative districts
8 involved in regulatory matters of waste management, water
9 resource management, wetlands, and air resources, which shall
10 be headed by managers, each of whom is to be appointed by and
11 serve at the pleasure of the secretary. Divisions of the
12 department may have one assistant or two deputy division
13 directors, as required to facilitate effective operation.

14
15 The managers of all divisions and offices specifically named
16 in this section and the directors of the six administrative
17 districts are exempt from part II of chapter 110 and are
18 included in the Senior Management Service in accordance with
19 s. 110.205(2)(j)~~110.205(2)(i)~~.

20 (7) There is created as a part of the Department of
21 Environmental Protection an Environmental Regulation
22 Commission. The commission shall be composed of seven
23 residents of this state appointed by the Governor, subject to
24 confirmation by the Senate. In making appointments, the
25 Governor shall provide reasonable representation from all
26 sections of the state. Membership shall be representative of
27 agriculture, the development industry, local government, the
28 environmental community, lay citizens, and members of the
29 scientific and technical community who have substantial
30 expertise in the areas of the fate and transport of water
31 pollutants, toxicology, epidemiology, geology, biology,

1 environmental sciences, or engineering. The Governor shall
2 appoint the chair, and the vice chair shall be elected from
3 among the membership. ~~The members serving on the commission on~~
4 ~~July 1, 1995, shall continue to serve on the commission for~~
5 ~~the remainder of their current terms.~~All appointments
6 thereafter shall continue to be for 4-year terms. The Governor
7 may at any time fill a vacancy for the unexpired term. The
8 members of the commission shall serve without compensation,
9 but shall be paid travel and per diem as provided in s.
10 112.061 while in the performance of their official duties.
11 Administrative, personnel, and other support services
12 necessary for the commission shall be furnished by the
13 department.

14
15 Reviser's note.--Subsection (2) is amended to
16 conform to the redesignation of s.
17 110.205(2)(i) as s. 110.205(2)(j) by s. 2, ch.
18 2001-261, Laws of Florida. Subsection (7) is
19 amended to delete obsolete language relating to
20 initial terms of membership.

21
22 Section 9. Subsection (1) of section 20.41, Florida
23 Statutes, is amended to read:
24 20.41 Department of Elderly Affairs.--There is created
25 a Department of Elderly Affairs.
26 (1) The head of the department is the Secretary of
27 Elderly Affairs. The secretary must be appointed by the
28 Governor, subject to confirmation by the Senate. ~~The~~
29 ~~requirement for Senate confirmation applies to any person so~~
30 ~~appointed on or after July 1, 1994.~~The secretary serves at
31 the pleasure of the Governor. The secretary shall administer

1 the affairs of the department and may employ assistants,
2 professional staff, and other employees as necessary to
3 discharge the powers and duties of the department.

4
5 Reviser's note.--Amended to delete obsolete
6 language.

7
8 Section 10. Paragraphs (a) and (c) of subsection (1)
9 of section 20.435, Florida Statutes, are amended to read:

10 20.435 Department of Health; trust funds.--

11 (1) The following trust funds are hereby created, to
12 be administered by the Department of Health:

13 (a) Administrative Trust Fund.

14 1. Funds to be credited to the trust fund shall
15 consist of regulatory fees such as those pertaining to the
16 licensing, permitting, and inspection of septic tanks, food
17 hygiene, onsite sewage, Superfund ~~Super Act~~ compliance, solid
18 waste management, tanning facilities, mobile home and
19 recreational vehicle park inspection, other departmental
20 regulatory and health care programs, and indirect earnings
21 from grants. Funds shall be used for the purpose of
22 supporting the regulatory activities of the department and for
23 other such purposes as may be appropriate and shall be
24 expended only pursuant to legislative appropriation or an
25 approved amendment to the department's operating budget
26 pursuant to the provisions of chapter 216.

27 2. Notwithstanding the provisions of s. 216.301 and
28 pursuant to s. 216.351, any balance in the trust fund at the
29 end of any fiscal year shall remain in the trust fund at the
30 end of the year and shall be available for carrying out the
31 purposes of the trust fund.

1 (c) Grants and Donations Trust Fund.

2 1. Funds to be credited to the trust fund shall
3 consist of restricted contractual revenue from public or
4 private sources such as receipts from Medicaid, funds from
5 federal environmental laws such as the Safe Drinking Water Act
6 and the Superfund ~~Super~~ Act, funds from other health and
7 environmental programs, and funds from private sources such as
8 foundations. Funds shall be used for the purpose of
9 supporting the activities of the department and shall be
10 expended only pursuant to legislative appropriation or an
11 approved amendment to the department's operating budget
12 pursuant to the provisions of chapter 216.

13 2. Notwithstanding the provisions of s. 216.301 and
14 pursuant to s. 216.351, any balance in the trust fund at the
15 end of any fiscal year shall remain in the trust fund at the
16 end of the year and shall be available for carrying out the
17 purposes of the trust fund.

18
19 Reviser's note.--Amended to provide consistent
20 terminology with federal law.

21
22 Section 11. Section 27.015, Florida Statutes, is
23 amended to read:

24 27.015 Private practice prohibited.--All state
25 attorneys elected to said office ~~after November 1, 1970,~~ shall
26 be so elected on a full-time basis and shall be prohibited
27 from the private practice of law while holding said office.

28
29 Reviser's note.--Amended to delete obsolete
30 language.

31

1 Section 12. Subsection (3) of section 27.345, Florida
2 Statutes, is amended to read:

3 27.345 State Attorney RICO Trust Fund; authorized use
4 of funds; reporting.--

5 (3) Each state attorney shall report to the Executive
6 Office of the Governor annually by November 15, ~~commencing in~~
7 ~~1985,~~the amounts recovered pursuant to this section for the
8 previous fiscal year.

9
10 Reviser's note.--Amended to delete obsolete
11 language.

12
13 Section 13. Paragraph (e) of subsection (1) of section
14 27.709, Florida Statutes, is amended to read:

15 27.709 Commission on Capital Cases.--

16 (1)

17 (e) ~~The initial members of the commission must be~~
18 ~~appointed on or before October 1, 1997.~~Members of the
19 commission shall be appointed to serve terms of 4 years each,
20 except that a member's term shall expire upon leaving office
21 as a member of the Senate or the House of Representatives. ~~Two~~
22 ~~of the initial members, one from the Senate and one from the~~
23 ~~House of Representatives, shall be appointed for terms of 2~~
24 ~~years each. Two of the initial members, one from the Senate~~
25 ~~and one from the House of Representatives, shall be appointed~~
26 ~~for terms of 3 years each.~~

27
28 Reviser's note.--Amended to delete obsolete
29 language relating to initial terms of
30 membership.

31

1 Section 14. Subsection (10) of section 39.01, Florida
2 Statutes, is amended to read:

3 39.01 Definitions.--When used in this chapter, unless
4 the context otherwise requires:

5 (10) "Caregiver" means the parent, legal custodian,
6 adult household member, or other person responsible for a
7 child's welfare as defined in subsection (47)~~(48)~~.

8
9 Reviser's note.--Amended to conform to the
10 redesignation of subsection (48) as subsection
11 (47) by s. 15, ch. 2000-139, Laws of Florida.

12
13 Section 15. Subsection (5) of section 83.806, Florida
14 Statutes, is amended to read:

15 83.806 Enforcement of lien.--An owner's lien as
16 provided in s. 83.805 may be satisfied as follows:

17 (5) Any sale or other disposition of the personal
18 property shall conform to the terms of the notification as
19 provided for in this section and shall be conducted in a
20 commercially reasonable manner, as that term is used in s.
21 679.610 ~~679.504(3)~~.

22
23 Reviser's note.--Amended to conform to the
24 repeal of s. 679.504(3), by s. 6, ch. 2001-198,
25 Laws of Florida, and the creation of s.
26 679.610, relating to similar subject matter, by
27 s. 7, ch. 2001-198.

28
29 Section 16. Subsection (4) of section 101.27, Florida
30 Statutes, is amended to read:

31 101.27 Voting machine ballots.--

1 (4) If the official ballot is longer than the voting
2 machine can accommodate, paper ballots may be used in
3 conjunction with a voting machine, in which case the order of
4 the offices on the voting machine ballot shall be the same as
5 prescribed in s. 101.151(2)~~ss. 101.141(4) and 101.151(3)~~.
6 Where the machine ballot is filled in this order, there shall
7 be a continuation of the ballot in the same order on paper
8 ballots, except that no state or federal opposed officer shall
9 be placed upon a paper ballot. In any primary election, if
10 the official ballot is longer than the voting machine can
11 accommodate, paper ballots may be used in conjunction with a
12 voting machine, ~~in which case the order of the offices on the~~
13 ~~voting machine ballot shall be the same as prescribed in s.~~
14 ~~101.141(4), except that no portion of a category of candidates~~
15 ~~as established in s. 101.141(4) shall be divided between the~~
16 ~~voting machine ballot and the paper ballot.~~ In the event a
17 category of candidates must be removed from the voting machine
18 ballot because of the foregoing provision, the supervisor of
19 elections in such county may complete the balance of the
20 voting machine ballot with some whole portion of another
21 category of candidates out of its proper sequence, except that
22 no state or federal office shall be placed upon a paper
23 ballot.

24
25 Reviser's note.--Amended to conform to the
26 repeal of s. 101.141(4) by s. 32, ch. 2001-40,
27 Laws of Florida, and to the redesignation of s.
28 101.151(3) as s. 101.151(2) by s. 7, ch.
29 2001-40.

30
31

1 Section 17. Paragraph (b) of subsection (4) of section
2 110.123, Florida Statutes, is amended to read:

3 110.123 State group insurance program.--

4 (4) PAYMENT OF PREMIUMS; CONTRIBUTION BY STATE;
5 LIMITATION ON ACTIONS TO PAY AND COLLECT PREMIUMS.--

6 (b) If a state officer or full-time state employee
7 selects membership in a health maintenance organization as
8 authorized by paragraph (3)(h)~~(3)(g)~~, the officer or employee
9 is entitled to a state contribution toward individual and
10 dependent membership as provided by the Legislature through
11 the appropriations act.

12
13 Reviser's note.--Amended to conform to the
14 redesignation of paragraph (3)(g) as (3)(h) by
15 s. 1, ch. 2001-192, Laws of Florida.

16
17 Section 18. Subsection (2) of section 110.191, Florida
18 Statutes, is amended to read:

19 110.191 State employee leasing.--

20 (2) Positions which are in the Senior Management
21 Service System or the Selected Exempt Service System on the
22 day before the state employee lease agreement takes effect
23 shall remain in the respective system if the duties performed
24 by the position during the assignment of the state employee
25 lease agreement are comparable as determined by the
26 department. Those Senior Management Service System or
27 Selected Exempt Service System positions which are not
28 determined comparable by the department and positions which
29 are in other pay plans on the day before the lease agreement
30 takes effect shall have the same salaries and benefits

31

1 provided to employees of the Office of the Governor pursuant
2 to s. 110.205(2)(l)2 ~~110.205(2)(k)2~~.

3

4 Reviser's note.--Amended to conform to the
5 redesignation of s. 110.205(2)(k)2. as s.
6 110.205(2)(l)2. by s. 2, ch. 2001-261, Laws of
7 Florida.

8

9 Section 19. Paragraph (x) of subsection (2) of section
10 110.205, Florida Statutes, is amended to read:

11 110.205 Career service; exemptions.--

12 (2) EXEMPT POSITIONS.--The exempt positions that are
13 not covered by this part include the following:

14 (x) ~~Effective July 1, 2001,~~ Managerial employees, as
15 defined in s. 447.203(4), confidential employees, as defined
16 in s. 447.203(5), and supervisory employees who spend the
17 majority of their time communicating with, motivating,
18 training, and evaluating employees, and planning and directing
19 employees' work, and who have the authority to hire, transfer,
20 suspend, lay off, recall, promote, discharge, assign, reward,
21 or discipline subordinate employees or effectively recommend
22 such action, including all employees serving as supervisors,
23 administrators, and directors. Excluded are employees also
24 designated as special risk or special risk administrative
25 support and attorneys who serve as administrative law judges
26 pursuant to s. 120.65 or for hearings conducted pursuant to s.
27 120.57(1)(a). Additionally, registered nurses licensed under
28 chapter 464, dentists licensed under chapter 466,
29 psychologists licensed under chapter 490 or chapter 491,
30 nutritionists or dietitians licensed under part X of chapter
31 468, pharmacists licensed under chapter 465, psychological

1 specialists licensed under chapter 491, physical therapists
2 licensed under chapter 486, and speech therapists licensed
3 under part I of chapter 468 are excluded, unless otherwise
4 collectively bargained.

5
6 Reviser's note.--Amended to delete a provision
7 that has served its purpose and to improve
8 clarity.

9
10 Section 20. Subsection (14) of section 112.313,
11 Florida Statutes, is amended to read:

12 112.313 Standards of conduct for public officers,
13 employees of agencies, and local government attorneys.--

14 (14) LOBBYING BY FORMER LOCAL OFFICERS;
15 PROHIBITION.--A person who has been elected to any county,
16 municipal, special district, or school district office may not
17 personally represent another person or entity for compensation
18 before the governing body of which the person was an officer
19 for a period of 2 years after vacating that office. ~~The~~
20 ~~provisions of this subsection shall not apply to elected~~
21 ~~officers holding office as of October 1, 1992, until after~~
22 ~~their next election, and shall not apply to elected officers~~
23 ~~of school districts holding office on January 1, 1995, until~~
24 ~~after their next election.~~

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

28
29 Section 21. Paragraph (e) of subsection (6) of section
30 121.052, Florida Statutes, is amended to read:

31 121.052 Membership class of elected officers.--

1 (6) DUAL EMPLOYMENT.--A member may not participate in
2 more than one state-administered retirement system, plan, or
3 class of membership simultaneously. If an elected officer
4 becomes dually employed, or if a member becomes dually
5 employed as an elected officer, such officer shall have 6
6 months to elect membership from among the plans or classes for
7 which he or she is eligible, as set forth in this subsection.
8 Failure to make election during the prescribed period shall
9 result in compulsory membership in the Elected Officers'
10 Class.

11 (e) Where a former elected officer purchasing
12 additional retirement credit under former subparagraph
13 (5)(b)2. was dually employed, employee and employer
14 contributions paid for service in the position not covered by
15 the Elected Officers' Class shall be refunded to the employee
16 and employer, as applicable, and no salaries earned in a class
17 other than the Elected Officers' Class shall apply toward the
18 officer's average final compensation.

19
20 Reviser's note.--Amended to conform to the
21 deletion of former subparagraph (5)(b)2. by s.
22 3, ch. 97-180, Laws of Florida.

23
24 Section 22. Subsection (1) of section 121.22, Florida
25 Statutes, is amended to read:

26 121.22 State Retirement Commission; creation;
27 membership; compensation.--

28 (1) There is created within the Department of
29 Management Services a State Retirement Commission composed of
30 three members: One member who is retired under a
31 state-supported retirement system administered by the

1 department; one member who is an active member of a
2 state-supported retirement system that is administered by the
3 department; and one member who is neither a retiree,
4 beneficiary, or member of a state-supported retirement system
5 ~~is~~ administered by the department. Each member shall have a
6 different occupational background from the other members.

7
8 Reviser's note.--Amended to improve clarity.

9
10 Section 23. Section 159.39, Florida Statutes, is
11 amended to read:

12 159.39 Negotiability of bonds.--All bonds issued under
13 the provisions of this part, regardless of form or terms, are
14 hereby declared to have all the qualities and incidents,
15 including negotiability, of investment securities under the
16 Uniform Commercial Code of the state. Compliance with the
17 provisions of the code respecting the filing of a financing
18 statement to perfect a security interest shall not be deemed
19 necessary for perfecting any security interest granted by a
20 local agency in connection with the issuance of any such
21 bonds; nevertheless, and notwithstanding s. 679.1091(4)(n)
22 ~~679.104(5)~~, financing statements with respect to such security
23 interests may be filed pursuant to the applicable provisions
24 of the code to further evidence the grant and perfection of
25 such security interests.

26
27 Reviser's note.--Amended to conform to the
28 repeal of s. 679.104(5), and the creation of s.
29 679.1091(4)(n) containing similar material, by
30 s. 1, ch. 2001-198, Laws of Florida.

31

1 Section 24. Paragraph (d) of subsection (11) of
2 section 163.3177, Florida Statutes, is amended to read:

3 163.3177 Required and optional elements of
4 comprehensive plan; studies and surveys.--

5 (11)

6 (d)1. The department, in cooperation with the
7 Department of Agriculture and Consumer Services, shall provide
8 assistance to local governments in the implementation of this
9 paragraph and rule 9J-5.006(5)(1), Florida Administrative
10 Code. Implementation of those provisions shall include a
11 process by which the department may authorize up to five local
12 governments to designate all or portions of lands classified
13 in the future land use element as predominantly agricultural,
14 rural, open, open-rural, or a substantively equivalent land
15 use, as a rural land stewardship area within which planning
16 and economic incentives are applied to encourage the
17 implementation of innovative and flexible planning and
18 development strategies and creative land use planning
19 techniques, including those contained in rule 9J-5.006(5)(1),
20 Florida Administrative Code.

21 2. The department shall encourage participation by
22 local governments of different sizes and rural
23 characteristics. It is the intent of the Legislature that
24 rural land stewardship areas be used to further the following
25 broad principles of rural sustainability: restoration and
26 maintenance of the economic value of rural land; control of
27 urban sprawl; identification and protection of ecosystems,
28 habitats, and natural resources; promotion of rural economic
29 activity; maintenance of the viability of Florida's
30 agricultural economy; and protection of the character of rural
31 areas of Florida.

1 3. A local government may apply to the department in
2 writing requesting consideration for authorization to
3 designate a rural land stewardship area and shall describe its
4 reasons for applying for the authorization with supporting
5 documentation regarding its compliance with criteria set forth
6 in this section.

7 4. In selecting a local government, the department
8 shall, by written agreement:

9 a. Ensure that the local government has expressed its
10 intent to designate a rural land stewardship area pursuant to
11 the provisions of this subsection and clarify that the rural
12 land stewardship area is intended.

13 b. Ensure that the local government has the financial
14 and administrative capabilities to implement a rural land
15 stewardship area.

16 5. The written agreement shall include the basis for
17 the authorization and provide criteria for evaluating the
18 success of the authorization including the extent the rural
19 land stewardship area enhances rural land values; control
20 urban sprawl; provides necessary open space for agriculture
21 and protection of the natural environment; promotes rural
22 economic activity; and maintains rural character and the
23 economic viability of agriculture. The department may
24 terminate the agreement at any time if it determines that the
25 local government is not meeting the terms of the agreement.

26 6. A rural land stewardship area shall be not less
27 than 50,000 acres and shall not exceed 250,000 acres in size,
28 shall be located outside of municipalities and established
29 urban growth boundaries, and shall be designated by plan
30 amendment. The plan amendment designating a rural land
31 stewardship area shall be subject to review by the Department

1 of Community Affairs pursuant to s. 163.3184 and shall provide
2 for the following:

3 a. Criteria for the designation of receiving areas
4 within rural land stewardship areas in which innovative
5 planning and development strategies may be applied. Criteria
6 shall at a minimum provide for the following: adequacy of
7 suitable land to accommodate development so as to avoid
8 conflict with environmentally sensitive areas, resources, and
9 habitats; compatibility between and transition from higher
10 density uses to lower intensity rural uses; the establishment
11 of receiving area service boundaries which provide for a
12 separation between receiving areas and other land uses within
13 the rural land stewardship area through limitations on the
14 extension of services; and connection of receiving areas with
15 the rest of the rural land stewardship area using rural design
16 and rural road corridors.

17 b. Goals, objectives, and policies setting forth the
18 innovative planning and development strategies to be applied
19 within rural land stewardship areas pursuant to the provisions
20 of this section.

21 c. A process for the implementation of innovative
22 planning and development strategies within the rural land
23 stewardship area, including those described in this subsection
24 and rule 9J-5.006(5)(1), Florida Administrative Code, which
25 provide for a functional mix of land uses and which are
26 applied through the adoption by the local government of zoning
27 and land development regulations applicable to the rural land
28 stewardship area.

29 d. A process which encourages visioning pursuant to s.
30 163.3167(11) to ensure that innovative planning and
31

1 development strategies comply with the provisions of this
2 section.

3 e. The control of sprawl through the use of innovative
4 strategies and creative land use techniques consistent with
5 the provisions of this subsection and rule ~~rural~~
6 9J-5.006(5)(1), Florida Administrative Code.

7 7. A receiving area shall be designated by the
8 adoption of a land development regulation. Prior to the
9 designation of a receiving area, the local government shall
10 provide the Department of Community Affairs a period of 30
11 days in which to review a proposed receiving area for
12 consistency with the rural land stewardship area plan
13 amendment and to provide comments to the local government.

14 8. Upon the adoption of a plan amendment creating a
15 rural land stewardship area, the local government shall, by
16 ordinance, assign to the area a certain number of credits, to
17 be known as "transferable rural land use credits," which shall
18 not constitute a right to develop land, nor increase density
19 of land, except as provided by this section. The total amount
20 of transferable rural land use credits assigned to the rural
21 land stewardship area must correspond to the 25-year or
22 greater projected population of the rural land stewardship
23 area. Transferable rural land use credits are subject to the
24 following limitations:

25 a. Transferable rural land use credits may only exist
26 within a rural land stewardship area.

27 b. Transferable rural land use credits may only be
28 used on lands designated as receiving areas and then solely
29 for the purpose of implementing innovative planning and
30 development strategies and creative land use planning
31

1 techniques adopted by the local government pursuant to this
2 section.

3 c. Transferable rural land use credits assigned to a
4 parcel of land within a rural land stewardship area shall
5 cease to exist if the parcel of land is removed from the rural
6 land stewardship area by plan amendment.

7 d. Neither the creation of the rural land stewardship
8 area by plan amendment nor the assignment of transferable
9 rural land use credits by the local government shall operate
10 to displace the underlying density of land uses assigned to a
11 parcel of land within the rural land stewardship area;
12 however, if transferable rural land use credits are
13 transferred from a parcel for use within a designated
14 receiving area, the underlying density assigned to the parcel
15 of land shall cease to exist.

16 e. The underlying density on each parcel of land
17 located within a rural land stewardship area shall not be
18 increased or decreased by the local government, except as a
19 result of the conveyance or use of transferable rural land use
20 credits, as long as the parcel remains within the rural land
21 stewardship area.

22 f. Transferable rural land use credits shall cease to
23 exist on a parcel of land where the underlying density
24 assigned to the parcel of land is utilized.

25 g. An increase in the density of use on a parcel of
26 land located within a designated receiving area may occur only
27 through the assignment or use of transferable rural land use
28 credits and shall not require a plan amendment.

29 h. A change in the density of land use on parcels
30 located within receiving areas shall be specified in a
31 development order which reflects the total number of

1 transferable rural land use credits assigned to the parcel of
2 land and the infrastructure and support services necessary to
3 provide for a functional mix of land uses corresponding to the
4 plan of development.

5 i. Land within a rural land stewardship area may be
6 removed from the rural land stewardship area through a plan
7 amendment.

8 j. Transferable rural land use credits may be assigned
9 at different ratios of credits per acre according to the land
10 use remaining following the transfer of credits, with the
11 highest number of credits per acre assigned to preserve
12 environmentally valuable land and a lesser number of credits
13 to be assigned to open space and agricultural land.

14 k. The use or conveyance of transferable rural land
15 use credits must be recorded in the public records of the
16 county in which the property is located as a covenant or
17 restrictive easement running with the land in favor of the
18 county and either the Department of Environmental Protection,
19 Department of Agriculture and Consumer Services, a water
20 management district, or a recognized statewide land trust.

21 9. Owners of land within rural land stewardship areas
22 should be provided incentives to enter into rural land
23 stewardship agreements, pursuant to existing law and rules
24 adopted thereto, with state agencies, water management
25 districts, and local governments to achieve mutually agreed
26 upon conservation objectives. Such incentives may include,
27 but not be limited to, the following:

28 a. Opportunity to accumulate transferable mitigation
29 credits.

30 b. Extended permit agreements.

31

1 c. Opportunities for recreational leases and
2 ecotourism.

3 d. Payment for specified land management services on
4 publicly owned land, or property under covenant or restricted
5 easement in favor of a public entity.

6 e. Option agreements for sale to government, in either
7 fee or easement, upon achievement of conservation objectives.

8 10. The department shall report to the Legislature on
9 an annual basis on the results of implementation of rural land
10 stewardship areas authorized by the department, including
11 successes and failures in achieving the intent of the
12 Legislature as expressed in this paragraph. It is further the
13 intent of the Legislature that the success of authorized rural
14 land stewardship areas be substantiated before implementation
15 occurs on a statewide basis.

16
17 Reviser's note.--Amended to facilitate correct
18 interpretation.

19
20 Section 25. Subsection (1) of section 189.412, Florida
21 Statutes, is amended to read:

22 189.412 Special District Information Program; duties
23 and responsibilities.--The Special District Information
24 Program of the Department of Community Affairs is created and
25 has the following special duties:

26 (1) The collection and maintenance of special district
27 compliance status reports from the Auditor General, the
28 Department of Banking and Finance, the Division of Bond
29 Finance of the State Board of Administration, the Department
30 of Management Services, the Department of Revenue, and the
31 Commission on Ethics for the reporting required in ss.

1 112.3144, 112.3145, 112.3148, 112.3149, 112.63, 200.068,
2 218.32, ~~218.34~~, 218.38, 218.39, and 280.17 and chapter 121 and
3 from state agencies administering programs that distribute
4 money to special districts. The special district compliance
5 status reports must consist of a list of special districts
6 used in that state agency and a list of which special
7 districts did not comply with the reporting statutorily
8 required by that agency.

9
10 Reviser's note.--Amended to conform to the
11 repeal of s. 218.34 by s. 149, ch. 2001-266,
12 Laws of Florida.

13
14 Section 26. Subsection (6) of section 189.418, Florida
15 Statutes, is amended to read:

16 189.418 Reports; budgets; audits.--

17 (6) All reports or information required to be filed
18 with a local governing authority under ss. 189.416, 189.417,
19 218.32, and 218.39 and this section shall:

20 (a) When the local governing authority is a county, be
21 filed with the clerk of the board of county commissioners.

22 (b) When the district is a multicounty district, be
23 filed with the clerk of the county commission in each county.

24 (c) When the local governing authority is a
25 municipality, be filed at the place designated by the
26 municipal governing body.

27
28 Reviser's note.--Amended to facilitate correct
29 interpretation.

30
31

1 Section 27. Section 196.1983, Florida Statutes, is
2 amended to read:

3 196.1983 Charter school exemption from ad valorem
4 taxes.--Any facility, or portion thereof, used to house a
5 charter school whose charter has been approved by the sponsor
6 and the governing board pursuant to s. 228.056(10) ~~228.056(9)~~
7 shall be exempt from ad valorem taxes. For leasehold
8 properties, the landlord must certify by affidavit to the
9 charter school that the lease payments shall be reduced to the
10 extent of the exemption received. The owner of the property
11 shall disclose to a charter school the full amount of the
12 benefit derived from the exemption and the method for ensuring
13 that the charter school receives such benefit. The charter
14 school shall receive the full benefit derived from the
15 exemption through either an annual or monthly credit to the
16 charter school's lease payments.

17
18 Reviser's note.--Amended to conform to the
19 redesignation of s. 228.056(9) as s.
20 228.056(10) by s. 12, ch. 2001-86, Laws of
21 Florida.

22
23 Section 28. Paragraph (a) of subsection (1) of section
24 199.1055, Florida Statutes, is amended to read:

25 199.1055 Contaminated site rehabilitation tax
26 credit.--

27 (1) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.--

28 (a) A credit in the amount of 35 percent of the costs
29 of voluntary cleanup activity that is integral to site
30 rehabilitation at the following sites is allowed against any
31

1 tax due for a taxable year under s. 199.032, less any credit
2 allowed by former s. 220.68 for that year:

3 1. A drycleaning-solvent-contaminated site eligible
4 for state-funded site rehabilitation under s. 376.3078(3);

5 2. A drycleaning-solvent-contaminated site at which
6 cleanup is undertaken by the real property owner pursuant to
7 s. 376.3078(11), if the real property owner is not also, and
8 has never been, the owner or operator of the drycleaning
9 facility where the contamination exists; or

10 3. A brownfield site in a designated brownfield area
11 under s. 376.80.

12
13 Reviser's note.--Amended to conform to the
14 repeal of s. 220.68 by s. 8, ch. 2000-157, Laws
15 of Florida.

16
17 Section 29. Subsection (6) of section 201.15, Florida
18 Statutes, is amended to read:

19 201.15 Distribution of taxes collected.--All taxes
20 collected under this chapter shall be distributed as follows
21 and shall be subject to the service charge imposed in s.
22 215.20(1), except that such service charge shall not be levied
23 against any portion of taxes pledged to debt service on bonds
24 to the extent that the amount of the service charge is
25 required to pay any amounts relating to the bonds:

26 (6) Two and twenty-eight hundredths percent of the
27 remaining taxes collected under this chapter shall be paid
28 into the State Treasury to the credit of the Invasive Aquatic
29 Plant Control Trust Fund to carry out the purposes set forth
30 in ss. 369.22 and 369.252.

31

1 Reviser's note.--Amended to conform to the
2 redesignation of the Aquatic Plant Control
3 Trust Fund as the Invasive Plant Control Trust
4 Fund by s. 1, ch. 99-312, Laws of Florida.
5

6 Section 30. Paragraph (c) of subsection (2) of section
7 202.18, Florida Statutes, is amended to read:

8 202.18 Allocation and disposition of tax
9 proceeds.--The proceeds of the communications services taxes
10 remitted under this chapter shall be treated as follows:

11 (2) The proceeds of the taxes remitted under s.
12 202.12(1)(c) shall be divided as follows:

13 (c)1. During each calendar year, the remaining portion
14 of such proceeds shall be transferred to the Local Government
15 Half-cent Sales Tax Clearing Trust Fund and shall be allocated
16 in the same proportion as the allocation of total receipts of
17 the half-cent sales tax under s. 218.61 and the emergency
18 distribution under s. 218.65 in the prior state fiscal year.
19 ~~However, during calendar year 2001, state fiscal year~~
20 ~~2000-2001 proportions shall be used.~~

21 2. The proportion of the proceeds allocated based on
22 the emergency distribution under s. 218.65 shall be
23 distributed pursuant to s. 218.65.

24 3. In each calendar year, the proportion of the
25 proceeds allocated based on the half-cent sales tax under s.
26 218.61 shall be allocated to each county in the same
27 proportion as the county's percentage of total sales tax
28 allocation for the prior state fiscal year and distributed
29 pursuant to s. 218.62, ~~except that for calendar year 2001,~~
30 ~~state fiscal year 2000-2001 proportions shall be used.~~
31

1 4. The department shall distribute the appropriate
2 amount to each municipality and county each month at the same
3 time that local communications services taxes are distributed
4 pursuant to subsection (3).

5
6 Reviser's note.--Amended to delete obsolete
7 language.

8
9 Section 31. Paragraph (b) of subsection (2) of section
10 202.20, Florida Statutes, is amended to read:

11 202.20 Local communications services tax conversion
12 rates.--

13 (2)

14 (b) Except as otherwise provided in this subsection,
15 "replaced revenue sources," as used in this section, means the
16 following taxes, charges, fees, or other impositions to the
17 extent that the respective local taxing jurisdictions were
18 authorized to impose them prior to July 1, 2000.

19 1. With respect to municipalities and charter counties
20 and the taxes authorized by s. 202.19(1):

21 a. The public service tax on telecommunications
22 authorized by former s. 166.231(9).

23 b. Franchise fees on cable service providers as
24 authorized by 47 U.S.C. s. 542.

25 c. The public service tax on prepaid calling
26 arrangements.

27 d. Franchise fees on dealers of communications
28 services which use the public roads or rights-of-way, up to
29 the limit set forth in s. 337.401. For purposes of calculating
30 rates under this section, it is the legislative intent that
31 charter counties be treated as having had the same authority

1 as municipalities to impose franchise fees on recurring local
2 telecommunication service revenues prior to July 1, 2000.
3 However, the Legislature recognizes that the authority of
4 charter counties to impose such fees is in dispute, and the
5 treatment provided in this section is not an expression of
6 legislative intent that charter counties actually do or do not
7 possess such authority.

8 e. Actual permit fees relating to placing or
9 maintaining facilities in or on public roads or rights-of-way,
10 collected from providers of long-distance, cable, and mobile
11 communications services for the fiscal year ending September
12 30, 1999; however, if a municipality or charter county elects
13 the option to charge permit fees pursuant to s.
14 337.401(3)(c)1.a., such fees shall not be included as a
15 replaced revenue source.

16 2. With respect to all other counties and the taxes
17 authorized in s. 202.19(1), franchise fees on cable service
18 providers as authorized by 47 U.S.C. s. 542.

19
20 Reviser's note.--Amended to conform to the
21 repeal of s. 166.231(9) by s. 38, ch. 2000-260,
22 Laws of Florida.

23
24 Section 32. Paragraph (a) of subsection (1) of section
25 202.37, Florida Statutes, is amended to read:

26 202.37 Special rules for administration of local
27 communications services tax.--

28 (1)(a) Except as otherwise provided in this section,
29 all statutory provisions and administrative rules applicable
30 to the communications services tax imposed by s. 202.12 apply
31 to any local communications services tax imposed under s.

1 202.19, and the department shall administer, collect, and
2 enforce all taxes imposed under s. 202.19, including interest
3 and penalties attributable thereto, in accordance with the
4 same procedures used in the administration, collection, and
5 enforcement of the communications services tax imposed by s.
6 202.12. Audits performed by the department shall include a
7 determination of the dealer's compliance with the
8 jurisdictional siting of its customers' service addresses
9 and a determination of whether the rate collected for the
10 local tax pursuant to ss. 202.19 and 202.20 is correct. The
11 person or entity designated by a local government pursuant to
12 s. 213.053(7)(v)~~213.053(7)(u)~~ may provide evidence to the
13 department demonstrating a specific person's failure to fully
14 or correctly report taxable communications services sales
15 within the jurisdiction. The department may request additional
16 information from the designee to assist in any review. The
17 department shall inform the designee of what action, if any,
18 the department intends to take regarding the person.

19
20 Reviser's note.--Amended to conform to the
21 redesignation of s. 213.053(7)(u) as created by
22 s. 1, ch. 2001-139, Laws of Florida, as s.
23 213.053(7)(v) by the reviser incident to
24 compiling the 2001 Florida Statutes.

25
26 Section 33. Subsection (3) of section 206.46, Florida
27 Statutes, is amended to read:

28 206.46 State Transportation Trust Fund.--
29 (3) ~~Through fiscal year 1999-2000, a minimum of 14.3~~
30 ~~percent of all state revenues deposited into the State~~
31 ~~Transportation Trust Fund shall be committed annually by the~~

1 ~~department for public transportation projects in accordance~~
2 ~~with chapter 311, ss. 332.003-332.007, chapter 341, and~~
3 ~~chapter 343. Beginning in fiscal year 2000-2001, and each year~~
4 ~~thereafter, Each fiscal year, a minimum of 15 percent of all~~
5 state revenues deposited into the State Transportation Trust
6 Fund shall be committed annually by the department for public
7 transportation projects in accordance with chapter 311, ss.
8 332.003-332.007, chapter 341, and chapter 343.

9
10 Reviser's note.--Amended to delete obsolete
11 language.

12
13 Section 34. Subsection (2) of section 218.76, Florida
14 Statutes, is amended to read:

15 218.76 Improper payment request or invoice; resolution
16 of disputes.--

17 (2) In the event a dispute occurs between a vendor and
18 a local governmental entity concerning payment of a payment
19 request or an invoice, such disagreement shall be finally
20 determined by the local governmental entity as provided in
21 this section. Each local governmental entity shall establish
22 a dispute resolution procedure to be followed by the local
23 governmental entity in cases of such disputes. Such procedure
24 shall provide that proceedings to resolve the dispute shall be
25 commenced not later than 45 days after the date on which the
26 payment request or proper invoice was received by the local
27 governmental entity and shall be concluded by final decision
28 of the local governmental entity not later than 60 days after
29 the date on which the payment request or proper invoice was
30 received by the local governmental entity. Such procedures
31 shall not be subject to chapter 120, and such procedures shall

1 not constitute an administrative proceeding which prohibits a
2 court from deciding de novo any action arising out of the
3 dispute. If the dispute is resolved in favor of the local
4 governmental entity, then interest charges shall begin to
5 accrue 15 days after the local governmental entity's final
6 decision. If the dispute is resolved in favor of the vendor,
7 then interest shall begin to accrue as of the original date
8 the payment became due.

9
10 Reviser's note.--Amended to facilitate correct
11 interpretation.

12
13 Section 35. Subsections (7) and (9) of section
14 267.1732, Florida Statutes, are amended to read:

15 267.1732 Direct-support organization.--

16 (7) The direct-support organization shall provide for
17 an annual financial and compliance audit of its financial
18 accounts and records by an independent certified public
19 accountant in accordance with s. 215.981 ~~251.981~~ and generally
20 accepted accounting standards. The annual audit report must be
21 submitted to the university for review and approval. The
22 university, the Auditor General, and others authorized in s.
23 240.299 shall have the authority to require and receive from
24 the direct-support organization, or from its independent
25 auditor, any detail or supplemental data relative to the
26 operation of the organization. Upon approval, the university
27 shall certify the audit report to the Auditor General for
28 review.

29 (9) Provisions governing direct-support organizations
30 in s. 240.299 ~~240.99~~ and not provided in this section shall
31 apply to the direct-support organization.

1 Reviser's note.--Subsection (7) is amended to
2 correct an apparent error and to improve
3 clarity and facilitate correct interpretation.
4 Section 251.981 does not exist; s. 215.981
5 relates to audits of state agency
6 direct-support organizations. Subsection (9) is
7 amended to correct an apparent error. Section
8 240.99 does not exist; s. 240.299 relates to
9 direct-support organizations.

10
11 Section 36. Subsection (8) of section 282.102, Florida
12 Statutes, is amended to read:

13 282.102 Creation of the State Technology Office;
14 powers and duties.--There is created a State Technology Office
15 within the Department of Management Services. The office shall
16 be a separate budget entity, and shall be headed by a Chief
17 Information Officer who is appointed by the Governor and is in
18 the Senior Management Service. The Chief Information Officer
19 shall be an agency head for all purposes. The Department of
20 Management Services shall provide administrative support and
21 service to the office to the extent requested by the Chief
22 Information Officer. The office may adopt policies and
23 procedures regarding personnel, procurement, and transactions
24 for State Technology Office personnel. The office shall have
25 the following powers, duties, and functions:

26 (8) To enter into agreements related to information
27 technology with state agencies and ~~of~~ political subdivisions
28 of the state.

29
30 Reviser's note.--Amended to improve clarity and
31 facilitate correct interpretation.

1 Section 37. Subsections (9), (13), and (17) of section
2 287.057, Florida Statutes, are amended to read:

3 287.057 Procurement of commodities or contractual
4 services.--

5 (9) An agency shall not divide the procurement of
6 commodities or contractual services so as to avoid the
7 requirements of subsections (1), (2), and (4)~~(3)~~.

8 (13) Except for those contracts initially procured
9 pursuant to paragraph (4)(a)~~(3)(a)~~ or paragraph (4)(c)
10 ~~(3)(c)~~, contracts for commodities or contractual services may
11 be renewed on a yearly basis for no more than 2 years or for a
12 period no longer than the term of the original contract,
13 whichever period is longer. Renewal of a contract for
14 commodities or contractual services shall be in writing and
15 shall be subject to the same terms and conditions set forth in
16 the initial contract. If the commodity or contractual service
17 is purchased as a result of the solicitation of bids or
18 proposals, the cost of any contemplated renewals shall be
19 included in the invitation to bid or request for proposals.
20 Renewals shall be contingent upon satisfactory performance
21 evaluations by the agency.

22 (17) No person who receives a contract which has not
23 been procured pursuant to subsection (1), subsection (2), or
24 subsection (4)~~(3)~~ to perform a feasibility study of the
25 potential implementation of a subsequent contract,
26 participating in the drafting of an invitation to bid or
27 request for proposals, or developing a program for future
28 implementation shall be eligible to contract with the agency
29 for any other contracts dealing with that specific subject
30 matter; nor shall any firm in which such person has any
31 interest be eligible to receive such contract.

1 Reviser's note.--Amended to conform to the
2 internal renumbering of s. 287.057 by s. 4, ch.
3 2001-278, Laws of Florida.

4
5 Section 38. Subsection (3) of section 288.9604,
6 Florida Statutes, is amended to read:

7 288.9604 Creation of the authority.--

8 (3) Upon activation of the corporation, the Governor,
9 subject to confirmation by the Senate, shall appoint the board
10 of directors of the corporation, who shall be five in number.
11 The terms of office for the directors shall be for 4 years,
12 ~~except that three of the initial directors shall be designated~~
13 ~~to serve terms of 1, 2, and 3 years, respectively, from the~~
14 ~~date of their appointment, and all other directors shall be~~
15 ~~designated to serve terms of 4 years~~ from the date of their
16 appointment. A vacancy occurring during a term shall be filled
17 for the unexpired term. A director shall be eligible for
18 reappointment. At least three of the directors of the
19 corporation shall be bankers who have been selected by the
20 Governor from a list of bankers who were nominated by
21 Enterprise Florida, Inc., and one of the directors shall be an
22 economic development specialist. The chairperson of the
23 Florida Black Business Investment Board shall be an ex officio
24 member of the board of the corporation.

25
26 Reviser's note.--Amended to delete obsolete
27 language relating to initial terms of board
28 members.

29
30 Section 39. Subsection (1) of section 288.9610,
31 Florida Statutes, is amended to read:

1 288.9610 Annual reports of Florida Development Finance
2 Corporation.--By December 1 of each year, the Florida
3 Development Finance Corporation shall submit to the Governor,
4 the President of the Senate, the Speaker of the House of
5 Representatives, the Senate Minority Leader, the House
6 Minority Leader, and the city or county activating the Florida
7 Development Finance Corporation a complete and detailed report
8 setting forth:

9 (1) The evaluation required in s. 11.45(3)(a)11
10 ~~288.9616(1)~~.

11
12 Reviser's note.--Amended to conform to the
13 repeal of s. 288.9616 by s. 141, ch. 2001-266,
14 Laws of Florida, and the enactment of a similar
15 provision in s. 11.45(3)(a)11. by s. 15, ch.
16 2001-266.

17
18 Section 40. Paragraph (e) of subsection (8) of section
19 288.99, Florida Statutes, is repealed.

20
21 Reviser's note.--The cited paragraph, which
22 provided a January 1, 1999, effective date for
23 subsection (8), has served its purpose.

24
25 Section 41. Subsection (14) of section 316.515,
26 Florida Statutes, is amended to read:

27 316.515 Maximum width, height, length.--

28 (14) MANUFACTURED BUILDINGS.--The Department of
29 Transportation may, in its discretion and upon application and
30 good cause shown therefor that the same is not contrary to the
31 public interest, issue a special permit for truck

1 tractor-semitrailer combinations where the total number of
2 overwidth deliveries of manufactured buildings, as defined in
3 s. 553.36(12)~~553.36(11)~~, may be reduced by permitting the use
4 of an overlength trailer of no more than 54 feet.

5
6 Reviser's note.--Amended to conform to the
7 redesignation of s. 553.36(11) as s. 553.36(12)
8 by s. 21, ch. 2001-186, Laws of Florida.

9
10 Section 42. Subsection (6) of section 318.21, Florida
11 Statutes, as amended by section 11 of chapter 2001-122, Laws
12 of Florida, is amended to read:

13 318.21 Disposition of civil penalties by county
14 courts.--All civil penalties received by a county court
15 pursuant to the provisions of this chapter shall be
16 distributed and paid monthly as follows:

17 (6) For every violation of s. 316.613 or s. 316.614,
18 \$5 will be deducted from the civil penalty assessed under this
19 chapter and remitted to the Department of Revenue for deposit
20 in the Epilepsy Services Trust Fund established under s.
21 385.207. The remainder must be distributed pursuant to
22 subsections (1) and (2).

23
24 Reviser's note.--Amended to improve clarity and
25 facilitate correct interpretation.

26
27 Section 43. Paragraph (b) of subsection (14) of
28 section 320.08058, Florida Statutes, is amended to read:

29 320.08058 Specialty license plates.--

30 (14) FLORIDA AGRICULTURAL LICENSE PLATES.--

31

1 (b) The proceeds of the Florida Agricultural license
2 plate annual use fee must be forwarded to the direct-support
3 organization created in s. 570.903 ~~570.912~~. The funds must be
4 used for the sole purpose of funding and promoting the Florida
5 agriculture in the classroom program established within the
6 Department of Agriculture and Consumer Services pursuant to s.
7 570.91.

8
9 Reviser's note.--Amended to conform to the
10 repeal of s. 570.912 by s. 141, ch. 2001-266,
11 Laws of Florida, and the revision of the duties
12 of the direct-support organization in s.
13 570.903 by s. 123, ch. 2001-266.

14
15 Section 44. Subsection (9) of section 320.27, Florida
16 Statutes, is reenacted to read:

17 320.27 Motor vehicle dealers.--

18 (9) DENIAL, SUSPENSION, OR REVOCATION.--The department
19 may deny, suspend, or revoke any license issued hereunder or
20 under the provisions of s. 320.77 or s. 320.771, upon proof
21 that a licensee has failed to comply with any of the following
22 provisions with sufficient frequency so as to establish a
23 pattern of wrongdoing on the part of the licensee:

24 (a) Willful violation of any other law of this state,
25 including chapter 319, this chapter, or ss. 559.901-559.9221,
26 which has to do with dealing in or repairing motor vehicles or
27 mobile homes or willful failure to comply with any
28 administrative rule promulgated by the department.
29 Additionally, in the case of used motor vehicles, the willful
30 violation of the federal law and rule in 15 U.S.C. s. 2304, 16
31 C.F.R. part 455, pertaining to the consumer sales window form.

1 (b) Commission of fraud or willful misrepresentation
2 in application for or in obtaining a license.

3 (c) Perpetration of a fraud upon any person as a
4 result of dealing in motor vehicles, including, without
5 limitation, the misrepresentation to any person by the
6 licensee of the licensee's relationship to any manufacturer,
7 importer, or distributor.

8 (d) Representation that a demonstrator is a new motor
9 vehicle, or the attempt to sell or the sale of a demonstrator
10 as a new motor vehicle without written notice to the purchaser
11 that the vehicle is a demonstrator. For the purposes of this
12 section, a "demonstrator," a "new motor vehicle," and a "used
13 motor vehicle" shall be defined as under s. 320.60.

14 (e) Unjustifiable refusal to comply with a licensee's
15 responsibility under the terms of the new motor vehicle
16 warranty issued by its respective manufacturer, distributor,
17 or importer. However, if such refusal is at the direction of
18 the manufacturer, distributor, or importer, such refusal shall
19 not be a ground under this section.

20 (f) Misrepresentation or false, deceptive, or
21 misleading statements with regard to the sale or financing of
22 motor vehicles which any motor vehicle dealer has, or causes
23 to have, advertised, printed, displayed, published,
24 distributed, broadcast, televised, or made in any manner with
25 regard to the sale or financing of motor vehicles.

26 (g) Requirement by any motor vehicle dealer that a
27 customer or purchaser accept equipment on his or her motor
28 vehicle which was not ordered by the customer or purchaser.

29 (h) Requirement by any motor vehicle dealer that any
30 customer or purchaser finance a motor vehicle with a specific
31 financial institution or company.

1 (i) Failure by any motor vehicle dealer to provide a
2 customer or purchaser with an odometer disclosure statement
3 and a copy of any bona fide written, executed sales contract
4 or agreement of purchase connected with the purchase of the
5 motor vehicle purchased by the customer or purchaser.

6 (j) Failure of any motor vehicle dealer to comply with
7 the terms of any bona fide written, executed agreement,
8 pursuant to the sale of a motor vehicle.

9 (k) Requirement by the motor vehicle dealer that the
10 purchaser of a motor vehicle contract with the dealer for
11 physical damage insurance.

12 (l) Violation of any of the provisions of s. 319.35 by
13 any motor vehicle dealer.

14 (m) Either a history of bad credit or an unfavorable
15 credit rating as revealed by the applicant's official credit
16 report or by investigation by the department.

17 (n) Failure to apply for transfer of a title as
18 prescribed in s. 319.23(6).

19 (o) Use of the dealer license identification number by
20 any person other than the licensed dealer or his or her
21 designee.

22 (p) Conviction of a felony.

23 (q) Failure to continually meet the requirements of
24 the licensure law.

25 (r) When a motor vehicle dealer is convicted of a
26 crime which results in his or her being prohibited from
27 continuing in that capacity, the dealer may not continue in
28 any capacity within the industry. The offender shall have no
29 financial interest, management, sales, or other role in the
30 operation of a dealership. Further, the offender may not
31 derive income from the dealership beyond reasonable

1 compensation for the sale of his or her ownership interest in
2 the business.

3 (s) Representation to a customer or any advertisement
4 to the general public representing or suggesting that a motor
5 vehicle is a new motor vehicle if such vehicle lawfully cannot
6 be titled in the name of the customer or other member of the
7 general public by the seller using a manufacturer's statement
8 of origin as permitted in s. 319.23(1).

9 (t) Failure to honor a bank draft or check given to a
10 motor vehicle dealer for the purchase of a motor vehicle by
11 another motor vehicle dealer within 10 days after notification
12 that the bank draft or check has been dishonored. A single
13 violation of this paragraph is sufficient for revocation or
14 suspension. If the transaction is disputed, the maker of the
15 bank draft or check shall post a bond in accordance with the
16 provisions of s. 559.917, and no proceeding for revocation or
17 suspension shall be commenced until the dispute is resolved.

18 (u) Sale by a motor vehicle dealer of a vehicle
19 offered in trade by a customer prior to consummation of the
20 sale, exchange, or transfer of a newly acquired vehicle to the
21 customer, unless the customer provides written authorization
22 for the sale of the trade-in vehicle prior to delivery of the
23 newly acquired vehicle.

24

25 Reviser's note.--Section 40, ch. 2001-196, Laws
26 of Florida, purported to amend subsection (9)
27 but did not publish the amended subsection.
28 Absent affirmative evidence of legislative
29 intent to repeal it, subsection (9) is
30 reenacted to confirm that the omission was not
31 intended.

1 Section 45. Section 320.64, Florida Statutes, is
2 reenacted and subsection (22) of that section is amended to
3 read:

4 320.64 Denial, suspension, or revocation of license;
5 grounds.--A license of a licensee under s. 320.61 may be
6 denied, suspended, or revoked within the entire state or at
7 any specific location or locations within the state at which
8 the applicant or licensee engages or proposes to engage in
9 business, upon proof that the section was violated with
10 sufficient frequency to establish a pattern of wrongdoing, and
11 a licensee or applicant shall be liable for claims and
12 remedies provided in ss. 320.695 and 320.697 for any violation
13 of any of the following provisions. A licensee is prohibited
14 from committing the following acts:

15 (1) The applicant or licensee is determined to be
16 unable to carry out contractual obligations with its motor
17 vehicle dealers.

18 (2) The applicant or licensee has knowingly made a
19 material misstatement in its application for a license.

20 (3) The applicant or licensee willfully has failed to
21 comply with significant provisions of ss. 320.60-320.70 or
22 with any lawful rule or regulation adopted or promulgated by
23 the department.

24 (4) The applicant or licensee has indulged in any
25 illegal act relating to his or her business.

26 (5) The applicant or licensee has coerced or attempted
27 to coerce any motor vehicle dealer into accepting delivery of
28 any motor vehicle or vehicles or parts or accessories therefor
29 or any other commodities which have not been ordered by the
30 dealer.

31

1 (6) The applicant or licensee has coerced or attempted
2 to coerce any motor vehicle dealer to enter into any agreement
3 with the licensee.

4 (7) The applicant or licensee has threatened to
5 discontinue, cancel, or not to renew a franchise agreement of
6 a licensed motor vehicle dealer, where the threatened
7 discontinuation, cancellation, or nonrenewal, if implemented,
8 would be in violation of any of the provisions of s. 320.641.

9 (8) The applicant or licensee discontinued, canceled,
10 or failed to renew, a franchise agreement of a licensed motor
11 vehicle dealer in violation of any of the provisions of s.
12 320.641.

13 (9) The applicant or licensee has threatened to modify
14 or replace, or has modified or replaced, a franchise agreement
15 with a succeeding franchise agreement which would adversely
16 alter the rights or obligations of a motor vehicle dealer
17 under an existing franchise agreement or which substantially
18 impairs the sales, service obligations, or investment of the
19 motor vehicle dealer.

20 (10) The applicant or licensee has attempted to enter,
21 or has entered, into a franchise agreement with a motor
22 vehicle dealer who does not, at the time of the franchise
23 agreement, have proper facilities to provide the services to
24 his or her purchasers of new motor vehicles which are covered
25 by the new motor vehicle warranty issued by the applicant or
26 licensee.

27 (11) The applicant or licensee has coerced a motor
28 vehicle dealer to provide installment financing for the motor
29 vehicle dealer's purchasers with a specified financial
30 institution.

31

1 (12) The applicant or licensee has advertised,
2 printed, displayed, published, distributed, broadcast, or
3 televised, or caused or permitted to be advertised, printed,
4 displayed, published, distributed, broadcast, or televised, in
5 any manner whatsoever, any statement or representation with
6 regard to the sale or financing of motor vehicles which is
7 false, deceptive, or misleading.

8 (13) The applicant or licensee has sold, exchanged, or
9 rented a motorcycle which produces in excess of 5 brake
10 horsepower, knowing the use thereof to be by, or intended for,
11 the holder of a restricted Florida driver's license.

12 (14) The applicant or licensee has engaged in previous
13 conduct which would have been a ground for revocation or
14 suspension of a license if the applicant or licensee had been
15 licensed.

16 (15) The applicant or licensee, directly or
17 indirectly, through the actions of any parent of the licensee,
18 subsidiary of the licensee, or common entity causes a
19 termination, cancellation, or nonrenewal of a franchise
20 agreement by a present or previous distributor or importer
21 unless, by the effective date of such action, the applicant or
22 licensee offers the motor vehicle dealer whose franchise
23 agreement is terminated, canceled, or not renewed a franchise
24 agreement containing substantially the same provisions
25 contained in the previous franchise agreement or files an
26 affidavit with the department acknowledging its undertaking to
27 assume and fulfill the rights, duties, and obligations of its
28 predecessor distributor or importer under the terminated,
29 canceled, or nonrenewed franchise agreement and the same is
30 reinstated.

31

1 (16) Notwithstanding the terms of any franchise
2 agreement, the applicant or licensee prevents or refuses to
3 accept the succession to any interest in a franchise agreement
4 by any legal heir or devisee under the will of a motor vehicle
5 dealer or under the laws of descent and distribution of this
6 state; provided, the applicant or licensee is not required to
7 accept a succession where such heir or devisee does not meet
8 licensee's written, reasonable, and uniformly applied minimal
9 standard qualifications for dealer applicants or which, after
10 notice and administrative hearing pursuant to chapter 120, is
11 demonstrated to be detrimental to the public interest or to
12 the representation of the applicant or licensee. Nothing
13 contained herein, however, shall prevent a motor vehicle
14 dealer, during his or her lifetime, from designating any
15 person as his or her successor in interest by written
16 instrument filed with and accepted by the applicant or
17 licensee. A licensee who rejects the successor transferee
18 under this subsection shall have the burden of establishing in
19 any proceeding where such rejection is in issue that the
20 rejection of the successor transferee complies with this
21 subsection.

22 (17) The applicant or licensee has included in any
23 franchise agreement with a motor vehicle dealer terms or
24 provisions that are contrary to, prohibited by, or otherwise
25 inconsistent with the provisions contained in ss.
26 320.60-320.70, or has failed to include in such franchise
27 agreement a provision conforming to the requirements of s.
28 320.63(3).

29 (18) The applicant or licensee has established a
30 system of motor vehicle allocation or distribution or has
31 implemented a system of allocation or distribution of motor

1 vehicles to one or more of its franchised motor vehicle
2 dealers which is unfair, inequitable, unreasonably
3 discriminatory, or not supportable by reason and good cause
4 after considering the equities of the affected motor vehicles
5 dealer or dealers. An applicant or licensee shall maintain for
6 3 years records that describe its methods or formula of
7 allocation and distribution of its motor vehicles and records
8 of its actual allocation and distribution of motor vehicles to
9 its motor vehicle dealers in this state.

10 (19) The applicant or licensee, without good and fair
11 cause, has delayed, refused, or failed to provide a supply of
12 motor vehicles by series in reasonable quantities, including
13 the models publicly advertised by the applicant or licensee as
14 being available, or has delayed, refused, or failed to deliver
15 motor vehicle parts and accessories within a reasonable time
16 after receipt of an order by a franchised dealer. However,
17 this subsection is not violated if such failure is caused by
18 acts or causes beyond the control of the applicant or
19 licensee.

20 (20) The applicant or licensee has required, or
21 threatened to require, a motor vehicle dealer to prospectively
22 assent to a release, assignment, novation, waiver, or
23 estoppel, which instrument or document operates, or is
24 intended by the applicant or licensee to operate, to relieve
25 any person from any liability or obligation under the
26 provisions of ss. 320.60-320.70.

27 (21) The applicant or licensee has threatened or
28 coerced a motor vehicle dealer toward conduct or action
29 whereby the dealer would waive or forego its right to protest
30 the establishment or relocation of a motor vehicle dealer in
31

1 the community or territory serviced by the threatened or
2 coerced dealer.

3 (22) The applicant or licensee has refused to deliver,
4 in reasonable quantities and within a reasonable time, to any
5 duly licensed motor vehicle dealer who has an agreement with
6 such applicant or licensee for the retail sale of new motor
7 vehicles and parts for motor vehicles sold or distributed by
8 the applicant or licensee, any such motor vehicles or parts as
9 are covered by such agreement. Such refusal includes the
10 failure to offer to its same line-make franchised motor
11 vehicle dealers all models manufactured for that line-make, or
12 requiring a dealer to pay any extra fee, require a dealer to
13 execute a separate franchise agreement, purchase unreasonable
14 advertising displays or other materials, or remodel, renovate,
15 or recondition the dealer's existing facilities, or provide
16 exclusive facilities as a prerequisite to receiving a model or
17 series of vehicles. However, the failure to deliver any motor
18 vehicle or part will not be considered a violation of this
19 section if the failure is due to an act of God, work stoppage,
20 or delay due to a strike or labor difficulty, a freight
21 embargo, product shortage, or other cause over which the
22 applicant or licensee has no control. An applicant or licensee
23 may impose reasonable requirements on the motor vehicle
24 dealer, other than the items listed above, including, but not
25 limited to, the purchase of special tools required to properly
26 service a motor vehicle and the undertaking of sales person or
27 service person training related to the motor vehicle.

28 (23) The applicant or licensee has competed or is
29 competing with respect to any activity covered by the
30 franchise agreement with a motor vehicle dealer of the same
31 line-make located in this state with whom the applicant or

1 licensee has entered into a franchise agreement, except as
2 permitted in s. 320.645.

3 (24) The applicant or licensee has sold a motor
4 vehicle to any retail consumer in the state except through a
5 motor vehicle dealer holding a franchise agreement for the
6 line-make that includes the motor vehicle. This section does
7 not apply to sales by the applicant or licensee of motor
8 vehicles to its current employees, employees of companies
9 affiliated by common ownership, charitable
10 not-for-profit-organizations, and the federal government.

11 (25) The applicant or licensee has undertaken an audit
12 of warranty payments or incentive payment previously paid to a
13 motor vehicle dealer in violation of this section or has
14 failed to comply with s. 320.696. An applicant or licensee may
15 reasonably and periodically audit a motor vehicle dealer to
16 determine the validity of paid claims. Audit of warranty
17 payments shall only be for the 1-year period immediately
18 following the date the claim was paid. Audit of incentive
19 payments shall only be for an 18-month period immediately
20 following the date the incentive was paid. An applicant or
21 licensee shall not deny a claim or charge a motor vehicle
22 dealer back subsequent to the payment of the claim unless the
23 applicant or licensee can show that the claim was false or
24 fraudulent or that the motor vehicle dealer failed to
25 substantially comply with the reasonable written and uniformly
26 applied procedures of the applicant or licensee for such
27 repairs or incentives.

28 (26) Notwithstanding the terms of any franchise
29 agreement, the applicant or licensee has refused to allocate,
30 sell, or deliver motor vehicles; charged back or withheld
31 payments or other things of value for which the dealer is

1 otherwise eligible under a sales promotion, program, or
2 contest; or prevented the motor vehicle dealer from
3 participating in any promotion, program, or contest for
4 selling a motor vehicle to a customer who was present at the
5 dealership and the motor vehicle dealer did not know or should
6 not have reasonably known that the vehicle would be shipped to
7 a foreign country. There will be a rebuttable presumption that
8 the dealer did not know or should not have reasonably known
9 that the vehicle would be shipped to a foreign country if the
10 vehicle is titled in one of the 50 United States.

11 (27) Notwithstanding the terms of any franchise
12 agreement, the applicant or licensee has failed or refused to
13 indemnify and hold harmless any motor vehicle dealer against
14 any judgment for damages, or settlements agreed to by the
15 applicant or licensee, including, without limitation, court
16 costs and reasonable attorneys fees, arising out of
17 complaints, claims, or lawsuits, including, without
18 limitation, strict liability, negligence, misrepresentation,
19 express or implied warranty, or revocation or rescission of
20 acceptance of the sale of a motor vehicle, to the extent the
21 judgment or settlement relates to the alleged negligent
22 manufacture, design, or assembly of motor vehicles, parts, or
23 accessories. Nothing herein shall obviate the licensee's
24 obligations pursuant to chapter 681.

25 (28) The applicant or licensee has published,
26 disclosed, or otherwise made available in any form information
27 provided by a motor vehicle dealer with respect to sales
28 prices of motor vehicles or profit per motor vehicle sold.
29 Other confidential financial information provided by motor
30 vehicle dealers shall not be published, disclosed, or
31 otherwise made publicly available except in composite form.

1 However, this information may be disclosed with the written
2 consent of the dealer or in response to a subpoena or order of
3 the department, a court or a lawful tribunal, or introduced
4 into evidence in such a proceeding, after timely notice to an
5 affected dealer.

6 (29) The applicant or licensee has failed to reimburse
7 a motor vehicle dealer in full for the reasonable cost of
8 providing a loaner vehicle to any customer who is having a
9 vehicle serviced at the motor vehicle dealer, if a loaner is
10 required by the applicant or licensee, or a loaner is
11 expressly part of an applicant or licensee's customer
12 satisfaction index or computation.

13 (30) The applicant or licensee has conducted or
14 threatened to conduct any audit of a motor vehicle dealer in
15 order to coerce or attempt to coerce the dealer to forego any
16 rights granted to the dealer under ss. 320.60-320.70 or under
17 the agreement between the licensee and the motor vehicle
18 dealer. Nothing in this section shall prohibit an applicant or
19 licensee from reasonably and periodically auditing a dealer to
20 determine the validity of paid claims.

21 (31) From and after the effective date of enactment of
22 this provision, the applicant or licensee has offered to any
23 motor vehicle dealer a franchise agreement that:

24 (a) Requires that a motor vehicle dealer bring an
25 administrative or legal action in a venue outside of this
26 state;

27 (b) Requires that any arbitration, mediation, or other
28 legal proceeding be conducted outside of this state; or

29 (c) Requires that a law of a state other than Florida
30 be applied to any legal proceeding between a motor vehicle
31 dealer and a licensee.

1 (32) Notwithstanding the terms of any franchise
2 agreement, the applicant or licensee has rejected or withheld
3 approval of any proposed transfer in violation of s. 320.643
4 or a proposed change of executive management in violation of
5 s. 320.644.

6
7 A motor vehicle dealer who can demonstrate that a violation
8 of, or failure to comply with, any of the preceding provisions
9 by an applicant or licensee will or can adversely and
10 pecuniarily affect the complaining dealer, shall be entitled
11 to pursue all of the remedies, procedures, and rights of
12 recovery available under ss. 320.695 and 320.697.

13
14 Reviser's note.--Section 21, ch. 2001-196, Laws
15 of Florida, amended portions of s. 320.64
16 without publishing the flush left language at
17 the end of the section. Absent affirmative
18 evidence of legislative intent to repeal it,
19 the flush left language is reenacted to confirm
20 that the omission was not intended. Subsection
21 (22) is amended to improve clarity.

22
23 Section 46. Subsection (4) of section 320.645, Florida
24 Statutes, is amended to read:

25 320.645 Restriction upon ownership of dealership by
26 licensee.--

27 (4) Nothing in this section shall prohibit a
28 licensee-distributor as defined in s. 320.60(5) that is not a
29 manufacturer, a division of a manufacturer, an entity that is
30 controlled by a manufacturer, or a common entity of a
31 manufacturer, and that is not owned, in whole or in part,

1 directly or indirectly, by a manufacturer, as defined in s.
2 320.60(9), and that has owned and operated a motor vehicle
3 dealership dealer in this state on or before July 1, 1996,
4 other than a motor vehicle dealership dealer permitted by
5 paragraph (1)(b), from receiving a license as defined in s.
6 320.27 while owning and operating a motor vehicle dealership
7 that sells or services motor vehicles other than any line-make
8 of motor vehicles distributed by the licensee-distributor.

9
10 Reviser's note.--Amended to provide contextual
11 consistency and facilitate correct
12 interpretation.

13
14 Section 47. Subsection (2) of section 322.095, Florida
15 Statutes, is amended to read:

16 322.095 Traffic law and substance abuse education
17 program for driver's license applicants.--

18 (2) The department shall contract for an independent
19 evaluation of the courses, ~~and shall provide documentation to~~
20 ~~the Legislature by October 1, 2000, measuring course~~
21 ~~effectiveness~~. Local DUI programs authorized under s.
22 316.193(5) and certified by the department or a driver
23 improvement school may offer a traffic law and substance abuse
24 education course. However, prior to offering the course, the
25 course provider must obtain certification from the department
26 that the course complies with the requirements of this
27 section. The course provider must offer the approved course at
28 locations reasonably accessible to most applicants and must
29 issue a certificate to those persons successfully completing
30 the course.

31

1 Reviser's note.--Amended to delete obsolete
2 language.

3
4 Section 48. Subsection (5) of section 327.301, Florida
5 Statutes, is amended to read:

6 327.301 Written reports of accidents.--

7 (5) For the purposes of this section, a written report
8 includes a report generated through the use of information
9 technology resources as defined in s. 282.0041 ~~282.303~~.

10
11 Reviser's note.--Amended to conform to the
12 redesignation of s. 282.303 as s. 282.0041 by
13 s. 10, ch. 2001-261, Laws of Florida.

14
15 Section 49. Subsection (2) of section 339.2405,
16 Florida Statutes, is amended to read:

17 339.2405 Florida Highway Beautification Council.--

18 ~~(2) The first chair of the council shall be designated~~
19 ~~by the Governor and shall serve as chair for 2 years. Each~~
20 ~~subsequent~~ chair shall be selected by the council members and
21 shall serve a 2-year term.

22
23 Reviser's note.--Amended to delete obsolete
24 language.

25
26 Section 50. Subsection (2) of section 349.03, Florida
27 Statutes, is amended to read:

28 349.03 Jacksonville Transportation Authority.--

29 (2) The governing body of the authority shall consist
30 of seven members. Three members shall be appointed by the
31 Governor and confirmed by the Senate. Three members shall be

1 appointed by the mayor of the City of Jacksonville subject to
2 confirmation by the council of the City of Jacksonville. The
3 seventh member shall be the district secretary of the
4 Department of Transportation serving in the district that
5 contains the City of Jacksonville. Except for the seventh
6 member, members shall be residents and qualified electors of
7 the City of Jacksonville. ~~The members of the authority~~
8 ~~holding office on July 1, 1979, shall continue in office until~~
9 ~~the expiration of their terms as if this section were not in~~
10 ~~effect, to ensure staggered terms, and their successors shall~~
11 ~~thereafter be appointed by either the mayor or the Governor,~~
12 ~~whoever appointed the retiring member.~~

13

14 Reviser's note.--Amended to delete obsolete
15 language.

16

17 Section 51. Subsection (3) of section 370.0603,
18 Florida Statutes, is amended to read:

19 370.0603 Marine Resources Conservation Trust Fund;
20 purposes.--

21 (3) Funds provided to the Marine Resources
22 Conservation Trust Fund from taxes distributed under s.
23 201.15(11)~~201.15(8)~~ shall be used for the following purposes:

24 (a) To reimburse the cost of activities authorized
25 pursuant to the Fish and Wildlife Service of the United States
26 Department of the Interior. Such facilities must be involved
27 in the actual rescue and full-time acute care
28 veterinarian-based rehabilitation of manatees. The cost of
29 activities includes, but is not limited to, costs associated
30 with expansion, capital outlay, repair, maintenance, and
31 operation related to the rescue, treatment, stabilization,

1 maintenance, release, and monitoring of manatees. Moneys
2 distributed through the contractual agreement to each facility
3 for manatee rehabilitation must be proportionate to the number
4 of manatees under acute care rehabilitation; the number of
5 maintenance days medically necessary in the facility; and the
6 number released during the previous fiscal year. The
7 commission may set a cap on the total amount reimbursed per
8 manatee per year.

9 (b) For training on the care, treatment, and
10 rehabilitation of marine mammals at the Whitney Laboratory and
11 the College of Veterinary Medicine at the University of
12 Florida.

13 (c) For program administration costs of the agency.

14 (d) Funds not distributed in any 1 fiscal year must be
15 carried over for distribution in subsequent years.

16
17 Reviser's note.--Amended to conform to the
18 redesignation of s. 201.15(8) as s. 201.15(11)
19 by s. 2, ch. 99-247, Laws of Florida, effective
20 July 1, 2001.

21
22 Section 52. Subsection (2) of section 373.042, Florida
23 Statutes, is amended to read:

24 373.042 Minimum flows and levels.--

25 (2) ~~By July 1, 1996, the Southwest Florida Water~~
26 ~~Management District shall amend and submit to the department~~
27 ~~for review and approval its priority list for the~~
28 ~~establishment of minimum flows and levels and delineating the~~
29 ~~order in which the governing board shall establish the minimum~~
30 ~~flows and levels for surface watercourses, aquifers, and~~
31 ~~surface water in the counties of Hillsborough, Pasco, and~~

1 ~~Pinellas~~ By November 15, 1997, and annually thereafter, each
2 water management district shall submit to the department for
3 review and approval a priority list and schedule for the
4 establishment of minimum flows and levels for surface
5 watercourses, aquifers, and surface waters within the
6 district. The priority list shall also identify those water
7 bodies for which the district will voluntarily undertake
8 independent scientific peer review. By January 1, 1998, and
9 annually thereafter, each water management district shall
10 publish its approved priority list and schedule in the Florida
11 Administrative Weekly. The priority list shall be based upon
12 the importance of the waters to the state or region and the
13 existence of or potential for significant harm to the water
14 resources or ecology of the state or region, and shall include
15 those waters which are experiencing or may reasonably be
16 expected to experience adverse impacts. The priority list and
17 schedule shall not be subject to any proceeding pursuant to
18 chapter 120. Except as provided in subsection (3), the
19 development of a priority list and compliance with the
20 schedule for the establishment of minimum flows and levels
21 pursuant to this subsection shall satisfy the requirements of
22 subsection (1).

23

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

26

27 Section 53. Subsection (4) of section 373.608, Florida
28 Statutes, is amended to read:

29 373.608 Patents, copyrights, and trademarks.--Each
30 district may, in its own name:

31

1 (4) Enforce the collection of any sums due to the
2 district for the manufacture or use of such district work
3 products by another ~~other~~ party.

4
5 Reviser's note.--Amended to improve clarity.

6
7 Section 54. Paragraph (a) of subsection (4) of section
8 381.6024, Florida Statutes, is amended to read:

9 381.6024 Fees; Florida Organ and Tissue Donor
10 Education and Procurement Trust Fund.--

11 (4)(a) Proceeds from fees, administrative penalties,
12 and surcharges collected pursuant to subsections (2) and (3)
13 must be deposited into the Florida Organ and Tissue Donor
14 Education and Procurement Trust Fund created by s. 765.52155
15 ~~732.92155~~.

16
17 Reviser's note.--Amended to conform to the
18 transfer of s. 732.92155 to s. 765.52155 by s.
19 73, ch. 2001-226, Laws of Florida.

20
21 Section 55. Subsection (7) of section 381.895, Florida
22 Statutes, is repealed.

23
24 Reviser's note.--Repealed to delete a provision
25 that has served its purpose.

26
27 Section 56. Subsection (1) of section 395.2050,
28 Florida Statutes, is amended to read:

29 395.2050 Routine inquiry for organ and tissue
30 donation; certification for procurement activities.--

31

1 (1) Every general hospital, and every specialty
2 hospital that offers the range of medical services offered by
3 a general hospital but only to a portion of the population
4 restricted by age or gender, licensed under this chapter shall
5 comply with the requirements of s. 765.522 ~~732.922~~ pertaining
6 to requests for organ or tissue donation.

7
8 Reviser's note.--Amended to conform to the
9 transfer of s. 732.922 to s. 765.522 by s. 75,
10 ch. 2001-226, Laws of Florida.

11
12 Section 57. Subsection (4) of section 395.4045,
13 Florida Statutes, is amended to read:

14 395.4045 Emergency medical service providers; trauma
15 transport protocols; transport of trauma alert victims to
16 trauma centers; interfacility transfer.--

17 (4) The department shall specify by rule the subjects
18 and the minimum criteria related to prehospital trauma
19 transport, trauma center or hospital destination
20 determinations, and interfacility trauma transfer transport by
21 an emergency medical services provider to be included in a
22 trauma agency's or emergency medical service provider's trauma
23 transport protocol and shall approve or disapprove each such
24 protocol. Trauma transport protocol rules pertaining to the
25 air transportation of trauma victims shall be consistent with,
26 but not limited to, applicable Federal Aviation Administration
27 regulation. Emergency medical services licensees and trauma
28 agencies shall be subject to monitoring by the department,
29 under ss. 395.401(3) and 401.31(1)~~402.31(1)~~ for compliance
30 with requirements, as applicable, regarding trauma transport
31 protocols and the transport of trauma victims.

1 Reviser's note.--Amended to correct an apparent
2 error and facilitate correct interpretation.
3 Section 402.31 does not exist; s. 401.31(1)
4 relates to monitoring of emergency medical
5 services providers.

6
7 Section 58. Section 399.125, Florida Statutes, is
8 amended to read:

9 399.125 Reporting of elevator accidents or incidents;
10 penalties.--Within 5 working days after any accident or
11 incident occurring in or upon any elevator, the certificate of
12 operation holder shall report the accident or incident to the
13 division on a form ~~forum~~ prescribed by the division. Failure
14 to timely file this report is a violation of this chapter and
15 will subject the certificate of operation holder to an
16 administrative fine, to be imposed by the division, in an
17 amount not to exceed \$1,000.

18
19 Reviser's note.--Amended to improve clarity and
20 facilitate correct interpretation.

21
22 Section 59. Subsection (5) of section 400.119, Florida
23 Statutes, is amended to read:

24 400.119 Confidentiality of records and meetings of
25 risk management and quality assurance committees.--

26 (5) This section is subject to the Open Government
27 Sunset Review Act of 1995 in accordance with s. 119.15, and
28 shall stand repealed on October 2, 2006, ~~October 1, 2006~~,
29 unless reviewed and saved from repeal through reenactment by
30 the Legislature.

31

1 Reviser's note.--Amended to correct an apparent
2 error. Section 119.15(3)(a) requires repeal of
3 exemptions from the Open Government Sunset
4 Review Act of 1995 to be effective "on October
5 2nd of the 5th year" after enactment of the
6 exemption. The enactment of s. 400.119, with
7 its exemption, by s. 1, ch. 2001-44, Laws of
8 Florida, erroneously provided a repeal date of
9 October 1, 2006. The correct date pursuant to
10 s. 119.15(3) is October 2, 2006.

11
12 Section 60. Subsection (23) of section 400.141,
13 Florida Statutes, is amended to read:

14 400.141 Administration and management of nursing home
15 facilities.--Every licensed facility shall comply with all
16 applicable standards and rules of the agency and shall:

17 (23) Assess all residents for eligibility for
18 pneumococcal polysaccharide vaccination (PPV) and vaccinate
19 residents when indicated within 60 days after the effective
20 date of this act in accordance with the recommendations of the
21 United States Centers for Disease Control and Prevention,
22 subject to exemptions for medical contraindications and
23 religious or personal beliefs. Residents admitted after the
24 effective date of this act shall be assessed within 5 working
25 days of admission and, when indicated, vaccinated within 60
26 days in accordance with the recommendations of the United
27 States Centers for Disease Control and Prevention, subject to
28 exemptions for medical contraindications ~~contradictions~~ and
29 religious or personal beliefs. Immunization shall not be
30 provided to any resident who provides documentation that he or
31 she has been immunized as required by this subsection. This

1 subsection does not prohibit a resident from receiving the
2 immunization from his or her personal physician if he or she
3 so chooses. A resident who chooses to receive the immunization
4 from his or her personal physician shall provide proof of
5 immunization to the facility. The agency may adopt and enforce
6 any rules necessary to comply with or implement this
7 subsection.

8
9 Facilities that have been awarded a Gold Seal under the
10 program established in s. 400.235 may develop a plan to
11 provide certified nursing assistant training as prescribed by
12 federal regulations and state rules and may apply to the
13 agency for approval of their program.

14
15 Reviser's note.--Amended to improve clarity and
16 facilitate correct interpretation.

17
18 Section 61. Subsection (4) of section 400.426, Florida
19 Statutes, is amended to read:

20 400.426 Appropriateness of placements; examinations of
21 residents.--

22 (4) If possible, each resident shall have been
23 examined by a licensed physician or a licensed nurse
24 practitioner within 60 days before admission to the facility.
25 The signed and completed medical examination report shall be
26 submitted to the owner or administrator of the facility who
27 shall use the information contained therein to assist in the
28 determination of the appropriateness of the resident's
29 admission and continued stay in the facility. The medical
30 examination report shall become a permanent part of the record
31 of the resident at the facility and shall be made available to

1 the agency during inspection or upon request. An assessment
2 that has been completed through the Comprehensive Assessment
3 and Review for Long-Term Care Services (CARES) Program
4 fulfills the requirements for a medical examination under this
5 subsection and s. 400.407(3)(b)6 ~~400.407(4)(b)6~~.

6
7 Reviser's note.--Amended to correct an apparent
8 error and facilitate correct interpretation.

9 Section 400.407(4)(b)6. does not exist; s.
10 400.407(3)(b)6. relates to medical examinations
11 of persons prior to admission to a facility.

12
13 Section 62. Subsection (4) of section 402.313, Florida
14 Statutes, is amended to read:

15 402.313 Family day care homes.--

16 (4) Operators of family day care homes shall take an
17 approved 30-clock-hour introductory course in child care.
18 ~~Family day care homes licensed or registered on June 30, 1999,~~
19 ~~shall have until June 30, 2001, to comply with this course~~
20 ~~requirement, except that the department shall exempt family~~
21 ~~day care homes in this category that can demonstrate that the~~
22 ~~operator has received at least 30 hours of training. Family~~
23 ~~day care homes initially licensed or registered on or after~~
24 ~~July 1, 1999, but before October 1, 1999, shall have until~~
25 ~~October 1, 1999, to comply with the 30-clock-hour course~~
26 ~~requirement. Family day care homes initially licensed or~~
27 ~~registered on or after October 1, 1999, must comply with the~~
28 ~~30-clock-hour course requirement before caring for children.~~

29
30 Reviser's note.--Amended to delete obsolete
31 provisions.

1 Section 63. Subsection (4) of section 402.45, Florida
2 Statutes, is amended to read:

3 402.45 Community resource mother or father program.--

4 (4) The Department of Health may, in addition to the
5 criteria in subsection(3)~~(4)~~, require other criteria to
6 contract for community resource mother or father services.

7
8 Reviser's note.--Amended to conform to the
9 repeal of former subsection (2) by s. 26, ch.
10 2001-170, Laws of Florida.

11
12 Section 64. Subsection (5) of section 402.73, Florida
13 Statutes, is reenacted and amended to read:

14 402.73 Contracting and performance standards.--

15 (5) When it is in the best interest of a defined
16 segment of its consumer population, the department may
17 competitively procure and contract for systems of treatment or
18 service that involve multiple providers, rather than procuring
19 and contracting for treatment or services separately from each
20 participating provider. The department must ensure that all
21 providers that participate in the treatment or service system
22 meet all applicable statutory, regulatory, service-quality,
23 and cost-control requirements. If other governmental entities
24 or units of special purpose government contribute matching
25 funds to the support of a given system of treatment or
26 service, the department shall formally request information
27 from those funding entities in the procurement process and may
28 take the information received into account in the selection
29 process. If a local government contributes match to support
30 the system of treatment or contracted service and if the match
31 constitutes at least 25 percent of the value of the contract,

1 the department shall afford the governmental match contributor
2 an opportunity to name an employee to the selection team
3 required by s. 287.057(16)~~287.057(15)~~. Any employee so named
4 shall qualify as one of the employees required by s.
5 287.057(16)~~287.057(15)~~. The selection team shall include the
6 named employee unless the department sets forth in writing the
7 reason such inclusion would be contrary to the best interests
8 of the state. No governmental entity or unit of special
9 purpose government may name an employee to the selection team
10 if it, or any of its political subdivisions, executive
11 agencies, or special districts, intends to compete for the
12 contract to be awarded. The governmental funding entity or
13 match contributor shall comply with any deadlines and
14 procurement procedures established by the department. The
15 department may also involve nongovernmental funding entities
16 in the procurement process when appropriate.

17

18 Reviser's note.--Section 15, ch. 2001-278, Laws
19 of Florida, purported to amend subsection (5),
20 but failed to publish the subsection. In the
21 absence of affirmative evidence that the
22 Legislature intended to repeal it, subsection
23 (5) is reenacted to confirm that the omission
24 was not intended. Subsection (5) is amended to
25 conform to the redesignation of s. 287.057(15)
26 as s. 287.057(16) by s. 4, ch. 2001-278.

27

28 Section 65. Subsection (2) of section 402.731, Florida
29 Statutes, is amended to read:

30 402.731 Department of Children and Family Services
31 certification programs for employees and service providers;

1 employment provisions for transition to community-based
2 care.--

3 (2) The department shall develop and implement
4 employment programs to attract and retain competent staff to
5 support and facilitate the transition to privatized
6 community-based care. Such employment programs shall include
7 lump-sum bonuses, salary incentives, relocation allowances, or
8 severance pay. The department shall also contract for the
9 delivery or administration of outplacement services. The
10 department shall establish time-limited exempt positions as
11 provided in s. 110.205(2)(i)~~110.205(2)(h)~~, in accordance with
12 the authority provided in s. 216.262(1)(c)1. Employees
13 appointed to fill such exempt positions shall have the same
14 salaries and benefits as career service employees.

15
16 Reviser's note.--Amended to conform to the
17 redesignation of s. 110.205(2)(h) as s.
18 110.205(2)(i) by s. 2, ch. 2001-261, Laws of
19 Florida.

20
21 Section 66. Subsection (3) of section 404.056, Florida
22 Statutes, is amended to read:

23 404.056 Environmental radiation standards and
24 programs; radon protection.--

25 (3) PUBLIC INFORMATION.--The department shall initiate
26 and administer a program designed to educate and inform the
27 public concerning radon gas and radon progeny, which program
28 shall include, but not be limited to, the origin and health
29 effects of radon, how to measure radon, and construction and
30 mitigation techniques to reduce exposure to radon. The
31 surcharge established pursuant to s. 553.721 may be used to

1 supplement the fees established in paragraph (2)(f)~~(3)(f)~~ in
2 carrying out the provisions of this subsection.

3

4 Reviser's note.--Amended to conform to the
5 repeal of former subsection (2) by s. 19, ch.
6 2001-53, Laws of Florida, and s. 29, ch.
7 2001-89, Laws of Florida.

8

9 Section 67. Subsection (2) of section 408.045, Florida
10 Statutes, is amended to read:

11 408.045 Certificate of need; competitive sealed
12 proposals.--

13 (2) The agency shall make a decision regarding the
14 issuance of the certificate of need in accordance with the
15 provisions of s. 287.057(16)~~287.057(15)~~, rules adopted by the
16 agency relating to intermediate care facilities for the
17 developmentally disabled, and the criteria in s. 408.035, as
18 further defined by rule.

19

20 Reviser's note.--Amended to conform to the
21 redesignation of s. 287.057(15) as s.
22 287.057(16) by s. 4, ch. 2001-278, Laws of
23 Florida.

24

25 Section 68. Paragraph (a) of subsection (8) of section
26 409.906, Florida Statutes, is amended to read:

27 409.906 Optional Medicaid services.--Subject to
28 specific appropriations, the agency may make payments for
29 services which are optional to the state under Title XIX of
30 the Social Security Act and are furnished by Medicaid
31 providers to recipients who are determined to be eligible on

1 the dates on which the services were provided. Any optional
2 service that is provided shall be provided only when medically
3 necessary and in accordance with state and federal law.
4 Optional services rendered by providers in mobile units to
5 Medicaid recipients may be restricted or prohibited by the
6 agency. Nothing in this section shall be construed to prevent
7 or limit the agency from adjusting fees, reimbursement rates,
8 lengths of stay, number of visits, or number of services, or
9 making any other adjustments necessary to comply with the
10 availability of moneys and any limitations or directions
11 provided for in the General Appropriations Act or chapter 216.
12 If necessary to safeguard the state's systems of providing
13 services to elderly and disabled persons and subject to the
14 notice and review provisions of s. 216.177, the Governor may
15 direct the Agency for Health Care Administration to amend the
16 Medicaid state plan to delete the optional Medicaid service
17 known as "Intermediate Care Facilities for the Developmentally
18 Disabled." Optional services may include:
19 (8) COMMUNITY MENTAL HEALTH SERVICES.--
20 (a) The agency may pay for rehabilitative services
21 provided to a recipient by a mental health or substance abuse
22 provider ~~and~~ under contract with the agency or the Department
23 of Children and Family Services to provide such services.
24 Those services which are psychiatric in nature shall be
25 rendered or recommended by a psychiatrist, and those services
26 which are medical in nature shall be rendered or recommended
27 by a physician or psychiatrist. The agency must develop a
28 provider enrollment process for community mental health
29 providers which bases provider enrollment on an assessment of
30 service need. The provider enrollment process shall be
31 designed to control costs, prevent fraud and abuse, consider

1 provider expertise and capacity, and assess provider success
2 in managing utilization of care and measuring treatment
3 outcomes. Providers will be selected through a competitive
4 procurement or selective contracting process. In addition to
5 other community mental health providers, the agency shall
6 consider for enrollment mental health programs licensed under
7 chapter 395 and group practices licensed under chapter 458,
8 chapter 459, chapter 490, or chapter 491. The agency is also
9 authorized to continue operation of its behavioral health
10 utilization management program and may develop new services if
11 these actions are necessary to ensure savings from the
12 implementation of the utilization management system. The
13 agency shall coordinate the implementation of this enrollment
14 process with the Department of Children and Family Services
15 and the Department of Juvenile Justice. The agency is
16 authorized to utilize diagnostic criteria in setting
17 reimbursement rates, to preauthorize certain high-cost or
18 highly utilized services, to limit or eliminate coverage for
19 certain services, or to make any other adjustments necessary
20 to comply with any limitations or directions provided for in
21 the General Appropriations Act.

22

23 Reviser's note.--Amended to facilitate correct
24 interpretation.

25

26 Section 69. Subsection (2) of section 409.9117,
27 Florida Statutes, is reenacted to read:

28 409.9117 Primary care disproportionate share
29 program.--

30 (2) In the establishment and funding of this program,
31 the agency shall use the following criteria in addition to

1 those specified in s. 409.911, payments may not be made to a
2 hospital unless the hospital agrees to:

3 (a) Cooperate with a Medicaid prepaid health plan, if
4 one exists in the community.

5 (b) Ensure the availability of primary and specialty
6 care physicians to Medicaid recipients who are not enrolled in
7 a prepaid capitated arrangement and who are in need of access
8 to such physicians.

9 (c) Coordinate and provide primary care services free
10 of charge, except copayments, to all persons with incomes up
11 to 100 percent of the federal poverty level who are not
12 otherwise covered by Medicaid or another program administered
13 by a governmental entity, and to provide such services based
14 on a sliding fee scale to all persons with incomes up to 200
15 percent of the federal poverty level who are not otherwise
16 covered by Medicaid or another program administered by a
17 governmental entity, except that eligibility may be limited to
18 persons who reside within a more limited area, as agreed to by
19 the agency and the hospital.

20 (d) Contract with any federally qualified health
21 center, if one exists within the agreed geopolitical
22 boundaries, concerning the provision of primary care services,
23 in order to guarantee delivery of services in a nonduplicative
24 fashion, and to provide for referral arrangements, privileges,
25 and admissions, as appropriate. The hospital shall agree to
26 provide at an onsite or offsite facility primary care services
27 within 24 hours to which all Medicaid recipients and persons
28 eligible under this paragraph who do not require emergency
29 room services are referred during normal daylight hours.

30 (e) Cooperate with the agency, the county, and other
31 entities to ensure the provision of certain public health

1 services, case management, referral and acceptance of
2 patients, and sharing of epidemiological data, as the agency
3 and the hospital find mutually necessary and desirable to
4 promote and protect the public health within the agreed
5 geopolitical boundaries.

6 (f) In cooperation with the county in which the
7 hospital resides, develop a low-cost, outpatient, prepaid
8 health care program to persons who are not eligible for the
9 Medicaid program, and who reside within the area.

10 (g) Provide inpatient services to residents within the
11 area who are not eligible for Medicaid or Medicare, and who do
12 not have private health insurance, regardless of ability to
13 pay, on the basis of available space, except that nothing
14 shall prevent the hospital from establishing bill collection
15 programs based on ability to pay.

16 (h) Work with the Florida Healthy Kids Corporation,
17 the Florida Health Care Purchasing Cooperative, and business
18 health coalitions, as appropriate, to develop a feasibility
19 study and plan to provide a low-cost comprehensive health
20 insurance plan to persons who reside within the area and who
21 do not have access to such a plan.

22 (i) Work with public health officials and other
23 experts to provide community health education and prevention
24 activities designed to promote healthy lifestyles and
25 appropriate use of health services.

26 (j) Work with the local health council to develop a
27 plan for promoting access to affordable health care services
28 for all persons who reside within the area, including, but not
29 limited to, public health services, primary care services,
30 inpatient services, and affordable health insurance generally.

31

1 Any hospital that fails to comply with any of the provisions
2 of this subsection, or any other contractual condition, may
3 not receive payments under this section until full compliance
4 is achieved.

5
6 Reviser's note.--Section 6, ch. 2001-222, Laws
7 of Florida, purported to amend paragraph
8 (2)(c), but failed to publish the flush left
9 language at the end of the subsection. In the
10 absence of affirmative evidence that the
11 Legislature intended to repeal the language,
12 subsection (2) is reenacted to confirm that the
13 omission was not intended.

14
15 Section 70. Subsections (1) and (2) of section
16 409.91196, Florida Statutes, are amended to read:

17 409.91196 Supplemental rebate agreements;
18 confidentiality of records and meetings.--

19 (1) Trade secrets, rebate amount, percent of rebate,
20 manufacturer's pricing, and supplemental rebates which are
21 contained in records of the Agency for Health Care
22 Administration and its agents with respect to supplemental
23 rebate negotiations and which are prepared pursuant to a
24 supplemental rebate agreement under s. 409.912(37)(a)7.
25 ~~409.91195~~ are confidential and exempt from s. 119.07 and s.
26 24(a), Art. I of the State Constitution.

27 (2) Those portions of meetings of the Medicaid
28 Pharmaceutical and Therapeutics Committee at which trade
29 secrets, rebate amount, percent of rebate, manufacturer's
30 pricing, and supplemental rebates are disclosed for discussion
31 or negotiation of a supplemental rebate agreement under s.

1 409.912(37)(a)7.~~409.91195~~ are exempt from s. 286.011 and s.
2 24(b), Art. I of the State Constitution.

3

4 Reviser's note.--Amended to correct an apparent
5 error and facilitate correct interpretation.

6 The reference is not consistent with the
7 content of s. 409.91195 but is consistent with
8 the content of s. 409.912(37)(a)7.

9

10 Section 71. Subsection (19) of section 420.503,
11 Florida Statutes, is amended to read:

12 420.503 Definitions.--As used in this part, the term:

13 (19) "Housing for the elderly" means, for purposes of
14 s. 420.5087(3)(d)~~420.5087(3)(c)2.~~, any nonprofit housing
15 community that is financed by a mortgage loan made or insured
16 by the United States Department of Housing and Urban
17 Development under s. 202, s. 202 with a s. 8 subsidy, s.
18 221(d)(3) or (4), or s. 236 of the National Housing Act, as
19 amended, and that is subject to income limitations established
20 by the United States Department of Housing and Urban
21 Development, or any program funded by the Rural Development
22 Agency of the United States Department of Agriculture and
23 subject to income limitations established by the United States
24 Department of Agriculture. A project which qualifies for an
25 exemption under the Fair Housing Act as housing for older
26 persons as defined by s. 760.29(4) shall qualify as housing
27 for the elderly for purposes of s. 420.5087(3)(d)
28 ~~420.5087(3)(c)2.~~ and for purposes of any loans made pursuant
29 to s. 420.508. In addition, if the corporation adopts a
30 qualified allocation plan pursuant to s. 42(m)(1)(B) of the
31 Internal Revenue Code or any other rules that prioritize

1 projects targeting the elderly for purposes of allocating tax
2 credits pursuant to s. 420.5099 or for purposes of the HOME
3 program under s. 420.5089, a project which qualifies for an
4 exemption under the Fair Housing Act as housing for older
5 persons as defined by s. 760.29(4) shall qualify as a project
6 targeted for the elderly, if the project satisfies the other
7 requirements set forth in this part.

8
9 Reviser's note.--Amended to conform to the
10 redesignation of s. 420.5087(3)(c)2. as s.
11 420.5087(3)(d) by s. 5, ch. 2001-98, Laws of
12 Florida.

13
14 Section 72. Subsection (6) of section 420.624, Florida
15 Statutes, is amended to read:

16 420.624 Local homeless assistance continuum of care.--

17 (6) The State Office on Homelessness shall recognize
18 only one homeless assistance continuum of care plan and its
19 designated lead agency for each designated catchment area. The
20 recognition must be made with the input of local homeless
21 coalitions and public or private organizations that have
22 previously certified to the United States Department of
23 Housing and Urban Development that they currently serve as
24 lead agencies for a local homeless assistance continuum of
25 care. The designations must be consistent with those made by
26 the United States Department of Housing and Development in
27 conjunction with the awarding of federal Stewart B. McKinney
28 Act homeless assistance funding.

29
30 Reviser's note.--Amended to improve clarity.

31

1 Section 73. Paragraph (f) of subsection (1) of section
2 440.14, Florida Statutes, is amended to read:

3 440.14 Determination of pay.--

4 (1) Except as otherwise provided in this chapter, the
5 average weekly wages of the injured employee at the time of
6 the injury shall be taken as the basis upon which to compute
7 compensation and shall be determined, subject to the
8 limitations of s. 440.12(2), as follows:

9 (f) If it is established that the injured employee was
10 a part-time worker at the time of the injury, that she or he
11 had adopted part-time employment as a customary practice, and
12 that under normal working conditions she or he probably would
13 have remained a part-time worker during the period of
14 disability, these factors shall be considered in arriving at
15 her or his average weekly wages. For the purpose of this
16 paragraph, the term "part-time worker" means an individual who
17 customarily works less than the full-time hours or full-time
18 workweek of a similar employee in the same employment.

19
20 Reviser's note.--Amended to improve clarity and
21 facilitate correct interpretation.

22
23 Section 74. Subsection (10) of section 450.211,
24 Florida Statutes, is repealed.

25
26 Reviser's note.--Repealed to delete an obsolete
27 provision. Section 20.17, which created the
28 Department of Commerce, was repealed effective
29 December 31, 1996, by s. 3, ch. 96-320, Laws of
30 Florida.

1 Section 75. Subsection (7) of section 458.347, Florida
2 Statutes, is reenacted to read:

3 458.347 Physician assistants.--

4 (7) PHYSICIAN ASSISTANT LICENSURE.--

5 (a) Any person desiring to be licensed as a physician
6 assistant must apply to the department. The department shall
7 issue a license to any person certified by the council as
8 having met the following requirements:

9 1. Is at least 18 years of age.

10 2. Has satisfactorily passed a proficiency examination
11 by an acceptable score established by the National Commission
12 on Certification of Physician Assistants. If an applicant
13 does not hold a current certificate issued by the National
14 Commission on Certification of Physician Assistants and has
15 not actively practiced as a physician assistant within the
16 immediately preceding 4 years, the applicant must retake and
17 successfully complete the entry-level examination of the
18 National Commission on Certification of Physician Assistants
19 to be eligible for licensure.

20 3. Has completed the application form and remitted an
21 application fee not to exceed \$300 as set by the boards. An
22 application for licensure made by a physician assistant must
23 include:

24 a. A certificate of completion of a physician
25 assistant training program specified in subsection (6).

26 b. A sworn statement of any prior felony convictions.

27 c. A sworn statement of any previous revocation or
28 denial of licensure or certification in any state.

29 d. Two letters of recommendation.
30
31

1 (b)1. Notwithstanding subparagraph (a)2. and
2 sub-subparagraph (a)3.a., the department shall examine each
3 applicant who the Board of Medicine certifies:

4 a. Has completed the application form and remitted a
5 nonrefundable application fee not to exceed \$500 and an
6 examination fee not to exceed \$300, plus the actual cost to
7 the department to provide the examination. The examination fee
8 is refundable if the applicant is found to be ineligible to
9 take the examination. The department shall not require the
10 applicant to pass a separate practical component of the
11 examination. For examinations given after July 1, 1998,
12 competencies measured through practical examinations shall be
13 incorporated into the written examination through a
14 multiple-choice format. The department shall translate the
15 examination into the native language of any applicant who
16 requests and agrees to pay all costs of such translation,
17 provided that the translation request is filed with the board
18 office no later than 9 months before the scheduled examination
19 and the applicant remits translation fees as specified by the
20 department no later than 6 months before the scheduled
21 examination, and provided that the applicant demonstrates to
22 the department the ability to communicate orally in basic
23 English. If the applicant is unable to pay translation costs,
24 the applicant may take the next available examination in
25 English if the applicant submits a request in writing by the
26 application deadline and if the applicant is otherwise
27 eligible under this section. To demonstrate the ability to
28 communicate orally in basic English, a passing score or grade
29 is required, as determined by the department or organization
30 that developed it, on the test for spoken English (TSE) by the
31 Educational Testing Service (ETS), the test of English as a

1 foreign language (TOEFL) by ETS, a high school or college
2 level English course, or the English examination for
3 citizenship, Immigration and Naturalization Service. A
4 notarized copy of an Educational Commission for Foreign
5 Medical Graduates (ECFMG) certificate may also be used to
6 demonstrate the ability to communicate in basic English; and

7 b.(I) Is an unlicensed physician who graduated from a
8 foreign medical school listed with the World Health
9 Organization who has not previously taken and failed the
10 examination of the National Commission on Certification of
11 Physician Assistants and who has been certified by the Board
12 of Medicine as having met the requirements for licensure as a
13 medical doctor by examination as set forth in s. 458.311(1),
14 (3), (4), and (5), with the exception that the applicant is
15 not required to have completed an approved residency of at
16 least 1 year and the applicant is not required to have passed
17 the licensing examination specified under s. 458.311 or hold a
18 valid, active certificate issued by the Educational Commission
19 for Foreign Medical Graduates; was eligible and made initial
20 application for certification as a physician assistant in this
21 state between July 1, 1990, and June 30, 1991; and was a
22 resident of this state on July 1, 1990, or was licensed or
23 certified in any state in the United States as a physician
24 assistant on July 1, 1990; or

25 (II) Completed all coursework requirements of the
26 Master of Medical Science Physician Assistant Program offered
27 through the Florida College of Physician's Assistants prior to
28 its closure in August of 1996. Prior to taking the
29 examination, such applicant must successfully complete any
30 clinical rotations that were not completed under such program
31 prior to its termination and any additional clinical rotations

1 with an appropriate physician assistant preceptor, not to
2 exceed 6 months, that are determined necessary by the council.
3 The boards shall determine, based on recommendations from the
4 council, the facilities under which such incomplete or
5 additional clinical rotations may be completed and shall also
6 determine what constitutes successful completion thereof,
7 provided such requirements are comparable to those established
8 by accredited physician assistant programs. This
9 sub-sub-subparagraph is repealed July 1, 2001.

10 2. The department may grant temporary licensure to an
11 applicant who meets the requirements of subparagraph 1.
12 Between meetings of the council, the department may grant
13 temporary licensure to practice based on the completion of all
14 temporary licensure requirements. All such administratively
15 issued licenses shall be reviewed and acted on at the next
16 regular meeting of the council. A temporary license expires 30
17 days after receipt and notice of scores to the licenseholder
18 from the first available examination specified in subparagraph
19 1. following licensure by the department. An applicant who
20 fails the proficiency examination is no longer temporarily
21 licensed, but may apply for a one-time extension of temporary
22 licensure after reapplying for the next available examination.
23 Extended licensure shall expire upon failure of the
24 licenseholder to sit for the next available examination or
25 upon receipt and notice of scores to the licenseholder from
26 such examination.

27 3. Notwithstanding any other provision of law, the
28 examination specified pursuant to subparagraph 1. shall be
29 administered by the department only five times. Applicants
30 certified by the board for examination shall receive at least
31 6 months' notice of eligibility prior to the administration of

1 the initial examination. Subsequent examinations shall be
2 administered at 1-year intervals following the reporting of
3 the scores of the first and subsequent examinations. For the
4 purposes of this paragraph, the department may develop,
5 contract for the development of, purchase, or approve an
6 examination that adequately measures an applicant's ability to
7 practice with reasonable skill and safety. The minimum passing
8 score on the examination shall be established by the
9 department, with the advice of the board. Those applicants
10 failing to pass that examination or any subsequent examination
11 shall receive notice of the administration of the next
12 examination with the notice of scores following such
13 examination. Any applicant who passes the examination and
14 meets the requirements of this section shall be licensed as a
15 physician assistant with all rights defined thereby.

16 (c) The license must be renewed biennially. Each
17 renewal must include:

18 1. A renewal fee not to exceed \$500 as set by the
19 boards.

20 2. A sworn statement of no felony convictions in the
21 previous 2 years.

22 (d) Each licensed physician assistant shall biennially
23 complete 100 hours of continuing medical education or shall
24 hold a current certificate issued by the National Commission
25 on Certification of Physician Assistants.

26 (e) Upon employment as a physician assistant, a
27 licensed physician assistant must notify the department in
28 writing within 30 days after such employment or after any
29 subsequent changes in the supervising physician. The
30 notification must include the full name, Florida medical
31

1 license number, specialty, and address of the supervising
2 physician.
3 (f) Notwithstanding subparagraph (a)2., the department
4 may grant to a recent graduate of an approved program, as
5 specified in subsection (6), who expects to take the first
6 examination administered by the National Commission on
7 Certification of Physician Assistants available for
8 registration after the applicant's graduation, a temporary
9 license. The temporary license shall expire 30 days after
10 receipt of scores of the proficiency examination administered
11 by the National Commission on Certification of Physician
12 Assistants. Between meetings of the council, the department
13 may grant a temporary license to practice based on the
14 completion of all temporary licensure requirements. All such
15 administratively issued licenses shall be reviewed and acted
16 on at the next regular meeting of the council. The recent
17 graduate may be licensed prior to employment, but must comply
18 with paragraph (e). An applicant who has passed the
19 proficiency examination may be granted permanent licensure. An
20 applicant failing the proficiency examination is no longer
21 temporarily licensed, but may reapply for a 1-year extension
22 of temporary licensure. An applicant may not be granted more
23 than two temporary licenses and may not be licensed as a
24 physician assistant until he or she passes the examination
25 administered by the National Commission on Certification of
26 Physician Assistants. As prescribed by board rule, the council
27 may require an applicant who does not pass the licensing
28 examination after five or more attempts to complete additional
29 remedial education or training. The council shall prescribe
30 the additional requirements in a manner that permits the
31 applicant to complete the requirements and be reexamined

1 within 2 years after the date the applicant petitions the
2 council to retake the examination a sixth or subsequent time.

3 (g) The Board of Medicine may impose any of the
4 penalties authorized under ss. 456.072 and 458.331(2) upon a
5 physician assistant if the physician assistant or the
6 supervising physician has been found guilty of or is being
7 investigated for any act that constitutes a violation of this
8 chapter or chapter 456.

9
10 Reviser's note.--Section 23, ch. 2001-277, Laws
11 of Florida, purported to amend subsection (7),
12 but failed to publish paragraphs (7)(a)-(f). In
13 the absence of affirmative evidence that the
14 Legislature intended to repeal the paragraphs,
15 subsection (7) is reenacted to confirm that the
16 omission was not intended.

17
18 Section 76. Subsection (2) of section 463.016, Florida
19 Statutes, is amended to read:

20 463.016 Grounds for disciplinary action; action by the
21 board.--

22 (2) The board ~~department~~ may enter an order imposing
23 any of the penalties in s. 456.072(2) against any licensee who
24 is found guilty of violating any provision of subsection (1)
25 of this section or who is found guilty of violating any
26 provision of s. 456.072(1).

27
28 Reviser's note.--Amended to facilitate correct
29 interpretation. Section 456.079 authorizes
30 regulatory boards, for professions regulated by
31 boards, to adopt and review disciplinary

1 guidelines and take disciplinary action for
2 violations. The practice of optometry is
3 regulated by the Board of Optometry, created in
4 s. 463.003.

5
6 Section 77. Subsection (7) of section 464.203, Florida
7 Statutes, is amended to read:

8 464.203 Certified nursing assistants; certification
9 requirement.--

10 (7) A certified nursing assistant shall complete 18
11 hours of inservice training during each calendar year. The
12 certified nursing assistant shall be responsible for
13 maintaining documentation demonstrating compliance with these
14 provisions. The Council on Certified Nursing Assistants, in
15 accordance with s. 464.2085(2)(b)~~464.0285(2)(b)~~, shall
16 propose rules to implement this subsection.

17
18 Reviser's note.--Amended to correct an apparent
19 error. Section 464.0285 does not exist; the
20 Council on Certified Nursing Assistants is
21 created in s. 464.2085.

22
23 Section 78. Subsection (3) of section 468.1135,
24 Florida Statutes, is amended to read:

25 468.1135 Board of Speech-Language Pathology and
26 Audiology.--

27 ~~(3) No later than January 1, 1991, the Governor shall~~
28 ~~appoint two members for a term of 2 years; two members for a~~
29 ~~term of 3 years; and three members for a term of 4 years.~~
30 ~~Each of the initial speech-language pathologist and~~
31 ~~audiologist members must hold a valid certificate of~~

1 ~~registration issued pursuant to part I of chapter 468, Florida~~
2 ~~Statutes 1989, and must have been engaged in the practice of~~
3 ~~speech-language pathology or audiology for not less than 3~~
4 ~~years prior to his or her appointment.~~As the terms of the
5 initial members expire, the Governor shall appoint successors
6 who meet the requirements of subsection (2) for terms of 4
7 years. Members shall serve until their successors are
8 appointed.

9
10 Reviser's note.--Amended to delete provisions
11 that have served their purpose.

12
13 Section 79. Section 468.721, Florida Statutes, is
14 repealed.

15
16 Reviser's note.--Repealed to delete a provision
17 that has served its purpose. Rules relating to
18 the regulation of athletic trainers that
19 supersede the rules dating from prior to July
20 1, 1999, have been adopted.

21
22 Section 80. Paragraph (h) of subsection (6) of section
23 483.901, Florida Statutes, is amended to read:

24 483.901 Medical physicists; definitions; licensure.--
25 (6) LICENSE REQUIRED.--An individual may not engage in
26 the practice of medical physics, including the specialties of
27 diagnostic radiological physics, therapeutic radiological
28 physics, medical nuclear radiological physics, or medical
29 health physics, without a license issued by the department for
30 the appropriate specialty.

31

1 (h) The department ~~board~~ may enter an order denying
2 licensure or imposing any of the penalties in s. 456.072(2)
3 against any applicant for licensure or licensee who is found
4 guilty of violating any provision of subsection (1) of this
5 section or who is found guilty of violating any provision of
6 s. 456.072(1).

7
8 Reviser's note.--Amended to facilitate correct
9 interpretation. Medical physicists are
10 regulated by the Department of Health under s.
11 483.901.

12
13 Section 81. Paragraph (c) of subsection (1) of section
14 494.003, Florida Statutes, is amended to read:

15 494.003 Exemptions.--

16 (1) None of the following persons is subject to the
17 requirements of ss. 494.003-494.0043:

18 (c) A wholly owned bank holding company subsidiary or
19 a wholly owned savings and loan association holding company
20 subsidiary that is approved or certified by the Department of
21 Housing and Urban Development, the Veterans Administration,
22 the Government National Mortgage Association, the Federal
23 National Mortgage Association, or the Federal Home Loan
24 Mortgage Corporation. ~~The department shall prepare a report on~~
25 ~~the effect of this exemption and deliver its findings no later~~
26 ~~than January 1, 1997, to the Speaker of the House and the~~
27 ~~President of the Senate.~~

28
29 Reviser's note.--Amended to delete a provision
30 that has served its purpose.

1 Section 82. Paragraph (c) of subsection (1) of section
2 494.006, Florida Statutes, is amended to read:

3 494.006 Exemptions.--

4 (1) None of the following persons are subject to the
5 requirements of ss. 494.006-494.0077 in order to act as a
6 mortgage lender or correspondent mortgage lender:

7 (c) A wholly owned bank holding company subsidiary or
8 a wholly owned savings and loan association holding company
9 subsidiary that is approved or certified by the Department of
10 Housing and Urban Development, the Veterans Administration,
11 the Government National Mortgage Association, the Federal
12 National Mortgage Association, or the Federal Home Loan
13 Mortgage Corporation. ~~The department shall prepare a report on~~
14 ~~the effect of this exemption and deliver its findings no later~~
15 ~~than January 1, 1997, to the Speaker of the House and the~~
16 ~~President of the Senate.~~

17
18 Reviser's note.--Amended to delete a provision
19 that has served its purpose.

20
21 Section 83. Subsection (7) of section 550.2625,
22 Florida Statutes, is reenacted to read:

23 550.2625 Horseracing; minimum purse requirement,
24 Florida breeders' and owners' awards.--

25 (7)(a) Each permitholder that conducts race meets
26 under this chapter and runs Appaloosa races shall pay to the
27 division a sum equal to the breaks plus a sum equal to 1
28 percent of the total contributions to each pari-mutuel pool
29 conducted on each Appaloosa race. Such payments shall be
30 remitted to the division by the 5th day of each calendar month
31 for sums accruing during the preceding calendar month.

1 (b) The division shall deposit these collections to
2 the credit of the Florida Quarter Horse Racing Promotion Trust
3 Fund in a special account to be known as the "Florida
4 Appaloosa Racing Promotion Fund." The Department of
5 Agriculture and Consumer Services shall administer the funds
6 and adopt suitable and reasonable rules for the administration
7 thereof. The moneys in the Florida Appaloosa Racing Promotion
8 Fund shall be allocated solely for supplementing and
9 augmenting purses and prizes and for the general promotion of
10 owning and breeding of racing Appaloosas in this state; and
11 such moneys may not be used to defray any expense of the
12 Department of Agriculture and Consumer Services in the
13 administration of this chapter.

14
15 Reviser's note.--Section 20, ch. 2001-279, Laws
16 of Florida, purported to amend subsection (7),
17 but failed to republish paragraph (7)(a). In
18 the absence of affirmative evidence that the
19 Legislature intended to repeal paragraph
20 (7)(a), subsection (7) is reenacted to confirm
21 that the omission was not intended.

22
23 Section 84. Subsection (1) of section 550.2633,
24 Florida Statutes, is amended to read:

25 550.2633 Horseracing; distribution of abandoned
26 interest in or contributions to pari-mutuel pools.--

27 (1) ~~Except as provided in subsection (3),~~All moneys
28 or other property represented by any unclaimed, uncashed, or
29 abandoned pari-mutuel ticket which has remained in the custody
30 of or under the control of any horseracing permitholder
31 authorized to conduct pari-mutuel pools in this state for a

1 period of 1 year after the date the pari-mutuel ticket was
2 issued, when the rightful owner or owners thereof have made no
3 claim or demand for such money or other property within that
4 period, is hereby declared to have escheated to or to escheat
5 to, and to have become the property of, the state.

6
7 Reviser's note.--Amended to conform to the
8 repeal of the referenced subsection (3) by s.
9 26, ch. 2001-63, Laws of Florida.

10
11 Section 85. Subsection (10) of section 550.6305,
12 Florida Statutes, is amended to read:

13 550.6305 Intertrack wagering; guest track payments;
14 accounting rules.--

15 (10) All races or games conducted at a permitholder's
16 facility, all broadcasts of such races or games, and all
17 broadcast rights relating thereto are owned by the
18 permitholder at whose facility such races or games are
19 conducted and constitute the permitholder's property as
20 defined in s. 812.012(4)~~812.012(3)~~. Transmission, reception
21 of a transmission, exhibition, use, or other appropriation of
22 such races or games, broadcasts of such races or games, or
23 broadcast rights relating thereto without the written consent
24 of the permitholder constitutes a theft of such property under
25 s. 812.014; and in addition to the penal sanctions contained
26 in s. 812.014, the permitholder has the right to avail itself
27 of the civil remedies specified in ss. 772.104, 772.11, and
28 812.035 in addition to any other remedies available under
29 applicable state or federal law.

30
31

1 Reviser's note.--Amended to conform to the
2 redesignation of s. 812.012(3) as s. 812.012(4)
3 by s. 1, ch. 2001-115, Laws of Florida.
4

5 Section 86. Effective March 1, 2002, subsection (2)
6 and paragraphs (b) and (c) of subsection (4) of section
7 553.73, Florida Statutes, are amended to read:

8 553.73 Florida Building Code.--

9 (2) The Florida Building Code shall contain provisions
10 or requirements for public and private buildings, structures,
11 and facilities relative to structural, mechanical, electrical,
12 plumbing, energy, and gas systems, existing buildings,
13 historical buildings, manufactured buildings, elevators,
14 coastal construction, lodging facilities, food sales and food
15 service facilities, health care facilities, including assisted
16 living facilities, adult day care facilities, and facilities
17 for the control of radiation hazards, public or private
18 educational facilities, swimming pools, and correctional
19 facilities and enforcement of and compliance with such
20 provisions or requirements. Further, the Florida Building Code
21 must provide for uniform implementation of ss. 515.25, 515.27,
22 and 515.29 by including standards and criteria for residential
23 swimming pool barriers, pool covers, latching devices, door
24 and window exit alarms, and other equipment required therein,
25 which are consistent with the intent of s. 515.23. Technical
26 provisions to be contained within the Florida Building Code
27 are restricted to requirements related to the types of
28 materials used and construction methods and standards employed
29 in order to meet criteria specified in the Florida Building
30 Code. Provisions relating to the personnel, supervision or
31 training of personnel, or any other professional qualification

1 requirements relating to contractors or their workforce may
2 not be included within the Florida Building Code, and
3 subsections (4), (5), (6), and (7) ~~and (6)~~ are not to be
4 construed to allow the inclusion of such provisions within the
5 Florida Building Code by amendment. This restriction applies
6 to both initial development and amendment of the Florida
7 Building Code.

8 (4)

9 (b) Local governments may, subject to the limitations
10 of this section, adopt amendments to the technical provisions
11 of the Florida Building Code which apply solely within the
12 jurisdiction of such government and which provide for more
13 stringent requirements than those specified in the Florida
14 Building Code, not more than once every 6 months, provided:

15 1. The local governing body determines, following a
16 public hearing which has been advertised in a newspaper of
17 general circulation at least 10 days before the hearing, that
18 there is a need to strengthen the requirements of the Florida
19 Building Code. The determination must be based upon a review
20 of local conditions by the local governing body, which review
21 demonstrates that local conditions justify more stringent
22 requirements than those specified in the Florida Building Code
23 for the protection of life and property.

24 2. Such additional requirements are not discriminatory
25 against materials, products, or construction techniques of
26 demonstrated capabilities.

27 3. Such additional requirements may not introduce a
28 new subject not addressed in the Florida Building Code.

29 4. The enforcing agency shall make readily available,
30 in a usable format, all amendments adopted pursuant to this
31 section.

1 5. Any amendment to the Florida Building Code shall be
2 transmitted within 30 days by the adopting local government to
3 the commission. The commission shall maintain copies of all
4 such amendments in a format that is usable and obtainable by
5 the public.

6 6. Any amendment to the Florida Building Code adopted
7 by a local government pursuant to this paragraph shall be
8 effective only until the adoption by the commission of the new
9 edition of the Florida Building Code every third year. At such
10 time, the commission shall review such amendment for
11 consistency with the criteria in paragraph(7)(a)~~(6)(a)~~and
12 adopt such amendment as part of the Florida Building Code or
13 rescind the amendment. The commission shall immediately notify
14 the respective local government of the rescission of any
15 amendment. After receiving such notice, the respective local
16 government may readopt the rescinded amendment pursuant to the
17 provisions of this paragraph.

18 7. Each county and municipality desiring to make local
19 technical amendments to the Florida Building Code shall by
20 interlocal agreement establish a countywide compliance review
21 board to review any amendment to the Florida Building Code,
22 adopted by a local government within the county pursuant to
23 this paragraph, that is challenged by any substantially
24 affected party for purposes of determining the amendment's
25 compliance with this paragraph. If the compliance review board
26 determines such amendment is not in compliance with this
27 paragraph, the compliance review board shall notify such local
28 government of the noncompliance and that the amendment is
29 invalid and unenforceable until the local government corrects
30 the amendment to bring it into compliance. The local
31 government may appeal the decision of the compliance review

1 board to the commission, which shall conduct a hearing under
2 chapter 120 and the uniform rules of procedure. If the
3 compliance review board determines such amendment to be in
4 compliance with this paragraph, any substantially affected
5 party may appeal such determination to the commission, which
6 shall conduct a hearing under chapter 120 and the uniform
7 rules of procedure. Actions of the commission are subject to
8 judicial review pursuant to s. 120.68. The compliance review
9 board shall determine whether its decisions apply to a
10 respective local jurisdiction or apply countywide.

11 8. An amendment adopted under this paragraph shall
12 include a fiscal impact statement which documents the costs
13 and benefits of the proposed amendment. Criteria for the
14 fiscal impact statement shall include the impact to local
15 government relative to enforcement, the impact to property and
16 building owners, as well as to industry, relative to the cost
17 of compliance. The fiscal impact statement may not be used as
18 a basis for challenging the amendment for compliance.

19 9. In addition to subparagraphs 7. and 8., the
20 commission may review any amendments adopted pursuant to this
21 subsection and make nonbinding recommendations related to
22 compliance of such amendments with this subsection.

23 (c) Any amendment adopted by a local enforcing agency
24 pursuant to this subsection shall not apply to state or school
25 district owned buildings, manufactured buildings or
26 factory-built school buildings approved by the commission, or
27 prototype buildings approved pursuant to s. 553.77(5)
28 ~~553.77(6)~~. The respective responsible entities shall consider
29 the physical performance parameters substantiating such
30 amendments when designing, specifying, and constructing such
31 exempt buildings.

1 Reviser's note.--Subsection (2) and paragraph
2 (4)(b) are amended to conform to the
3 redesignation of subunits of s. 553.73 by s.
4 25, ch. 2001-186, Laws of Florida. Paragraph
5 (4)(c) is amended to conform to the
6 redesignation of s. 553.77(6) as s. 553.77(5)
7 by s. 26, ch. 2001-186.

8
9 Section 87. Effective March 1, 2002, paragraph (d) of
10 subsection (1) of section 553.80, Florida Statutes, is amended
11 to read:

12 553.80 Enforcement.--

13 (1) Except as provided in paragraphs (a)-(e), each
14 local government and each legally constituted enforcement
15 district with statutory authority shall regulate building
16 construction and, where authorized in the state agency's
17 enabling legislation, each state agency shall enforce the
18 Florida Building Code required by this part on all public or
19 private buildings, structures, and facilities, unless such
20 responsibility has been delegated to another unit of
21 government pursuant to s. 553.79(9).

22 (d) Building plans approved pursuant to s. 553.77(5)
23 ~~553.77(6)~~ and state-approved manufactured buildings, including
24 buildings manufactured and assembled offsite and not intended
25 for habitation, such as lawn storage buildings and storage
26 sheds, are exempt from local code enforcing agency plan
27 reviews except for provisions of the code relating to
28 erection, assembly, or construction at the site. Erection,
29 assembly, and construction at the site are subject to local
30 permitting and inspections.

31

1 The governing bodies of local governments may provide a
2 schedule of fees, as authorized by s. 125.56(2) or s. 166.222
3 and this section, for the enforcement of the provisions of
4 this part. Such fees shall be used solely for carrying out
5 the local government's responsibilities in enforcing the
6 Florida Building Code. The authority of state enforcing
7 agencies to set fees for enforcement shall be derived from
8 authority existing on July 1, 1998. However, nothing contained
9 in this subsection shall operate to limit such agencies from
10 adjusting their fee schedule in conformance with existing
11 authority.

12

13 Reviser's note.--Amended to conform to the
14 redesignation of s. 553.77(6) as s. 553.77(5)
15 necessitated by the repeal of former subsection
16 (2) by s. 26, ch. 2001-186, Laws of Florida.

17

18 Section 88. Subsection (1) of section 582.18, Florida
19 Statutes, is reenacted to read:

20 582.18 Election of supervisors of each district.--

21 (1) The election of supervisors for each soil and
22 water conservation district shall be held every 2 years. The
23 elections shall be held at the time of the general election
24 provided for by s. 100.041. The office of the supervisor of a
25 soil and water conservation district is a nonpartisan office,
26 and candidates for such office are prohibited from campaigning
27 or qualifying for election based on party affiliation.

28 (a) Each candidate for supervisor for such district
29 shall be nominated by nominating petition subscribed by 25 or
30 more qualified electors of such district. Candidates shall
31 obtain signatures on petition forms prescribed by the

1 Department of State and furnished by the appropriate
2 qualifying officer. In multicounty districts, the appropriate
3 qualifying officer is the Secretary of State; in single-county
4 districts, the appropriate qualifying officer is the
5 supervisor of elections. Such forms may be obtained at any
6 time after the first Tuesday after the first Monday in January
7 preceding the election, but prior to the 21st day preceding
8 the first day of the qualifying period for state office. Each
9 petition shall be submitted, prior to noon of the 21st day
10 preceding the first day of the qualifying period for state
11 office, to the supervisor of elections of the county for which
12 such petition was circulated. The supervisor of elections
13 shall check the signatures on the petition to verify their
14 status as electors in the district. Prior to the first date
15 for qualifying, the supervisor of elections shall determine
16 whether the required single-county signatures have been
17 obtained; and she or he shall so notify the candidate. In the
18 case of a multicounty candidate, the supervisor of elections
19 shall check the signatures on petitions and shall, prior to
20 the first date for qualifying for office, certify to the
21 Department of State the number shown as registered electors of
22 the district. The Department of State shall determine if the
23 required number of signatures has been obtained for
24 multicounty candidates and shall so notify the candidate. If
25 the required number of signatures has been obtained for the
26 name of the candidate to be placed on the ballot, the
27 candidate shall, during the time prescribed for qualifying for
28 office in s. 99.061, submit a copy of the notice to, and file
29 her or his qualification papers with, the qualifying officer
30 and take the oath prescribed in s. 99.021.
31

1 (b) Each nominee who collects or expends campaign
2 contributions shall conduct her or his campaign for supervisor
3 of a soil and water conservation district in accordance with
4 the provisions of chapter 106. Candidates who neither receive
5 contributions nor make expenditures, other than expenditures
6 for verification of signatures on petitions, are exempt from
7 the provisions of chapter 106 requiring establishment of bank
8 accounts and appointment of a campaign treasurer, but shall
9 file periodic reports as required by s. 106.07.

10 (c) The names of all nominees on behalf of whom such
11 nominating petitions have been filed shall appear upon ballots
12 in accordance with the general election laws. All qualified
13 electors residing within the district shall be eligible to
14 vote in such election. The candidates who receive the largest
15 number of the votes cast from each group of candidates in such
16 election shall be the elected supervisors from such group for
17 such district. In the case of a newly created district
18 participating in a regular election for the first time, three
19 groups of candidates shall be elected for terms of 4 years,
20 and two groups shall be elected for initial terms of 2 years.
21 Each candidate elected shall assume office on the first
22 Tuesday after the first Monday in January following the
23 election.

24
25 Reviser's note.--Section 31, ch. 2001-40, Laws
26 of Florida, purported to amend paragraph
27 (1)(c), but failed to republish the
28 introductory paragraph of subsection (1). In
29 the absence of affirmative evidence that the
30 Legislature intended to repeal the introductory
31

1 language, subsection (1) is reenacted to
2 confirm that the omission was not intended.

3
4 Section 89. Subparagraph 1. of paragraph (b) of
5 subsection (1) of section 624.408, Florida Statutes, is
6 repealed.

7
8 Reviser's note.--Repealed to delete a provision
9 that has served its purpose. The cited
10 subparagraph sets a required amount of surplus
11 for December 31, 2000, through December 30,
12 2001, for property and casualty insurers
13 holding a certificate of authority on December
14 1, 1993.

15
16 Section 90. Section 625.171, Florida Statutes, is
17 amended to read:

18 625.171 Valuation of purchase money
19 mortgages.--Purchase money mortgages on real property referred
20 to in s. 625.161(2)~~625.161(1)~~ shall be valued in an amount
21 not exceeding the acquisition cost to the insurer of real
22 property covered thereby or 90 percent of the fair value of
23 such real property, whichever is less.

24
25 Reviser's note.--Amended to conform to the
26 redesignation of s. 625.161(1) as s. 625.161(2)
27 by s. 19, ch. 2001-213, Laws of Florida.

28
29 Section 91. Subsections (3) and (4) of section
30 626.032, Florida Statutes, are amended to read:

31

1 626.032 "Administrative agent" defined; continuing
2 education and designation required.--

3 (3) An agent may request, and the department must
4 grant, a designation of "administrative agent" to be
5 prominently printed on the agent's license. The request shall
6 be filed on a form furnished by the department with the
7 administrative agent's application filing fee of \$10 and
8 license modification fee established by s. 624.501(15)
9 ~~624.501(16)~~.

10 (4) An administrative agent who desires removal of the
11 "administrative agent" designation may apply to the
12 department, on forms furnished by the department with an
13 application filing fee of \$10 and license modification fee
14 established pursuant to s. 624.501(15)~~624.501(16)~~. If,
15 during the 24 months preceding the application, the
16 administrative agent completed the full continuing education
17 requirements specified in s. 626.2815, the department shall
18 remove the designation from the agent's license.

19
20 Reviser's note.--Amended to conform to the
21 redesignation of s. 624.501(16) as s.
22 624.501(15) necessitated by the repeal of
23 former subsection (11) by s. 2, ch. 2001-142,
24 Laws of Florida.

25
26 Section 92. Section 626.202, Florida Statutes, is
27 amended to read:

28 626.202 Fingerprinting requirements.--If there is a
29 change in ownership or control of any entity licensed under
30 this chapter, or if a new partner, officer, or director is
31 employed or appointed, a set of fingerprints of the new owner,

1 partner, officer, or director must be filed with the
2 department within 30 days after the change. The acquisition of
3 10 percent or more of ~~a~~ the voting securities of a licensed
4 entity is considered a change of ownership or control. The
5 fingerprints must be certified by a law enforcement officer
6 and be accompanied by the fingerprint processing fee in s.
7 624.501.

8

9 Reviser's note.--Amended to improve clarity.

10

11 Section 93. Subsection (1) of section 626.874, Florida
12 Statutes, is amended to read:

13 626.874 Catastrophe or emergency adjusters.--

14 (1) In the event of a catastrophe or emergency, the
15 department may issue a license, for the purposes and under the
16 conditions which it shall fix and for the period of emergency
17 as it shall determine, to persons who are residents or
18 nonresidents of this state and who are not licensed adjusters
19 under this part but who have been designated and certified to
20 it as qualified to act as adjusters by independent resident
21 adjusters or by an authorized insurer or by a licensed general
22 lines agent to adjust claims, losses, or damages under
23 policies or contracts of insurance issued by such insurers.
24 The fee for the license shall be as provided in s.
25 624.501(12)(c)~~624.501(13)(c)~~.

26

27 Reviser's note.--Amended to conform to the
28 redesignation of s. 624.501(13)(c) as s.
29 624.501(12)(c) necessitated by the repeal of
30 former subsection (11) by s. 2, ch. 2001-142,
31 Laws of Florida.

1 Section 94. Subparagraph 4. of paragraph (b) of
2 subsection (4) of section 627.072, Florida Statutes, is
3 repealed.

4
5 Reviser's note.--Repealed to delete a provision
6 that has served its purpose. The cited
7 subparagraph sets a deadline for reporting
8 procedures by January 1, 1980.

9
10 Section 95. Subsection (11) of section 627.192,
11 Florida Statutes, is repealed.

12
13 Reviser's note.--Repealed to delete a provision
14 that has served its purpose.

15
16 Section 96. Subsection (4) of section 627.211, Florida
17 Statutes, is repealed.

18
19 Reviser's note.--Repealed to delete an obsolete
20 provision.

21
22 Section 97. Paragraph (o) of subsection (4) of section
23 627.311, Florida Statutes, is repealed.

24
25 Reviser's note.--Repealed to delete an obsolete
26 provision.

27
28 Section 98. Subsections (1) and (5) of section
29 627.702, Florida Statutes, are amended to read:

30 627.702 Valued policy law.--
31

1 (1) In the event of the total loss of any building,
2 structure, mobile home as defined in s. 320.01(2), or
3 manufactured building as defined in s. 553.36(12) ~~553.36(11)~~,
4 located in this state and insured by any insurer as to a
5 covered peril, in the absence of any change increasing the
6 risk without the insurer's consent and in the absence of
7 fraudulent or criminal fault on the part of the insured or one
8 acting in her or his behalf, the insurer's liability, if any,
9 under the policy for such total loss shall be in the amount of
10 money for which such property was so insured as specified in
11 the policy and for which a premium has been charged and paid.

12 (5) This section does not apply as to personal
13 property or any interest therein, except with respect to
14 mobile homes as defined in s. 320.01(2) or manufactured
15 buildings as defined in s. 553.36(12) ~~553.36(11)~~. Nor does
16 this section apply to coverage of an appurtenant structure or
17 other structure or any coverage or claim in which the dollar
18 amount of coverage available as to the structure involved is
19 not directly stated in the policy as a dollar amount
20 specifically applicable to that particular structure.

21
22 Reviser's note.--Amended to conform to the
23 redesignation of s. 553.36(11) as s. 553.36(12)
24 by s. 21, ch. 2001-186, Laws of Florida.

25
26 Section 99. Section 633.111, Florida Statutes, is
27 amended to read:

28 633.111 State Fire Marshal to keep records of fires;
29 reports of agents.--The State Fire Marshal shall keep in her
30 or his office a record of all fires occurring in this state
31 upon which she or he had caused an investigation to be made

1 and all facts concerning the same. These records, obtained or
2 prepared by the State Fire Marshal pursuant to her or his
3 investigation, include documents, papers, letters, maps,
4 diagrams, tapes, photographs, films, sound recordings, and
5 evidence. These records are confidential and exempt from the
6 provisions of s. 119.07(1) until the investigation is
7 completed or ceases to be active. For purposes of this
8 section, an investigation is considered "active" while such
9 investigation is being conducted by the department with a
10 reasonable, good faith belief that it may lead to the filing
11 of administrative, civil, or criminal proceedings. An
12 investigation does not cease to be active if the department is
13 proceeding with reasonable dispatch, and there is a good faith
14 belief that action may be initiated by the department or other
15 administrative or law enforcement agency. Further, these
16 documents, papers, letters, maps, diagrams, tapes,
17 photographs, films, sound recordings, and evidence relative to
18 the subject of an investigation shall not be subject to
19 subpoena until the investigation is completed or ceases to be
20 active, unless the State Fire Marshal consents. These records
21 shall be made daily from the reports furnished the State Fire
22 Marshal by her or his agents or others. Whenever the State
23 Fire Marshal releases an investigative report, any person
24 requesting a copy of the report shall pay in advance, and the
25 State Fire Marshal shall collect in advance, notwithstanding
26 the provisions of s. 624.501(19)(a) and (b)~~624.501(20)(a) and~~
27 ~~(b)~~, a fee of \$10 for the copy of the report, which fee shall
28 be deposited into the Insurance Commissioner's Regulatory
29 Trust Fund. The State Fire Marshal may release the report
30 without charge to any state attorney or to any law enforcement
31 agency or fire department assisting in the investigation.

1 Reviser's note.--Amended to conform to the
2 redesignation of s. 624.501(20)(a) and (b) as
3 s. 624.501(19)(a) and (b) necessitated by the
4 repeal of s. 624.501(11) by s. 2, ch. 2001-142,
5 Laws of Florida.

6
7 Section 100. Section 658.26, Florida Statutes, is
8 reenacted to read:

9 658.26 Places of transacting business; branches;
10 facilities.--

11 (1) Any bank or trust company heretofore or hereafter
12 incorporated pursuant to this chapter shall have one main
13 office, which shall be located within the state.

14 (2)(a) In addition, with the approval of the
15 department and upon such conditions as the department
16 prescribes, any bank or trust company may establish branches
17 within or outside the state. With the approval of the
18 department upon a determination that the resulting bank or
19 trust company will be of sound financial condition, any bank
20 or trust company incorporated pursuant to this chapter may
21 establish branches by merger with any other bank or trust
22 company.

23 (b) An application for a branch by a bank that does
24 not meet the requirements for the branch notification process
25 shall be in writing in such form as the department prescribes
26 and be supported by such information, data, and records as the
27 department may require to make findings necessary for
28 approval. Applications filed pursuant to this subsection shall
29 not be published in the Florida Administrative Weekly but
30 shall otherwise be subject to the provisions of chapter 120.
31 Upon the filing of an application and a nonrefundable filing

1 fee for the establishment of any branch permitted by paragraph
2 (a), the department shall make an investigation with respect
3 to compliance with the requirements of paragraph (a) and shall
4 investigate and consider all factors relevant to such
5 requirements, including the following:

6 1. The sufficiency of capital accounts in relation to
7 the deposit liabilities of the bank, or in relation to the
8 number and valuation of fiduciary accounts of the trust
9 company, including the proposed branch, and the additional
10 fixed assets, if any, which are proposed for the branch and
11 its operations, without undue risk to the bank or its
12 depositors, or undue risk to the trust company or its
13 fiduciary accounts;

14 2. The sufficiency of earnings and earning prospects
15 of the bank or trust company to support the anticipated
16 expenses and any anticipated operating losses of the branch
17 during its formative or initial years;

18 3. The sufficiency and quality of management available
19 to operate the branch;

20 4. The name of the proposed branch to determine if it
21 reasonably identifies the branch as a branch of the main
22 office and is not likely to unduly confuse the public; and

23 5. Substantial compliance by the applicants with
24 applicable law governing their operations.

25 (c) As provided by departmental rule, a financial
26 institution operating in a safe and sound manner may establish
27 a branch by filing a written notice with the department at
28 least 30 days before opening that branch. In such case, the
29 financial institution need not file a branch application or
30 pay a branch application fee.

31

1 (3)(a) An office in this state may be relocated with
2 prior written approval of the department. An application for
3 relocation shall be in writing in such form as the department
4 prescribes and shall be supported by such information, data,
5 and records as the department may require to make findings
6 necessary for approval.

7 (b) Applications filed pursuant to this subsection
8 shall not be published in the Florida Administrative Weekly
9 but shall otherwise be subject to the provisions of chapter
10 120. Upon the filing of a relocation application and a
11 nonrefundable filing fee, the department shall investigate to
12 determine substantial compliance by the financial institution
13 with applicable law governing its operations. Additional
14 investments in land, buildings, leases, and leasehold
15 improvements resulting from such relocation shall comply with
16 the limitations imposed by s. 658.67(7)(a). A main office may
17 not be moved outside this state unless expressly authorized by
18 the financial institutions codes or by federal law.

19 (c) A relocation application filed by a state bank or
20 trust company that is operating in a safe and sound manner
21 which is not denied within 10 working days after receipt shall
22 be deemed approved unless the department notifies the
23 financial institution in writing that the application was not
24 complete.

25 (d) In addition to the application required by
26 paragraph (a), a financial institution whose main office in
27 this state has been in operation less than 24 months must
28 provide evidence that the criteria of s. 658.21(1) will be
29 met.

30
31

1 (e) A branch office may be closed with 30 days' prior
2 written notice to the department. The notice shall include any
3 information the department may prescribe by rule.

4 (4) With prior written notification to the department,
5 any bank may operate facilities which are not physically
6 connected to the main or branch office of the bank, provided
7 that the facilities are situated on the property of the main
8 or branch office or property contiguous thereto. Property
9 which is separated from the main or branch office of a bank by
10 only a street, and one or more walkways and alleyways are
11 determined to be, for purposes of this subsection, contiguous
12 to the property of the main or branch office.

13 (5) A bank may provide, directly or through a contract
14 with another company, off-premises armored car service to its
15 customers. Armored car services shall not be considered a
16 branch for the purposes of subsection (2).

17 (6)(a) Any state bank that is a subsidiary of a bank
18 holding company may agree to receive deposits, renew time
19 deposits, close loans, service loans, and receive payments on
20 loans and other obligations, as an agent for an affiliated
21 depository institution.

22 (b) The term "close loan" does not include the making
23 of a decision to extend credit or the extension of credit.

24 (c) As used in this section, "receive deposits" means
25 the taking of deposits to be credited to an existing account
26 and does not include the opening or origination of new deposit
27 accounts at an affiliated institution by the agent
28 institution.

29 (d) Under this section, affiliated banks may act as
30 agents for one another regardless of whether the institutions
31 are located in the same or different states. This section

1 applies solely to affiliated depository institutions acting as
2 agents, and has no application to agency relationships
3 concerning nondepositories as agent, whether or not affiliated
4 with the depository institution.

5 (e) In addition, under this section, agent banks may
6 perform ministerial functions for the principal bank making a
7 loan. Ministerial functions include, but are not limited to,
8 such activities as providing loan applications, assembling
9 documents, providing a location for returning documents
10 necessary for making the loan, providing loan account
11 information, and receiving payments. It does not include such
12 loan functions as evaluating applications or disbursing loan
13 funds.

14
15 Reviser's note.--Section 14, ch. 2001-243, Laws
16 of Florida, purported to amend s. 658.26, but
17 failed to republish paragraph (2)(c). In the
18 absence of affirmative evidence that the
19 Legislature intended to repeal this language,
20 the section is reenacted to confirm that the
21 omission was not intended.

22
23 Section 101. Subsection (5) of section 660.27, Florida
24 Statutes, is amended to read:

25 660.27 Deposit of securities with Treasurer.--

26 (5) With the approval of the Treasurer, each trust
27 company, bank, or association as pledgor may deposit eligible
28 collateral with a custodian. This custodian shall not be
29 affiliated or related to the trust company, bank, or
30 association. Collateral must be deposited using the collateral

31

1 agreements and provisions as set forth in s. 280.041(2) and
2 ~~(3) 280.041(1) and (2)~~.

3
4 Reviser's note.--Amended to conform to the
5 redesignation of s. 280.041(1) and (2) as s.
6 280.041(2) and (3) by s. 3, ch. 2001-230, Laws
7 of Florida.

8
9 Section 102. Paragraph (m) of subsection (3) of
10 section 680.1031, Florida Statutes, is amended to read:

11 680.1031 Definitions and index of definitions.--

12 (3) The following definitions in other chapters of
13 this code apply to this chapter:

14 (m) "Pursuant to a commitment," s. 679.1021(1)(ooo)
15 ~~679.1021(1)(ppp)~~.

16
17 Reviser's note.--Amended to improve clarity and
18 facilitate correct interpretation. The term
19 "pursuant to commitment" is defined in s.
20 679.1021(1)(ooo).

21
22 Section 103. Sections 697.20, 697.201, 697.202,
23 697.204, 697.205, and 697.206, Florida Statutes, are repealed.

24
25 Reviser's note.--Repeals the Florida Home
26 Equity Conversion Act. The act has become
27 obsolete and has served its purpose.

28
29 Section 104. Paragraph (c) of subsection (4) of
30 section 709.08, Florida Statutes, is amended to read:

31 709.08 Durable power of attorney.--

1 (4) PROTECTION WITHOUT NOTICE; GOOD FAITH ACTS;
2 AFFIDAVITS.--
3 (c) An affidavit executed by the attorney in fact must
4 state where the principal is domiciled, that the principal is
5 not deceased, and that there has been no revocation, partial
6 or complete termination by adjudication of incapacity or by
7 the occurrence of an event referenced in the durable power of
8 attorney, or suspension by initiation of proceedings to
9 determine incapacity or to appoint a guardian of the durable
10 power of attorney at the time the power of attorney is
11 exercised. A written affidavit executed by the attorney in
12 fact under this paragraph may, but need not, be in the
13 following form:

14
15 STATE OF.....
16 COUNTY OF.....

17
18 Before me, the undersigned authority, personally
19 appeared ...(attorney in fact)... ("Affiant"), who swore or
20 affirmed that:

21 1. Affiant is the attorney in fact named in the
22 Durable Power of Attorney executed by ...(principal)...
23 ("Principal") on ...(date)....

24 2. This Durable Power of Attorney is currently
25 exercisable by Affiant. The principal is domiciled in
26 ...(insert name of state, territory, or foreign country
27 ~~county~~)....

28 3. To the best of the Affiant's knowledge after
29 diligent search and inquiry:

30 a. The Principal is not deceased; and
31

1 b. There has been no revocation, partial or complete
2 termination by adjudication of incapacity or by the occurrence
3 of an event referenced in the durable power of attorney, or
4 suspension by initiation of proceedings to determine
5 incapacity or to appoint a guardian.

6 4. Affiant agrees not to exercise any powers granted
7 by the Durable Power of Attorney if Affiant attains knowledge
8 that it has been revoked, partially or completely terminated,
9 suspended, or is no longer valid because of the death or
10 adjudication of incapacity of the Principal.

11
12
13
14

.....
...(Affiant)...

15 Sworn to (or affirmed) and subscribed before me this
16 day of ...(month)..., ...(year)..., by ...(name of person
17 making statement)...

18
19
20

...(Signature of Notary Public-State of Florida)...

21
22

...(Print, Type, or Stamp Commissioned Name of Notary
Public)...

23
24

Personally Known OR Produced Identification

25
26

...(Type of Identification Produced)...

27
28

Reviser's note.--Amended to improve clarity and
facilitate correct interpretation.

29
30
31

1 Section 105. Paragraph (c) of subsection (2) of
2 section 723.06116, Florida Statutes, is amended to read:

3 723.06116 Payments to the Florida Mobile Home
4 Relocation Trust Fund.--

5 (2) A mobile home park owner is not required to make
6 the payment prescribed in subsection (1), nor is the mobile
7 home owner entitled to compensation under s. 723.0612, when:

8 (c) A mobile home owner abandons the mobile home as
9 set forth in s. 723.0612(7)~~723.0612(8)~~.

10
11 Reviser's note.--Amended to improve clarity and
12 facilitate correct interpretation. Abandonment
13 of the mobile home by the mobile home owner is
14 addressed in s. 723.0612(7).

15
16 Section 106. Subsection (29) of section 731.201,
17 Florida Statutes, is amended to read:

18 731.201 General definitions.--Subject to additional
19 definitions in subsequent chapters that are applicable to
20 specific chapters or parts, and unless the context otherwise
21 requires, in this code, in s. 409.9101, and in chapters 737,
22 738, and 744:

23 (29) "Protected homestead" means the property
24 described in s. 4(a)(1), Art. X of the State Constitution on
25 which at the death of the owner the exemption inures to the
26 owner's surviving spouse or heirs under s. 4(b), Art. X of the
27 State Constitution. For purposes of the code, real property
28 owned as tenants by the entirety is not protected homestead.

29
30 Reviser's note.--Amended to improve clarity and
31 facilitate correct interpretation.

1 Section 107. Section 732.219, Florida Statutes, is
2 amended to read:

3 732.219 Disposition upon death.--Upon the death of a
4 married person, one-half of the property to which ss.
5 732.216-732.228 apply is the property of the surviving spouse
6 and is not subject to testamentary disposition by the decedent
7 or distribution under the laws of succession of this state.
8 One-half of that property is the property of the decedent and
9 is subject to testamentary disposition or distribution under
10 the laws of succession of this state. The decedent's one-half
11 of that property is not in the elective ~~elected~~ estate.

12
13 Reviser's note.--Amended to improve clarity and
14 facilitate correct interpretation.

15
16 Section 108. Subsection (1) of section 733.501,
17 Florida Statutes, is amended to read:

18 733.501 Curators.--

19 (1) When it is necessary, the court may appoint a
20 curator after formal notice to the person apparently entitled
21 to letters of administration. The curator may be authorized to
22 perform any duty or function of a personal representative. If
23 there is great danger that any of the decedent's property is
24 likely to be wasted, destroyed, or removed beyond the
25 jurisdiction of the court and if the appointment of a curator
26 would be delayed by giving notice, the court may appoint a
27 curator without giving notice.

28
29 Reviser's note.--Amended to improve clarity and
30 facilitate correct interpretation.

31

1 Section 109. Subsection (4) of section 733.617,
2 Florida Statutes, is amended to read:

3 733.617 Compensation of personal representative.--

4 (4) If the will provides that a personal
5 representative's compensation shall be based upon specific
6 criteria, other than a general reference to commissions
7 allowed by law or words of ~~or~~ similar import, including, but
8 not limited to, rates, amounts, commissions, or reference to
9 the personal representative's regularly published schedule of
10 fees in effect at the decedent's date of death, or words of
11 similar import, then a personal representative shall be
12 entitled to compensation in accordance with that provision.
13 However, except for references in the will to the personal
14 representative's regularly published schedule of fees in
15 effect at the decedent's date of death, or words of similar
16 import, if there is no written contract with the decedent
17 regarding compensation, a personal representative may renounce
18 the provisions contained in the will and be entitled to
19 compensation under this section. A personal representative may
20 also renounce the right to all or any part of the
21 compensation.

22
23 Reviser's note.--Amended to improve clarity and
24 facilitate correct interpretation.

25
26 Section 110. Subsections (3) and (4) of section
27 734.101, Florida Statutes, are amended to read:

28 734.101 Foreign personal representative.--

29 (3) Debtors who have not received a written demand for
30 payment from a personal representative or curator appointed in
31 this state within 60 days after appointment of a personal

1 representative in any other state or country, and whose
2 property in Florida is subject to a mortgage or other lien
3 securing the debt held by the foreign personal representative,
4 may pay the foreign personal representative after the
5 expiration of 60 days from the date of appointment of the
6 foreign personal ~~personnel~~ representative. Thereafter, a
7 satisfaction of the mortgage or lien executed by the foreign
8 personal representative, with an authenticated copy of the
9 letters or other evidence of authority attached, may be
10 recorded in the public records. The satisfaction shall be an
11 effective discharge of the mortgage or lien, irrespective of
12 whether the debtor making payment had received a written
13 demand before paying the debt.

14 (4) All persons indebted to the estate of a decedent,
15 or having possession of personal property belonging to the
16 estate, who have received no written demand from a personal
17 representative or curator appointed in this state for payment
18 of the debt or the delivery of the property are authorized to
19 pay the debt or to deliver the personal property to the
20 foreign personal representative after the expiration of 60
21 days from the date of appointment of the foreign personal
22 ~~personnel~~ representative.

23
24 Reviser's note.--Amended to improve clarity and
25 facilitate correct interpretation.

26
27 Section 111. Section 765.5185, Florida Statutes, is
28 amended to read:

29 765.5185 Corneal removal by medical examiners.--

30 (1) In any case in which a patient is in need of
31 corneal tissue for a transplant, a district medical examiner

1 or an appropriately qualified designee with training in
2 ophthalmologic techniques may, upon request of any eye bank
3 authorized under s. 765.518 ~~732.918~~, provide the cornea of a
4 decedent whenever all of the following conditions are met:

5 (a) A decedent who may provide a suitable cornea for
6 the transplant is under the jurisdiction of the medical
7 examiner and an autopsy is required in accordance with s.
8 406.11.

9 (b) No objection by the next of kin of the decedent is
10 known by the medical examiner.

11 (c) The removal of the cornea will not interfere with
12 the subsequent course of an investigation or autopsy.

13 (2) Neither the district medical examiner nor the
14 medical examiner's appropriately qualified designee nor any
15 eye bank authorized under s. 765.518 ~~732.918~~ may be held
16 liable in any civil or criminal action for failure to obtain
17 consent of the next of kin.

18
19 Reviser's note.--Amended to conform to the
20 redesignation of s. 732.918 as s. 765.518 by s.
21 68, ch. 2001-226, Laws of Florida.

22
23 Section 112. Subsection (1) of section 765.5215,
24 Florida Statutes, is amended to read:

25 765.5215 Education program relating to anatomical
26 gifts.--The Agency for Health Care Administration, subject to
27 the concurrence of the Department of Highway Safety and Motor
28 Vehicles, shall develop a continuing program to educate and
29 inform medical professionals, law enforcement agencies and
30 officers, high school children, state and local government
31 employees, and the public regarding the laws of this state

1 relating to anatomical gifts and the need for anatomical
2 gifts.

3 (1) The program is to be implemented with the
4 assistance of the organ and tissue donor education panel as
5 provided in s. 765.5216 ~~732.9216~~ and with the funds collected
6 under ss. 320.08047 and 322.08(6)(b). Existing community
7 resources, when available, must be used to support the
8 program, and volunteers may assist the program to the maximum
9 extent possible. The Agency for Health Care Administration may
10 contract for the provision of all or any portion of the
11 program. When awarding such contract, the agency shall give
12 priority to existing nonprofit groups that are located within
13 the community, including within the minority communities
14 specified in subsection (2). The program aimed at educating
15 medical professionals may be implemented by contract with one
16 or more medical schools located in the state.

17

18 Reviser's note.--Amended to conform to the
19 redesignation of s. 732.9216 as s. 765.5216 by
20 s. 74, ch. 2001-226, Laws of Florida.

21

22 Section 113. Subsection (2) of section 765.5216,
23 Florida Statutes, is amended to read:

24 765.5216 Organ and tissue donor education panel.--

25 (2) There is created within the Agency for Health Care
26 Administration a statewide organ and tissue donor education
27 panel, consisting of 12 members, to represent the interests of
28 the public with regard to increasing the number of organ and
29 tissue donors within the state. The panel and the Organ and
30 Tissue Procurement and Transplantation Advisory Board
31 established in s. 381.6023 shall jointly develop, subject to

1 the approval of the Agency for Health Care Administration,
2 education initiatives pursuant to s. 765.5215 ~~732.9215~~, which
3 the agency shall implement. The membership must be balanced
4 with respect to gender, ethnicity, and other demographic
5 characteristics so that the appointees reflect the diversity
6 of the population of this state. The panel members must
7 include:

8 (a) A representative from the Agency for Health Care
9 Administration, who shall serve as chairperson of the panel.

10 (b) A representative from a Florida licensed organ
11 procurement organization.

12 (c) A representative from a Florida licensed tissue
13 bank.

14 (d) A representative from a Florida licensed eye bank.

15 (e) A representative from a Florida licensed hospital.

16 (f) A representative from the Division of Driver
17 Licenses of the Department of Highway Safety and Motor
18 Vehicles, who possesses experience and knowledge in dealing
19 with the public.

20 (g) A representative from the family of an organ,
21 tissue, or eye donor.

22 (h) A representative who has been the recipient of a
23 transplanted organ, tissue, or eye, or is a family member of a
24 recipient.

25 (i) A representative who is a minority person as
26 defined in former s. 381.81.

27 (j) A representative from a professional association
28 or public relations or advertising organization.

29 (k) A representative from a community service club or
30 organization.

31 (l) A representative from the Department of Education.

1 Reviser's note.--The introductory language to
2 subsection (2) is amended to conform to the
3 redesignation of s. 732.9215 as s. 765.5215 by
4 s. 72, ch. 2001-226, Laws of Florida. Paragraph
5 (2)(i) is amended to improve clarity and
6 facilitate correct interpretation; s. 381.81
7 was repealed by s. 125, ch. 97-237, Laws of
8 Florida.

9
10 Section 114. Subsection (4) of section 766.1115,
11 Florida Statutes, is reenacted to read:

12 766.1115 Health care providers; creation of agency
13 relationship with governmental contractors.--

14 (4) CONTRACT REQUIREMENTS.--A health care provider
15 that executes a contract with a governmental contractor to
16 deliver health care services on or after April 17, 1992, as an
17 agent of the governmental contractor is an agent for purposes
18 of s. 768.28(9), while acting within the scope of duties
19 pursuant to the contract, if the contract complies with the
20 requirements of this section and regardless of whether the
21 individual treated is later found to be ineligible. A health
22 care provider under contract with the state may not be named
23 as a defendant in any action arising out of the medical care
24 or treatment provided on or after April 17, 1992, pursuant to
25 contracts entered into under this section. The contract must
26 provide that:

27 (a) The right of dismissal or termination of any
28 health care provider delivering services pursuant to the
29 contract is retained by the governmental contractor.

30
31

1 (b) The governmental contractor has access to the
2 patient records of any health care provider delivering
3 services pursuant to the contract.

4 (c) Adverse incidents and information on treatment
5 outcomes must be reported by any health care provider to the
6 governmental contractor if such incidents and information
7 pertain to a patient treated pursuant to the contract. The
8 health care provider shall submit the reports required by s.
9 395.0197. If an incident involves a professional licensed by
10 the Department of Health or a facility licensed by the Agency
11 for Health Care Administration, the governmental contractor
12 shall submit such incident reports to the appropriate
13 department or agency, which shall review each incident and
14 determine whether it involves conduct by the licensee that is
15 subject to disciplinary action. All patient medical records
16 and any identifying information contained in adverse incident
17 reports and treatment outcomes which are obtained by
18 governmental entities pursuant to this paragraph are
19 confidential and exempt from the provisions of s. 119.07(1)
20 and s. 24(a), Art. I of the State Constitution.

21 (d) Patient selection and initial referral must be
22 made solely by the governmental contractor, and the provider
23 must accept all referred patients. However, the number of
24 patients that must be accepted may be limited by the contract,
25 and patients may not be transferred to the provider based on a
26 violation of the antidumping provisions of the Omnibus Budget
27 Reconciliation Act of 1989, the Omnibus Budget Reconciliation
28 Act of 1990, or chapter 395.

29 (e) If emergency care is required, the patient need
30 not be referred before receiving treatment, but must be
31 referred within 48 hours after treatment is commenced or

1 within 48 hours after the patient has the mental capacity to
2 consent to treatment, whichever occurs later.

3 (f) Patient care, including any followup or hospital
4 care, is subject to approval by the governmental contractor.

5 (g) The provider is subject to supervision and regular
6 inspection by the governmental contractor.

7
8 A governmental contractor that is also a health care provider
9 is not required to enter into a contract under this section
10 with respect to the health care services delivered by its
11 employees.

12
13 Reviser's note.--Section 88, ch. 2001-277, Laws
14 of Florida, purported to amend paragraph
15 (4)(c), but failed to republish the flush left
16 language at the end of the subsection. In the
17 absence of affirmative evidence that the
18 Legislature intended to repeal the flush left
19 language, subsection (4) is reenacted to
20 confirm that the omission was not intended.

21
22 Section 115. Subsection (2) of section 766.305,
23 Florida Statutes, is amended to read:

24 766.305 Filing of claims and responses; medical
25 disciplinary review.--

26 (2) The claimant shall furnish the division with as
27 many copies of the petition as required for service upon the
28 association, any physician and hospital named in the petition,
29 and the Division of Medical Quality Assurance, along with a
30 \$15 filing fee payable to the Division of Administrative
31 Hearings. Upon receipt of the petition, the division shall

1 immediately serve the association, by service upon the agent
2 designated to accept service on behalf of the association, by
3 registered or certified mail, and shall mail copies of the
4 petition to any physician and hospital named in the petition,
5 the Division of Medical Quality Assurance, and the Agency for
6 Health Care Administration, ~~and the medical advisory review~~
7 ~~panel provided for in s. 766.308.~~

8
9 Reviser's note.--Amended to conform to the
10 repeal of s. 766.308 by s. 151, ch. 2001-277,
11 Laws of Florida.

12
13 Section 116. Subsection (1) of section 784.074,
14 Florida Statutes, is amended to read:

15 784.074 Assault or battery on sexually violent
16 predators detention or commitment facility staff;
17 reclassification of offenses.--

18 (1) Whenever a person is charged with committing an
19 assault or aggravated assault or a battery or aggravated
20 battery upon a staff member of a sexually violent predators
21 detention or commitment facility as defined in part V of ~~or~~
22 chapter 394, while the staff member is engaged in the lawful
23 performance of his or her duties and when the person
24 committing the offense knows or has reason to know the
25 identity or employment of the victim, the offense for which
26 the person is charged shall be reclassified as follows:

27 (a) In the case of aggravated battery, from a felony
28 of the second degree to a felony of the first degree.

29 (b) In the case of an aggravated assault, from a
30 felony of the third degree to a felony of the second degree.

31

1 (c) In the case of battery, from a misdemeanor of the
2 first degree to a felony of the third degree.

3 (d) In the case of assault, from a misdemeanor of the
4 second degree to a misdemeanor of the first degree.

5
6 Reviser's note.--Amended to improve clarity and
7 facilitate correct interpretation.

8
9 Section 117. Paragraph (a) of subsection (5) and
10 subsection (7) of section 806.13, Florida Statutes, are
11 amended to read:

12 806.13 Criminal mischief; penalties; penalty for
13 minor.--

14 (5)(a) The amounts of value of damage to property
15 owned by separate persons, if the property was damaged during
16 one scheme or course of or conduct, may be aggregated in
17 determining the grade of the offense under this section.

18 (7) A minor whose driver's license or driving
19 privilege is revoked, suspended, or withheld under subsection
20 ~~(6)~~(5) may elect to reduce the period of revocation,
21 suspension, or withholding by performing community service at
22 the rate of 1 day for each hour of community service
23 performed. In addition, if the court determines that due to a
24 family hardship, the minor's driver's license or driving
25 privilege is necessary for employment or medical purposes of
26 the minor or a member of the minor's family, the court shall
27 order the minor to perform community service and reduce the
28 period of revocation, suspension, or withholding at the rate
29 of 1 day for each hour of community service performed. As
30 used in this subsection, the term "community service" means
31 cleaning graffiti from public property.

1 Reviser's note.--Paragraph (5)(a) is amended to
2 facilitate correct interpretation. Subsection
3 (7) is amended to conform to the redesignation
4 of subsection (5) as subsection (6) by s. 5,
5 ch. 2001-244, Laws of Florida.

6
7 Section 118. Paragraphs (g), (h), and (i) of
8 subsection (3) of section 921.0022, Florida Statutes, as
9 amended by section 2 of chapter 2001-358, Laws of Florida, are
10 amended to read:

11 921.0022 Criminal Punishment Code; offense severity
12 ranking chart.--

13 (3) OFFENSE SEVERITY RANKING CHART

14	15 Florida	16 Statute	17 Felony	18 Degree	19 Description
20					(g) LEVEL 7
21	316.193(3)(c)2.	3rd			DUI resulting in serious bodily injury.
22	327.35(3)(c)2.	3rd			Vessel BUI resulting in serious bodily injury.
23	402.319(2)	2nd			Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
24	409.920(2)	3rd			Medicaid provider fraud.
25	456.065(2)	3rd			Practicing a health care profession without a license.
26					
27					
28					
29					
30					
31					

1	456.065(2)	2nd	Practicing a health care
2			profession without a license
3			which results in serious bodily
4			injury.
5	458.327(1)	3rd	Practicing medicine without a
6			license.
7	459.013(1)	3rd	Practicing osteopathic medicine
8			without a license.
9	460.411(1)	3rd	Practicing chiropractic medicine
10			without a license.
11	461.012(1)	3rd	Practicing podiatric medicine
12			without a license.
13	462.17	3rd	Practicing naturopathy without a
14			license.
15	463.015(1)	3rd	Practicing optometry without a
16			license.
17	464.016(1)	3rd	Practicing nursing without a
18			license.
19	465.015(2)	3rd	Practicing pharmacy without a
20			license.
21	466.026(1)	3rd	Practicing dentistry or dental
22			hygiene without a license.
23	467.201	3rd	Practicing midwifery without a
24			license.
25	468.366	3rd	Delivering respiratory care
26			services without a license.
27	483.828(1)	3rd	Practicing as clinical laboratory
28			personnel without a license.
29	483.901(9)	3rd	Practicing medical physics
30			without a license.
31			

1	484.013(1)(c)	3rd	Preparing or dispensing optical
2			devices without a prescription.
3	484.053	3rd	Dispensing hearing aids without a
4			license.
5	494.0018(2)	1st	Conviction of any violation of
6			ss. 494.001-494.0077 in which the
7			total money and property
8			unlawfully obtained exceeded
9			\$50,000 and there were five or
10			more victims.
11	560.123(8)(b)1.	3rd	Failure to report currency or
12			payment instruments exceeding
13			\$300 but less than \$20,000 by
14			money transmitter.
15	560.125(5)(a)	3rd	Money transmitter business by
16			unauthorized person, currency or
17			payment instruments exceeding
18			\$300 but less than \$20,000.
19	655.50(10)(b)1.	3rd	Failure to report financial
20			transactions exceeding \$300 but
21			less than \$20,000 by financial
22			institution.
23	782.051(3)	2nd	Attempted felony murder of a
24			person by a person other than the
25			perpetrator or the perpetrator of
26			an attempted felony.
27	782.07(1)	2nd	Killing of a human being by the
28			act, procurement, or culpable
29			negligence of another
30			(manslaughter).
31			

1	782.071	2nd	Killing of human being or viable
2			fetus by the operation of a motor
3			vehicle in a reckless manner
4			(vehicular homicide).
5	782.072	2nd	Killing of a human being by the
6			operation of a vessel in a
7			reckless manner (vessel
8			homicide).
9	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
10			causing great bodily harm or
11			disfigurement.
12	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
13			weapon.
14	784.045(1)(b)	2nd	Aggravated battery; perpetrator
15			aware victim pregnant.
16	784.048(4)	3rd	Aggravated stalking; violation of
17			injunction or court order.
18	784.07(2)(d)	1st	Aggravated battery on law
19			enforcement officer.
20	784.074(1)(a)	1st	Aggravated battery on sexually
21			violent predators facility staff.
22	784.08(2)(a)	1st	Aggravated battery on a person 65
23			years of age or older.
24	784.081(1)	1st	Aggravated battery on specified
25			official or employee.
26	784.082(1)	1st	Aggravated battery by detained
27			person on visitor or other
28			detainee.
29	784.083(1)	1st	Aggravated battery on code
30			inspector.
31			

1	790.07(4)	1st	Specified weapons violation
2			subsequent to previous conviction
3			of s. 790.07(1) or (2).
4	790.16(1)	1st	Discharge of a machine gun under
5			specified circumstances.
6	790.166(3)	2nd	Possessing, selling, using, or
7			attempting to use a hoax weapon
8			of mass destruction.
9	796.03	2nd	Procuring any person under 16
10			years for prostitution.
11	800.04(5)(c)1.	2nd	Lewd or lascivious molestation;
12			victim less than 12 years of age;
13			offender less than 18 years.
14	800.04(5)(c)2.	2nd	Lewd or lascivious molestation;
15			victim 12 years of age or older
16			but less than 16 years; offender
17			18 years or older.
18	806.01(2)	2nd	Maliciously damage structure by
19			fire or explosive.
20	810.02(3)(a)	2nd	Burglary of occupied dwelling;
21			unarmed; no assault or battery.
22	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
23			unarmed; no assault or battery.
24	810.02(3)(d)	2nd	Burglary of occupied conveyance;
25			unarmed; no assault or battery.
26	812.014(2)(a)	1st	Property stolen, valued at
27			\$100,000 or more; cargo stolen
28			valued at \$50,000, or more;
29			property stolen while causing
30			other property damage; 1st degree
31			grand theft.

1	<u>812.014(2)(b)3.</u>		
2	812.014(2)(b)2.	2nd	Property stolen, emergency
3			medical equipment; 2nd degree
4			grand theft.
5	812.019(2)	1st	Stolen property; initiates,
6			organizes, plans, etc., the theft
7			of property and traffics in
8			stolen property.
9	812.131(2)(a)	2nd	Robbery by sudden snatching.
10	812.133(2)(b)	1st	Carjacking; no firearm, deadly
11			weapon, or other weapon.
12	817.234(11)(c)	1st	Insurance fraud; property value
13			\$100,000 or more.
14	825.102(3)(b)	2nd	Neglecting an elderly person or
15			disabled adult causing great
16			bodily harm, disability, or
17			disfigurement.
18	825.1025(2)	2nd	Lewd or lascivious battery upon
19			an elderly person or disabled
20			adult.
21	825.103(2)(b)	2nd	Exploiting an elderly person or
22			disabled adult and property is
23			valued at \$20,000 or more, but
24			less than \$100,000.
25	827.03(3)(b)	2nd	Neglect of a child causing great
26			bodily harm, disability, or
27			disfigurement.
28	827.04(3)	3rd	Impregnation of a child under 16
29			years of age by person 21 years
30			of age or older.
31			

1	837.05(2)	3rd	Giving false information about
2			alleged capital felony to a law
3			enforcement officer.
4	872.06	2nd	Abuse of a dead human body.
5	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
6			cocaine (or other drug prohibited
7			under s. 893.03(1)(a), (1)(b),
8			(1)(d), (2)(a), (2)(b), or
9			(2)(c)4.) within 1,000 feet of a
10			child care facility or school.
11	893.13(1)(e)1.	1st	Sell, manufacture, or deliver
12			cocaine or other drug prohibited
13			under s. 893.03(1)(a), (1)(b),
14			(1)(d), (2)(a), (2)(b), or
15			(2)(c)4., within 1,000 feet of
16			property used for religious
17			services or a specified business
18			site.
19	893.13(4)(a)	1st	Deliver to minor cocaine (or
20			other s. 893.03(1)(a), (1)(b),
21			(1)(d), (2)(a), (2)(b), or
22			(2)(c)4. drugs).
23	893.135(1)(a)1.	1st	Trafficking in cannabis, more
24			than 25 lbs., less than 2,000
25			lbs.
26	893.135		
27	(1)(b)1.a.	1st	Trafficking in cocaine, more than
28			28 grams, less than 200 grams.
29			
30			
31			

1	893.135		
2	(1)(c)1.a.	1st	Trafficking in illegal drugs,
3			more than 4 grams, less than 14
4			grams.
5	893.135		
6	(1)(d)1.	1st	Trafficking in phencyclidine,
7			more than 28 grams, less than 200
8			grams.
9	893.135(1)(e)1.	1st	Trafficking in methaqualone, more
10			than 200 grams, less than 5
11			kilograms.
12	893.135(1)(f)1.	1st	Trafficking in amphetamine, more
13			than 14 grams, less than 28
14			grams.
15	893.135		
16	(1)(g)1.a.	1st	Trafficking in flunitrazepam, 4
17			grams or more, less than 14
18			grams.
19	893.135		
20	(1)(h)1.a.	1st	Trafficking in
21			gamma-hydroxybutyric acid (GHB),
22			1 kilogram or more, less than 5
23			kilograms.
24	<u>893.135(1)(j)1.a.</u>		
25	893.135(1)(i)1.a.	1st	Trafficking in 1,4-Butanediol, 1
26			kilogram or more, less than 5
27			kilograms.
28	<u>893.135(1)(k)2.a.</u>		
29	893.135(1)(j)2.a.	1st	Trafficking in Phenethylamines,
30			10 grams or more, less than 200
31			grams.

1	896.101(5)(a)	3rd	Money laundering, financial
2			transactions exceeding \$300 but
3			less than \$20,000.
4	896.104(4)(a)1.	3rd	Structuring transactions to evade
5			reporting or registration
6			requirements, financial
7			transactions exceeding \$300 but
8			less than \$20,000.
9			(h) LEVEL 8
10	316.193		
11	(3)(c)3.a.	2nd	DUI manslaughter.
12	327.35(3)(c)3.	2nd	Vessel BUI manslaughter.
13	560.123(8)(b)2.	2nd	Failure to report currency or
14			payment instruments totaling or
15			exceeding \$20,000, but less than
16			\$100,000 by money transmitter.
17	560.125(5)(b)	2nd	Money transmitter business by
18			unauthorized person, currency or
19			payment instruments totaling or
20			exceeding \$20,000, but less than
21			\$100,000.
22	655.50(10)(b)2.	2nd	Failure to report financial
23			transactions totaling or
24			exceeding \$20,000, but less than
25			\$100,000 by financial
26			institutions.
27	777.03(2)(a)	1st	Accessory after the fact, capital
28			felony.
29			
30			
31			

1	782.04(4)	2nd	Killing of human without design
2			when engaged in act or attempt of
3			any felony other than arson,
4			sexual battery, robbery,
5			burglary, kidnapping, aircraft
6			piracy, or unlawfully discharging
7			bomb.
8	782.051(2)	1st	Attempted felony murder while
9			perpetrating or attempting to
10			perpetrate a felony not
11			enumerated in s. 782.04(3).
12	782.071(1)(b)	1st	Committing vehicular homicide and
13			failing to render aid or give
14			information.
15	782.072(2)	1st	Committing vessel homicide and
16			failing to render aid or give
17			information.
18	790.161(3)	1st	Discharging a destructive device
19			which results in bodily harm or
20			property damage.
21	794.011(5)	2nd	Sexual battery, victim 12 years
22			or over, offender does not use
23			physical force likely to cause
24			serious injury.
25	800.04(4)	2nd	Lewd or lascivious battery.
26	806.01(1)	1st	Maliciously damage dwelling or
27			structure by fire or explosive,
28			believing person in structure.
29	810.02(2)(a)	1st,PBL	Burglary with assault or battery.
30	810.02(2)(b)	1st,PBL	Burglary; armed with explosives
31			or dangerous weapon.

1	810.02(2)(c)	1st	Burglary of a dwelling or
2			structure causing structural
3			damage or \$1,000 or more property
4			damage.
5	812.13(2)(b)	1st	Robbery with a weapon.
6	812.135(2)	1st	Home-invasion robbery.
7	825.102(2)	2nd	Aggravated abuse of an elderly
8			person or disabled adult.
9	825.103(2)(a)	1st	Exploiting an elderly person or
10			disabled adult and property is
11			valued at \$100,000 or more.
12	837.02(2)	2nd	Perjury in official proceedings
13			relating to prosecution of a
14			capital felony.
15	837.021(2)	2nd	Making contradictory statements
16			in official proceedings relating
17			to prosecution of a capital
18			felony.
19	860.121(2)(c)	1st	Shooting at or throwing any
20			object in path of railroad
21			vehicle resulting in great bodily
22			harm.
23	860.16	1st	Aircraft piracy.
24	893.13(1)(b)	1st	Sell or deliver in excess of 10
25			grams of any substance specified
26			in s. 893.03(1)(a) or (b).
27	893.13(2)(b)	1st	Purchase in excess of 10 grams of
28			any substance specified in s.
29			893.03(1)(a) or (b).
30			
31			

1	893.13(6)(c)	1st	Possess in excess of 10 grams of
2			any substance specified in s.
3			893.03(1)(a) or (b).
4	893.135(1)(a)2.	1st	Trafficking in cannabis, more
5			than 2,000 lbs., less than 10,000
6			lbs.
7	893.135		
8	(1)(b)1.b.	1st	Trafficking in cocaine, more than
9			200 grams, less than 400 grams.
10	893.135		
11	(1)(c)1.b.	1st	Trafficking in illegal drugs,
12			more than 14 grams, less than 28
13			grams.
14	893.135		
15	(1)(d)1.b.	1st	Trafficking in phencyclidine,
16			more than 200 grams, less than
17			400 grams.
18	893.135		
19	(1)(e)1.b.	1st	Trafficking in methaqualone, more
20			than 5 kilograms, less than 25
21			kilograms.
22	893.135		
23	(1)(f)1.b.	1st	Trafficking in amphetamine, more
24			than 28 grams, less than 200
25			grams.
26	893.135		
27	(1)(g)1.b.	1st	Trafficking in flunitrazepam, 14
28			grams or more, less than 28
29			grams.
30			
31			

1	893.135		
2	(1)(h)1.b.	1st	Trafficking in
3			gamma-hydroxybutyric acid (GHB),
4			5 kilograms or more, less than 10
5			kilograms.
6	<u>893.135(1)(j)1.b.</u>		
7	893.135(1)(i)1.b.	1st	Trafficking in 1,4-Butanediol, 5
8			kilograms or more, less than 10
9			kilograms.
10	<u>893.135(1)(k)2.b.</u>		
11	893.135(1)(j)2.b.	1st	Trafficking in Phenethylamines,
12			200 grams or more, less than 400
13			grams.
14	895.03(1)	1st	Use or invest proceeds derived
15			from pattern of racketeering
16			activity.
17	895.03(2)	1st	Acquire or maintain through
18			racketeering activity any
19			interest in or control of any
20			enterprise or real property.
21	895.03(3)	1st	Conduct or participate in any
22			enterprise through pattern of
23			racketeering activity.
24	896.101(5)(b)	2nd	Money laundering, financial
25			transactions totaling or
26			exceeding \$20,000, but less than
27			\$100,000.
28			
29			
30			
31			

1	896.104(4)(a)2.	2nd	Structuring transactions to evade
2			reporting or registration
3			requirements, financial
4			transactions totaling or
5			exceeding \$20,000 but less than
6			\$100,000.
7			(i) LEVEL 9
8	316.193		
9	(3)(c)3.b.	1st	DUI manslaughter; failing to
10			render aid or give information.
11	560.123(8)(b)3.	1st	Failure to report currency or
12			payment instruments totaling or
13			exceeding \$100,000 by money
14			transmitter.
15	560.125(5)(c)	1st	Money transmitter business by
16			unauthorized person, currency, or
17			payment instruments totaling or
18			exceeding \$100,000.
19	655.50(10)(b)3.	1st	Failure to report financial
20			transactions totaling or
21			exceeding \$100,000 by financial
22			institution.
23	<u>775.0844</u> 755.0844	1st	Aggravated white collar crime.
24	782.04(1)	1st	Attempt, conspire, or solicit to
25			commit premeditated murder.
26	782.04(3)	1st,PBL	Accomplice to murder in
27			connection with arson, sexual
28			battery, robbery, burglary, and
29			other specified felonies.
30			
31			

1	782.051(1)	1st	Attempted felony murder while
2			perpetrating or attempting to
3			perpetrate a felony enumerated in
4			s. 782.04(3).
5	782.07(2)	1st	Aggravated manslaughter of an
6			elderly person or disabled adult.
7	787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or
8			reward or as a shield or hostage.
9	787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit
10			or facilitate commission of any
11			felony.
12	787.01(1)(a)4.	1st,PBL	Kidnapping with intent to
13			interfere with performance of any
14			governmental or political
15			function.
16	787.02(3)(a)	1st	False imprisonment; child under
17			age 13; perpetrator also commits
18			aggravated child abuse, sexual
19			battery, or lewd or lascivious
20			battery, molestation, conduct, or
21			exhibition.
22	790.161	1st	Attempted capital destructive
23			device offense.
24	790.166(2)	1st,PBL	Possessing, selling, using, or
25			attempting to use a weapon of
26			mass destruction.
27	794.011(2)	1st	Attempted sexual battery; victim
28			less than 12 years of age.
29			
30			
31			

1	794.011(2)	Life	Sexual battery; offender younger
2			than 18 years and commits sexual
3			battery on a person less than 12
4			years.
5	794.011(4)	1st	Sexual battery; victim 12 years
6			or older, certain circumstances.
7	794.011(8)(b)	1st	Sexual battery; engage in sexual
8			conduct with minor 12 to 18 years
9			by person in familial or
10			custodial authority.
11	800.04(5)(b)	1st	Lewd or lascivious molestation;
12			victim less than 12 years;
13			offender 18 years or older.
14	812.13(2)(a)	1st,PBL	Robbery with firearm or other
15			deadly weapon.
16	812.133(2)(a)	1st,PBL	Carjacking; firearm or other
17			deadly weapon.
18	827.03(2)	1st	Aggravated child abuse.
19	847.0145(1)	1st	Selling, or otherwise
20			transferring custody or control,
21			of a minor.
22	847.0145(2)	1st	Purchasing, or otherwise
23			obtaining custody or control, of
24			a minor.
25	859.01	1st	Poisoning or introducing
26			bacteria, radioactive materials,
27			viruses, or chemical compounds
28			into food, drink, medicine, or
29			water with intent to kill or
30			injure another person.
31			

1	893.135	1st	Attempted capital trafficking
2			offense.
3	893.135(1)(a)3.	1st	Trafficking in cannabis, more
4			than 10,000 lbs.
5	893.135		
6	(1)(b)1.c.	1st	Trafficking in cocaine, more than
7			400 grams, less than 150
8			kilograms.
9	893.135		
10	(1)(c)1.c.	1st	Trafficking in illegal drugs,
11			more than 28 grams, less than 30
12			kilograms.
13	893.135		
14	(1)(d)1.c.	1st	Trafficking in phencyclidine,
15			more than 400 grams.
16	893.135		
17	(1)(e)1.c.	1st	Trafficking in methaqualone, more
18			than 25 kilograms.
19	893.135		
20	(1)(f)1.c.	1st	Trafficking in amphetamine, more
21			than 200 grams.
22	893.135		
23	(1)(h)1.c.	1st	Trafficking in
24			gamma-hydroxybutyric acid (GHB),
25			10 kilograms or more.
26	<u>893.135(1)(j)1.c.</u>		
27	893.135(1)(i)1.c.	1st	Trafficking in 1,4-Butanediol, 10
28			kilograms or more.
29	<u>893.135(1)(k)2.c.</u>		
30	893.135(1)(j)2.c.	1st	Trafficking in Phenethylamines,
31			400 grams or more.

1 896.101(5)(c) 1st Money laundering, financial
2 instruments totaling or exceeding
3 \$100,000.
4 896.104(4)(a)3. 1st Structuring transactions to evade
5 reporting or registration
6 requirements, financial
7 transactions totaling or
8 exceeding \$100,000.
9
10 Reviser's note.--Paragraph (3)(g) is amended to
11 improve clarity and facilitate correct
12 interpretation. Reference to property stolen,
13 emergency medical equipment is found in s.
14 812.014(2)(b)3. Paragraph (3)(g) is further
15 amended to conform to the redesignation of s.
16 893.135(1)(i)1.a. as s. 893.135(1)(j)1.a. and
17 s. 893.135(1)(j)2.a. as s. 893.135(1)(k)2.a. by
18 s. 7, ch. 2001-57, Laws of Florida. Paragraph
19 (3)(h) is amended to conform to the
20 redesignation of s. 893.135(1)(i)1.b. as s.
21 893.135(1)(j)1.b. and s. 893.135(1)(j)2.b. as
22 s. 893.135(1)(k)2.b. by s. 7, ch. 2001-57.
23 Paragraph (3)(i) is amended to improve clarity
24 and facilitate correct interpretation. Section
25 755.0844 does not exist. Section 775.0844
26 relates to white collar crime. Paragraph (3)(i)
27 is further amended to conform to the
28 redesignation of s. 893.135(1)(i)1.c. as s.
29 893.135(1)(j)1.c. and s. 893.135(1)(j)2.c. as
30 s. 893.135(1)(k)2.c. by s. 7, ch. 2001-57.
31

1 Section 119. Subsection (45) of section 985.03,
2 Florida Statutes, is amended to read:

3 985.03 Definitions.--When used in this chapter, the
4 term:

5 (45) "Residential commitment level" means the level of
6 security provided by programs that service the supervision,
7 custody, care, and treatment needs of committed children.

8 Sections 985.3141 and 985.404(11)~~985.404(13)~~ apply to
9 children placed in programs at any residential commitment
10 level. The levels of residential commitment are as follows:

11 (a) Low-risk residential.--Programs or program models
12 at this commitment level are residential but may allow youth
13 to have unsupervised access to the community. Youth assessed
14 and classified for placement in programs at this commitment
15 level represent a low risk to themselves and public safety but
16 do require placement and services in residential settings.
17 Children who have been found to have committed delinquent acts
18 that involve firearms, delinquent acts that are sexual
19 offenses, or delinquent acts that would be life felonies or
20 first degree felonies if committed by an adult shall not be
21 committed to a program at this level.

22 (b) Moderate-risk residential.--Programs or program
23 models at this commitment level are residential but may allow
24 youth to have supervised access to the community. Facilities
25 are either environmentally secure, staff secure, or are
26 hardware-secure with walls, fencing, or locking doors.
27 Facilities shall provide 24-hour awake supervision, custody,
28 care, and treatment of residents. Youth assessed and
29 classified for placement in programs at this commitment level
30 represent a moderate risk to public safety and require close
31 supervision. The staff at a facility at this commitment level

1 may seclude a child who is a physical threat to himself or
2 herself or others. Mechanical restraint may also be used when
3 necessary.

4 (c) High-risk residential.--Programs or program models
5 at this commitment level are residential and shall not allow
6 youth to have access to the community. Facilities are
7 hardware-secure with perimeter fencing and locking doors.
8 Facilities shall provide 24-hour awake supervision, custody,
9 care, and treatment of residents. Youth assessed and
10 classified for this level of placement require close
11 supervision in a structured residential setting. Placement in
12 programs at this level is prompted by a concern for public
13 safety that outweighs placement in programs at lower
14 commitment levels. The staff at a facility at this commitment
15 level may seclude a child who is a physical threat to himself
16 or herself or others. Mechanical restraint may also be used
17 when necessary. The facility may provide for single cell
18 occupancy.

19 (d) Maximum-risk residential.--Programs or program
20 models at this commitment level include juvenile correctional
21 facilities and juvenile prisons. The programs are long-term
22 residential and shall not allow youth to have access to the
23 community. Facilities are maximum-custody hardware-secure
24 with perimeter security fencing and locking doors. Facilities
25 shall provide 24-hour awake supervision, custody, care, and
26 treatment of residents. The staff at a facility at this
27 commitment level may seclude a child who is a physical threat
28 to himself or herself or others. Mechanical restraint may
29 also be used when necessary. The facility shall provide for
30 single cell occupancy, except that youth may be housed
31 together during prerelease transition. Youth assessed and

1 classified for this level of placement require close
2 supervision in a maximum security residential setting.
3 Placement in a program at this level is prompted by a
4 demonstrated need to protect the public.

5
6 Reviser's note.--Amended to conform to the
7 redesignation of subunits necessitated by the
8 repeal of former s. 985.404(10) and (11) by s.
9 41, ch. 2001-125, Laws of Florida.

10
11 Section 120. Paragraph (c) of subsection (5) of
12 section 985.04, Florida Statutes, is amended to read:

13 985.04 Oaths; records; confidential information.--

14 (5) Notwithstanding any other provisions of this part,
15 the name, photograph, address, and crime or arrest report of a
16 child:

17 (c) Transferred to the adult system pursuant to s.
18 985.227, indicted pursuant to s. 985.225, or waived pursuant
19 to s. 985.226 ~~95.226~~;

20
21 shall not be considered confidential and exempt from the
22 provisions of s. 119.07(1) solely because of the child's age.

23
24 Reviser's note.--Amended to improve clarity and
25 facilitate correct interpretation. Section
26 985.226 relates to waiver of juvenile court
27 jurisdiction and motion to transfer for
28 prosecution as an adult; s. 95.226 does not
29 exist.

1 Section 121. Subsection (2) of section 985.231,
2 Florida Statutes, is amended to read:

3 985.231 Powers of disposition in delinquency cases.--

4 (2) Following a delinquency adjudicatory hearing
5 pursuant to s. 985.228 and a delinquency disposition hearing
6 pursuant to s. 985.23 which results in a commitment
7 determination, the court shall, on its own or upon request by
8 the state or the department, determine whether the protection
9 of the public requires that the child be placed in a program
10 for serious or habitual juvenile offenders and whether the
11 particular needs of the child would be best served by a
12 program for serious or habitual juvenile offenders as provided
13 in s. 985.31. The determination shall be made pursuant to ss.
14 985.03(48)~~985.03(46)~~and 985.23(3).

15
16 Reviser's note.--Amended to improve clarity,
17 facilitate correct interpretation, and conform
18 to the redesignation of subunits within s.
19 985.03 by s. 14, ch. 2001-125, Laws of Florida.
20 "Serious or habitual juvenile offender" is
21 defined and criteria are set out in s.
22 985.03(48).

23
24 Section 122. Paragraph (b) of subsection (4) of
25 section 985.315, Florida Statutes, is amended to read:

26 985.315 Educational/technical and vocational
27 work-related programs.--

28 (4)

29 (b) Evaluations of juvenile educational/technical and
30 vocational work-related programs shall be conducted according
31 to the following guidelines:

1 1. Systematic evaluations and quality assurance
2 monitoring shall be implemented, in accordance with s.
3 985.412(1), (2), and (5)~~985.412(1)~~, to determine whether the
4 programs are related to successful postrelease adjustments.

5 2. Operations and policies of the programs shall be
6 reevaluated to determine if they are consistent with their
7 primary objectives.

8
9 Reviser's note.--Amended to conform to the
10 redesignation of s. 985.412(1) as s.
11 985.412(1), (2), and (5) by s. 34, ch.
12 2001-125, Laws of Florida.

13
14 Section 123. Subsection (8) of section 985.3155,
15 Florida Statutes, is amended to read:
16 985.3155 Multiagency plan for vocational education.--
17 (8) Outcome measures reported by the Department of
18 Juvenile Justice and, the Department of Education, ~~and the~~
19 ~~Juvenile Justice Accountability Board~~ for youth released on or
20 after January 1, 2002, should include outcome measures that
21 conform to the plan.

22
23 Reviser's note.--Amended to improve clarity and
24 facilitate correct interpretation. The Juvenile
25 Justice Accountability Board does not exist.
26 Section 985.401, which created the Juvenile
27 Justice Advisory Board, was repealed by s. 1,
28 ch. 2001-185, Laws of Florida.

29
30
31