

By the Committee on Education; and Senator Villalobos

304-2110-02

1 A bill to be entitled
2 An act relating to educational facilities;
3 amending s. 235.011, F.S.; redefining terms;
4 reenacting and amending s. 235.014, F.S.;
5 revising the functions of the Department of
6 Education; amending s. 235.017; revising
7 provisions governing compliance of facilities
8 with building codes and life safety codes;
9 amending s. 235.02, F.S.; revising provisions
10 governing the use of buildings and grounds;
11 amending s. 235.04, F.S.; authorizing the State
12 Board of Education to adopt rules governing the
13 disposal of property; reenacting and amending
14 s. 235.05, F.S.; providing the power of eminent
15 domain; amending s. 235.056, F.S.; eliminating
16 a reference to the Board of Regents; correcting
17 references to the Florida Building Code and the
18 Florida Fire Prevention Code; authorizing the
19 State Board of Education to adopt rules;
20 providing requirements for college and
21 university lease agreements; reenacting and
22 amending s. 235.057, F.S.; eliminating
23 references to the Board of Regents; revising
24 provisions governing the purchase, conveyance,
25 or encumbrance of property interests; amending
26 s. 235.06, F.S.; authorizing the State Board of
27 Education to adopt rules relating to safety and
28 sanitation; specifying local school board
29 facilities for certain inspections; amending s.
30 235.061, F.S.; requiring compliance with state
31 requirements for Educational Facilities;

1 reenacting and amending s. 235.15, F.S.;

2 eliminating references to the Board of Regents;

3 requiring State Board of Education approval for

4 educational plant survey exceptions; amending

5 ss. 235.155, 235.18, F.S.; eliminating

6 references to the Board of Regents; revising

7 exceptions allowed to recommendations in

8 educational plant surveys; revising provisions

9 governing annual capital outlay budgets;

10 amending s. 235.186, F.S.; revising the Effort

11 Index Grant Program; amending s. 235.19, F.S.;

12 requiring site-location criteria to apply to

13 school board and community college educational

14 facilities; authorizing the State Board of

15 Education to adopt rules; amending s. 235.192,

16 F.S.; requiring college and university

17 presidents to provide certain information

18 concerning facilities to local fire and law

19 enforcement agencies; amending s. 235.193,

20 F.S.; requiring certain information concerning

21 all educational facilities to be coordinated

22 with local governments; providing an exception;

23 reenacting and amending s. 235.195, F.S.;

24 revising the approval procedure for joint-use

25 facilities; eliminating obsolete provisions;

26 reenacting and amending s. 235.199, F.S.;

27 revising provisions governing funding of

28 vocational education facilities; amending s.

29 235.211, F.S.; authorizing the State Board of

30 Education to adopt rules governing contracting

31 and construction; amending s. 235.215, F.S.;

1 revising provisions governing energy-efficiency
2 contracting; amending s. 235.2155, F.S.;
3 eliminating obsolete provisions; amending s.
4 235.216, F.S.; eliminating obsolete provisions
5 pertaining to charter schools; amending s.
6 235.26, F.S.; revising provisions governing
7 building codes; creating s. 235.261, F.S.;
8 providing for the use of educational facilities
9 as emergency shelters; amending s. 235.31,
10 F.S.; authorizing the State Board of Education
11 to adopt rules; authorizing all education
12 boards to participate in local-government
13 contracts for certain facilities services;
14 amending s. 235.32, F.S.; authorizing the State
15 Board of Education to adopt rules governing
16 contracts; amending s. 235.3215, F.S.;
17 prescribing the conditions for use of toxic
18 substances in construction with respect to all
19 educational facilities; amending s. 235.34,
20 F.S.; revising authorized expenditures;
21 amending s. 235.40, F.S.; eliminating a
22 reference to the Board of Regents in provisions
23 relating to radio and television facilities;
24 reenacting and amending s. 235.41, F.S.;
25 revising provisions governing capital outlay
26 budget requests; reenacting and amending s.
27 235.42, F.S.; revising provisions governing
28 funding of facilities; amending s. 235.435,
29 F.S.; eliminating references to the Board of
30 Regents; revising membership requirements for
31 the Special Facility Construction Committee;

1 revising the procedure for calculating
2 capital-outlay full-time-equivalent membership;
3 revising the procedure for postsecondary
4 institutions to submit capital-outlay-project
5 priority lists; amending s. 235.4351, F.S.;
6 authorizing the State Board of Education to
7 adopt rules granting waivers from certain
8 requirements; providing an effective date.

9
10 Be It Enacted by the Legislature of the State of Florida:

11
12 Section 1. Subsections (3), (8), (10), (14), and (16)
13 of section 235.011, Florida Statutes, are amended to read:

14 235.011 Definitions.--Notwithstanding the provisions
15 of s. 228.041, the following terms shall be defined as follows
16 for the purpose of this chapter:

17 (3) "Board," unless otherwise specified, means a
18 district school board, a community college board of trustees,
19 a college board of trustees, or a university board of
20 trustees,and the Board of Trustees for the Florida School for
21 the Deaf and the Blind. The term "board" does not include the
22 State Board of Education ~~or the Board of Regents.~~

23 (8) "Educational plant survey" means a systematic
24 study of present educational and ancillary plants and the
25 determination of future needs to provide an appropriate
26 educational program and services for each student, based on
27 projected capital outlay FTE's approved by the Department of
28 Education.

29 (10) "Long-range planning" means devising a systematic
30 method based on educational information and needs, carefully
31

1 analyzed, to provide the facilities to meet the goals and
2 objectives of the educational agency for a period of 5 years.

3 (14) "New construction" means any construction of a
4 building or unit of a building in which the entire work is new
5 or an entirely new addition connected to an existing building
6 or which adds additional square footage to the space
7 inventory.

8 (16) "Public education capital outlay (PECO) funded
9 projects" means site acquisition, renovation, remodeling,
10 construction projects, and site improvements necessary to
11 accommodate buildings, equipment, other structures, and
12 special educational use areas that are built, installed, or
13 established to serve primarily the educational instructional
14 program of the district school board, ~~or~~ community college
15 board, college board, or university board ~~and the Board of~~
16 ~~Regents.~~

17 Section 2. Notwithstanding subsection (7) of section 3
18 of chapter 2000-321, Laws of Florida, section 235.014, Florida
19 Statutes, shall not stand repealed on January 7, 2003, as
20 scheduled by that act, but that section is reenacted and
21 amended to read:

22 235.014 Functions of the department.--The functions of
23 the department as it pertains to educational facilities shall
24 include, but not be limited to, the following; it shall:

25 (1) Establish recommended minimum and maximum square
26 footage standards ~~requirements~~ for different functions and
27 areas and the procedures for determining the gross square
28 footage for each educational facility to be funded in whole or
29 in part by the state, including public broadcasting stations
30 but excluding postsecondary special purpose laboratory space.
31 The gross square footage determination standards may be

1 exceeded when the core facility space of an educational
2 facility is constructed or renovated to accommodate the future
3 addition of classrooms to meet projected increases in student
4 enrollment. The department shall encourage multiple use of
5 facilities and spaces in educational plants.

6 (2) Establish, for the purpose of determining need,
7 equitably uniform utilization standards for all types of like
8 space, regardless of the level of education. These standards
9 shall also establish, for postsecondary education classrooms,
10 a minimum room utilization rate of 40 hours per week and a
11 minimum station utilization rate of 60 percent. These rates
12 shall be subject to increase based on national norms for
13 utilization of postsecondary education classrooms.

14 (3) Require boards, ~~including the Board of Regents,~~ to
15 submit other educational plant inventories data and
16 statistical data or information relevant to construction,
17 capital improvements, and related costs.

18 (4) Require each board, ~~including the Board of~~
19 ~~Regents, all agencies of the state,~~ and other appropriate
20 agencies to submit complete and accurate financial data as to
21 the amounts of funds from all sources that are available and
22 spent for construction and capital improvements. The
23 commissioner shall prescribe the format and the date for the
24 submission of this data and any other educational facilities
25 data. If any district does not submit the required educational
26 facilities fiscal data by the prescribed date, the
27 commissioner shall notify the district school board of this
28 fact and, if appropriate action is not taken to immediately
29 submit the required report, the district school board shall be
30 directed to proceed pursuant to the provisions of s.
31 230.23(11)(b). If any community college, college, or

1 university does not submit the required educational facilities
2 fiscal data by the prescribed date, the same policy prescribed
3 above for school districts shall be implemented.

4 (5) Administer, under the supervision of the
5 commissioner, the Public Education Capital Outlay and Debt
6 Service Trust Fund and the School District and Community
7 College District Capital Outlay and Debt Service Trust Fund.

8 (6) Develop, review, update, and revise a recommended
9 mandatory portion of the Florida, ~~uniform~~ Building Code for
10 educational facilities construction and capital improvement by
11 community college boards of trustees and local school boards.

12 (7) Provide training, technical assistance, and
13 building code interpretation for requirements of the mandatory
14 Florida ~~uniform~~ Building Code for the educational facilities
15 construction and capital improvement programs of the community
16 college boards of trustees and local school boards and, upon
17 request, approve phase III construction documents for
18 remodeling, renovation, or new construction of educational
19 plants or ancillary facilities, except that boards of trustees
20 of colleges and universities shall approve specifications and
21 construction documents for their respective institutions ~~the~~
22 Board of Regents shall approve specifications and construction
23 documents for the State University System. The Department of
24 Management Services may, upon request, provide similar
25 services for the Florida School for the Deaf and the Blind and
26 shall use the Florida Building Code and the Florida Fire
27 Prevention Code ~~a state minimum building code adopted pursuant~~
28 ~~to s. 553.73 and the National Fire Protection Association Life~~
29 ~~Safety Code as adopted pursuant to chapter 633.~~

1 (8) Provide minimum criteria, procedures, and training
2 to boards to conduct educational plant surveys and document
3 the determination of future needs.

4 (9) Make available to boards, ~~including the Board of~~
5 ~~Regents~~, technical assistance, awareness training, and
6 research and technical publications relating to lifesafety,
7 casualty, sanitation, environmental, maintenance, and
8 custodial issues; and, as needed, technical assistance for
9 survey, planning, design, construction, operation, and
10 evaluation of educational and ancillary facilities and plants,
11 facilities administrative procedures review, and training for
12 new administrators.

13 (10)(a) Review and validate surveys proposed or
14 amended by the boards and recommend to the Commissioner State
15 ~~Board of Education~~, for approval, surveys that meet the
16 requirements of this chapter.

17 1. The term "validate" as applied to surveys by school
18 districts means to review inventory data as submitted to the
19 department by district school boards; provide for review and
20 inspection, where required, of student stations and aggregate
21 square feet of inventory changed from satisfactory to
22 unsatisfactory or changed from unsatisfactory to satisfactory;
23 compare new school inventory to allocation limits provided by
24 this chapter; review cost projections for conformity with cost
25 limits set by s. 235.435(6); compare total capital outlay
26 full-time equivalent enrollment projections in the survey with
27 the department's projections; review facilities lists to
28 verify that student station and auxiliary facility space
29 allocations do not exceed the limits provided by this chapter
30 and related rules; review and confirm the application of
31 uniform facility utilization factors, where provided by this

1 chapter or related rules; utilize the documentation of
2 programs offered per site, as submitted by the board, to
3 analyze facility needs; confirm that need projections for
4 vocational and adult educational programs comply with needs
5 documented by the Office of Workforce and Economic Development
6 ~~Division of Workforce Development~~; and confirm the assignment
7 of full-time student stations to all space except auxiliary
8 facilities, which, for purposes of exemption from student
9 station assignment, include the following:

- 10 a. Cafeterias.
- 11 b. Multipurpose dining areas.
- 12 c. Media centers.
- 13 d. Auditoriums.
- 14 e. Administration.
- 15 f. Elementary, middle, and high school resource rooms,
16 up to the number of such rooms recommended for the applicable
17 occupant and space design capacity of the educational plant in
18 the State Requirements for Educational Facilities, beyond
19 which student stations must be assigned.
- 20 g. Elementary school skills labs, up to the number of
21 such rooms recommended for the applicable occupant and space
22 design capacity of the educational plant in the State
23 Requirements for Educational Facilities, beyond which student
24 stations must be assigned.
- 25 h. Elementary school art and music rooms.

26 2. The term "validate" as applied to surveys by
27 community colleges, colleges, and universities means to review
28 and document the approval of each new site and official
29 designation, where applicable; review the inventory database
30 as submitted by each board through the division directors to
31 the Commissioner ~~the Division of Community Colleges~~, including

1 nonvocational, vocational, and total capital outlay full-time
2 equivalent enrollment projections per site and per college;
3 provide for the review and inspection, where required, of
4 student stations and aggregate square feet of space changed
5 from satisfactory to unsatisfactory; utilize and review the
6 documentation of programs offered per site submitted by the
7 boards ~~Division of Community Colleges~~ as accurate for analysis
8 of space requirements and needs; confirm that needs projected
9 for vocational and adult educational programs comply with
10 needs documented by the Office of Workforce and Economic
11 Development ~~Division of Workforce Development~~; compare new
12 facility inventory to allocations limits as provided in this
13 chapter; review cost projections for conformity with state
14 averages or limits designated by this chapter; compare student
15 enrollment projections in the survey to the department's
16 projections; review facilities lists to verify that area
17 allocations and space factors for generating space needs do
18 not exceed the limits as provided by this chapter and related
19 rules; confirm the application of facility utilization factors
20 as provided by this chapter and related rules; and review, as
21 submitted, documentation of how survey recommendations will
22 implement the detail of current campus master plans and
23 integrate with local comprehensive plans and development
24 regulations.

25 (b) Recommend priority of projects to be funded for
26 approval by the state board, when required by law.

27 (11) Prepare the commissioner's comprehensive fixed
28 capital outlay legislative budget request and provide annually
29 ~~to the State Board of Community Colleges and the Board of~~
30 ~~Regents~~ an estimate of the funds available ~~to that board~~ for
31 developing ~~their~~ required 3-year priority lists ~~list~~. This

1 amount shall be based upon the average percentage for the 5
2 prior years of funds appropriated by the Legislature for fixed
3 capital outlay to each level of public education: public
4 schools, community colleges, and the State University System.

5 (12) Perform any other functions that may be involved
6 in educational facilities construction and capital improvement
7 which shall ensure that the intent of the Legislature is
8 implemented.

9 Section 3. Section 235.017, Florida Statutes, is
10 amended to read:

11 235.017 Boards to ensure that facilities comply with
12 building codes and life safety codes.--

13 (1) Boards shall ensure that all new construction,
14 renovation, remodeling, day labor, and maintenance projects
15 conform to the appropriate sections of the Florida Building
16 Code, Florida Fire Prevention Code, State Uniform Building
17 Code for Public Educational Facilities Construction or, where
18 applicable as authorized in other sections of law, other
19 building codes, and life safety codes.

20 (2) Boards may provide compliance as follows:

21 (a) Boards or consortia may individually or
22 cooperatively provide review services under the insurance risk
23 management oversight through the use of board employees or
24 consortia employees, registered pursuant to chapter 471 or
25 chapter 481 or part XII of chapter 468.

26 (b) Boards may elect to review construction documents
27 using their own employees registered pursuant to chapter 471
28 or chapter 481 or part XII of chapter 468.

29 (c) Boards may submit phase III construction documents
30 for review to the department.

31

1 (d) Boards or consortia may contract for plan review
2 services directly with engineers and architects registered
3 pursuant to chapter 471 or chapter 481.

4 (3) The Department of Management Services may, upon
5 request, provide facilities services for the Florida School
6 for the Deaf and the Blind, the Division of Blind Services,
7 and Public Broadcasting. As used in this section, the term
8 "facilities services" means project management, code and
9 design plan review, and code compliance inspection for
10 projects as defined in s. 287.017(1)(e).

11 Section 4. Section 235.02, Florida Statutes, is
12 amended to read:

13 235.02 Use of buildings and grounds.--The board,
14 ~~including the Board of Regents,~~ may permit the use of
15 educational facilities and grounds for any legal assembly or
16 for community use centers or may permit the same to be used as
17 voting places in any primary, regular, or special election.
18 The board shall adopt rules or policies and procedures
19 necessary to protect educational facilities and grounds when
20 used for such purposes.

21 Section 5. Section 235.04, Florida Statutes, is
22 amended to read:

23 235.04 Disposal of property.--

24 (1) REAL PROPERTY.--Subject to rules of the State
25 Board ~~Commissioner~~ of Education, a board may dispose of any
26 land or real property that is, by resolution of the board,
27 determined to be unnecessary for educational purposes as
28 recommended in an educational plant survey. A board shall
29 take diligent measures to dispose of educational property only
30 in the best interests of the public. However, appraisals may
31

1 be obtained by the board prior to or simultaneously with the
2 receipt of bids.

3 (2) TANGIBLE PERSONAL PROPERTY.--Tangible personal
4 property which has been properly classified as surplus by a
5 board shall be disposed of in accordance with the procedure
6 established by chapter 274. However, the provisions of
7 chapter 274 shall not be applicable to a motor vehicle used in
8 driver education to which title is obtained for a token amount
9 from an automobile dealer or manufacturer. In such cases, the
10 disposal of the vehicle shall be as prescribed in the
11 contractual agreement between the automotive agency or
12 manufacturer and the board. Until January 7, 2003, disposal of
13 tangible personal property by colleges and universities shall
14 be in accordance with procedures established in chapter 273.

15 Section 6. Notwithstanding subsection (7) of section 3
16 of chapter 2000-321, Laws of Florida, subsection (3) of
17 section 235.05, Florida Statutes, shall not stand repealed on
18 January 7, 2003, as scheduled by that act, but that subsection
19 is reenacted and amended and subsection (2) of that section is
20 amended to read:

21 235.05 Right of eminent domain.--

22 (2) The board of trustees of a community college may
23 exercise the power ~~right~~ of eminent domain as provided in s.
24 240.319(4)(d).

25 (3) The boards of trustees of colleges and
26 universities ~~Board of Regents~~ may exercise the power ~~right~~ of
27 eminent domain as provided in s. 240.217.

28 Section 7. Subsection (1) and paragraph (a) of
29 subsection (2) of section 235.056, Florida Statutes, are
30 amended, and subsection (4) is added to that section, to read:

31

1 235.056 Lease, rental, and lease-purchase of
2 educational facilities and sites.--

3 (1) A board, ~~including the Board of Regents,~~ may lease
4 any land, facilities, or educational plants owned by it to any
5 person or entity for such term, for such rent, and upon such
6 terms and conditions as the board determines to be in its best
7 interests; any such lease may provide for the optional or
8 binding purchase of the land, facilities, or educational
9 plants by the lessee upon such terms and conditions as the
10 board determines are in its best interests. A determination
11 that any such land, facility, or educational plant so leased
12 is unnecessary for educational purposes is not a prerequisite
13 to the leasing or lease-purchase of such land, facility, or
14 educational plant. Prior to entering into or executing any
15 such lease, a board shall consider approval of the lease or
16 lease-purchase agreement at a public meeting, at which a copy
17 of the proposed agreement in its final form shall be available
18 for inspection and review by the public, after due notice as
19 required by law.

20 (2)(a) A school board may rent or lease educational
21 facilities and sites as defined in s. 235.011. Educational
22 facilities and sites rented or leased for 1 year or less shall
23 be funded through the operations budget or funds derived from
24 millage proceeds pursuant to s. 236.25(2). A lease contract
25 for 1 year or less, when extended or renewed beyond a year,
26 becomes a multiple-year lease. Operational funds or funds
27 derived from millage proceeds pursuant to s. 236.25(2) may be
28 authorized to be expended for multiple-year leases. All
29 leased facilities and sites must be inspected prior to
30 occupancy by the authority having jurisdiction ~~board's Uniform~~
31 ~~Building Code inspector, who shall report to the department.~~

1 1. Beginning July 1, 1995, all newly leased spaces
2 must be inspected and brought into compliance with the Florida
3 ~~state minimum~~ Building Code pursuant to chapter 553, and the
4 life safety codes pursuant to chapter 633, prior to occupancy,
5 using the board's operations budget or funds derived from
6 millage proceeds pursuant to s. 236.25(2). ~~As an alternative,~~
7 ~~the board may elect to comply with the State Uniform Building~~
8 ~~Code for Public Educational Facilities Construction instead of~~
9 ~~the state minimum building code or the life safety code, or~~
10 ~~both.~~

11 2. Plans for renovation or remodeling of leased space
12 shall conform to the Florida Building Code and the Florida
13 Fire Prevention Code ~~state minimum building and life safety~~
14 ~~codes~~ for educational occupancies, or other occupancies as
15 appropriate, as required in chapters 553 and 633, prior to
16 occupancy. ~~As an alternative, the board may elect to comply~~
17 ~~with the State Uniform Building Code for Public Educational~~
18 ~~Facilities Construction instead of the state minimum building~~
19 ~~code or the life safety code, or both.~~

20 3. All leased facilities must be inspected annually
21 for firesafety deficiencies in accordance with the applicable
22 code and have corrections made in accordance with s. 235.06.
23 Operational funds or funds derived from millage proceeds
24 pursuant to s. 236.25(2) may be used to correct deficiencies
25 in leased space.

26 4. When the board declares that a public emergency
27 exists, it may take up to 30 days to bring the leased facility
28 into compliance with the requirements of the State Board
29 ~~Commissioner~~ of Education rules.

30 (b) A board is authorized to lease-purchase
31 educational facilities and sites as defined in s. 235.011.

1 The lease-purchase of educational facilities and sites shall
2 be as required by s. 235.26, be advertised for and receive
3 competitive proposals and be awarded to the best proposer, and
4 be funded using current or other funds specifically authorized
5 by law to be used for such purpose.

6 1. A district school board, by itself, or through a
7 direct-support organization formed pursuant to s. 237.40 or
8 nonprofit educational organization or a consortium of district
9 school boards, may, in developing a lease-purchase of
10 educational facilities and sites provide for separately
11 advertising for and receiving competitive bids or proposals on
12 the construction of facilities and the selection of financing
13 to provide the lowest cost funding available, so long as the
14 board determines that such process would best serve the public
15 interest and the pledged revenues are limited to those
16 authorized in s. 236.25(2)(e).

17 2. All activities and information, including lists of
18 individual participants, associated with agreements made
19 pursuant to this section shall be subject to the provisions of
20 chapter 119 and s. 286.011.

21 (c)1. The term of any lease-purchase agreement,
22 including the initial term and any subsequent renewals, shall
23 not exceed the useful life of the educational facilities and
24 sites for which the agreement is made, or 30 years, whichever
25 is less.

26 2. The initial term or any renewal term of any
27 lease-purchase agreement shall expire on June 30 of each
28 fiscal year, but may be automatically renewed annually,
29 subject to a board making sufficient annual appropriations
30 therefor. Under no circumstances shall the failure of a board
31 to renew a lease-purchase agreement constitute a default or

1 require payment of any penalty, nor in any way limit the right
2 of a board to purchase or utilize educational facilities and
3 sites similar in function to the educational facilities and
4 sites which are the subject of the said lease-purchase
5 agreement. Educational facilities and sites being acquired
6 pursuant to a lease-purchase agreement shall be exempt from ad
7 valorem taxation.

8 3. No lease-purchase agreement entered into pursuant
9 to this subsection shall constitute a debt, liability, or
10 obligation of the state or a board or shall be a pledge of the
11 faith and credit of the state or a board.

12 4. Any lease-purchase agreement entered into pursuant
13 to this subsection shall stipulate an annual rate which may
14 consist of a principal component and an interest component,
15 provided that the maximum interest rate of any interest
16 component payable under any such lease-purchase agreement, or
17 any participation or certificated portion thereof, shall be
18 calculated in accordance with and be governed by the
19 provisions of s. 215.84.

20 (4) Lease agreements entered into by college and
21 university boards of trustees must comply with s. 243.151.

22 Section 8. Notwithstanding subsection (7) of section 3
23 of chapter 2000-321, Laws of Florida, section 235.057, Florida
24 Statutes, shall not stand repealed on January 7, 2003, as
25 scheduled by that act, but that section is reenacted and
26 amended to read:

27 235.057 Purchase, conveyance, or encumbrance of
28 property interests above surface of land; joint-occupancy
29 structures.--For the purpose of implementing jointly financed
30 construction project agreements, or for the construction of
31 combined occupancy structures, any board, ~~including the Board~~

1 ~~of Regents~~, may purchase, own, convey, sell, lease, or
2 encumber airspace or any other interests in property above the
3 surface of the land, provided the lease of airspace for
4 nonpublic use is for such reasonable rent, length of term, and
5 conditions as the board in its discretion may determine. All
6 proceeds from such sale or lease shall be used by the board or
7 boards receiving the proceeds solely for fixed capital outlay
8 purposes. These purposes may include the renovation or
9 remodeling of existing facilities owned by the board or the
10 construction of new facilities; however, for ~~the Board of~~
11 ~~Regents~~ or a community college, college, or university board,
12 such new facility must be authorized by the Legislature. It
13 is declared that the use of such rental by the board for
14 public purposes in accordance with its statutory authority is
15 a public use. Airspace or any other interest in property held
16 by the Board of Trustees of the Internal Improvement Trust
17 Fund or the State Board of Education may not be divested or
18 conveyed without approval of the respective board. Any
19 building, including any building or facility component that is
20 common to both nonpublic and educational portions thereof,
21 constructed in airspace that is sold or leased for nonpublic
22 use pursuant to this section is subject to all applicable
23 state, county, and municipal regulations pertaining to land
24 use, zoning, construction of buildings, fire protection,
25 health, and safety to the same extent and in the same manner
26 as such regulations would be applicable to the construction of
27 a building for nonpublic use on the appurtenant land beneath
28 the subject airspace. Any educational facility constructed or
29 leased as a part of a joint-occupancy facility is subject to
30 all rules and requirements of the respective boards or
31 departments having jurisdiction over educational facilities.

1 Section 9. Section 235.06, Florida Statutes, is
2 amended to read:

3 235.06 Safety and sanitation standards and inspection
4 of property.--The State Board ~~Commissioner~~ of Education shall
5 adopt and administer rules prescribing standards for the
6 safety and health of occupants of educational and ancillary
7 plants as a part of the Florida State Uniform Building Code
8 for Public Educational Facilities Construction as provided in
9 s. 235.26, the provisions of chapter 633 to the contrary
10 notwithstanding. These standards must be used by all public
11 agencies when inspecting public educational and ancillary
12 plants. In accordance with such standards, each board shall
13 prescribe policies and procedures establishing a comprehensive
14 program of safety and sanitation for the protection of
15 occupants of public educational and ancillary plants. Such
16 policies must contain procedures for periodic inspections as
17 prescribed herein and for withdrawal of any educational and
18 ancillary plant, or portion thereof, from use until unsafe or
19 unsanitary conditions are corrected or removed.

20 (1) PERIODIC INSPECTION OF PROPERTY BY LOCAL SCHOOL
21 BOARDS ~~THE BOARD~~.--

22 (a) Each board shall provide for periodic inspection
23 of each educational and ancillary plant at least once during
24 each fiscal year to determine compliance with standards of
25 sanitation and casualty safety prescribed in the rules of the
26 State Board of Education ~~commissioner~~.

27 (b) Firesafety inspections of each educational and
28 ancillary plant must be made annually by persons certified by
29 the Division of State Fire Marshal to be eligible to conduct
30 firesafety inspections in public educational and ancillary
31 plants.

1 (c) In each firesafety inspection report, the board
2 shall include a plan of action and a schedule for the
3 correction of each deficiency. If immediate life-threatening
4 deficiencies are noted in any inspection, the board shall
5 either take action to promptly correct the deficiencies or
6 withdraw the educational or ancillary plant from use until
7 such time as the deficiencies are corrected.

8 (2) INSPECTION OF EDUCATIONAL PROPERTY BY OTHER PUBLIC
9 AGENCIES.--

10 (a) A safety or sanitation inspection of any
11 educational or ancillary plant may be made at any time by the
12 Department of Education or any other state or local agency
13 authorized or required to conduct such inspections by either
14 general or special law. Each agency conducting inspections
15 shall use the standards adopted by the Commissioner of
16 Education in lieu of, and to the exclusion of, any other
17 inspection standards prescribed either by statute or
18 administrative rule, the provisions of chapter 633 to the
19 contrary notwithstanding. The agency shall submit a copy of
20 the inspection report to the board.

21 (b) In addition to school board inspections, the
22 applicable local fire control authority shall also annually
23 inspect school board educational facilities within its fire
24 control district, using the standards adopted by the
25 Commissioner of Education. Reports shall be filed with the
26 school board, and a copy shall be on file with the local site
27 administrator.

28 (3) CORRECTIVE ACTION.--Upon failure of the board to
29 take corrective action within a reasonable time, the agency
30 making the inspection may request the commissioner to:

31

1 (a) Order that appropriate action be taken to correct
2 all deficiencies in accordance with a schedule determined
3 jointly by the inspecting authority and the board; in
4 developing the schedule, consideration must be given to the
5 seriousness of the deficiencies and the ability of the board
6 to obtain the necessary funds; or

7 (b) After 30 calendar days' notice to the board, order
8 all or a portion of the educational or ancillary plant
9 withdrawn from use until the deficiencies are corrected.

10 (4) Firesafety inspections of community college,
11 college, and state university facilities must comply with
12 rules of the State Board of Education.

13 Section 10. Subsection (1) of section 235.061, Florida
14 Statutes, is amended to read:

15 235.061 Standards for relocatables used as classroom
16 space; inspections.--

17 (1) The Commissioner of Education shall adopt rules
18 establishing standards for relocatables intended for long-term
19 use as classroom space at a public elementary school, middle
20 school, or high school. "Long-term use" means the use of
21 relocatables at the same educational plant for a period of 4
22 years or more. These rules must be implemented by July 1,
23 1998, and each relocatable acquired by a district school board
24 after the effective date of the rules and intended for
25 long-term use must comply with the standards. The rules shall
26 require that, by July 1, 2002, relocatables that fail to meet
27 the standards may not be used as classrooms. The standards
28 shall protect the health, safety, and welfare of occupants by
29 requiring compliance with the state requirements for
30 educational facilities ~~Uniform Building Code for Public~~
31 ~~Educational Facilities~~ or other locally adopted state minimum

1 building codes to ensure the safety and stability of
2 construction and onsite installation; fire and moisture
3 protection; air quality and ventilation; appropriate wind
4 resistance; and compliance with the requirements of the
5 Americans with Disabilities Act of 1990. If appropriate, the
6 standards must also require relocatables to provide access to
7 the same technologies available to similar classrooms within
8 the main school facility and, if appropriate, to be accessible
9 by adequate covered walkways. By July 1, 2000, the
10 commissioner shall adopt standards for all relocatables
11 intended for long-term use as classrooms. A relocatable that
12 is subject to this section and does not meet the standards
13 shall not be reported as providing satisfactory student
14 stations in the Florida Inventory of School Houses.

15 Section 11. Notwithstanding subsection (7) of section
16 3 of chapter 2000-321, Laws of Florida, section 235.15,
17 Florida Statutes, shall not stand repealed on January 7, 2003,
18 as scheduled by that act, but that section is reenacted and
19 amended to read:

20 235.15 Educational plant survey; localized need
21 assessment; PECO project funding.--

22 (1) At least every 5 years, each board, ~~including the~~
23 ~~Board of Regents~~, shall arrange for an educational plant
24 survey, to aid in formulating plans for housing the
25 educational program and student population, faculty,
26 administrators, staff, and auxiliary and ancillary services of
27 the district or campus, including consideration of the local
28 comprehensive plan. The Office of Workforce and Economic
29 ~~Division of Workforce~~ Development shall document the need for
30 additional career and adult education programs and the
31 continuation of existing programs before facility construction

1 or renovation related to career or adult education may be
2 included in the educational plant survey of a school district
3 or community college that delivers career or adult education
4 programs. Information used by the Office of Workforce and
5 Economic ~~Division of Workforce~~ Development to establish
6 facility needs must include, but need not be limited to, labor
7 market data, needs analysis, and information submitted by the
8 school district or community college.

9 (a) Survey preparation and required data.--Each survey
10 shall be conducted by the board or an agency employed by the
11 board. Surveys shall be reviewed and approved by the board,
12 and a file copy shall be submitted to the commissioner. The
13 survey report shall include at least an inventory of existing
14 educational and ancillary plants; recommendations for existing
15 educational and ancillary plants; recommendations for new
16 educational or ancillary plants, including the general
17 location of each in coordination with the land use plan;
18 campus master plan update and detail for community colleges;
19 the utilization of school plants based on an extended school
20 day or year-round operation; and such other information as may
21 be required by the rules of the State Board of Education. This
22 report may be amended, if conditions warrant, at the request
23 of the board or commissioner.

24 (b) Required need assessment criteria for district,
25 community college, college, and state university plant
26 surveys.--Each educational plant survey completed after
27 ~~December 31, 1997,~~ must use uniform data sources and criteria
28 specified in this paragraph. ~~Each educational plant survey~~
29 ~~completed after June 30, 1995, and before January 1, 1998,~~
30 ~~must be revised, if necessary, to comply with this paragraph.~~

31

1 Each revised educational plant survey and each new educational
2 plant survey supersedes previous surveys.

3 1. Each school district's educational plant survey
4 must reflect the capacity of existing satisfactory facilities
5 as reported in the Florida Inventory of School Houses.
6 Projections of facility space needs may not exceed the norm
7 space and occupant design criteria established by the State
8 Requirements for Educational Facilities. Existing and
9 projected capital outlay full-time equivalent student
10 enrollment must be consistent with data prepared by the
11 department and must include all enrollment used in the
12 calculation of the distribution formula in s. 235.435(3). All
13 satisfactory relocatable classrooms, including those owned,
14 lease-purchased, or leased by the school district, shall be
15 included in the school district inventory of gross capacity of
16 facilities and must be counted at actual student capacity for
17 purposes of the inventory. For future needs determination,
18 student capacity shall not be assigned to any relocatable
19 classroom that is scheduled for elimination or replacement
20 with a permanent educational facility in the adopted 5-year
21 educational plant survey and in the district facilities work
22 program adopted under s. 235.185. Those relocatables clearly
23 identified and scheduled for replacement in a school board
24 adopted financially feasible 5-year district facilities work
25 program shall be counted at zero capacity at the time the work
26 program is adopted and approved by the school board. However,
27 if the district facilities work program is changed or altered
28 and the relocatables are not replaced as scheduled in the work
29 program, they must then be reentered into the system for
30 counting at actual capacity. Relocatables may not be
31 perpetually added to the work program and continually extended

1 for purposes of circumventing the intent of this section. All
2 remaining relocatable classrooms, including those owned,
3 lease-purchased, or leased by the school district, shall be
4 counted at actual student capacity. The educational plant
5 survey shall identify the number of relocatable student
6 stations scheduled for replacement during the 5-year survey
7 period and the total dollar amount needed for that
8 replacement. All district educational plant surveys revised
9 after July 1, 1998, shall include information on leased space
10 used for conducting the district's instructional program, in
11 accordance with the recommendations of the department's report
12 authorized in s. 235.056. A definition of satisfactory
13 relocatable classrooms shall be established by rule of the
14 department.

15 2. Each survey of a special facility, joint-use
16 facility, or cooperative vocational education facility must be
17 based on capital outlay full-time equivalent student
18 enrollment data prepared by the department for school
19 districts, community colleges, colleges, and ~~by the Division~~
20 ~~of Community Colleges for community colleges, and by the Board~~
21 ~~of Regents for state~~ universities. A survey of space needs of
22 a joint-use facility shall be based upon the respective space
23 needs of the school districts, community colleges, colleges,
24 and universities, as appropriate. Projections of a school
25 district's facility space needs may not exceed the norm space
26 and occupant design criteria established by the State
27 Requirements for Educational Facilities.

28 3. Each community college's survey must reflect the
29 capacity of existing facilities as specified in the inventory
30 maintained by the Division of Community Colleges. Projections
31 of facility space needs must comply with standards for

1 determining space needs as specified by rule of the State
2 Board of Education. The 5-year projection of capital outlay
3 student enrollment must be consistent with the annual report
4 of capital outlay full-time student enrollment prepared by the
5 Division of Community Colleges.

6 4. Each college's and state university's survey must
7 reflect the capacity of existing facilities as specified in
8 the inventory maintained and validated by the Division of
9 Colleges and Universities ~~Board of Regents~~. Projections of
10 facility space needs must be consistent with standards for
11 determining space needs approved by the Division of Colleges
12 and Universities ~~Board of Regents~~. The projected capital
13 outlay full-time equivalent student enrollment must be
14 consistent with the 5-year planned enrollment cycle for the
15 State University System approved by the Division of Colleges
16 and Universities ~~Board of Regents~~.

17 5. The educational plant survey of a school district,
18 community college, college, or state university may include
19 space needs that deviate from approved standards for
20 determining space needs if the deviation is justified by the
21 district or institution and approved by the department ~~or the~~
22 ~~Board of Regents, as appropriate~~, as necessary for the
23 delivery of an approved educational program.

24 (c) Review and validation.--The department shall
25 review and validate the surveys of school districts, and
26 community colleges, colleges, and universities, and any
27 amendments thereto for compliance with the requirements of
28 this chapter and, when required by the State Constitution,
29 shall recommend those in compliance for approval by the State
30 Board of Education.

31

1 (2) Only the superintendent, ~~or the~~ college president,
2 or university president shall certify to the department a
3 project's compliance with the requirements for expenditure of
4 PECO funds prior to release of funds.

5 (a) Upon request for release of PECO funds for
6 planning purposes, certification must be made to the
7 department that the need and location of the facility are in
8 compliance with the board-approved survey recommendations and
9 that the project meets the definition of a PECO project and
10 the limiting criteria for expenditures of PECO funding.

11 (b) Upon request for release of construction funds,
12 certification must be made to the department that the need and
13 location of the facility are in compliance with the
14 board-approved survey recommendations, that the project meets
15 the definition of a PECO project and the limiting criteria for
16 expenditures of PECO funding, and that the construction
17 documents meet the requirements of the Florida State Uniform
18 Building Code for Educational Facilities Construction or other
19 applicable codes as authorized in this chapter.

20 Section 12. Section 235.155, Florida Statutes, is
21 amended to read:

22 235.155 Exception to recommendations in educational
23 plant survey.--An exception to the recommendations in the
24 educational plant survey may be allowed if a board considers,
25 ~~including the Board of Regents, deems~~ that it will be
26 advantageous to the welfare of the educational system or that
27 it will make possible a substantial saving of funds. A board,
28 ~~including the Board of Regents,~~ upon determining that an
29 exception is warranted, must present a full statement, in
30 writing, setting forth all the facts to the State Board of
31 Education for approval ~~Commissioner of Education.~~

1 Section 13. Section 235.18, Florida Statutes, is
2 amended to read:

3 235.18 Annual capital outlay budget.--Each board,
4 ~~including the Board of Regents,~~ shall, each year, adopt a
5 capital outlay budget for the ensuing year in order that the
6 capital outlay needs of the board for the entire year may be
7 well understood by the public. This capital outlay budget
8 shall be a part of the annual budget and shall be based upon
9 and in harmony with the board's capital outlay ~~educational~~
10 ~~plant and ancillary facilities~~ plan. This budget shall
11 designate the proposed capital outlay expenditures by project
12 for the year from all fund sources. The board may not expend
13 any funds on any project not included in the budget, as
14 amended. Each district school board must prepare its tentative
15 district facilities work program as required by s. 235.185
16 before adopting the capital outlay budget.

17 Section 14. Section 235.186, Florida Statutes, is
18 amended to read:

19 235.186 Effort index grants for school district
20 facilities.--

21 (1) There is established an effort index grant program
22 for school district facilities. The purpose of this program is
23 to provide state financial assistance for the implementation
24 of School District Facilities Work Programs adopted pursuant
25 to s. 235.185 for districts that have experienced high growth
26 in student enrollment relative to their financial ability to
27 provide facilities to serve this enrollment growth. Funding
28 for effort index grants is subject to legislative
29 appropriations specifically provided for this purpose.

1 (2) In order to qualify for an effort index grant
2 awarded pursuant to this section, a school district must meet
3 the following criteria:

4 (a) The district must have levied the full 2 mills of
5 nonvoted discretionary capital outlay authorized in s.
6 236.25(2) for each of the 4 years immediately preceding the
7 award of an effort index grant; and

8 (b) Fifty percent of the revenue derived from the 2
9 mill nonvoted discretionary capital outlay levy for the 4
10 years immediately preceding the award of an effort index
11 grant, when divided by the district's growth in capital outlay
12 FTE students over the same 4-year period, produces a value
13 which is less than the average cost-per-student-station
14 calculated pursuant to s. 235.216(2) for the year immediately
15 preceding the effort index grant award, and weighted by the
16 statewide enrollment in elementary, middle, and high school;
17 and

18 (c) The Commissioner of Education has related all
19 funds allocated to the district from the Classrooms First
20 Program authorized in s. 235.187; and

21 (d) The total COFTE of the district is greater than
22 15,000 students.

23 (3) The maximum amount of an effort index grant
24 awarded pursuant to this section shall be calculated as
25 follows:

26 (a) For each eligible district, the Department of
27 Education shall calculate the value of 50 percent of the
28 revenue derived from the 2-mill nonvoted discretionary capital
29 outlay tax for the 4 years immediately preceding the award of
30 an effort index grant, divided by the increase in COFTE for
31 the same period.

1 (b) Next the department shall determine, for each
2 eligible district, the amount that must be added to the value
3 calculated in paragraph (a) to produce the weighted average
4 value-per-student-station calculated for the preceding year as
5 described in paragraph (b).

6 (c) The value calculated for each district in
7 paragraph (b) shall be multiplied by the total increase in
8 COFTE for 4 years immediately preceding the award of the
9 effort index grant to determine the maximum amount of a grant
10 which may be awarded to a district pursuant to the section.

11 ~~(1) The Legislature hereby allocates for effort index~~
12 ~~grants the sum of \$300 million from the funds appropriated~~
13 ~~from the Educational Enhancement Trust Fund by s. 46, chapter~~
14 ~~97-384, Laws of Florida, contingent upon the sale of school~~
15 ~~capital outlay bonds. From these funds, the Commissioner of~~
16 ~~Education shall allocate to the four school districts deemed~~
17 ~~eligible for an effort index grant by the SMART Schools~~
18 ~~Clearinghouse the sums of \$7,442,890 to the Clay County School~~
19 ~~District, \$62,755,920 to the Dade County School District,~~
20 ~~\$1,628,590 to the Hendry County School District, and \$414,950~~
21 ~~to the Madison County School District. The remaining funds~~
22 ~~shall be allocated among the remaining district school boards~~
23 ~~that qualify for an effort index grant by meeting the local~~
24 ~~capital outlay effort criteria in paragraph (a) or paragraph~~
25 ~~(b).~~

26 ~~(a) Between July 1, 1995, and June 30, 1999, the~~
27 ~~school district received direct proceeds from the~~
28 ~~one-half-cent sales surtax for public school capital outlay~~
29 ~~authorized by s. 212.055(6) or from the local government~~
30 ~~infrastructure sales surtax authorized by s. 212.055(2).~~

1 ~~(b) The school district met two of the following~~
2 ~~criteria:~~

3 ~~1. Levied the full 2 mills of nonvoted discretionary~~
4 ~~capital outlay authorized by s. 236.25(2) during 1995-1996,~~
5 ~~1996-1997, 1997-1998, and 1998-1999.~~

6 ~~2. Levied a cumulative voted millage for capital~~
7 ~~outlay and debt service equal to 2.5 mills for fiscal years~~
8 ~~1995 through 1999.~~

9 ~~3. Received proceeds of school impact fees greater~~
10 ~~than \$500 per dwelling unit which were in effect on July 1,~~
11 ~~1998.~~

12 ~~4. Received direct proceeds from either the~~
13 ~~one-half-cent sales surtax for public school capital outlay~~
14 ~~authorized by s. 212.055(6) or from the local government~~
15 ~~infrastructure sales surtax authorized by s. 212.055(2).~~

16 ~~(2) It is the intent of the Legislature that this~~
17 ~~program be administered as nearly as is practicable in the~~
18 ~~same manner as the capital outlay program authorized under s.~~
19 ~~9(d), Art. XII of the State Constitution. Each district school~~
20 ~~board's share of the appropriation for the effort index grants~~
21 ~~must be calculated according to the following formula using~~
22 ~~the same basis as the Classrooms First allocation formula, but~~
23 ~~the share of each district shall, at a minimum, be at least~~
24 ~~equal to the amount required for all payments of the district~~
25 ~~relating to bonds issued by the state on its behalf:~~

26 ~~(a) Twenty-five percent of the appropriation shall be~~
27 ~~prorated to the districts based on each district's percentage~~
28 ~~of base capital outlay full-time-equivalent membership; and 65~~
29 ~~percent shall be based on each district's percentage of growth~~
30 ~~capital outlay full-time-equivalent membership as specified~~

31

1 ~~for the allocation of funds from the Public Education Capital~~
2 ~~Outlay and Debt Service Trust Fund by s. 235.435(3).~~

3 ~~(b) Ten percent of the appropriation must be allocated~~
4 ~~among district school boards according to the allocation~~
5 ~~formula in s. 235.435(1)(a).~~

6 ~~(3) A district school board shall expend the funds~~
7 ~~received under this section only to:~~

8 ~~(a) Construct, renovate, remodel, repair, or maintain~~
9 ~~educational facilities; or~~

10 ~~(b) Pay debt service on bonds issued under this~~
11 ~~section, the proceeds of which must be expended for new~~
12 ~~construction, remodeling, renovation, and major repairs. Bond~~
13 ~~proceeds shall be expended first for providing permanent~~
14 ~~classroom facilities and related auxiliary facilities. Bond~~
15 ~~proceeds may not be expended for any other facilities until~~
16 ~~all unmet needs for permanent classrooms and auxiliary~~
17 ~~facilities as defined in s. 235.011 have been satisfied.~~

18
19 ~~However, if more than 9 percent of a district's total square~~
20 ~~feet is more than 50 years old, the district must spend at~~
21 ~~least 25 percent of its allocation on the renovation, major~~
22 ~~repair, or remodeling of existing schools, except that~~
23 ~~districts having fewer than 10,000 full-time equivalent~~
24 ~~students are exempt from this requirement.~~

25 ~~(4) Each district school board that pledges moneys~~
26 ~~under paragraph (3)(b) shall notify the Department of~~
27 ~~Education of its election at a time set by the department;~~
28 ~~however, the initial notification shall be by July 1, 1999.~~
29 ~~The Department of Education shall review the proposal of each~~
30 ~~district school board for compliance with this section and~~
31 ~~shall forward all approved proposals to the Division of Bond~~

1 ~~Finance with a request to issue bonds on behalf of the~~
2 ~~approved school districts.~~

3 ~~(5) A district school board that chooses to pledge~~
4 ~~allocations from the Classrooms First Program for the issuance~~
5 ~~of bonds must encumber those bond proceeds before pledging~~
6 ~~funds for the payment of debt service on bonds issued pursuant~~
7 ~~to this section.~~

8 ~~(6) A school district may receive a distribution for~~
9 ~~use pursuant to paragraph (3)(a) only if the district school~~
10 ~~board certifies to the Commissioner of Education that the~~
11 ~~district has no unmet need for permanent classroom facilities~~
12 ~~in its 5-year capital outlay work plan. If the work plan~~
13 ~~contains such unmet needs, the district must use its~~
14 ~~distribution for the payment of bonds under paragraph (2)(b).~~
15 ~~If the district does not require its full bonded distribution~~
16 ~~to eliminate such unmet needs, it may bond only that portion~~
17 ~~of its allocation necessary to meet the needs.~~

18 Section 15. Subsections (1), (2), and (3) of section
19 235.19, Florida Statutes, are amended to read:

20 235.19 Site planning and selection.--

21 (1) Before acquiring property for sites, each
22 community college board of trustees and local school board
23 shall determine the location of proposed educational centers
24 or campuses for the board. In making this determination, the
25 board shall consider existing and anticipated site needs and
26 the most economical and practicable locations of sites. The
27 community college board of trustees or local school board
28 shall coordinate with the long-range or comprehensive plans of
29 local, regional, and state governmental agencies to assure the
30 compatibility of such plans with site planning. Boards are
31 encouraged to locate educational facilities ~~schools~~ proximate

1 to urban residential areas to the extent possible, and shall
2 seek to collocate educational facilities ~~schools~~ with other
3 public facilities, such as parks, libraries, and community
4 centers, to the extent possible.

5 (2) Each new site selected must be adequate in size to
6 meet the educational needs of the students to be served on
7 that site by the original educational facility or future
8 expansions of the facility through renovation or the addition
9 of relocatables. The State Board ~~Commissioner~~ of Education
10 shall prescribe by rule recommended sizes for new sites
11 according to categories of students to be housed and other
12 appropriate factors determined by the state board
13 ~~commissioner~~. Less-than-recommended site sizes are allowed if
14 the community college board of trustees or local school board,
15 by a two-thirds majority, recommends such a site and finds
16 that it can provide an appropriate and equitable educational
17 program on the site.

18 (3) Sites recommended for purchase, or purchased, in
19 accordance with chapter 230 or chapter 240 must meet standards
20 prescribed therein and such supplementary standards as the
21 State Board of Education ~~commissioner~~ prescribes to promote
22 the educational interests of the students. Each site must be
23 well drained and suitable for outdoor educational purposes as
24 appropriate for the educational program. As provided in s.
25 333.03, the site must not be located within any path of flight
26 approach of any airport. Insofar as is practicable, the site
27 must not adjoin a right-of-way of any railroad or through
28 highway and must not be adjacent to any factory or other
29 property from which noise, odors, or other disturbances, or at
30 which conditions, would be likely to interfere with the
31 educational program.

1 Section 16. Subsection (3) is added to section
2 235.192, Florida Statutes, to read:

3 235.192 Coordination of school safety information;
4 construction design documents.--

5 (3) Beginning October 1, 2002, each college or
6 university president must provide to the law enforcement
7 agency and fire department that has jurisdiction over the
8 college or university a copy of the floor plans and other
9 relevant documents for each educational facility as defined in
10 235.011(6). After the initial submission of the floor plans
11 and other relevant documents, the president shall submit, by
12 October 1 of each year, revised floor plans and other relevant
13 documents for each educational facility that was modified
14 during the preceding year.

15 Section 17. Subsections (2), (3), and (5) of section
16 235.193, Florida Statutes, are amended, and subsection (9) is
17 added to that section, to read:

18 235.193 Coordination of planning with local governing
19 bodies.--

20 (2) A ~~school~~ board and the local governing body must
21 share and coordinate information related to existing and
22 planned ~~public~~ school facilities; proposals for development,
23 redevelopment, or additional development; and infrastructure
24 required to support the ~~public~~ school facilities, concurrent
25 with proposed development. A school board shall use Department
26 of Education enrollment projections when preparing the 5-year
27 district facilities work program pursuant to s. 235.185, and a
28 school board shall affirmatively demonstrate in the
29 educational facilities report consideration of local
30 governments' population projections to ensure that the 5-year
31 work program not only reflects enrollment projections but also

1 considers applicable municipal and county growth and
2 development projections. A school board is precluded from
3 siting a new school in a jurisdiction where the school board
4 has failed to provide the annual educational facilities report
5 for the prior year required pursuant to s. 235.194 unless the
6 failure is corrected.

7 (3) The location of ~~public~~ educational facilities
8 shall be consistent with the comprehensive plan of the
9 appropriate local governing body developed under part II of
10 chapter 163 and the plan's implementing land development
11 regulations, to the extent that the regulations are not in
12 conflict with or the subject regulated is not specifically
13 addressed by this chapter or the state requirements for
14 educational facilities ~~Uniform Building Code~~, unless mutually
15 agreed by the local government and the board.

16 (5) As early in the design phase as feasible, but at
17 least before commencing construction of a new public
18 educational facility, the local governing body that regulates
19 the use of land shall determine, in writing within 90 days
20 after receiving the necessary information and a school board's
21 request for a determination, whether a proposed ~~public~~
22 educational facility is consistent with the local
23 comprehensive plan and local land development regulations, to
24 the extent that the regulations are not in conflict with or
25 the subject regulated is not specifically addressed by this
26 chapter or the State Uniform Building Code, unless mutually
27 agreed. If the determination is affirmative, school
28 construction may proceed and further local government
29 approvals are not required, except as provided in this
30 section. Failure of the local governing body to make a
31 determination in writing within 90 days after a school board's

1 request for a determination of consistency shall be considered
2 an approval of the school board's application.

3 (9) Campus master plans and development agreements
4 must comply with ss. 240.155 and 240.156.

5 Section 18. Notwithstanding subsection (7) of section
6 3 of chapter 2000-321, Laws of Florida, section 235.195,
7 Florida Statutes, shall not stand repealed on January 7, 2003,
8 as scheduled by that act, but that section is reenacted and
9 amended to read:

10 235.195 Cooperative development and joint use of
11 facilities by two or more boards.--

12 (1) Two or more boards, including district school
13 boards, community college boards of trustees, college boards
14 of trustees, the Board of Trustees for the Florida School for
15 the Deaf and the Blind, and university boards of trustees ~~the~~
16 ~~Board of Regents~~, desiring to cooperatively establish a common
17 educational facility to accommodate students shall:

18 (a) Jointly request a formal assessment by the
19 commissioner, Director of the Division ~~State Board~~ of
20 Community Colleges, or Director of the Division of Colleges
21 and Universities ~~Board of Regents~~, as appropriate, of the
22 academic program need and the need to build new joint-use
23 facilities to house approved programs. Completion of the
24 assessment and approval of the project by the State Board of
25 Education or Board of Regents, ~~the State Board of Community~~
26 ~~Colleges~~, or the Commissioner of Education, as appropriate,
27 should be done prior to conducting an educational facilities
28 survey.

29 (b) Demonstrate the need for construction of new
30 joint-use facilities involving postsecondary institutions by
31 those institutions presenting evidence of the presence of

1 sufficient actual full-time equivalent enrollments in the
2 locale in leased, rented, or borrowed spaces to justify the
3 requested facility for the programs identified in the formal
4 assessment rather than using projected or anticipated future
5 full-time equivalent enrollments as justification. If the
6 decision is made to construct new facilities to meet this
7 demonstrated need, ~~then~~ building plans should consider
8 full-time equivalent enrollment growth facilitated by this new
9 construction and subsequent new program offerings made
10 possible by the existence of the new facilities.

11 (c) Adopt and submit to the commissioner a joint
12 resolution of the participating boards indicating their
13 commitment to the utilization of the requested facility and
14 designating the locale of the proposed facility. The joint
15 resolution shall contain a statement of determination by the
16 participating boards that alternate options, including the use
17 of leased, rented, or borrowed space, were considered and
18 found less appropriate than construction of the proposed
19 facility. The joint resolution shall contain assurance that
20 the development of the proposed facility has been examined in
21 conjunction with the programs offered by neighboring public
22 educational facilities offering instruction at the same level.
23 The joint resolution also shall contain assurance that each
24 participating board shall provide for continuity of
25 educational progression. All joint resolutions shall be
26 submitted to the commissioner by August 1 for consideration of
27 funding by the subsequent Legislature.

28 (d) Submit requests for funding of joint-use
29 facilities projects involving state universities, colleges,
30 and community colleges for approval by the Director of the
31 Division of Colleges and Universities ~~Board of Regents~~ or the

1 Director of the Division ~~State Board~~ of Community Colleges, as
2 appropriate. The respective division directors ~~boards~~ shall
3 determine the priority for funding these projects in relation
4 to the priority of all other capital outlay projects under
5 their consideration. To be eligible for funding from the
6 Public Education Capital Outlay and Debt Service Trust Fund
7 under the provisions of this section, projects involving both
8 state universities, colleges, and community colleges shall
9 appear on the Division of Colleges and Universities ~~Board of~~
10 ~~Regents~~ and the Division ~~State Board~~ of Community Colleges
11 3-year capital outlay priority list required by s. 235.435.
12 Projects involving a state university, college, community
13 college, and a public school, and in which the larger share of
14 the proposed facility is for the use of the state university,
15 college, or the community college, shall appear on the
16 Division of Colleges and Universities ~~Board of Regents~~ and
17 Division ~~State Board~~ of Community Colleges 3-year capital
18 outlay priority list, as applicable.

19 (e) Include in their joint resolution for the
20 joint-use facilities, comprehensive plans for the operation
21 and management of the facility upon completion. Institutional
22 responsibilities for specific functions shall be identified,
23 including designation of one participating board as sole owner
24 of the facility. Operational funding arrangements shall be
25 clearly defined.

26 (2) An educational plant survey must be conducted
27 within 90 days after submission of the joint resolution and
28 substantiating data describing the benefits to be obtained,
29 the programs to be offered, and the estimated cost of the
30 proposed project. Upon completion of the educational plant
31 survey, the participating boards may include the recommended

1 projects in their plan as provided in s. 235.15. Upon approval
2 of the project by the commissioner, 25 percent of the total
3 cost of the project, or the pro rata share based on space
4 utilization of 25 percent of the cost, must be included in the
5 department's legislative capital outlay budget request as
6 provided in s. 235.41 for educational plants. The
7 participating boards must include in their joint resolution a
8 commitment to finance the remaining funds necessary to
9 complete the planning, construction, and equipping of the
10 facility. Funds from the Public Education Capital Outlay and
11 Debt Service Trust Fund may not be expended on any project
12 unless specifically authorized by the Legislature.

13 (3) Included in all proposals for joint-use facilities
14 must be documentation that the proposed new campus or new
15 joint-use facility has been reviewed by the Council for
16 Education Policy Research and Improvement and the Florida
17 Board of Education, ~~Postsecondary Education Planning~~
18 Commission, recommended to the State Board of Education, and
19 has been formally requested for authorization by the
20 Legislature ~~in accordance with s. 240.147(8)~~.

21 (4) No school board, community college, college, or
22 state university shall receive funding for more than one
23 approved joint-use facility per campus in any 3-year period.

24 Section 19. Notwithstanding subsection (7) of section
25 3 of chapter 2000-321, Laws of Florida, section 235.199,
26 Florida Statutes, shall not stand repealed on January 7, 2003,
27 as scheduled by that act, but that section is reenacted and
28 amended to read:

29 235.199 Cooperative funding of vocational educational
30 facilities.--

31

1 (1) Each district school board operating a designated
2 area technical center may submit, prior to August 1 of each
3 year, a request to the commissioner for funds from the Public
4 Education Capital Outlay and Debt Service Trust Fund to plan,
5 construct, and equip a career educational facility identified
6 as being critical to the economic development and the
7 workforce needs of the school district. Prior to submitting a
8 request, each school district shall:

9 (a) Adopt and submit to the commissioner a resolution
10 indicating its commitment to fund the planning, construction,
11 and equipping of the proposed facility at 40 percent of the
12 requested project amount. The resolution shall also designate
13 the locale of the proposed facility. If funds from a private
14 or noneducational public entity are to be committed to the
15 project, then a joint resolution shall be required.

16 (b) Except as provided in paragraph (5)(b), levy the
17 maximum millage against the nonexempt assessed property value
18 as provided in s. 236.25(2).

19 (c) Certify to the Office of Workforce and Economic
20 ~~Division of Workforce~~ Development that the project has been
21 survey recommended.

22 (d) Certify to the Office of Workforce and Economic
23 ~~Division of Workforce~~ Development that final phase III
24 construction documents comply with applicable building codes
25 and life safety codes.

26 (e) Sign an agreement that the district school board
27 shall advertise for bids within 90 days of receiving an
28 encumbrance authorization from the department.

29 (f) If a construction contract has not been signed 90
30 days after the advertising of bids, certify to the Office of
31 Workforce and Economic ~~Division of Workforce~~ Development and

1 the department the cause for delay. Upon request, an
2 additional 90 days may be granted by the commissioner.

3 (2) The Office of Workforce and Economic ~~Division of~~
4 ~~Workforce~~ Development shall establish the need for additional
5 career education programs and the continuation of existing
6 programs before facility construction or renovation related to
7 career education can be included in the educational plant
8 survey. Information used by the Office of Workforce and
9 Economic ~~Division of Workforce~~ Development to establish
10 facility needs shall include, but not be limited to, labor
11 market needs analysis and information submitted by the school
12 districts.

13 (3) The total cost of the proposed facility shall be
14 determined by the district school board using established
15 state board averages for determining new construction cost.

16 (4)(a) A career education construction committee shall
17 be composed of the following: three representatives from the
18 Department of Education and one representative from the
19 Executive Office of the Governor.

20 (b) The committee shall review and evaluate the
21 requests submitted from the school districts and rank the
22 requests in priority order in accordance with statewide
23 critical needs. This statewide priority list shall be
24 submitted to the commissioner.

25 (c) The commissioner's legislative capital outlay
26 budget request may include up to 2 percent of the new
27 construction allocation to public schools for area
28 vocational-technical capital outlay projects recommended by
29 the career education construction committee.

30 (5)(a) Upon approval of a project, the commissioner
31 shall include up to 60 percent of the total cost of the

1 project in the legislative capital outlay budget request as
2 provided in s. 235.41 for educational plants. The
3 participating district school board shall provide 40 percent
4 of the total cost of the project. When practical, the
5 district school board shall solicit and encourage a private or
6 noneducational public entity to commit to finance a portion of
7 the funds to complete the planning, construction, and
8 equipping of the facility. If a site does not exist, the
9 purchase price or, if donated, the assessed value of a site
10 may be included in meeting the funding requirements of the
11 district school board, a private or noneducational public
12 entity, or the educational agency. The value of existing
13 sites, intended to satisfy any portion of the funding
14 requirement of a private or noneducational public entity,
15 shall be determined by an independent appraiser under contract
16 with the board. The size of the site to adequately provide
17 for the implementation of the proposed educational programs
18 shall be determined by the board. Funds from the Public
19 Education Capital Outlay and Debt Service Trust Fund may not
20 be expended on any project unless specifically authorized by
21 the Legislature.

22 (b) In the event that a school district is not levying
23 the maximum millage against the nonexempt assessed property
24 value pursuant to paragraph (1)(b), state and school district
25 funding pursuant to paragraph (a) shall be reduced by the same
26 proportion as the millage actually being levied bears to the
27 maximum allowable millage.

28 Section 20. Subsection (4) of section 235.211, Florida
29 Statutes, is amended to read:

30 235.211 Educational facilities contracting and
31 construction techniques.--

1 (4) Except as otherwise provided in this section and
2 s. 481.229, the services of a registered architect must be
3 used for the development of plans for the erection,
4 enlargement, or alteration of any educational facility. The
5 services of a registered architect are not required for a
6 minor renovation project for which the construction cost is
7 less than \$50,000 or for the placement or hookup of
8 relocatable educational facilities that conform with standards
9 adopted under s.235.26 ~~s. 235.26(2) and (3)~~. However, boards
10 must provide compliance with building code requirements and
11 ensure that these structures are adequately anchored for wind
12 resistance as required by law. Boards are encouraged to
13 consider the reuse of existing construction documents or
14 design criteria packages where such reuse is feasible and
15 practical. Notwithstanding s. 287.055, a board may purchase
16 the architectural services for the design of educational or
17 ancillary facilities under an existing contract agreement for
18 professional services held by a school board in the State of
19 Florida, provided that the purchase is to the economic
20 advantage of the purchasing board, the services conform to the
21 standards prescribed by rules of the State Board ~~Commissioner~~
22 of Education, and such reuse is not without notice to, and
23 permission from, the architect of record whose plans or design
24 criteria are being reused. Plans shall be reviewed for
25 compliance with the state requirements for educational
26 facilities. Rules adopted under this section must establish
27 uniform prequalification, selection, bidding, and negotiation
28 procedures applicable to construction management contracts and
29 the design-build process. This section does not supersede any
30 small, woman-owned or minority-owned business enterprise
31 preference program adopted by a board. Except as otherwise

1 provided in this section, the negotiation procedures
2 applicable to construction management contracts and the
3 design-build process must conform to the requirements of s.
4 287.055. A board may not modify any rules regarding
5 construction management contracts or the design-build process.

6 Section 21. Paragraphs (a), (b), and (c) of subsection
7 (2), subsection (3), and paragraphs (b), (c), and (d) of
8 subsection (4) of section 235.215, Florida Statutes, are
9 amended to read:

10 235.215 Energy efficiency contracting.--

11 (2) DEFINITIONS.--For purposes of this section, the
12 term:

13 (a) "Energy conservation measure" means a training
14 program, facility alteration, or equipment to be used in new
15 construction, including an addition to an existing facility,
16 that reduces energy costs, and includes, but is not limited
17 to:

18 1. Insulation of the facility structure and systems
19 within the facility.

20 2. Storm windows and doors, caulking or
21 weatherstripping, multiglazed windows and doors,
22 heat-absorbing, or heat-reflective, glazed and coated window
23 and door systems, additional glazing, reductions in glass
24 area, and other window and door system modifications that
25 reduce energy consumption.

26 3. Automatic energy control systems.

27 4. Heating, ventilating, or air-conditioning system
28 modifications or replacements.

29 5. Replacement or modifications of lighting fixtures
30 to increase the energy efficiency of the lighting system
31

1 which, at a minimum, shall conform to the Florida Building
2 Code ~~applicable state or local building code.~~

3 6. Energy recovery systems.

4 7. Cogeneration systems that produce steam or forms of
5 energy such as heat, as well as electricity, for use primarily
6 within a facility or complex of facilities.

7 8. Energy conservation measures that provide long-term
8 operating cost reductions and significantly reduce Btu
9 consumed.

10 9. Renewable energy systems, such as solar, biomass,
11 and wind.

12 10. Devices which reduce water consumption or sewer
13 charges.

14 (b) "Energy cost savings" means:

15 1. A measured reduction in fuel, energy, or operation
16 and maintenance costs created from the implementation of one
17 or more energy conservation measures when compared with an
18 established baseline for previous fuel, energy, or operation
19 and maintenance costs; or

20 2. For new construction, a projected reduction in
21 fuel, energy, or operation and maintenance costs created from
22 the implementation of one or more energy conservation measures
23 when compared with the projected fuel, energy, or operation
24 and maintenance costs for equipment if the minimum standards
25 of the Florida State Uniform Building Code ~~for Public~~
26 Educational Facilities Construction were implemented and
27 signed and sealed by a registered professional engineer.

28 (c) "Energy performance-based contract" means a
29 contract for the evaluation, recommendation, and
30 implementation of energy conservation measures which includes,
31 at a minimum:

1 1. The design and installation of equipment to
2 implement one or more of such measures, and, if applicable,
3 operation and maintenance of such measures.

4 2. The amount of any actual annual savings. This
5 amount must meet or exceed total annual contract payments made
6 by the school, state community college, college, or state
7 university for such contract.

8 3. Financing charges to be incurred by the school,
9 state community college, college, or state university over the
10 life of the contract.

11 (3) ENERGY PERFORMANCE-BASED CONTRACT PROCEDURES.--

12 (a) A school district, state community college,
13 college, or state university may enter into an energy
14 performance-based contract with an energy performance
15 contractor to significantly reduce energy or operating costs
16 of an educational facility through one or more energy
17 conservation measures.

18 (b) The energy performance contractor shall be
19 selected in compliance with s. 287.055; except that in a case
20 where a school district, state community college, college, or
21 state university determines that fewer than three firms are
22 qualified to perform the required services, the requirement
23 for agency selection of three firms, as provided in s.
24 287.055(4)(b), shall not apply and the bid requirements of s.
25 287.057 shall not apply.

26 (c) Before entering into a contract pursuant to this
27 section, the district school board, state community college,
28 college, or state university shall provide published notice of
29 the meeting in which it proposes to award the contract, the
30 names of the parties to the proposed contract, and the
31 contract's purpose.

1 (d) Prior to the design and installation of the energy
2 conservation measure, the school district, state community
3 college, college, or state university must obtain from the
4 energy performance contractor a report that discloses all
5 costs associated with the energy conservation measure and
6 provides an estimate of the amount of the energy cost savings.
7 The report must be reviewed by either the Department of
8 Education or the Department of Management Services or signed
9 and sealed by a registered professional engineer.

10 (e) A school district, state community college,
11 college, or state university may enter into an energy
12 performance-based contract with an energy performance
13 contractor if, after review of the report required by
14 paragraph (d), it finds that the amount it would spend on the
15 energy conservation measures recommended in the report will
16 not exceed the amount to be saved in energy and operation
17 costs over 20 years from the date of installation, based on
18 life-cycle costing calculations, if the recommendations in the
19 report were followed and if the energy performance contractor
20 provides a written guarantee that the energy or operating cost
21 savings will meet or exceed the costs of the system. The
22 contract may provide for payments over a period of time not to
23 exceed 20 years.

24 (f) A school district, state community college,
25 college, or state university may enter into an installment
26 payment contract for the purchase and installation of energy
27 conservation measures. The contract shall provide for
28 payments of not less than one-twentieth of the price to be
29 paid within 2 years from the date of the complete installation
30 and acceptance by the school board, state community college,
31 college, or state university, and the remaining costs to be

1 paid at least quarterly, not to exceed a 20-year term based on
2 life-cycle costing calculations.

3 (g) Energy performance-based contracts may extend
4 beyond the fiscal year in which they become effective;
5 however, the term of any contract shall expire at the end of
6 each fiscal year and may be automatically renewed annually up
7 to 20 years, subject to a school board, state community
8 college, college, or state university making sufficient annual
9 appropriations based upon continued realized energy cost
10 savings. Such contracts shall stipulate that the agreement
11 does not constitute a debt, liability, or obligation of the
12 state or a school board, state community college, or state
13 university, or a pledge of the faith and credit of the state
14 or a school board, state community college, college, or state
15 university.

16 (4) CONTRACT PROVISIONS.--

17 (b) The contract shall provide that all payments,
18 except obligations on termination of the contract before its
19 expiration, are to be made over time, but not to exceed 20
20 years from the date of complete installation and acceptance by
21 the school board, state community college, college, or state
22 university, and that the annual savings are guaranteed to the
23 extent necessary to make annual payments to satisfy the
24 contract.

25 (c) The contract must require that the energy
26 performance contractor to whom the contract is awarded provide
27 a 100-percent public construction bond to the school district,
28 state community college, college, or state university for its
29 faithful performance, as required by s. 255.05.

30 (d) The contract shall require the energy performance
31 contractor to provide to the school district, state community

1 college, college, or state university an annual reconciliation
2 of the guaranteed energy cost savings. The energy performance
3 contractor shall be liable for any annual savings shortfall
4 which may occur. In the event that such reconciliation reveals
5 an excess in annual energy cost savings, such excess savings
6 shall not be used to cover potential energy cost savings
7 shortages in subsequent contract years.

8 Section 22. Subsection (3) of section 235.2155,
9 Florida Statutes, is amended to read:

10 235.2155 School Infrastructure Thrift Program Act.--

11 (3) The SIT Program is designed as:

12 (a) An incentive program to reward districts for+
13 ~~+~~ savings realized through functional, frugal
14 construction.

15 ~~2. Savings realized through the operation of charter~~
16 ~~schools in non-school-district facilities during the~~
17 ~~1996-1997, 1997-1998, 1998-1999, and 1999-2000 school years.~~

18 (b) A recognition program to provide an annual SMART
19 school of the year recognition award to the district that
20 builds the highest quality functional, frugal school.

21 Section 23. Subsections (2) and (3) of section
22 235.216, Florida Statutes, are amended to read:

23 235.216 SIT Program award eligibility; maximum cost
24 per student station of educational facilities; frugality
25 incentives; recognition awards.--

26 (2) A school district may seek an award from the SIT
27 Program, pursuant to this section and s. 235.2155, based on
28 the district's+

29 ~~(a)~~ new construction of educational facilities if the
30 cost per student station is less than:

31 (a) ~~+~~ \$11,600 for an elementary school,

1 **(b)2.** \$13,300 for a middle school, or

2 **(c)3.** \$17,600 for a high school,

3

4 (1997) as adjusted annually by the Consumer Price Index. The
5 award shall be up to 50 percent of such savings, as
6 recommended by the SMART Schools Clearinghouse.

7 ~~(b) Operation of charter schools in~~
8 ~~non-school-district facilities. SIT Program awards pursuant to~~
9 ~~this paragraph shall be as recommended by the SMART Schools~~
10 ~~Clearinghouse. After the initial award, the recommendation~~
11 ~~must be based on savings realized from proportionate district~~
12 ~~increase in such charter school enrollment in excess of~~
13 ~~original enrollment, and the award shall be up to 50 percent~~
14 ~~of such savings.~~

15 ~~(3) Beginning with the 1998-1999 fiscal year,~~A school
16 district may seek a SMART school of the year recognition award
17 for building the highest quality functional, frugal school.
18 The commissioner may present a trophy or plaque and a cash
19 award to the school recommended by the SMART Schools
20 Clearinghouse for a SMART school of the year recognition
21 award.

22 Section 24. Section 235.26, Florida Statutes, is
23 amended to read:

24 235.26 State uniform building code for public
25 educational facilities construction.--

26 (1) UNIFORM BUILDING CODE.--By March 1, 2002,~~July 1,~~
27 ~~2001~~, a uniform statewide building code for the planning and
28 construction of public educational and ancillary plants by
29 district school boards and community college district boards
30 of trustees shall be adopted by the Florida Building
31 Commission within the Florida Building Code, pursuant to s.

1 553.73. Included in this code must be flood plain management
2 criteria in compliance with the rules and regulations in 44
3 C.F.R. parts 59 and 60, and subsequent revisions thereto which
4 are adopted by the Federal Emergency Management Agency. It is
5 also the responsibility of the department to develop, as a
6 part of the uniform building code, standards relating to:
7 (a) Prefabricated facilities or factory-built
8 facilities that are designed to be portable, relocatable,
9 demountable, or reconstructible; are used primarily as
10 classrooms; and do not fall under the provisions of ss.
11 320.822-320.862. Such standards must permit boards to contract
12 with the Department of Community Affairs for factory
13 inspections by certified building code inspectors to certify
14 conformance with applicable law and rules. The standards must
15 comply with the requirements of s. 235.061 for relocatable
16 facilities intended for long-term use as classroom space, and
17 the relocatable facilities shall be designed subject to
18 missile impact criteria of s. 423(24)(d)(1) of the Florida
19 Building Code when located in the windborne debris region.
20 (b) The sanitation of educational and ancillary plants
21 and the health of occupants of educational and ancillary
22 plants.
23 (c) The safety of occupants of educational and
24 ancillary plants as provided in s. 235.06, except that the
25 firesafety criteria shall be established by the State Fire
26 Marshal in cooperation with the Florida Building Commission
27 and the department and such firesafety requirements must be
28 incorporated into the Florida Fire Prevention Code.
29 (d) Accessibility for children, notwithstanding the
30 provisions of s. 553.512.
31

1 (e) The performance of life-cycle cost analyses on
2 alternative architectural and engineering designs to evaluate
3 their energy efficiencies.

4 1. The life-cycle cost analysis must consist of the
5 sum of:

6 a. The reasonably expected fuel costs over the life of
7 the building which are required to maintain illumination,
8 water heating, temperature, humidity, ventilation, and all
9 other energy-consuming equipment in a facility; and

10 b. The reasonable costs of probable maintenance,
11 including labor and materials, and operation of the building.

12 2. For computation of the life-cycle costs, the
13 department shall develop standards that must include, but need
14 not be limited to:

15 a. The orientation and integration of the facility
16 with respect to its physical site.

17 b. The amount and type of glass employed in the
18 facility and the directions of exposure.

19 c. The effect of insulation incorporated into the
20 facility design and the effect on solar utilization of the
21 properties of external surfaces.

22 d. The variable occupancy and operating conditions of
23 the facility and subportions of the facility.

24 e. An energy-consumption analysis of the major
25 equipment of the facility's heating, ventilating, and cooling
26 system; lighting system; and hot water system and all other
27 major energy-consuming equipment and systems as appropriate.

28 3. Life-cycle cost criteria published by the
29 Department of Education for use in evaluating projects.

30 4. Standards for construction materials and systems
31 based on life-cycle costs that consider initial costs,

1 maintenance costs, custodial costs, operating costs, and life
2 expectancy. The standards may include multiple acceptable
3 materials. It is the intent of the Legislature to require
4 district school boards to comply with these standards when
5 expending funds from the Public Education Capital Outlay and
6 Debt Service Trust Fund or the School District and Community
7 College District Capital Outlay and Debt Service Trust Fund
8 and to prohibit district school boards from expending local
9 capital outlay revenues for any project that includes
10 materials or systems that do not comply with these standards,
11 unless the district school board submits evidence that
12 alternative materials or systems meet or exceed standards
13 developed by the department.

14

15 It is not a purpose of the Florida Building Code to inhibit
16 the use of new materials or innovative techniques; nor may it
17 specify or prohibit materials by brand names. The code must be
18 flexible enough to cover all phases of construction so as to
19 afford reasonable protection for the public safety, health,
20 and general welfare. The department may secure the service of
21 other state agencies or such other assistance as it finds
22 desirable in recommending to the Florida Building Commission
23 revisions to the code.

24 (2) CONFORMITY TO FLORIDA BUILDING CODE AND FLORIDA
25 FIRE PREVENTION STANDARDS REQUIRED FOR APPROVAL.--

26 (a) Except as otherwise provided in paragraph (b), all
27 public educational and ancillary plants constructed by a
28 district school board or a community college district board of
29 trustees must conform to the Florida Building Code and the
30 Florida Fire Prevention Code, and such plants are exempt from
31 all other state building codes; county, municipal, or other

1 | local amendments to the Florida Building Code and local
2 | amendments to the Florida Fire Prevention Code; building
3 | permits, and assessments of fees for building permits, except
4 | as provided in s. 553.80; ordinances; road closures; and
5 | impact fees or service availability fees. Any inspection by
6 | local or state government must be based on the Florida
7 | Building Code and the Florida Fire Prevention Code. Each board
8 | shall provide for periodic inspection of the proposed
9 | educational plant during each phase of construction to
10 | determine compliance with the state requirements for
11 | educational facilities.

12 | (b) A district school board or community college
13 | district board of trustees may conform with the Florida
14 | Building Code and the Florida Fire Prevention Code and the
15 | administration of such codes when constructing ancillary
16 | plants that are not attached to educational facilities, if
17 | those plants conform to the space size requirements
18 | established in the codes.

19 | (c) A district school board or community college
20 | district board of trustees may not approve any plans for the
21 | construction, renovation, remodeling, or demolition of any
22 | educational or ancillary plants unless these plans conform to
23 | the requirements of the Florida Building Code and the Florida
24 | Fire Prevention Code. Each district school board and community
25 | college district board of trustees may adopt policies for
26 | delegating to the superintendent or community college
27 | president authority for submitting documents to the department
28 | and for awarding contracts subsequent to and consistent with
29 | board approval of the scope, timeframes, funding source, and
30 | budget of a survey-recommended project.

31 |

1 (3) ENFORCEMENT BY BOARD.--It is the responsibility of
2 each district school board and community college district
3 board of trustees to ensure that all plans and educational and
4 ancillary plants meet the standards of the Florida Building
5 Code and the Florida Fire Prevention Code and to provide for
6 the enforcement of these codes in the areas of its
7 jurisdiction. Each board shall provide for the proper
8 supervision and inspection of the work. Each board may employ
9 a chief building official or inspector and such other
10 inspectors, who have been certified pursuant to chapter 468,
11 and such personnel as are necessary to administer and enforce
12 the provisions of this code. Boards may also utilize local
13 building department inspectors who are certified by the
14 department to enforce this code. Plans or facilities that fail
15 to meet the standards of the Florida Building Code or the
16 Florida Fire Prevention Code may not be approved. When
17 planning for and constructing an educational, auxiliary, or
18 ancillary facility, a district school board must use
19 construction materials and systems that meet standards adopted
20 pursuant to subparagraphs (1)(e)3. and 4. If the planned or
21 actual construction of a facility deviates from the adopted
22 standards, the district school board must, at a public
23 hearing, quantify and compare the costs of constructing the
24 facility with the proposed deviations and in compliance with
25 the adopted standards and the Florida Building Code. The board
26 must explain the reason for the proposed deviations and
27 compare how the total construction costs and projected
28 life-cycle costs of the facility or component system of the
29 facility would be affected by implementing the proposed
30 deviations rather than using materials and systems that meet
31 the adopted standards. The provisions of this subsection do

1 apply to educational, auxiliary, and ancillary facility
2 projects commenced on or after July 1, 1999.

3 (4) ENFORCEMENT BY DEPARTMENT.--As a further means of
4 ensuring that all educational and ancillary facilities
5 hereafter constructed or materially altered or added to
6 conform to the Florida Building Code standards or Florida Fire
7 Prevention Code standards, each district school board and
8 community college district board of trustees that undertakes
9 the construction, renovation, remodeling, purchasing, or
10 lease-purchase of any educational plant or ancillary facility,
11 the cost of which exceeds \$200,000, may submit plans to the
12 department for approval.

13 (5) APPROVAL.--

14 (a) Before a contract has been let for the
15 construction, the department, the district school board, the
16 community college board, the college board, or the its board's
17 authorized review agent must approve the phase III
18 construction documents. A district school board, the community
19 college board, or the college board may reuse prototype plans
20 on another site, provided the facilities list and phase III
21 construction documents have been updated for the new site and
22 for compliance with the Florida Building Code and the Florida
23 Fire Prevention Code and any laws relating to firesafety,
24 health and sanitation, casualty safety, and requirements for
25 the physically handicapped which are in effect at the time a
26 construction contract is to be awarded.

27 (b) In reviewing plans for approval, the department,
28 the district school board, the community college board, or the
29 college board, or its review agent as authorized in s.
30 235.017, shall take into consideration:

31 1. The need for the new facility.

- 1 2. The educational and ancillary plant planning.
- 2 3. The architectural and engineering planning.
- 3 4. The location on the site.
- 4 5. Plans for future expansion.
- 5 6. The type of construction.
- 6 7. Sanitary provisions.
- 7 8. Conformity to Florida Building Code standards.
- 8 9. The structural design and strength of materials
- 9 proposed to be used.
- 10 10. The mechanical design of any heating,
- 11 air-conditioning, plumbing, or ventilating system. Typical
- 12 heating, ventilating, and air-conditioning systems preapproved
- 13 by the department for specific applications may be used in the
- 14 design of educational facilities.
- 15 11. The electrical design of educational plants.
- 16 12. The energy efficiency and conservation of the
- 17 design.
- 18 13. Life-cycle cost considerations.
- 19 14. The design to accommodate physically handicapped
- 20 persons.
- 21 15. The ratio of net to gross square footage.
- 22 16. The proposed construction cost per gross square
- 23 foot.
- 24 17. Conformity with the Florida Fire Prevention Code.
- 25 (c) The district school board, the community college
- 26 board, or the college board may not occupy a facility until
- 27 the project has been inspected to verify compliance with
- 28 statutes, rules, and codes affecting the health and safety of
- 29 the occupants. Verification of compliance with rules,
- 30 statutes, and codes for nonoccupancy projects such as roofing,
- 31 paving, site improvements, or replacement of equipment may be

1 certified by the architect or engineer of record and
2 verification of compliance for other projects may be made by
3 an inspector certified by the department or certified pursuant
4 to chapter 468 who is not the architect or engineer of record.
5 The board shall maintain a record of the project's completion
6 and permanent archive of phase III construction documents,
7 including any addenda and change orders to the project. The
8 boards shall provide project data to the department, as
9 requested, for purposes and reports needed by the Legislature.

10 (6) REVIEW PROCEDURE.--The Commissioner of Education
11 shall cooperate with the Florida Building Commission in
12 addressing all questions, disputes, or interpretations
13 involving the provisions of the Florida Building Code which
14 govern the construction of public educational and ancillary
15 facilities, and any objections to decisions made by the
16 inspectors or the department must be submitted in writing.

17 (7) BIENNIAL REVIEW AND UPDATE; DISSEMINATION.--The
18 department shall biennially review and recommend to the
19 Florida Building Commission updates and revisions to the
20 provisions of the Florida Building Code which govern the
21 construction of public educational and ancillary facilities.
22 The department shall publish and make available to each board
23 ~~district school board and community college district board of~~
24 ~~trustees~~ at no cost copies of the state requirements for
25 educational facilities and each amendment and revision
26 thereto. The department shall make additional copies available
27 to all interested persons at a price sufficient to recover
28 costs.

29 ~~(8) EDUCATION FACILITIES AS EMERGENCY SHELTERS.--~~

30 ~~(a) The Department of Education shall, in consultation~~
31 ~~with boards and county and state emergency management offices,~~

1 ~~include within the standards to be developed under subsection~~
2 ~~(1) public shelter design criteria that shall be incorporated~~
3 ~~into the Florida Building Code. The new criteria must be~~
4 ~~designed to ensure that appropriate core facility areas in new~~
5 ~~educational facilities can serve as public shelters for~~
6 ~~emergency management purposes. A facility, or an appropriate~~
7 ~~core facility area within a facility, for which a design~~
8 ~~contract is entered into subsequent to the effective date of~~
9 ~~the inclusion of the public shelter criteria in the code must~~
10 ~~be built in compliance with the amended code unless the~~
11 ~~facility or a part thereof is exempted from using the new~~
12 ~~shelter criteria due to its location, size, or other~~
13 ~~characteristics by the applicable board with the concurrence~~
14 ~~of the applicable local emergency management agency or the~~
15 ~~Department of Community Affairs. Any educational facility~~
16 ~~located or proposed to be located in an identified category 1,~~
17 ~~2, or 3 evacuation zone is not subject to the requirements of~~
18 ~~this subsection. If the regional planning council region in~~
19 ~~which the county is located does not have a hurricane~~
20 ~~evacuation shelter deficit, as determined by the Department of~~
21 ~~Community Affairs, school districts within the planning~~
22 ~~council region are not required to incorporate the public~~
23 ~~shelter criteria into their construction of educational~~
24 ~~facilities.~~

25 ~~(b) By January 31, 1996, and by January 31 every~~
26 ~~even-numbered year thereafter, the Department of Community~~
27 ~~Affairs shall prepare and submit a statewide emergency shelter~~
28 ~~plan to the Governor and the Cabinet for approval. The plan~~
29 ~~must identify the general location and square footage of~~
30 ~~existing shelters, by regional planning council region, and~~
31 ~~the general location and square footage of needed shelters, by~~

1 ~~regional planning council region, in the next 5 years. Such~~
2 ~~plan must identify the types of public facilities which should~~
3 ~~be constructed to comply with emergency shelter criteria and~~
4 ~~must recommend an appropriate, adequate, and dedicated source~~
5 ~~of funding for the additional cost of constructing emergency~~
6 ~~shelters within these public facilities. After the approval of~~
7 ~~the plan, a board may not be required to build more emergency~~
8 ~~shelter space than identified as needed in the plan, and~~
9 ~~decisions pertaining to exemptions pursuant to paragraph (a)~~
10 ~~must be guided by the plan.~~

11 (8)~~(9)~~ LOCAL LEGISLATION PROHIBITED.--After June 30,
12 1985, pursuant to s. 11(a)(21), Art. III of the State
13 Constitution, there shall not be enacted any special act or
14 general law of local application which proposes to amend,
15 alter, or contravene any provisions of the State Building Code
16 adopted under the authority of this section.

17 Section 25. Section 235.261, Florida Statutes, is
18 created to read:

19 235.261 Education facilities as emergency shelters.--

20 (1) The Department of Education shall, in consultation
21 with boards and county and state emergency management offices,
22 include within the standards to be developed under this
23 subsection public shelter design criteria to be incorporated
24 into the Florida Building Code. The new criteria must be
25 designed to ensure that appropriate areas in new educational
26 facilities can serve as public shelters for
27 emergency-management purposes. A facility, or an appropriate
28 area within a facility, for which a design contract is entered
29 into after the effective date of the inclusion of the public
30 shelter criteria in the code must be built in compliance with
31 the amended code unless the facility or a part of it is

1 exempted from using the new shelter criteria due to its
2 location, size, or other characteristics by the applicable
3 board with the concurrence of the applicable local emergency
4 management agency or the Department of Community Affairs. Any
5 educational facility located or proposed to be located in an
6 identified category 1, 2, or 3 evacuation zone is not subject
7 to the requirements of this subsection. If the regional
8 planning council region in which the county is located does
9 not have a hurricane evacuation shelter deficit, as determined
10 by the Department of Community Affairs, educational facilities
11 within the planning council region are not required to
12 incorporate the public shelter criteria.

13 (2) By January 31 of each even-numbered year, the
14 Department of Community Affairs shall prepare and submit a
15 statewide emergency shelter plan to the Governor and the
16 Cabinet for approval. The plan must identify the general
17 location and square footage of existing shelters, by regional
18 planning council region, and the general location and square
19 footage of needed shelters, by regional planning council
20 region, during the next 5 years. The plan must identify the
21 types of public facilities which should be constructed to
22 comply with emergency-shelter criteria and must recommend an
23 appropriate and available source of funding for the additional
24 cost of constructing emergency shelters within these public
25 facilities. After the approval of the plan, a board may not be
26 required to build more emergency-shelter space than identified
27 as needed in the plan, and decisions pertaining to exemptions
28 pursuant to subsection (1) must be guided by the plan.

29 Section 26. Section 235.31, Florida Statutes, is
30 amended to read:
31

1 235.31 Advertising and awarding contracts;
2 prequalification of contractor.--

3 (1)(a) As soon as practicable after any bond issue has
4 been voted upon and authorized or funds have been made
5 available for the construction, remodeling, renovation,
6 demolition, or otherwise for the improvement, of any
7 educational or ancillary plant, and after plans for the work
8 have been approved, the board, if competitively bidding the
9 project pursuant to s. 235.211, after advertising the same in
10 the manner prescribed by law or rule, shall award the contract
11 for the building or improvements to the lowest responsible
12 bidder. However, if after taking all deductive alternates,
13 the bid of the lowest responsible bidder exceeds the
14 construction budget for the project established at the phase
15 III submittal, the board may declare an emergency. After
16 stating the reasons why an emergency exists, the board may
17 negotiate the construction contract or modify the contract,
18 including the specifications, with the lowest responsible
19 bidder and, if the contract is modified, shall resubmit the
20 documents to the authorized review authority for review to
21 confirm that the project remains in compliance with building
22 and fire codes. The board may reject all bids received and
23 may readvertise, calling for new bids.

24 (b) Each board may declare an emergency pursuant to
25 this subsection. A situation created by fire, storm, or other
26 providential cause resulting in:

- 27 1. Imminent danger to life or safety; or
- 28 2. Overcrowding of students

29
30 constitutes an emergency.
31

1 (c) As an option, any county, municipality, ~~community~~
2 ~~college, or district school~~ board may set aside up to 10
3 percent of the total amount of funds allocated for the purpose
4 of entering into construction capital project contracts with
5 minority business enterprises, as defined in s. 287.094. Such
6 contracts shall be competitively bid only among minority
7 business enterprises. The set-aside shall be used to redress
8 present effects of past discriminatory practices and shall be
9 subject to periodic reassessment to account for changing needs
10 and circumstances.

11 (2) Boards shall prequalify bidders for construction
12 contracts according to rules prescribed by the State Board
13 ~~Commissioner~~ of Education which require the prequalification
14 of bidders of educational facilities construction. Boards
15 shall require that all construction or capital improvement
16 bids be accompanied by evidence that the bidder holds an
17 appropriate certificate or license or that the prime
18 contractor has a current valid license.

19 (3) A public agency that is authorized to purchase
20 services for maintenance, repair, and site improvement of
21 facilities on behalf of various agencies of a county must give
22 any ~~the school~~ board in that county the option of purchasing
23 those services for educational facilities and ancillary plants
24 under those contracts at the unit prices stated in those
25 contracts. However, the person providing those services under
26 such a contract may, without jeopardizing the contract, refuse
27 to provide the services to the ~~school~~ board. A ~~The school~~
28 board may purchase those services under such a contract only
29 if the purchase is to its ~~the~~ economic advantage ~~of the school~~
30 ~~district~~ and the services conform to the standards and
31 specifications prescribed by rules of the State Board

1 ~~Commissioner~~ of Education and, if applicable, to the
2 requirements of s. 287.055. This subsection does not apply to
3 contracts in existence on July 1, 1994.

4 Section 27. Section 235.32, Florida Statutes, is
5 amended to read:

6 235.32 Substance of contract; contractors to give
7 bond; penalties.--Each board shall develop contracts
8 consistent with this chapter and statutes governing public
9 facilities. Such a contract must contain the drawings and
10 specifications of the work to be done and the material to be
11 furnished, the time limit in which the construction is to be
12 completed, the time and method by which payments are to be
13 made upon the contract, and the penalty to be paid by the
14 contractor for any failure to comply with the terms of the
15 contract. The board may require the contractor to pay a
16 penalty for any failure to comply with the terms of the
17 contract and may provide an incentive for early completion.
18 Upon accepting a satisfactory bid, the board shall enter into
19 a contract with the party or parties whose bid has been
20 accepted. The contractor shall furnish the board with a
21 performance and payment bond as set forth in s. 255.05. A
22 board or other public entity may not require a contractor to
23 secure a surety bond under s. 255.05 from a specific agent or
24 bonding company. Notwithstanding any other provision of this
25 section, if 25 percent or more of the costs of any
26 construction project is paid out of a trust fund established
27 pursuant to 31 U.S.C. s. 1243(a)(1), laborers and mechanics
28 employed by contractors or subcontractors on such construction
29 will be paid wages not less than those prevailing on similar
30 construction projects in the locality, as determined by the
31 Secretary of Labor in accordance with the Davis-Bacon Act, as

1 amended. A person, firm, or corporation that constructs any
2 part of any educational plant, or addition thereto, on the
3 basis of any unapproved plans or in violation of any plans
4 approved in accordance with the provisions of this chapter and
5 rules of the State Board ~~Commissioner~~ of Education relating to
6 building standards or specifications is subject to forfeiture
7 of bond and unpaid compensation in an amount sufficient to
8 reimburse the board for any costs that will need to be
9 incurred in making any changes necessary to assure that all
10 requirements are met and is also guilty of a misdemeanor of
11 the second degree, punishable as provided in s. 775.082 or s.
12 775.083, for each separate violation.

13 Section 28. Section 235.3215, Florida Statutes, is
14 amended to read:

15 235.3215 Toxic substances in construction, repair, or
16 maintenance of educational ~~public school~~ facilities.--

17 (1) All toxic substances enumerated in the Florida
18 Substance List established pursuant to s. 442.103 that are to
19 be used in the construction, repair, or maintenance of
20 educational facilities are restricted to usage according to
21 ~~the following provisions:~~

22 (2) ~~(a)~~ Before any such substance may be used, the
23 contractor shall notify the district superintendent or
24 institution president in writing at least three working days
25 prior to using the substance. The notification shall contain:

26 (a) ~~1.~~ The name of the substance to be used;

27 (b) ~~2.~~ Where the substance is to be used; and

28 (c) ~~3.~~ When the substance is to be used.
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30
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1 There shall be attached to the notification a copy of a
2 material safety data sheet as defined in s. 442.102 for each
3 such substance.

4 ~~(b) The district superintendent shall take all~~
5 ~~reasonable actions to ensure that the contractor complies with~~
6 ~~the safety precautions and handling instructions set forth in~~
7 ~~the material safety data sheet for each substance used by the~~
8 ~~contractor so that usage of the substance poses no threat to~~
9 ~~the health and safety of students, school personnel, and the~~
10 ~~general public.~~

11 ~~(2) This section shall not be construed to impair the~~
12 ~~validity of obligations under contracts in existence on June~~
13 ~~30, 1987.~~

14 Section 29. Paragraph (a) of subsection (1) of section
15 235.34, Florida Statutes, is amended to read:

16 235.34 Expenditures authorized.--

17 (1)(a) Subject to exemption from the assessment of
18 fees pursuant to s. 235.261(1)~~s. 235.26(1)~~, education school
19 ~~boards, boards of trustees, the Board of Regents,~~boards of
20 county commissioners, municipal boards, and other agencies and
21 boards of the state may expend funds, separately or
22 collectively, by contract or agreement, for the placement,
23 paving, or maintaining of any road, byway, or sidewalk if the
24 road, byway, or sidewalk is contiguous to or runs through the
25 property of any educational plant or for the maintenance or
26 improvement of the property of any educational plant or of any
27 facility on such property. Expenditures may also be made for
28 sanitary sewer, water, stormwater, and utility improvements
29 upon, or contiguous to, and for the installation, operation,
30 and maintenance of traffic control and safety devices upon, or
31 contiguous to, any existing or proposed educational plant.

1 Section 30. Subsection (1) of section 235.40, Florida
2 Statutes, is amended to read:

3 235.40 Radio and television facilities.--

4 (1) A board, ~~including the Board of Regents,~~ may
5 acquire, by purchase, permanent easement, or gift, suitable
6 lands and other facilities, either within or without the
7 boundaries of the district, for use in providing educational
8 radio or television transmitting sites and may erect such
9 buildings, antennas, transmission equipment, towers, or other
10 structures as are necessary to accomplish the purposes of this
11 section.

12 Section 31. Notwithstanding subsection (7) of section
13 3 of chapter 2000-321, Laws of Florida, section 235.41,
14 Florida Statutes, shall not stand repealed on January 7, 2003,
15 as scheduled by that act, but that section is reenacted and
16 amended to read:

17 235.41 Legislative capital outlay budget request.--

18 (1) The commissioner shall develop a procedure deemed
19 appropriate in arriving at the amounts required to fund
20 projects as reflected in the integrated, comprehensive budget
21 request required by this section. The official estimates for
22 funds accruing to the Public Education Capital Outlay and Debt
23 Service Trust Fund made by the revenue estimating conference
24 shall be used in determining the budget request pursuant to
25 this section. The commissioner, in consultation with the
26 appropriations committees of the Legislature, shall provide
27 annually to the Division State Board of Community Colleges and
28 the Division of Colleges and Universities ~~Board of Regents~~ an
29 estimate of funds that shall be utilized by the boards in
30 developing their required 3-year priority lists pursuant to s.
31 235.435.

1 (2) The commissioner shall submit to the Governor and
2 to the Legislature an integrated, comprehensive budget request
3 for educational facilities construction and fixed capital
4 outlay needs for all boards, ~~including the Board of Regents,~~
5 pursuant to the provisions of s. 235.435 and applicable
6 provisions of chapter 216. Each board, ~~including the Board of~~
7 ~~Regents,~~ shall submit to the commissioner a 3-year plan and
8 data required in the development of the annual capital outlay
9 budget. No further disbursements shall be made from the Public
10 Education Capital Outlay and Debt Service Trust Fund to a
11 board that fails to timely submit the required data until such
12 board submits the data.

13 (3) The commissioner shall submit an integrated,
14 comprehensive budget request to the Executive Office of the
15 Governor and to the Legislature each fiscal year by the
16 submission date specified in s. 216.023(1). Notwithstanding
17 the provisions of s. 216.043, the integrated, comprehensive
18 budget request shall include:

19 (a) Recommendations for the priority of expenditure of
20 funds in the state system of public education, with reasons
21 for the recommended priorities, and other recommendations
22 which relate to the effectiveness of the educational
23 facilities construction program.

24 (b) All items in s. 235.435.

25 Section 32. Notwithstanding subsection (7) of section
26 3 of chapter 2000-321, Laws of Florida, section 235.42,
27 Florida Statutes, shall not stand repealed on January 7, 2003,
28 as scheduled by that act, but that section is reenacted and
29 amended to read:

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31

1 235.42 Educational and ancillary plant construction
2 funds; Public Education Capital Outlay and Debt Service Trust
3 Fund; allocation of funds.--

4 (1) The commissioner, through the department, shall
5 administer the Public Education Capital Outlay and Debt
6 Service Trust Fund. The commissioner shall allocate or
7 reallocate funds as authorized by the Legislature. Copies of
8 each allocation or reallocation shall be provided to members
9 of the State Board of Education and to the chairs of the House
10 of Representatives and Senate appropriations committees. The
11 commissioner shall provide for timely encumbrances of funds
12 for duly authorized projects. Encumbrances may include
13 proceeds to be received under a resolution approved by the
14 State Board of Education authorizing the issuance of public
15 education capital outlay bonds pursuant to s. 9(a)(2), Art.
16 XII of the State Constitution, s. 215.61, and other applicable
17 law. The commissioner shall provide for the timely
18 disbursement of moneys necessary to meet the encumbrance
19 authorizations of the boards, ~~including the Board of Regents.~~
20 Records shall be maintained by the department to identify
21 legislative appropriations, allocations, encumbrance
22 authorizations, disbursements, transfers, investments, sinking
23 funds, and revenue receipts by source. The Department of
24 Education shall pay the administrative costs of the Public
25 Education Capital Outlay and Debt Service Trust Fund from the
26 funds which comprise the trust fund.

27 (2)(a) The Public Education Capital Outlay and Debt
28 Service Trust Fund shall be comprised of the following
29 sources, which are hereby appropriated to the trust fund:

30 1. Proceeds, premiums, and accrued interest from the
31 sale of public education bonds and that portion of the

1 revenues accruing from the gross receipts tax as provided by
2 s. 9(a)(2), Art. XII of the State Constitution, as amended,
3 interest on investments, and federal interest subsidies.

4 2. General revenue funds appropriated to the fund for
5 educational capital outlay purposes.

6 3. All capital outlay funds previously appropriated
7 and certified forward pursuant to s. 216.301.

8 (b) Any funds required by law to be segregated or
9 maintained in separate accounts shall be segregated or
10 maintained in such manner that the relationship between
11 program and revenue source is retained. Nothing in this
12 subsection shall be construed so as to limit the use by the
13 Public Education Capital Outlay and Debt Service Trust Fund of
14 the resources of funds so segregated or maintained.

15 (3) Upon the request of each board, ~~including the~~
16 ~~Board of Regents~~, the department shall distribute to the board
17 an amount sufficient to cover capital outlay disbursements
18 anticipated from encumbrance authorizations for the following
19 month. For projects costing in excess of \$50,000, contracts
20 shall be approved and signed before any disbursements are
21 authorized.

22 (4) The department may authorize each board to enter
23 into contracts for a period exceeding 1 year, within amounts
24 appropriated and budgeted for fixed capital outlay needs; but
25 any contract so made shall be executory only for the value of
26 the services to be rendered, or agreed to be paid for, in
27 succeeding fiscal years. This subsection shall be
28 incorporated verbatim in all executory contracts of a board.

29 (5) No board shall, during any fiscal year, expend any
30 money, incur any liability, or enter into any contract which,
31 by its terms, involves expenditure of money in excess of the

1 amounts appropriated and budgeted or in excess of the cash
2 that will be available to meet the disbursement requirements.
3 Prior to entering into an executory, or any other, contract, a
4 board shall obtain certification from the department that
5 moneys will be available to meet the disbursement
6 requirements. Any contract, verbal or written, made in
7 violation of this subsection shall be null and void, and no
8 payment shall be made thereon.

9 (6) The State Board of Administration is authorized to
10 invest the trust funds of any state-supported retirement
11 system, and any other state funds available for loans, to the
12 trust fund at a rate of interest that is no less favorable
13 than would have been received had such moneys been invested in
14 accordance with authorized practices.

15 (7) Boards and entities authorized to participate in
16 the trust fund are district school boards, the community
17 college district boards of trustees, the college and
18 university boards of trustees, the Trustees of the Florida
19 School for the Deaf and the Blind, ~~the Board of Regents~~, and
20 other units of the state system of public education, and other
21 educational entities defined in s. 228.041 for which funds are
22 authorized by the Legislature.

23 (8) The department shall make a monthly report, by
24 project, of requests for encumbrance authorization from each
25 agency. Each project shall be tracked in the following
26 manner:

- 27 (a) The date the request is received;
- 28 (b) The anticipated encumbrance date requested by the
29 agency;
- 30 (c) The date the project is eligible for encumbrance
31 authorization; and

1 (d) The date the encumbrance authorization is issued.

2 (9) The department shall make a monthly report:

3 (a) Showing the amount of cash disbursed to the agency
4 from each appropriated allocation and the amount of cash
5 disbursed by the agency to vendors or contractors from each
6 appropriated allocation, by month.

7 (b) Showing updated adjustments to the budget fiscal
8 year forecast for appropriations, encumbrances, disbursements,
9 and cash available for encumbrance status.

10 Section 33. Paragraphs (a), (b), (d), and (h) of
11 subsection (1), paragraph (a) of subsection (2), paragraph (a)
12 of subsection (3), subsection (4), paragraph (a) of subsection
13 (5), and subsection (7) of section 235.435, Florida Statutes,
14 are amended to read:

15 235.435 Funds for comprehensive educational plant
16 needs; construction cost maximums for school district capital
17 projects.--Allocations from the Public Education Capital
18 Outlay and Debt Service Trust Fund to the various boards for
19 capital outlay projects shall be determined as follows:

20 (1)(a) Funds for remodeling, renovation, maintenance,
21 repairs, and site improvement for existing satisfactory
22 facilities shall be given priority consideration by the
23 Legislature for appropriations allocated to the boards,
24 ~~including the Board of Regents,~~ from the total amount of the
25 Public Education Capital Outlay and Debt Service Trust Fund
26 appropriated. These funds shall be calculated pursuant to the
27 following basic formula: the building value times the
28 building age over the sum of the years' digits assuming a
29 50-year building life. For relocatable facilities, a 20-year
30 life shall be used. "Building value" is calculated by
31 multiplying each building's total assignable square feet times

1 the appropriate net-to-gross conversion rate found in state
2 board rules and that product times the current average new
3 construction cost. "Building age" is calculated by multiplying
4 the prior year's building age times 1 minus the prior year's
5 sum received from this subsection divided by the prior year's
6 building value. To the net result shall be added the number
7 1. Each board shall receive the percentage generated by the
8 preceding formula of the total amount appropriated for the
9 purposes of this section.

10 (b) Each board, ~~including the Board of Regents,~~ shall
11 not use the funds received pursuant to this section to
12 supplant funds in the current fiscal year approved operating
13 budget, and all budgeted funds shall be expended at a rate not
14 less than would have been expended had the funds under this
15 section not been received.

16 (d) Each board, ~~including the Board of Regents,~~ shall
17 maintain fund accounting in a manner which will permit a
18 detailed audit of the funds expended in this program.

19 (h) Boards of trustees for colleges and universities
20 ~~The Board of Regents~~ may utilize funds appropriated pursuant
21 to this section for replacement of minor facilities provided
22 that such projects do not exceed \$500,000 in cost or 5,000
23 gross square feet in size. Minor facilities may not be
24 replaced from funds provided pursuant to this section unless
25 the board ~~of Regents~~ determines that the cost of repair or
26 renovation is greater than or equal to the cost of
27 replacement.

28 (2)(a) The department shall establish, as a part of
29 the Public Education Capital Outlay and Debt Service Trust
30 Fund, a separate account, in an amount determined by the
31 Legislature, to be known as the "Special Facility Construction

1 Account." The Special Facility Construction Account shall be
2 used to provide necessary construction funds to school
3 districts which have urgent construction needs but which lack
4 sufficient resources at present, and cannot reasonably
5 anticipate sufficient resources within the period of the next
6 3 years, for these purposes from currently authorized sources
7 of capital outlay revenue. A school district requesting
8 funding from the Special Facility Construction Account shall
9 submit one specific construction project, not to exceed one
10 complete educational plant, to the Special Facility
11 Construction Committee. No district shall receive funding for
12 more than one approved project in any 3-year period. The first
13 year of the 3-year period shall be the first year a district
14 receives an appropriation. The department shall encourage a
15 construction program that reduces the average size of schools
16 in the district. The request must meet the following criteria
17 to be considered by the committee:

18 1. The project must be deemed a critical need and must
19 be recommended for funding by the Special Facility
20 Construction Committee. Prior to developing plans for the
21 proposed facility, the district school board must request a
22 preapplication review by the Special Facility Construction
23 Committee or a project review subcommittee convened by the
24 committee to include two representatives of the department and
25 two staff from school districts not eligible to participate in
26 the program ~~other than the district submitting the project.~~
27 Within 60 days after receiving the preapplication review
28 request, the committee or subcommittee must meet in the school
29 district to review the project proposal and existing
30 facilities. To determine whether the proposed project is a
31 critical need, the committee or subcommittee shall consider,

- 1 at a minimum, the capacity of all existing facilities within
2 the district as determined by the Florida Inventory of School
3 Houses; the district's pattern of student growth; the
4 district's existing and projected capital outlay full-time
5 equivalent student enrollment as determined by the department;
6 the district's existing satisfactory student stations; the use
7 of all existing district property and facilities; grade level
8 configurations; and any other information that may affect the
9 need for the proposed project.
- 10 2. The construction project must be recommended in the
11 most recent survey or surveys by the district under the rules
12 of the State Board of Education.
- 13 3. The construction project must appear on the
14 district's approved project priority list under the rules of
15 the State Board of Education.
- 16 4. The district must have selected and had approved a
17 site for the construction project in compliance with s. 235.19
18 and the rules of the State Board of Education.
- 19 5. The district shall have developed a school board
20 adopted list of facilities that do not exceed the norm for net
21 square feet occupancy requirements under the State
22 Requirements for Educational Facilities, using all possible
23 programmatic combinations for multiple use of space to obtain
24 maximum daily use of all spaces within the facility under
25 consideration.
- 26 6. Upon construction, the total cost per student
27 station, including change orders, must not exceed the cost per
28 student station as provided in subsection (6).
- 29 7. There shall be an agreement signed by the district
30 school board stating that it will advertise for bids within 30
31

1 days of receipt of its encumbrance authorization from the
2 department.

3 8. The district shall, at the time of the request and
4 for a continuing period of 3 years, levy the maximum millage
5 against their nonexempt assessed property value as allowed in
6 s. 236.25(2) or shall raise an equivalent amount of revenue
7 from the school capital outlay surtax authorized under s.
8 212.055(6). ~~Effective July 1, 1991,~~Any district with a new or
9 active project, funded under the provisions of this
10 subsection, shall be required to budget no more than the value
11 of 1.5 mills per year to the project to satisfy the annual
12 participation requirement in the Special Facility Construction
13 Account.

14 9. If a contract has not been signed 90 days after the
15 advertising of bids, the funding for the specific project
16 shall revert to the Special Facility New Construction Account
17 to be reallocated to other projects on the list. However, an
18 additional 90 days may be granted by the commissioner.

19 10. The department shall certify the inability of the
20 district to fund the survey-recommended project over a
21 continuous 3-year period using projected capital outlay
22 revenue derived from s. 9(d), Art. XII of the State
23 Constitution, as amended, paragraph (3)(a) of this section,
24 and s. 236.25(2).

25 11. The district shall have on file with the
26 department an adopted resolution acknowledging its 3-year
27 commitment of all unencumbered and future revenue acquired
28 from s. 9(d), Art. XII of the State Constitution, as amended,
29 paragraph (3)(a) of this section, and s. 236.25(2).

30
31

1 12. Final phase III plans must be certified by the
2 board as complete and in compliance with the building and life
3 safety codes prior to August 1.

4 (3)(a) Each district school board shall receive an
5 amount from the Public Education Capital Outlay and Debt
6 Service Trust Fund to be calculated by computing the capital
7 outlay full-time equivalent membership as determined by the
8 department. Such membership must include, but is not limited
9 to:

10 1. K-12 students, except hospital and homebound
11 part-time students; and

12 2. Students who are workforce development education
13 students, and adult disabled students and who are enrolled in
14 school district technical centers. The capital outlay
15 full-time equivalent membership shall be determined for
16 kindergarten through the 12th grade and for
17 vocational-technical centers by averaging the unweighted
18 full-time equivalent student membership for the second and
19 third surveys and comparing the results on a school-by-school
20 basis with the Florida Inventory for School Houses. The
21 capital outlay full-time equivalent membership by grade level
22 organization shall be used in making the following
23 calculations: The capital-outlay full-time-equivalent
24 membership by grade level organization for the 4th prior year
25 must be used to compute the base-year allocation. The
26 capital-outlay full-time-equivalent membership by grade-level
27 organization for the prior year must be used to compute the
28 growth over the highest of the 3 years preceding the prior
29 year. ~~The capital outlay full-time equivalent membership by~~
30 ~~grade level organization for the 1981-1982 fiscal year shall~~
31 ~~be computed as the base year. The capital outlay full-time~~

1 ~~equivalent membership by grade level organization for the~~
2 ~~1984-1985 fiscal year shall be computed with the positive~~
3 ~~increase over the base year constituting growth. From the~~
4 total amount appropriated by the Legislature pursuant to this
5 subsection, 40 percent shall be allocated among the base
6 capital outlay full-time equivalent membership and 60 percent
7 among the growth capital outlay full-time equivalent
8 membership. The allocation within each of these groups shall
9 be prorated to the districts based upon each district's
10 percentage of base and growth capital outlay full-time
11 membership. The most recent 4-year capital outlay full-time
12 equivalent membership data shall be used in each subsequent
13 year's calculation for the allocation of funds pursuant to
14 this subsection. ~~If the growth capital outlay full-time~~
15 ~~equivalent membership for a district declines in any year used~~
16 ~~in their calculation after the initial allocation pursuant to~~
17 ~~this subsection, no allocation for growth capital outlay~~
18 ~~full-time equivalent membership shall be made for any~~
19 ~~subsequent year until the number of capital outlay full-time~~
20 ~~equivalent membership has exceeded the number for which an~~
21 ~~allocation has already been made.~~If a change, correction, or
22 recomputation of data during any year results in a reduction
23 or increase of the calculated amount previously allocated to a
24 district, the allocation to that district shall be adjusted
25 correspondingly. If such recomputation results in an increase
26 or decrease of the calculated amount, such additional or
27 reduced amounts shall be added to or reduced from the
28 district's future appropriations. However, no change,
29 correction, or recomputation of data shall be made subsequent
30 to 2 years following the initial annual allocation.
31

1 (4)(a) The boards of trustees of the community
2 colleges, colleges, and universities ~~and the Board of Regents~~
3 ~~of the State University System~~ shall receive funds for
4 projects based on a 3-year priority list, to be updated
5 annually, which is submitted to the Legislature in the
6 legislative budget request at least 90 ~~45~~ days prior to the
7 legislative session. The Division ~~State Board~~ of Community
8 Colleges shall submit a 3-year priority list for the entire
9 Florida Community College System as approved by the State
10 Board of Education. The Division of Colleges and Universities
11 ~~Board of Regents~~ shall submit a 3-year priority list for the
12 ~~entire state~~ colleges and universities ~~University System~~ as
13 approved by the State Board of Education. The list ~~lists~~
14 shall reflect decisions by the board ~~boards~~ concerning program
15 priorities that implement the statewide plan for program
16 growth and quality improvement in education. No remodeling or
17 renovation project shall be included on the 3-year priority
18 list unless the project has been recommended pursuant to s.
19 235.15 or is for the purpose of correcting health and safety
20 deficiencies. No new construction project shall be included
21 on the first year of the 3-year priority list unless the
22 educational specifications have been approved by the
23 commissioner ~~Chancellor~~ for a community college, college, or
24 university project as applicable projects ~~or by the Division~~
25 ~~of Community Colleges for community college projects~~. The
26 funds requested for a new construction project in the first
27 year of the 3-year priority list shall be in conformance with
28 the scope of the project as defined in the educational
29 specifications. Any new construction project requested in the
30 first year of the 3-year priority list which is not funded by
31 the Legislature shall be carried forward to be listed first in

1 developing the updated 3-year priority list for the subsequent
2 year's capital outlay budget. Should the order of the priority
3 of the projects change from year to year, a justification for
4 such change shall be included with the updated priority list.

5 (b) The boards of trustees of the community colleges,
6 colleges, and universities ~~and the Board of Regents of the~~
7 ~~State University System~~ may lease relocatable educational
8 facilities for up to 3 years using nonbonded PECO funds.

9 (c) The boards of trustees of the community colleges,
10 colleges, and universities ~~and the Board of Regents~~ shall
11 receive funds for remodeling, renovation, maintenance and
12 repairs, and site improvement for existing satisfactory
13 facilities pursuant to subsection (1).

14 (5) District school boards shall identify each fund
15 source and the use of each proportionate to the project cost,
16 as identified in the bid document, to assure compliance with
17 this section. The data shall be submitted to the department,
18 which shall track this information as submitted by the boards.
19 PECO funds shall not be expended as indicated in the
20 following:

21 (a) District school boards shall provide landscaping
22 by local funding sources or initiatives. District school
23 boards are exempt from local landscape ordinances but may
24 comply with the local requirements if such compliance is less
25 costly than compliance with the landscape requirements of the
26 Florida State Uniform Building Code for Public Educational
27 Facilities.

28 ~~(7)(a) The Department of Education shall establish,~~
29 ~~beginning with the 1992-1993 fiscal year, as a part of the~~
30 ~~Public Education Capital Outlay and Debt Service Trust Fund, a~~
31 ~~separate account to be known as the Increased Utilization~~

1 ~~Account in an amount each year not to exceed 5 percent of the~~
2 ~~total funds appropriated under the provisions of paragraph~~
3 ~~(3)(a). These funds shall be allocated by the commissioner to~~
4 ~~any public school district according to the following formula:~~
5 ~~Any eligible school that increases its FTE facility capacity~~
6 ~~by at least 20 percent as a result of using the modified~~
7 ~~school calendar shall receive up to a maximum of \$100 per~~
8 ~~total FTE generated within the school.~~
9 ~~(b) To be eligible, the district school board must~~
10 ~~submit a resolution prior to August 1 of each fiscal year,~~
11 ~~beginning August 1, 1992, of its intent to participate in the~~
12 ~~Increased Utilization Account and listing each of the schools~~
13 ~~eligible during the prior fiscal year, with the first year~~
14 ~~being 1991-1992. The information listed for each school must~~
15 ~~include the maximum FTE capacity for the year as contained in~~
16 ~~the Florida inventory of school houses in the Office of~~
17 ~~Educational Facilities, and the increase attributable to the~~
18 ~~modified school calendar. To be eligible, each individual~~
19 ~~school FTE must exceed the maximum facility capacity during~~
20 ~~the fiscal year by at least 20 percent.~~
21 ~~(c) Each school district qualifying for funding under~~
22 ~~this subsection may be paid up to \$100 per total FTE per~~
23 ~~eligible school site for a maximum of 5 years for each~~
24 ~~eligible school provided that funds are available. If funds~~
25 ~~are insufficient during any fiscal year, the commissioner~~
26 ~~shall determine the pro rata amount.~~
27 ~~(d) Funds received by a school district from the~~
28 ~~Increased Utilization Account shall be exempt from repayment~~
29 ~~of any project outstanding pursuant to the provisions of~~
30 ~~subsection (2).~~
31

1 ~~(e) Funds accruing to a district school board from the~~
2 ~~provisions of this subsection shall be expended on needed~~
3 ~~projects as shown by survey or surveys under the rules of the~~
4 ~~state board.~~

5 ~~(f) For the purpose of implementing the provisions of~~
6 ~~this subsection, "modified school calendar" means an extended~~
7 ~~school week or an extended school year. Overcrowding of a~~
8 ~~school or double sessions do not apply.~~

9 Section 34. Section 235.4351, Florida Statutes, is
10 amended to read:

11 235.4351 Waivers from certain requirements.--The State
12 Board of Education shall ~~commissioner may~~ adopt standards, by
13 rule, for the provision of waivers from the requirements of
14 this chapter relating to plant surveys, need projections, and
15 cost ceilings. Special consideration for waiver shall be given
16 to:

17 (1) Projects of school districts for which no state
18 money is spent.

19 (2) Projects of school districts that certify that all
20 of the district's educational plant space needs for the next 5
21 years can be met from:

22 (a) Capital outlay sources that the district
23 reasonably expects to receive during the next 5 years; or

24 (b) Alternative scheduling or construction, leasing,
25 rezoning, or technological methodologies exhibiting sound
26 management.

27
28 The commissioner shall report annually to the Legislature and
29 the Governor, by January 1, the prior year's waivers granted
30 under this section.

31 Section 35. This act shall take effect July 1, 2002.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 1584

The college and state university exemptions from certain provisions of ch. 235, F.S., are restored because the institutions' are governed on these issues by other sections of the Florida Statutes. For example, s. 235.193, F.S., directs boards to coordinate facilities planning with local governments. A provision was added requiring campus master plans and development agreements to comply with ss. 240.155 and 240.156, F.S., which provide for university concurrency agreements with local governments.

The Effort Index Grant Program for school districts is revised to direct its purpose to assisting districts experiencing high growth in student enrollment.