

593-156AXB-32

Bill No. HB 3-E

Amendment No. \_\_\_\_ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

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Representative(s) Alexander offered the following:

**Amendment (with title amendment)**

Remove: everything after the enacting clause,

and insert:

Section 1. Effective January 7, 2003, subsection (3) of section 20.04, Florida Statutes, is amended to read:

20.04 Structure of executive branch.--The executive branch of state government is structured as follows:

(3) For their internal structure, all departments, except for the Department of Financial Services ~~Banking and Finance~~, the Department of Children and Family Services, the Department of Corrections, the Department of Management Services, the Department of Revenue, and the Department of Transportation, must adhere to the following standard terms:

(a) The principal unit of the department is the "division." Each division is headed by a "director."

(b) The principal unit of the division is the "bureau." Each bureau is headed by a "chief."

(c) The principal unit of the bureau is the "section."

1 Each section is headed by an "administrator."

2 (d) If further subdivision is necessary, sections may  
3 be divided into "subsections," which are headed by  
4 "supervisors."

5 Section 2. Section 20.121, Florida Statutes, is  
6 created to read:

7 20.121 Department of Financial Services.--There is  
8 created a Department of Financial Services.

9 (1) DEPARTMENT HEAD.--The head of the Department of  
10 Financial Services is the Chief Financial Officer.

11 (2) DIVISIONS.--The Department of Financial Services  
12 shall consist of the following divisions:

13 (a) The Division of Accounting and Auditing, which  
14 shall include the following bureau and office:

15 1. The Bureau of Unclaimed Property.

16 2. The Office of Fiscal Integrity which shall function  
17 as a criminal justice agency for purposes of ss.

18 943.045-943.08 and shall have a separate budget. The office  
19 may conduct investigations within or outside this state as the  
20 bureau deems necessary to aid in the enforcement of this  
21 section. If during an investigation the office has reason to  
22 believe that any criminal law of this state has or may have  
23 been violated, the office shall refer any records tending to  
24 show such violation to state or federal law enforcement or  
25 prosecutorial agencies and shall provide investigative  
26 assistance to those agencies as required.

27 (b) The Division of State Fire Marshal.

28 (c) The Division of Risk Management.

29 (d) The Division of Treasury, which shall include a  
30 Bureau of Deferred Compensation responsible for administering  
31 the Government Employees Deferred Compensation Plan

1 established under s. 112.215 for state employees.  
2 (e) The Division of Insurance Fraud.  
3 (f) The Division of Rehabilitation and Liquidation.  
4 (g) The Division of Insurance Agents and Agency  
5 Services.  
6 (h) The Division of Consumer Services, which shall  
7 include a Bureau of Funeral and Cemetery Services.  
8 (i) The Division of Workers' Compensation.  
9 (j) The Division of Administration.  
10 (k) The Division of Legal Services.  
11 (l) The Division of Information Systems.  
12 (m) The Office of Insurance Consumer Advocate.  
13 (3) FINANCIAL SERVICES COMMISSION.--Effective January  
14 7, 2003, there is created within the Department of Financial  
15 Services the Financial Services Commission, composed of the  
16 Governor, the Attorney General, the Chief Financial Officer,  
17 and the Commissioner of Agriculture, which shall for purposes  
18 of this section be referred to as the commission. Commission  
19 members shall serve as agency head of the Financial Services  
20 Commission. The commission shall be a separate budget entity  
21 and shall be exempt from the provisions of s. 20.052.  
22 Commission action shall be by majority vote consisting of at  
23 least three affirmative votes. The commission shall not be  
24 subject to control, supervision, or direction by the  
25 Department of Financial Services in any manner, including  
26 purchasing, transactions involving real or personal property,  
27 personnel, or budgetary matters.  
28 (a) STRUCTURE.--The major structural unit of the  
29 commission is the office. Each office shall be headed by a  
30 director. The following offices are established:  
31 1. The Office of Insurance Regulation, which shall be

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1 responsible for all activities concerning insurers and other  
2 risk bearing entities, including licensing, rates, policy  
3 forms, market conduct, claims, adjusters, issuance of  
4 certificates of authority, solvency, viatical settlements,  
5 premium financing, and administrative supervision, as provided  
6 under the Insurance Code or chapter 636. The head of the  
7 Office of Insurance Regulation is the Director of the Office  
8 of Insurance Regulation.

9 2. The Office of Financial Institutions and Securities  
10 Regulation, which shall be responsible for all activities of  
11 the Financial Services Commission relating to the regulation  
12 of banks, credit unions, other financial institutions, finance  
13 companies, and the securities industry. The head of the  
14 office is the Director of the Office of Financial Institutions  
15 and Securities Regulation. The Office of Financial  
16 Institutions and Securities Regulation shall include a Bureau  
17 of Financial Investigations, which shall function as a  
18 criminal justice agency for purposes of ss. 943.045-943.08 and  
19 shall have a separate budget. The bureau may conduct  
20 investigations within or outside this state as the bureau  
21 deems necessary to aid in the enforcement of this section. If,  
22 during an investigation, the office has reason to believe that  
23 any criminal law of this state has or may have been violated,  
24 the office shall refer any records tending to show such  
25 violation to state or federal law enforcement or prosecutorial  
26 agencies and shall provide investigative assistance to those  
27 agencies as required.

28 (b) ORGANIZATION.--The commission shall establish by  
29 rule any additional organizational structure of the offices.  
30 It is the intent of the Legislature to provide the commission  
31 with the flexibility to organize the offices in any manner

1 they determine appropriate to promote both efficiency and  
2 accountability.

3 (c) POWERS.--Commission members shall serve as the  
4 agency head for purposes of rulemaking under ss.  
5 120.536-120.565 by the commission and all subunits of the  
6 commission. Each director is agency head for purposes of  
7 final agency action under chapter 120 for all areas within the  
8 regulatory authority delegated to the director's office.

9 (d) APPOINTMENT AND QUALIFICATIONS OF DIRECTORS.--The  
10 commission shall appoint or remove each director by a majority  
11 vote consisting of at least three affirmative votes, with both  
12 the Governor and the Chief Financial Officer on the prevailing  
13 side. The minimum qualifications of the directors are as  
14 follows:

15 1. Prior to appointment as director, the director of  
16 the Office of Insurance Regulation must have had, within the  
17 previous 10 years, at least 5 years of responsible private  
18 sector experience working full-time in areas within the scope  
19 of the subject matter jurisdiction of the Office of Insurance  
20 Regulation or at least 5 years of experience as a senior  
21 examiner or other senior employee of a state or federal agency  
22 having regulatory responsibility over insurers or insurance  
23 agencies.

24 2. Prior to appointment as director, the director of  
25 the Office of Financial Institutions and Securities Regulation  
26 must have had, within the previous 10 years, at least 5 years  
27 of responsible private sector experience working full-time in  
28 areas within the subject matter jurisdiction of the Office of  
29 Financial Institutions and Securities Regulation or at least 5  
30 years of experience as a senior examiner or other senior  
31 employee of a state or federal agency having regulatory

1 responsibility over financial institutions, finance companies,  
2 or securities companies.

3 (e) ADMINISTRATIVE SUPPORT.--The offices shall have a  
4 sufficient number of attorneys, examiners, investigators,  
5 other professional personnel to carry out their  
6 responsibilities and administrative personnel as determined  
7 annually in the appropriations process. The Department of  
8 Financial Services shall provide administrative and  
9 information systems support to the offices.

10 Section 3. Transfers.--

11 (1) The following programs, including the incumbent  
12 employees in the existing positions of such programs on  
13 January 6, 2003, and all property issued and assigned directly  
14 to such employees, are hereby transferred by a type two  
15 transfer, as defined in s. 20.06(2), Florida Statutes:

16 (a) From the Department of Banking and Finance to the  
17 Department of Financial Services:

18 1. The Financial Accountability for Public Funds  
19 Program.

20 2. The Comptroller and Cabinet Affairs Program.

21 3. The Bureau of Funeral and Cemetery Services.

22 (b) From the Department of Insurance to the Department  
23 of Financial Services:

24 1. The Treasury Program.

25 2. The State Fire Marshal Program.

26 3. The Risk Management Program.

27 4. The Office of Insurance Consumer Advocate.

28 5. The Division of Insurance Fraud.

29 6. The Division of Rehabilitation and Liquidation.

30 7. The Division of Agents and Agencies Services,

31 except for those portions of the division that implement

1 functions assigned to the Office of Insurance Regulation under  
2 s. 20.121(3)(a)1., Florida Statutes, as created by this act.

3 8. The Division of Insurance Consumer Services, which  
4 is renamed the Division of Consumer Services.

5 9. The Division of Legal Services, except for those  
6 positions whose responsibilities involve the functions  
7 assigned to the Office of Insurance Regulation.

8 10. The Division of Information Systems.

9 11. The Office of the Treasurer, the Administration  
10 Program, and the Office of the Chief of Staff of the  
11 Treasurer.

12 (c) From the Department of Banking and Finance to the  
13 Office of Financial Institutions and Securities Regulation,  
14 the Financial Institutions Regulatory Program.

15 (d) From the Department of Insurance to the Office of  
16 Insurance Regulation:

17 1. The Division of Insurer Services.

18 2. Those portions of the Division of Agents and Agency  
19 Services that implement functions assigned to the Office of  
20 Insurance Regulation under s. 20.121(3)(a)1., Florida  
21 Statutes, as created by this act.

22 3. Those positions within the Division of Legal  
23 Services that are not transferred to the Department of  
24 Financial Services under subparagraph (b)1.

25  
26 For the purposes of this section, employees transferred from  
27 the Department of Banking and Finance and the Department of  
28 Insurance to the Department of Financial Services or the  
29 Financial Services Commission shall not be considered new  
30 employees for the purpose of subjecting such employees to an  
31 employee probationary period.

1           (2) That portion of the Division of Workers'  
 2 Compensation transferred pursuant to chapter 2002-194, Laws of  
 3 Florida, to the Department of Insurance, including the  
 4 incumbent employees in the existing positions of such division  
 5 on January 6, 2003, and all property issued and assigned  
 6 directly to such employees, are transferred by a type two  
 7 transfer, as defined in s. 20.06(2), Florida Statutes, from  
 8 the Department of Insurance to the Department of Financial  
 9 Services.

10           (3) The following trust funds are transferred:

11           (a) From the Department of Banking and Finance to the  
 12 Department of Financial Services:

- 13           1. The Child Support Depository Trust Fund, FLAIR  
 14 number 44-2-080.
- 15           2. The Child Support Clearing Trust Fund, FLAIR number  
 16 44-2-081.
- 17           3. The Collections Internal Revenue Clearing Trust  
 18 Fund, FLAIR number 44-2-101.
- 19           4. The Consolidated Miscellaneous Deduction Clearing  
 20 Trust Fund, FLAIR number 44-2-139.
- 21           5. The Consolidated Payment Trust Fund, FLAIR number  
 22 44-2-140.
- 23           6. The Electronic Funds Transfer Clearing Trust Fund,  
 24 FLAIR number 44-2-188.
- 25           7. The Employee Refund Clearing Trust Fund, FLAIR  
 26 number 44-2-194.
- 27           8. The Federal Tax Levy Clearing Trust Fund, FLAIR  
 28 number 44-2-274.
- 29           9. The Federal Use of State Lands Trust Fund, FLAIR  
 30 number 44-2-307.
- 31           10. The Florida Retirement Clearing Trust Fund, FLAIR



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- 1 number 44-2-323.
- 2 11. The Hospital Insurance Tax Clearing Trust Fund,
- 3 FLAIR number 44-2-370.
- 4 12. The Miscellaneous Deductions Restoration Trust
- 5 Fund, FLAIR number 44-2-577.
- 6 13. The Preneed Funeral Contract Consumer Protection
- 7 Trust Fund, FLAIR number 44-2-536.
- 8 14. The Prison Industries Trust Fund, FLAIR number
- 9 44-2-385.
- 10 15. The Social Security Clearing Trust Fund, FLAIR
- 11 number 44-2-643.
- 12 16. The Tobacco Settlement Clearing Trust Fund, FLAIR
- 13 number 44-2-123.
- 14 17. The Trust Funds Trust Fund, FLAIR number 44-2-732.
- 15 18. The Unclaimed Property Trust Fund, FLAIR number
- 16 44-2-007.
- 17 19. The Working Capital Trust Fund, FLAIR number
- 18 44-2-792.
- 19 (b) From the Department of Insurance to the Department
- 20 of Financial Services:
- 21 1. The Agents and Solicitors County Tax Trust Fund,
- 22 FLAIR number 46-2-024.
- 23 2. The Florida Casualty Insurance Risk Management
- 24 Trust Fund, FLAIR number 46-2-078.
- 25 3. The Government Employees Deferred Compensation
- 26 Trust Fund, FLAIR number 46-2-155.
- 27 4. The Rehabilitation Administrative Expense Trust
- 28 Fund, FLAIR number 46-2-582.
- 29 5. The Special Disability Trust Fund, FLAIR number
- 30 46-2-798.
- 31 6. The State Treasurer Escrow Trust Fund, FLAIR number

- 1 46-2-622.
- 2 7. The Treasurer's Administrative And Investment Trust
- 3 Fund, FLAIR number 46-2-725.
- 4 8. The Treasury Cash Deposit Trust Fund, FLAIR number
- 5 46-2-720.
- 6 9. The Treasurer Investment Trust Fund, FLAIR number
- 7 46-2-728.
- 8 10. The Workers' Compensation Administration Trust
- 9 Fund, FLAIR number 46-2-795.
- 10 (c) From the Department of Banking and Finance to the
- 11 Office of Financial Institutions and Securities Regulation
- 12 within the Department of Financial Services:
- 13 1. The Administrative Trust Fund, FLAIR number
- 14 44-2-021, except the moneys in fund account number 44-2-021003
- 15 are transferred from the Department of Banking and Finance to
- 16 the Office of Chief Financial Officer.
- 17 2. The Anti-Fraud Trust Fund, FLAIR number 44-2-038.
- 18 3. The Comptroller's Federal Equitable Sharing Trust
- 19 Fund, FLAIR number 44-2-719.
- 20 4. The Financial Institutions' Regulatory Trust Fund,
- 21 FLAIR number 44-2-275.
- 22 5. The Mortgage Brokerage Guaranty Trust Fund, FLAIR
- 23 number 44-2-485.
- 24 6. The Regulatory Trust Fund, FLAIR number 44-2-573.
- 25 7. The Securities Guaranty Fund, FLAIR number
- 26 44-2-626.
- 27 (d) From the Department of Insurance to the Department
- 28 of Financial Services, the Insurance Commissioner's Regulatory
- 29 Trust Fund, FLAIR number 46-2-393. There is created within the
- 30 trust fund a subaccount for purposes of funding the Office of
- 31 Insurance Regulation.

1           (4) The authority to make appointments to the Citizens  
2 Property Insurance Corporation shall remain with the Chief  
3 Financial Officer as provided in Committee Substitute for  
4 Senate Bill 1418 as enacted by the Legislature in the 2002  
5 Regular Session.

6           (5) This section shall take effect January 7, 2003.

7           Section 4. (1) Effective January 7, 2003, the rules  
8 of the Department of Banking and Finance and of the Department  
9 of Insurance that were in effect on January 6, 2003, shall  
10 become rules of the Department of Financial Services or the  
11 Financial Services Commission as is appropriate to the  
12 corresponding regulatory or constitutional function and shall  
13 remain in effect until specifically amended or repealed in the  
14 manner provided by law.

15           Section 5. (1) This act shall not affect the validity  
16 of any judicial or administrative action involving the  
17 Department of Banking and Finance or the Department of  
18 Insurance pending on January 7, 2003, and the Department of  
19 Financial Services, or the Financial Services Commission, or  
20 the respective office, shall be substituted as a party in  
21 interest in any such action.

22           (2) Notwithstanding subsection (1), if the action  
23 involves the constitutional functions of the Comptroller or  
24 Treasurer, the Chief Financial Officer shall instead be  
25 substituted as a party in interest.

26           Section 6. Transitional provisions.--

27           (1)(a) There is created the Committee of Transition  
28 Management. The committee shall function independently but  
29 shall for administrative purposes be treated as an office of  
30 the Executive Office of the Governor.

31           (b) The Governor, the Comptroller, the Treasurer, the

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1 chair of the House Fiscal Responsibility Council, and the  
2 chair of the Senate Appropriations Committee shall each  
3 appoint one member to the committee.

4 (c) The committee shall oversee the transition to the  
5 new Department of Financial Services and the new Financial  
6 Services Commission. The management duties of the office shall  
7 include, but not be limited to:

8 1. Providing a written report that specifies the  
9 placement of those positions that are transferred to the Chief  
10 Financial Officer, the Department of Financial Services, and  
11 the Offices of the Financial Services Commission under this  
12 act. The committee shall provide the report to the Governor,  
13 the Cabinet, the President of the Senate, the Speaker of the  
14 House of Representatives, the chair of the House Fiscal  
15 Responsibility Council, and the chair of the Senate  
16 Appropriations Committee.

17 2. Submitting to the Financial Services Commission a  
18 proposed organizational plan for the commission, which plan  
19 the commission may adopt by rule.

20 3. Providing written recommendations to the  
21 commission, the President of the Senate, and the Speaker of  
22 the House of Representatives, by no later than February 1,  
23 2003, as to statutory changes that are necessary or desirable  
24 to facilitate the operations of the department.

25 (d) The Department of Banking and Finance, the  
26 Department of Insurance, the Office of the Comptroller, and  
27 the Office of the Treasurer shall fully cooperate with the  
28 Committee of Transition Management and shall promptly provide  
29 the office with any requested information.

30 Section 7. Notwithstanding the provisions of ss.  
31 216.292 and 216.351, Florida Statutes, upon approval by the

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1 Legislative Budget Committee, the Executive Office of the  
2 Governor may transfer funds and positions between agencies to  
3 implement this act.

4           Section 8. Conforming legislation.--The Legislature  
5 recognizes that there is a need to conform the Florida  
6 Statutes to the policy decisions reflected in this act and  
7 that there is a need to resolve apparent conflicts between any  
8 other legislation that has been or may be enacted during 2002  
9 and the creation by this act of the Department of Financial  
10 Services, the Office of Insurance Regulation, the Office of  
11 Financial Institutions and Securities Regulation, and the  
12 Chief Financial Officer. Therefore, in the interim between  
13 this act becoming a law and the 2003 Regular Session of the  
14 Legislature or an earlier special session addressing this  
15 issue, the Division of Statutory Revision shall provide the  
16 relevant substantive committees of the Senate and the House of  
17 Representatives with assistance, upon request, to enable such  
18 committees to prepare draft legislation to conform the Florida  
19 Statutes and any legislation enacted during 2002 to the  
20 provisions of s. 20.121, Florida Statutes, as created by this  
21 act. It is specifically the intent of the Legislature that,  
22 until June 1, 2003, the statutory responsibility for  
23 appointments to commissions, boards, associations, councils,  
24 committees, or other collegial bodies now vested in the  
25 Comptroller, the Treasurer, the Insurance Commissioner, or the  
26 State Fire Marshal shall become the responsibility of the  
27 Chief Financial Officer.

28           Section 9. Effective July 1, 2002, subsection 1 of  
29 section 1. of chapter 2002-194, Laws of Florida, is amended to  
30 read:

31           Section 1. (1) All powers, duties, functions, rules,

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1 records, personnel, property, and unexpended balances of  
2 appropriations, allocations, and other funds of the Division  
3 of Workers' Compensation are transferred by a type two  
4 transfer, as defined in s. 20.06(2), Florida Statutes, from  
5 the Department of Labor and Employment Security to the  
6 Department of Insurance, except as otherwise provided in this  
7 subsection, as follows: the full-time equivalent positions and  
8 the associated funding for salaries, benefits, other capital  
9 outlay, and expenses related to oversight of medical services  
10 in workers' compensation provider relations, dispute and  
11 complaint resolution, program evaluation, data review and  
12 analysis data management, and review of carrier medical bill  
13 payments on issues which are jurisdictionally governed by the  
14 Agency for Health Care Administration, including, but not  
15 limited to, the duties in s. 440.13(3), (7), (8), (11)(a),  
16 (11)(c), (12), (13), and (14), Florida Statutes, are  
17 transferred by a type two transfer, as defined in s. 20.06(2),  
18 Florida Statutes, from the Department of Labor and Employment  
19 Security to the Agency for Health Care Administration; the  
20 full-time equivalent positions and the associated funding for  
21 salaries, benefits, other capital outlay, and expenses related  
22 to the rehabilitation and reemployment of injured workers are  
23 transferred by a type two transfer, as defined in s. 20.06(2),  
24 Florida Statutes, from the Department of Labor and Employment  
25 Security to the Department of Education; and the full-time  
26 equivalent positions and the associated funding for salaries,  
27 benefits, other capital outlay, and expenses related to the  
28 administration of child labor laws under chapter 450, Florida  
29 Statutes, are transferred by a type two transfer, as defined  
30 in s. 20.06(2), Florida Statutes, from the Department of Labor  
31 and Employment Security to the Department of Business and

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1 Professional Regulation. To the extent feasible, the positions  
2 transferred to the Department of Insurance will be  
3 reclassified to pay grades comparable to the positions  
4 established by the Department of Labor and Employment  
5 Security, based on the classification codes and specifications  
6 of the positions for work to be performed at the Department of  
7 Insurance. The number of positions the department establishes  
8 may not exceed the number of authorized positions and the  
9 salary and benefits that were authorized for the Division of  
10 Workers' Compensation within the Department of Labor and  
11 Employment Security prior to the transfer. The Department of  
12 Insurance is further authorized to reassign, reorganize,  
13 reclassify, or otherwise transfer positions to appropriate  
14 administrative subdivisions within the department and to  
15 establish such regional offices as are necessary to properly  
16 enforce and administer its responsibilities under the Florida  
17 Insurance Code and chapter 440, Florida Statutes. The  
18 department may also enter into contracts with public or  
19 private entities to administer its duties and responsibilities  
20 associated with the transfer of the Division of Workers'  
21 Compensation.

22 Section 10. Section 11.125, Florida Statutes, is  
23 created to read:

24 11.125 Administrative services--Notwithstanding any  
25 provision of law to the contrary, the President of the Senate  
26 on behalf of the Senate, or the Speaker of the House of  
27 Representatives on behalf of the House of Representatives, may  
28 contract with private entities for the provision of any  
29 administrative support service provided at the time of the  
30 contract to such house by the Office of Legislative  
31 Information Technology Services. Such contracts may provide

1 for direct submittal of invoices to the Comptroller and the  
2 Department of Banking and Finance or their successors for  
3 payment of services provided.

4 Section 11. Effective July 1, 2002, Subsections (3)  
5 and (4), paragraph (b) of subsection (5), paragraph (a) of  
6 subsection (6), paragraphs (a), (c), (d), (e), (f), (g), and  
7 (h) of subsection (7), paragraph (a) of subsection (8),  
8 paragraphs (a) and (b) of subsection (9), paragraph (f) of  
9 subsection (10), and subsection (11) of section 288.99,  
10 Florida Statutes, are amended, paragraph (i) is added to  
11 subsection (7) of said section, and subsection (17) is added  
12 to said section, to read:

13 288.99 Certified Capital Company Act.--

14 (3) DEFINITIONS.--As used in this section, the term:

15 (a) "Affiliate of an insurance company" means:

16 1. Any person directly or indirectly beneficially  
17 owning, whether through rights, options, convertible  
18 interests, or otherwise, controlling, or holding power to vote  
19 15 ~~10~~ percent or more of the outstanding voting securities or  
20 other voting ownership interests of the insurance company;

21 2. Any person 15 ~~10~~ percent or more of whose  
22 outstanding voting securities or other voting ownership  
23 interest is directly or indirectly beneficially owned, whether  
24 through rights, options, convertible interests, or otherwise,  
25 controlled, or held with power to vote by the insurance  
26 company;

27 3. Any person directly or indirectly controlling,  
28 controlled by, or under common control with the insurance  
29 company;

30 4. A partnership in which the insurance company is a  
31 general partner; or



1           5. Any person who is a principal, director, employee,  
2 or agent of the insurance company or an immediate family  
3 member of the principal, director, employee, or agent.

4           (b) "Certified capital" means an investment of cash by  
5 a certified investor in a certified capital company which  
6 fully funds the purchase price of either or both its equity  
7 interest in the certified capital company or a qualified debt  
8 instrument issued by the certified capital company.

9           (c) "Certified capital company" means a corporation,  
10 partnership, or limited liability company which:

11           1. Is certified by the department in accordance with  
12 this act.

13           2. Receives investments of certified capital from two  
14 or more unaffiliated certified investors.

15           3. Makes qualified investments as its primary  
16 activity.

17           (d) "Certified investor" means any insurance company  
18 subject to premium tax liability pursuant to s. 624.509 that  
19 invests ~~contributes~~ certified capital.

20           (e) "Department" means the Department of Banking and  
21 Finance.

22           (f) "Director" means the director of the Office of  
23 Tourism, Trade, and Economic Development.

24           (g) "Early stage technology business" means a  
25 qualified business that is:

26           1. Involved, at the time of the certified capital  
27 company's initial investment in such business, in activities  
28 related to developing initial product or service offerings,  
29 such as prototype development or the establishment of initial  
30 production or service processes; ~~The term includes a~~  
31 ~~qualified business that is~~

1           2. Less than 2 years old and has, together with its  
 2 affiliates, less than \$3 million in annual revenues for the  
 3 fiscal year immediately preceding the initial investment by  
 4 the certified capital company on a consolidated basis, as  
 5 determined in accordance with generally accepted accounting  
 6 principles; ~~The term also includes~~

7           3. The Florida Black Business Investment Board; ~~7~~

8           4. Any entity that is majority owned by the Florida  
 9 Black Business Investment Board; ~~7~~ or

10           5. Any entity in which the Florida Black Business  
 11 Investment Board holds a majority voting interest on the board  
 12 of directors.

13           (h) "Office" means the Office of Tourism, Trade, and  
 14 Economic Development.

15           (i) "Premium tax liability" means any liability  
 16 incurred by an insurance company under the provisions of s.  
 17 624.509 and s. 624.5091.

18           (j) "Principal" means an executive officer of a  
 19 corporation, partner of a partnership, manager of a limited  
 20 liability company, or any other person with equivalent  
 21 executive functions.

22           (k) "Qualified business" means the Digital Divide  
 23 Trust Fund established under the State of Florida Technology  
 24 Office or a business that meets the following conditions as  
 25 evidenced by documentation required by department rule:

26           1. The business is headquartered in this state and its  
 27 principal business operations are located in this state or at  
 28 least 75 percent of the employees are employed in the state.

29           2. At the time a certified capital company makes an  
 30 initial investment in a business, the business would qualify  
 31 for investment under ~~is a small business concern as defined in~~

1 13 C.F.R. s. 121.301(c)~~121.201~~, "~~Size Standards Used to~~  
2 ~~Define Small Business Concerns~~" of the United States Small  
3 ~~Business Administration~~ which is involved in manufacturing,  
4 processing or assembling products, conducting research and  
5 development, or providing services.

6 3. At the time a certified capital company makes an  
7 initial investment in a business, the business certifies in an  
8 affidavit that:

9 a. The business is unable to obtain conventional  
10 financing, which means that the business has failed in an  
11 attempt to obtain funding for a loan from a bank or other  
12 commercial lender or that the business cannot reasonably be  
13 expected to qualify for such financing under the standards of  
14 commercial lending;

15 b. The business plan for the business projects that  
16 the business is reasonably expected to achieve in excess of  
17 \$25 million in sales revenue within 5 years after the initial  
18 investment, or the business is located in a designated Front  
19 Porch community, enterprise zone, urban high crime area, rural  
20 job tax credit county, or nationally recognized historic  
21 district;

22 c. The business will maintain its headquarters in this  
23 state for the next 10 years and any new manufacturing facility  
24 financed by a qualified investment will remain in this state  
25 for the next 10 years, or the business is located in a  
26 designated Front Porch community, enterprise zone, urban high  
27 crime area, rural job tax credit county, or nationally  
28 recognized historic district; and

29 d. The business has fewer than 200 employees and at  
30 least 75 percent of the employees are employed in this state.

31 For purposes of this subsection, the term "~~qualified business~~"

1 also includes the Florida Black Business Investment Board, any  
2 entity majority owned by the Florida Black Business Investment  
3 Board, or any entity in which the Florida Black Business  
4 Investment Board holds a majority voting interest on the board  
5 of directors.

6 4. The term does not include:

7 a. Any business predominantly engaged in retail sales,  
8 real estate development, insurance, banking, lending, or oil  
9 and gas exploration.

10 b. Any business predominantly engaged in professional  
11 services provided by accountants, lawyers, or physicians.

12 c. Any company that has no historical revenues and  
13 either has no specific business plan or purpose or has  
14 indicated that its business plan is solely to engage in a  
15 merger or acquisition with any unidentified company or other  
16 entity.

17 d. Any company that has a strategic plan to grow  
18 through the acquisition of firms with substantially similar  
19 business which would result in the planned net loss of  
20 Florida-based jobs over a 12-month period after the  
21 acquisition as determined by the department.

22

23 ~~A business predominantly engaged in retail sales, real estate~~  
24 ~~development, insurance, banking, lending, oil and gas~~  
25 ~~exploration, or engaged in professional services provided by~~  
26 ~~accountants, lawyers, or physicians does not constitute a~~  
27 ~~qualified business.~~

28 (1) "Qualified debt instrument" means a debt  
29 instrument, or a hybrid of a debt instrument, issued by a  
30 certified capital company, at par value or a premium, with an  
31 original maturity date of at least 5 years after the date of

1 issuance, a repayment schedule which is no faster than a level  
2 principal amortization over a 5-year period, and interest,  
3 distribution, or payment features which are not related to the  
4 profitability of the certified capital company or the  
5 performance of the certified capital company's investment  
6 portfolio.

7 (m) "Qualified distribution" means any distribution or  
8 payment by to equity holders of a certified capital company  
9 for:

10 1. Reasonable costs and expenses, including, but not  
11 limited to, professional fees, of forming and, syndicating the  
12 certified capital company, if no such costs or expenses are  
13 paid to a certified investor, except as provided in  
14 subparagraph (4)(f)2., and the total cash, cash equivalents,  
15 and other current assets permitted by sub-subparagraph  
16 (5)(b)3.g. that can be converted into cash within 5 business  
17 days available to the certified capital company at the time of  
18 receipt of certified capital from certified investors, after  
19 deducting the costs and expenses of forming and syndicating  
20 the certified capital company, including any payments made  
21 over time for obligations incurred at the time of receipt of  
22 certified capital but excluding other future qualified  
23 distributions and payments made under paragraph (9)(a), are an  
24 amount equal to or greater than 50 percent of the total  
25 certified capital allocated to the certified capital pursuant  
26 to subsection (7);

27 2. Reasonable costs of managing, and operating the  
28 certified capital company, not exceeding 5 percent of the  
29 certified capital in any single year, including an annual  
30 management fee in an amount that does not exceed 2.5 percent  
31 of the certified capital of the certified capital company;

1 ~~plus~~

2 3. Reasonable and necessary fees in accordance with  
3 industry custom for professional services, including, but not  
4 limited to, legal and accounting services, related to the  
5 operation of the certified capital company; ~~or-~~

6 ~~4.2.~~ Any projected increase in federal or state taxes,  
7 including penalties and interest related to state and federal  
8 income taxes, of the equity owners of a certified capital  
9 company resulting from the earnings or other tax liability of  
10 the certified capital company to the extent that the increase  
11 is related to the ownership, management, or operation of a  
12 certified capital company.

13 (n)1. "Qualified investment" means the investment of  
14 cash by a certified capital company in a qualified business  
15 for the purchase of any debt, equity, or hybrid security ~~of~~  
16 ~~any nature and description whatsoever~~, including a debt  
17 instrument or security that ~~which~~ has the characteristics of  
18 debt but which provides for conversion into equity or equity  
19 participation instruments such as options or warrants.

20 2. The term does not include:

21 a. Any investment made after the effective date of  
22 this act the contractual terms of which require the repayment  
23 of any portion of the principal in instances, other than  
24 default as determined by department rule, within 12 months  
25 following the initial investment by the certified capital  
26 company unless such investment has a repayment schedule no  
27 faster than a level principal amortization of at least 2  
28 years;

29 b. Any "follow-on" or "add-on" investment except for  
30 the amount by which the new investment is in addition to the  
31 amount of the certified capital company's initial investment

1 returned to it other than in the form of interest, dividends,  
2 or other types of profit participation or distributions; or

3 c. Any investment in a qualified business or affiliate  
4 of a qualified business that exceeds 15 percent of certified  
5 capital.

6 (o) "Program One" means the \$150 million in premium  
7 tax credits issued under this section in 1999, the allocation  
8 of such credits under this section, and the regulation of  
9 certified capital companies and investments made by them  
10 hereunder.

11 (p) "Program Two" means the \$150 million in premium  
12 tax credits to be issued under subsection (17), the allocation  
13 of such credits under this section, and the regulation of  
14 certified capital companies and investments made by them  
15 hereunder.

16 (4) CERTIFICATION; GROUNDS FOR DENIAL OR  
17 DECERTIFICATION.--

18 (a) To operate as a certified capital company, a  
19 corporation, partnership, or limited liability company must be  
20 certified by the department pursuant to this act.

21 (b) An applicant for certification as a certified  
22 capital company must file a verified application with the  
23 department on or before December 1, 1998, a date determined in  
24 rules adopted pursuant to subsection (17) in the case of  
25 applicants for Program Two, in a form which the department may  
26 prescribe by rule. The applicant shall submit a nonrefundable  
27 application fee of \$7,500 to the department. The applicant  
28 shall provide:

29 1. The name of the applicant and the address of its  
30 principal office and each office in this state.

31 2. The applicant's form and place of organization and

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1 the relevant organizational documents, bylaws, and amendments  
2 or restatements of such documents, bylaws, or amendments.

3 3. Evidence from the Department of State that the  
4 applicant is registered with the Department of State as  
5 required by law, maintains an active status with the  
6 Department of State, and has not been dissolved or had its  
7 registration revoked, canceled, or withdrawn.

8 4. The applicant's proposed method of doing business.

9 5. The applicant's financial condition and history,  
10 including an audit report on the financial statements prepared  
11 in accordance with generally accepted accounting principles.

12 The applicant must have, at the time of application for  
13 certification, an equity capitalization of at least \$500,000  
14 in the form of cash or cash equivalents. The applicant must  
15 maintain this equity capitalization until the applicant  
16 receives an allocation of certified capital pursuant to this  
17 act showing net capital of not less than \$500,000 within 90  
18 days after the date the application is submitted to the  
19 department. If the date of the application is more than 90  
20 days after preparation of the applicant's fiscal year-end  
21 financial statements, the applicant may file financial  
22 statements reviewed by an independent certified public  
23 accountant for the period subsequent to the audit report,  
24 together with the audited financial statement for the most  
25 recent fiscal year. If the applicant has been in business  
26 less than 12 months, and has not prepared an audited financial  
27 statement, the applicant may file a financial statement  
28 reviewed by an independent certified public accountant.

29 6. Copies of any offering materials used or proposed  
30 to be used by the applicant in soliciting investments of  
31 certified capital from certified investors.



1           (c) Within 60 days after receipt of a verified  
2 application ~~On December 31, 1998~~, the department shall grant  
3 or deny certification as a certified capital company. If the  
4 department denies certification within the time period  
5 specified, the department shall inform the applicant of the  
6 grounds for the denial. If the department has not granted or  
7 denied certification within the time specified, the  
8 application shall be deemed approved. The department shall  
9 approve the application if the department finds that:

- 10           1. The applicant satisfies the requirements of  
11 paragraph (b).
- 12           2. No evidence exists that the applicant has committed  
13 any act specified in paragraph (d).
- 14           3. At least two of the principals have a minimum of 5  
15 years of experience making venture capital investments out of  
16 private equity funds, with not less than \$20 million being  
17 provided by third-party investors for investment in the early  
18 stage of operating businesses. At least one full-time manager  
19 or principal of the certified capital company who has such  
20 experience must be primarily located in an office of the  
21 certified capital company which is based in this state.
- 22           4. The applicant's proposed method of doing business  
23 and raising certified capital as described in its offering  
24 materials and other materials submitted to the department  
25 conforms with the requirements of this section.

26           (d) The department may deny certification or decertify  
27 a certified capital company if the grounds for decertification  
28 are not removed or corrected within 90 days after the notice  
29 of such grounds is received by the certified capital company.  
30 The department may deny certification or decertify a certified  
31 capital company if the certified capital company fails to

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Amendment No. \_\_\_\_ (for drafter's use only)

- 1 maintain common stock or paid in capital ~~a net worth~~ of at  
2 least \$500,000, or if the department determines that the  
3 applicant, or any principal or director of the certified  
4 capital company, has:
- 5 1. Violated any provision of this section;
  - 6 2. Made a material misrepresentation or false  
7 statement or concealed any essential or material fact from any  
8 person during the application process or with respect to  
9 information and reports required of certified capital  
10 companies under this section;
  - 11 3. Been convicted of, or entered a plea of guilty or  
12 nolo contendere to, a crime against the laws of this state or  
13 any other state or of the United States or any other country  
14 or government, including a fraudulent act in connection with  
15 the operation of a certified capital company, or in connection  
16 with the performance of fiduciary duties in another capacity;
  - 17 4. Been adjudicated liable in a civil action on  
18 grounds of fraud, embezzlement, misrepresentation, or deceit;  
19 or
  - 20 5.a. Been the subject of any decision, finding,  
21 injunction, suspension, prohibition, revocation, denial,  
22 judgment, or administrative order by any court of competent  
23 jurisdiction, administrative law judge, or any state or  
24 federal agency, national securities, commodities, or option  
25 exchange, or national securities, commodities, or option  
26 association, involving a material violation of any federal or  
27 state securities or commodities law or any rule or regulation  
28 adopted under such law, or any rule or regulation of any  
29 national securities, commodities, or options exchange, or  
30 national securities, commodities, or options association; or  
31 b. Been the subject of any injunction or adverse

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1 administrative order by a state or federal agency regulating  
2 banking, insurance, finance or small loan companies, real  
3 estate, mortgage brokers, or other related or similar  
4 industries.

5 ~~(e) The certified capital company shall file a copy of~~  
6 ~~its certification with the office by January 31, 1999.~~

7 (e)(f) Any offering material involving the sale of  
8 securities of the certified capital company shall include the  
9 following statement: "By authorizing the formation of a  
10 certified capital company, the State of Florida does not  
11 endorse the quality of management or the potential for  
12 earnings of such company and is not liable for damages or  
13 losses to a certified investor in the company. Use of the  
14 word 'certified' in an offering does not constitute a  
15 recommendation or endorsement of the investment by the State  
16 of Florida. Investments in a certified capital company prior  
17 to the time such company is certified are not eligible for  
18 premium tax credits. If applicable provisions of law are  
19 violated, the state may require forfeiture of unused premium  
20 tax credits and repayment of used premium tax credits by the  
21 certified investor."

22 (f)1.(g) No insurance company or any affiliate of an  
23 insurance company shall, directly or indirectly, own, whether  
24 through rights, options, convertible interests, or otherwise,  
25 15 percent or more of the voting equity interests of or manage  
26 or control the direction of investments of a certified capital  
27 company. This prohibition does not preclude a certified  
28 investor, insurance company, or any other party from  
29 exercising its legal rights and remedies, which may include  
30 interim management of a certified capital company, if a  
31 certified capital company is in default of its obligations

1 under law or its contractual obligations to such certified  
2 investor, insurance company, or other party. Nothing in this  
3 subparagraph shall limit an insurance company's ownership of  
4 nonvoting equity interests in a certified capital company.

5 2. A certified capital company may obtain a guaranty,  
6 indemnity, bond, insurance policy or other payment undertaking  
7 in favor of all of the certified investors of the certified  
8 capital company and its affiliates; provided that the entity  
9 from which such guaranty, indemnity, bond, insurance policy or  
10 other payment undertaking is obtained may not be a certified  
11 investor of, or be affiliated with more than one certified  
12 investor of, the certified capital company.

13 (g)(h) On or before December 31 of each year, each  
14 certified capital company shall pay to the department an  
15 annual, nonrefundable renewal certification fee of \$5,000. If  
16 a certified capital company fails to pay its renewal fee by  
17 the specified deadline, the company must pay a late fee of  
18 \$5,000 in addition to the renewal fee on or by January 31 of  
19 each year in order to continue its certification in the  
20 program. On or before April 30 of each year, each certified  
21 capital company shall file audited financial statements with  
22 the department. No renewal fees shall be required within 6  
23 months after the date of initial certification.

24 (h)(i) The department shall administer and provide for  
25 the enforcement of certification requirements for certified  
26 capital companies as provided in this act. The department may  
27 adopt any rules necessary to carry out its duties,  
28 obligations, and powers related to certification, renewal of  
29 certification, or decertification of certified capital  
30 companies and may perform any other acts necessary for the  
31 proper administration and enforcement of such duties,

1 obligations, and powers.

2 ~~(i)~~(j) Decertification of a certified capital company  
3 under this subsection does not affect the ability of certified  
4 investors in such certified capital company from claiming  
5 future premium tax credits earned as a result of an investment  
6 in the certified capital company during the period in which it  
7 was duly certified.

8 (5) INVESTMENTS BY CERTIFIED CAPITAL COMPANIES.--

9 (b) All capital not invested in qualified investments  
10 by the certified capital company:

11 1. Must be held in a financial institution as defined  
12 by s. 655.005(1)(h) or held by a broker-dealer registered  
13 under s. 517.12, except as set forth in sub-subparagraph 3.g.

14 2. Must not be invested in a certified investor of the  
15 certified capital company or any affiliate of the certified  
16 investor of the certified capital company, except for an  
17 investment permitted by sub-subparagraph 3.g., provided  
18 repayment terms do not permit the obligor to directly or  
19 indirectly manage or control the investment decisions of the  
20 certified capital company.

21 3. Must be invested only in:

22 a. Any United States Treasury obligations;

23 b. Certificates of deposit or other obligations,  
24 maturing within 3 years after acquisition of such certificates  
25 or obligations, issued by any financial institution or trust  
26 company incorporated under the laws of the United States;

27 c. Marketable obligations, maturing within 10 5 years  
28 or less after the acquisition of such obligations, which are  
29 rated "A" or better by any nationally recognized credit rating  
30 agency;

31 d. Mortgage-backed securities, with an average life of

1 5 years or less, after the acquisition of such securities,  
2 which are rated "A" or better by any nationally recognized  
3 credit rating agency;

4 e. Collateralized mortgage obligations and real estate  
5 mortgage investment conduits that are direct obligations of an  
6 agency of the United States Government; are not private-label  
7 issues; are in book-entry form; and do not include the classes  
8 of interest only, principal only, residual, or zero; ~~or~~

9 f. Interests in money market funds, the portfolio of  
10 which is limited to cash and obligations described in  
11 sub-subparagraphs a.-d.; or

12 g. Obligations that are issued by an insurance company  
13 that is not a certified investor of the certified capital  
14 company making the investment, that has provided a guarantee  
15 indemnity bond, insurance policy, or other payment undertaking  
16 in favor of the certified capital company's certified  
17 investors as permitted by subparagraph (3)(m)1. or an  
18 affiliate of such insurance company as defined by subparagraph  
19 (3)(a)3. that is not a certified investor of the certified  
20 capital company making the investment, provided that such  
21 obligations are:

22 (I) Issued or guaranteed as to principal by an entity  
23 whose senior debt is rated "AA" or better by Standard & Poor's  
24 Ratings Group or such other nationally recognized credit  
25 rating agency as the department may by rule determine.

26 (II) Not subordinated to other unsecured indebtedness  
27 of the issuer or the guarantor.

28 (III) Invested by such issuing entity in accordance  
29 with sub-subparagraphs 3.a.-f.

30 (IV) Readily convertible into cash within 5 business  
31 days for the purpose of making a qualified investment unless

1 such obligations are held to provide a guarantee, indemnity  
2 bond, insurance policy, or other payment undertaking in favor  
3 of the certified capital company's certified investors as  
4 permitted by subparagraph (3)(m)1.

5 (6) PREMIUM TAX CREDIT; AMOUNT; LIMITATIONS.--

6 (a) Any certified investor who makes an investment of  
7 certified capital shall earn a vested credit against premium  
8 tax liability equal to 100 percent of the certified capital  
9 invested by the certified investor. Certified investors shall  
10 be entitled to use no more than 10 percentage points of the  
11 vested premium tax credit earned under a particular program,  
12 including any carryforward credits from such program under  
13 this act, per year beginning with premium tax filings for  
14 calendar year 2000 for credits earned under Program One. Any  
15 premium tax credits not used by certified investors in any  
16 single year may be carried forward and applied against the  
17 premium tax liabilities of such investors for subsequent  
18 calendar years. ~~The carryforward credit may be applied~~  
19 ~~against subsequent premium tax filings through calendar year~~  
20 ~~2017.~~

21 (7) ANNUAL TAX CREDIT; MAXIMUM AMOUNT; ALLOCATION  
22 PROCESS.--

23 (a) The total amount of tax credits which may be  
24 allocated by the office shall not exceed \$150 million with  
25 respect to Program One and \$150 million with respect to  
26 Program Two.The total amount of tax credits which may be used  
27 by certified investors under this act shall not exceed \$15  
28 million annually with respect to credits earned under Program  
29 One and \$15 million annually with respect to credits earned  
30 under Program Two.

31 (c) Each certified capital company must apply to the

1 office for an allocation of premium tax credits for potential  
2 certified investors ~~by March 15, 1999~~, on a form developed by  
3 the office with the cooperation of the Department of Revenue.  
4 The form shall be accompanied by an affidavit from each  
5 potential certified investor confirming that the potential  
6 certified investor has agreed to make an investment of  
7 certified capital in a certified capital company up to a  
8 specified amount, subject only to the receipt of a premium tax  
9 credit allocation pursuant to this subsection. No certified  
10 capital company shall submit premium tax allocation claims on  
11 behalf of certified investors that in the aggregate would  
12 exceed the total dollar amount appropriated by the Legislature  
13 for the specific program. No allocation shall be made to the  
14 potential investors of a certified capital company under  
15 Program Two unless such certified capital company has filed  
16 premium tax allocation claims ~~that would result in an~~  
17 ~~allocation to the potential investors in such certified~~  
18 ~~capital company~~ of not less than \$15 million in the aggregate.

19 (d) ~~On or before April 1, 1999~~, The office shall  
20 inform each certified capital company of its share of total  
21 premium tax credits available for allocation to each of its  
22 potential investors.

23 (e) If a certified capital company does not receive  
24 certified capital equaling the amount of premium tax credits  
25 allocated to a potential certified investor for which the  
26 investor filed a premium tax allocation claim within 10  
27 business days after the investor received a notice of  
28 allocation, the certified capital company shall notify the  
29 office by overnight common carrier delivery service of the  
30 company's failure to receive the capital. That portion of the  
31 premium tax credits allocated to the certified capital company



1 shall be forfeited. If the office must make a pro rata  
2 allocation under paragraph (f), the office shall reallocate  
3 such available credits among the other certified capital  
4 companies on the same pro rata basis as the initial  
5 allocation.

6 (f) If the total amount of capital committed by all  
7 certified investors to certified capital companies in premium  
8 tax allocation claims under Program Two exceeds the aggregate  
9 cap on the amount of credits that may be awarded under Program  
10 Two, the premium tax credits that may be allowed to any one  
11 certified investor under Program Two shall be allocated using  
12 the following ratio:

13  
14 
$$A/B = X / >\$150,000,000$$
  
15

16 where the letter "A" represents the total amount of certified  
17 capital certified investors have agreed to invest in any one  
18 certified capital company under Program Two, the letter "B"  
19 represents the aggregate amount of certified capital that all  
20 certified investors have agreed to invest in all certified  
21 capital companies under Program Two, the letter "X" is the  
22 numerator and represents the total amount of premium tax  
23 credits and certified capital that may be allocated to a  
24 certified capital company on a date determined by rule adopted  
25 by the department pursuant to subsection (17) in calendar year  
26 ~~1999~~, and \$150 million is the denominator and represents the  
27 total amount of premium tax credits and certified capital that  
28 may be allocated to all certified investors under Program Two  
29 ~~in calendar year 1999~~. Any such premium tax credits are not  
30 first available for utilization until annual filings are made  
31 in 2001 for calendar year 2000 in the case of Program One, and

1 the tax credits may be used at a rate not to exceed 10 percent  
2 annually per program.

3 (g) The maximum amount of certified capital for which  
4 premium tax allocation claims may be filed on behalf of any  
5 certified investor and its affiliates by one or more certified  
6 capital companies may not exceed \$15 million for Program One  
7 and \$22.5 million for Program Two.

8 (h) To the extent that less than \$150 million in  
9 certified capital is raised in connection with the procedure  
10 set forth in paragraphs (c)-(g), the department may adopt  
11 rules to allow a subsequent allocation of the remaining  
12 premium tax credits authorized under this section.

13 (i) The office shall issue a certification letter for  
14 each certified investor, showing the amount invested in the  
15 certified capital company under each program. The applicable  
16 certified capital company shall attest to the validity of the  
17 certification letter.

18 (8) ANNUAL TAX CREDIT; CLAIM PROCESS.--

19 (a) On an annual basis, on or before January ~~December~~  
20 31, each certified capital company shall file with the  
21 department and the office, in consultation with the  
22 department, on a form prescribed by the office, for each  
23 calendar year:

24 1. The total dollar amount the certified capital  
25 company received from certified investors, the identity of the  
26 certified investors, and the amount received from each  
27 certified investor during the immediately preceding calendar  
28 year.

29 2. The total dollar amount the certified capital  
30 company invested and the amount invested in qualified  
31 businesses, together with the identity and location of those

1 businesses and the amount invested in each qualified business  
2 during the immediately preceding calendar year.

3 3. For informational purposes only, the total number  
4 of permanent, full-time jobs either created or retained by the  
5 qualified business during the immediately preceding calendar  
6 year, the average wage of the jobs created or retained, the  
7 industry sectors in which the qualified businesses operate,  
8 and any additional capital invested in qualified businesses  
9 from sources other than certified capital companies.

10 (9) REQUIREMENT FOR 100 PERCENT INVESTMENT; STATE  
11 PARTICIPATION.--

12 (a) A certified capital company may make qualified  
13 distributions at any time. In order to make a distribution to  
14 its equity holders, other than a qualified distribution from  
15 funds related to a particular program, a certified capital  
16 company must have invested an amount cumulatively equal to 100  
17 percent of its certified capital raised under such program in  
18 qualified investments. Payments to debt holders of a certified  
19 capital company, however, may be made without restriction with  
20 respect to repayments of principal and interest on  
21 indebtedness owed to them by a certified capital company,  
22 including indebtedness of the certified capital company on  
23 which certified investors earned premium tax credits. A debt  
24 holder that is also a certified investor or equity holder of a  
25 certified capital company may receive payments with respect to  
26 such debt without restrictions.

27 (b) Cumulative distributions from a certified capital  
28 company from funds related to a particular program to its  
29 certified investors and equity holders under such program,  
30 other than qualified distributions, in excess of the certified  
31 capital company's original certified capital raised under such

1 program and any additional capital contributions to the  
2 certified capital company with respect to such program may be  
3 audited by a nationally recognized certified public accounting  
4 firm acceptable to the department, at the expense of the  
5 certified capital company, if the department directs such  
6 audit be conducted. The audit shall determine whether  
7 aggregate cumulative distributions from the funds related to a  
8 particular program made by the certified capital company to  
9 all certified investors and equity holders under such program,  
10 other than qualified distributions, have equaled the sum of  
11 the certified capital company's original certified capital  
12 raised under such program and any additional capital  
13 contributions to the certified capital company with respect to  
14 such program. If at the time of any such distribution made by  
15 the certified capital company, such distribution taken  
16 together with all other such distributions from the funds  
17 related to such program made by the certified capital company,  
18 other than qualified distributions, exceeds in the aggregate  
19 the sum of the certified capital company's original certified  
20 capital raised under such program and any additional capital  
21 contributions to the certified capital company with respect to  
22 such program, as determined by the audit, the certified  
23 capital company shall pay to the Department of Revenue 10  
24 percent of the portion of such distribution in excess of such  
25 amount. Payments to the Department of Revenue by a certified  
26 capital company pursuant to this paragraph shall not exceed  
27 the aggregate amount of tax credits used by all certified  
28 investors in such certified capital company for such program.

29 (10) DECERTIFICATION.--

30 (f) Decertification of a certified capital company for  
31 failure to meet all requirements for continued certification

1 under paragraph (5)(a) with respect to the certified capital  
2 raised under a particular program may cause the recapture of  
3 premium tax credits previously claimed by such company under  
4 such program and the forfeiture of future premium tax credits  
5 to be claimed by certified investors under such program with  
6 respect to such certified capital company, as follows:

7 1. Decertification of a certified capital company  
8 within 3 years after its certification date with respect to a  
9 particular program shall cause the recapture of all premium  
10 tax credits earned under such program and previously claimed  
11 by such company and the forfeiture of all future premium tax  
12 credits earned under such program which are to be claimed by  
13 certified investors with respect to such company.

14 2. When a certified capital company meets all  
15 requirements for continued certification under subparagraph  
16 (5)(a)1. with respect to certified capital raised under a  
17 particular program and subsequently fails to meet the  
18 requirements for continued certification under the provisions  
19 of subparagraph (5)(a)2. with respect to certified capital  
20 raised under such program, those premium tax credits earned  
21 under such program which have been or will be taken by  
22 certified investors within 3 years after the certification  
23 date of the certified capital company with respect to such  
24 program shall not be subject to recapture or forfeiture;  
25 however, all premium tax credits earned under such program  
26 that have been or will be taken by certified investors after  
27 the third anniversary of the certification date of the  
28 certified capital company for such program shall be subject to  
29 recapture or forfeiture.

30 3. When a certified capital company meets all  
31 requirements for continued certification under subparagraphs

1 (5)(a)1. and 2. with respect to a particular program and  
2 subsequently fails to meet the requirements for continued  
3 certification under the subparagraph (5)(a)3. with respect to  
4 such program, those premium tax credits earned under such  
5 program which have been or will be taken by certified  
6 investors within 4 years after the certification date of the  
7 certified capital company with respect to such program shall  
8 not be subject to recapture or forfeiture; however, all  
9 premium tax credits earned under such program that have been  
10 or will be taken by certified investors after the fourth  
11 anniversary of the certification date of the certified capital  
12 company with respect to such program shall be subject to  
13 recapture and forfeiture.

14 4. If a certified capital company has met all  
15 requirements for continued certification under paragraph  
16 (5)(a) with respect to certified capital raised under a  
17 particular program, but such company is subsequently  
18 decertified, those premium tax credits earned under such  
19 program which have been or will be taken by certified  
20 investors within 5 years after the certification date of such  
21 company with respect to such program shall not be subject to  
22 recapture or forfeiture. Those premium tax credits earned  
23 under such program to be taken subsequent to the 5th year of  
24 certification with respect to such program shall be subject to  
25 forfeiture only if the certified capital company is  
26 decertified within 5 years after its certification date with  
27 respect to such program.

28 5. If a certified capital company has invested an  
29 amount cumulatively equal to 100 percent of its certified  
30 capital raised under a particular program in qualified  
31 investments, all premium tax credits claimed or to be claimed

1 by its certified investors under such program shall not be  
2 subject to recapture or forfeiture.

3 (11) TRANSFERABILITY.--The premium tax credit  
4 established pursuant to this act may be transferred or sold.  
5 The Department of Revenue shall adopt rules to facilitate the  
6 transfer or sale of such premium tax credits. A transfer or  
7 sale shall not affect the time schedule for taking the premium  
8 tax credit as provided in this act. Any premium tax credits  
9 recaptured shall be the liability of the taxpayer who actually  
10 claimed the premium tax credits. The claim of a transferee of  
11 a certified investor's unused premium tax credit shall be  
12 permitted in the same manner and subject to the same  
13 provisions and limitations of this act as the original  
14 certified investor. ~~The term "transferee" means any person~~  
15 ~~who:~~

16 ~~(a) Through the voluntary sale, assignment, or other~~  
17 ~~transfer of the business or control of the business of the~~  
18 ~~certified investor, including the sale or other transfer of~~  
19 ~~stock or assets by merger, consolidation, or dissolution,~~  
20 ~~succeeds to all or substantially all of the business and~~  
21 ~~property of the certified investor;~~

22 ~~(b) Becomes by operation of law or otherwise the~~  
23 ~~parent company of the certified investor;~~

24 ~~(c) Directly or indirectly owns, whether through~~  
25 ~~rights, options, convertible interests, or otherwise,~~  
26 ~~controls, or holds power to vote 10 percent or more of the~~  
27 ~~outstanding voting securities or other ownership interest of~~  
28 ~~the certified investor;~~

29 ~~(d) Is a subsidiary of the certified investor or 10~~  
30 ~~percent or more of whose outstanding voting securities or~~  
31 ~~other ownership interest are directly or indirectly owned,~~

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1 ~~whether through rights, options, convertible interests, or~~  
2 ~~otherwise, by the certified investor; or~~

3 ~~(e) Directly or indirectly controls, is controlled by,~~  
4 ~~or is under the common control with the certified investor.~~

5 Section 12. Except as otherwise specifically provided  
6 in this act, the provisions of this act shall apply only to  
7 "Program Two" as defined in s. 288.99(3), Florida Statutes, as  
8 amended by this act.

9 (17) Notwithstanding the limitations set forth in  
10 paragraph (7)(a), in the first fiscal year in which the total  
11 insurance premium tax collections as determined by the Revenue  
12 Estimating Conference exceed collections for fiscal year  
13 2000-2001 by more than the total amount of tax credits issued  
14 pursuant to this section which were used by certified  
15 investors in that year, the office may allocate to certified  
16 investors in accordance with paragraph (7)(a) tax credits for  
17 Program Two. The department shall establish, by rule, a date  
18 and procedures by which certified capital companies must file  
19 applications for allocations of such additional premium tax  
20 credits, which date shall be no later than 180 days from the  
21 date of determination by the Revenue Estimating Conference.  
22 With respect to new certified capital invested and premium tax  
23 credits earned pursuant to this subsection, the schedule  
24 specified in subparagraphs (5)(a)1.-4. is satisfied by  
25 investments by December 31 of the 2nd, 3rd, 4th, and 5th  
26 calendar year, respectively, after the date established by the  
27 department for applications of additional premium tax credits.  
28 The department shall adopt rules by which an entity not  
29 already certified as a certified capital company may apply for  
30 certification as a certified capital company for participation  
31 in this additional allocation. The insurance premium tax



1 credit authorized by Program Two may not be used by certified  
2 investors until the annual return due March 1, 2004, and may  
3 be used on all subsequent returns and estimated payments;  
4 however, notwithstanding the provisions of s. 624.5092(2)(b),  
5 the installments of taxes due and payable on April 15, 2004,  
6 and June 15, 2004, shall be based on the net tax due in 2003  
7 not taking into account credits granted pursuant to this  
8 section for Program Two.

9           Section 13. Subsection (20) is added to section  
10 517.12, Florida Statutes, to read:

11           517.12 Registration of dealers, associated persons,  
12 investment advisers, and branch offices.--

13           (20) The registration requirements of this section do  
14 not apply to individuals licensed under s. 626.041 or its  
15 successor statute, or s. 626.051 or its successor statute, for  
16 the sale of a security as defined in s. 517.021(19)(g), if the  
17 individual is directly authorized by the issuer to offer or  
18 sell the security on behalf of the issuer and the issuer is a  
19 federally chartered savings bank subject to regulation by the  
20 Federal Deposit Insurance Corporation.

21           Section 14. Subsection (21) of section 570.07, Florida  
22 Statutes, is amended to read:

23           570.07 Department of Agriculture and Consumer  
24 Services; functions, powers, and duties.--The department shall  
25 have and exercise the following functions, powers, and duties:

26           (21) To declare an emergency when one exists in any  
27 matter pertaining to agriculture; to make, adopt, and  
28 promulgate rules and issue orders which will be effective  
29 during the term of the emergency; and to issue or require to  
30 be issued food safety information, pertaining to the  
31 emergency, that is based on reliable scientific facts and

1 reliable scientific data. When the Commissioner of Agriculture  
2 has declared an agricultural emergency, no county or municipal  
3 ordinance relating to any action intended to end the emergency  
4 shall be enforced within a county or municipality with respect  
5 to such action taken by the Department of Agriculture and  
6 Consumer Services during the agricultural emergency.

7 Section 15. Paragraph (b) of subsection (4), paragraph  
8 (a) of subsection (5), and paragraphs (a) and (c) of  
9 subsection (6) of section 624.91, Florida Statutes, as amended  
10 by section 20 of chapter 2001-377, Laws of Florida, are  
11 amended to read:

12 624.91 The Florida Healthy Kids Corporation Act.--

13 (4) CORPORATION AUTHORIZATION, DUTIES, POWERS.--

14 (b) The Florida Healthy Kids Corporation shall phase  
15 in a program to:

16 1. Organize school children groups to facilitate the  
17 provision of comprehensive health insurance coverage to  
18 children;

19 2. Arrange for the collection of any family, local  
20 contributions, or employer payment or premium, in an amount to  
21 be determined by the board of directors, to provide for  
22 payment of premiums for comprehensive insurance coverage and  
23 for the actual or estimated administrative expenses;

24 3. Establish the administrative and accounting  
25 procedures for the operation of the corporation;

26 4. Establish, with consultation from appropriate  
27 professional organizations, standards for preventive health  
28 services and providers and comprehensive insurance benefits  
29 appropriate to children; provided that such standards for  
30 rural areas shall not limit primary care providers to  
31 board-certified pediatricians;

- 1           5. Establish eligibility criteria which children must  
2 meet in order to participate in the program;
- 3           6. Establish procedures under which applicants to and  
4 participants in the program may have grievances reviewed by an  
5 impartial body and reported to the board of directors of the  
6 corporation;
- 7           7. Establish participation criteria and, if  
8 appropriate, contract with an authorized insurer, health  
9 maintenance organization, or insurance administrator to  
10 provide administrative services to the corporation;
- 11          8. Establish enrollment criteria which shall include  
12 penalties or waiting periods of not fewer than 60 days for  
13 reinstatement of coverage upon voluntary cancellation for  
14 nonpayment of family premiums;
- 15          9. If a space is available, establish a special open  
16 enrollment period of 30 days' duration for any child who is  
17 enrolled in Medicaid or Medikids if such child loses Medicaid  
18 or Medikids eligibility and becomes eligible for the Florida  
19 Healthy Kids program;
- 20          10. Contract with authorized insurers or any provider  
21 of health care services, meeting standards established by the  
22 corporation, for the provision of comprehensive insurance  
23 coverage to participants. Such standards shall include  
24 criteria under which the corporation may contract with more  
25 than one provider of health care services in program sites.  
26 Health plans shall be selected through a competitive bid  
27 process. The selection of health plans shall be based  
28 primarily on quality criteria established by the board. The  
29 health plan selection criteria and scoring system, and the  
30 scoring results, shall be available upon request for  
31 inspection after the bids have been awarded;

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1           11. Develop and implement a plan to publicize the  
2 Florida Healthy Kids Corporation, the eligibility requirements  
3 of the program, and the procedures for enrollment in the  
4 program and to maintain public awareness of the corporation  
5 and the program;

6           12. Secure staff necessary to properly administer the  
7 corporation. Staff costs shall be funded from state and local  
8 matching funds and such other private or public funds as  
9 become available. The board of directors shall determine the  
10 number of staff members necessary to administer the  
11 corporation;

12           13. As appropriate, enter into contracts with local  
13 school boards or other agencies to provide onsite information,  
14 enrollment, and other services necessary to the operation of  
15 the corporation;

16           14. Provide a report annually ~~on an annual basis~~ to  
17 the Governor, Chief Financial Officer ~~Insurance Commissioner~~,  
18 Commissioner of Education, Senate President, Speaker of the  
19 House of Representatives, and Minority Leaders of the Senate  
20 and the House of Representatives;

21           15. Each fiscal year, establish a maximum number of  
22 participants by county, on a statewide basis, who may enroll  
23 in the program without the benefit of local matching funds.  
24 Thereafter, the corporation may establish local matching  
25 requirements for supplemental participation in the program.  
26 The corporation may vary local matching requirements and  
27 enrollment by county depending on factors which may influence  
28 the generation of local match, including, but not limited to,  
29 population density, per capita income, existing local tax  
30 effort, and other factors. The corporation also may accept  
31 in-kind match in lieu of cash for the local match requirement

1 to the extent allowed by Title XXI of the Social Security Act;  
2 and

3 16. Establish eligibility criteria, premium and  
4 cost-sharing requirements, and benefit packages which conform  
5 to the provisions of the Florida Kidcare program, as created  
6 in ss. 409.810-409.820; and

7 17. Notwithstanding the requirements of subparagraph  
8 15. to the contrary, establish a local matching requirement of  
9 \$0.00 for the Title XXI program in each county of the state  
10 for the 2001-2002 fiscal year. This subparagraph shall take  
11 effect upon becoming a law and shall operate retroactively to  
12 July 1, 2001. This subparagraph expires July 1, 2002.

13 (5) BOARD OF DIRECTORS.--

14 (a) The Florida Healthy Kids Corporation shall operate  
15 subject to the supervision and approval of a board of  
16 directors chaired by the Chief Financial Officer ~~Insurance~~  
17 ~~Commissioner~~ or her or his designee, and composed of 14 ~~12~~  
18 other members selected for 3-year terms of office as follows:

19 1. One member appointed by the Commissioner of  
20 Education from among three persons nominated by the Florida  
21 Association of School Administrators;

22 2. One member appointed by the Commissioner of  
23 Education from among three persons nominated by the Florida  
24 Association of School Boards;

25 3. One member appointed by the Commissioner of  
26 Education from the Office of School Health Programs of the  
27 Florida Department of Education;

28 4. One member appointed by the Governor from among  
29 three members nominated by the Florida Pediatric Society;

30 5. One member, appointed by the Governor, who  
31 represents the Children's Medical Services Program;

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- 1           6. One member appointed by the Chief Financial Officer  
 2 ~~Insurance Commissioner~~ from among three members nominated by  
 3 the Florida Hospital Association;
- 4           7. Two members, appointed by the Chief Financial  
 5 ~~Officer Insurance Commissioner~~, who are representatives of  
 6 authorized health care insurers or health maintenance  
 7 organizations;
- 8           8. One member, appointed by the Chief Financial  
 9 ~~Officer Insurance Commissioner~~, who represents the Institute  
 10 for Child Health Policy;
- 11           9. One member, appointed by the Governor, from among  
 12 three members nominated by the Florida Academy of Family  
 13 Physicians;
- 14           10. One member, appointed by the Governor, who  
 15 represents the Agency for Health Care Administration; ~~and~~
- 16           11. One member, appointed by the Chief Financial  
 17 Officer, from among three members nominated by the Florida  
 18 Association of Counties, representing rural counties;
- 19           12. One member, appointed by the Governor, from among  
 20 three members nominated by the Florida Association of  
 21 Counties, representing urban counties; and
- 22           13.11. The State Health Officer or her or his  
 23 designee.
- 24           (6) LICENSING NOT REQUIRED; FISCAL OPERATION.--
- 25           (a) The corporation shall not be deemed an insurer.  
 26 The officers, directors, and employees of the corporation  
 27 shall not be deemed to be agents of an insurer. Neither the  
 28 corporation nor any officer, director, or employee of the  
 29 corporation is subject to the licensing requirements of the  
 30 insurance code or the rules of the Department of Financial  
 31 Services Insurance. However, any marketing representative

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1 utilized and compensated by the corporation must be appointed  
2 as a representative of the insurers or health services  
3 providers with which the corporation contracts.

4 (c) The Department of Financial Services Insurance  
5 shall supervise any liquidation or dissolution of the  
6 corporation and shall have, with respect to such liquidation  
7 or dissolution, all power granted to it pursuant to the  
8 insurance code.

9 Section 16. Sections 633.801, 633.802, 633.803,  
10 633.804, 633.805, 633.806, 633.807, 633.808, 633.809, 633.810,  
11 633.811, 633.812, 633.813, 633.814, 633.815, 633.816, 633.817,  
12 633.818, 633.819, 633.820, and 633.821, Florida Statutes, are  
13 created to read:

14 633.801 Short title.--Sections 633.801-633.821 may be  
15 cited as the "Florida Firefighters Occupational Safety and  
16 Health Act."

17 633.802 Definitions.--Unless the context clearly  
18 requires otherwise, the following definitions shall apply to  
19 ss. 633.801-633.821:

20 (1) "Department" means the Department of Insurance.

21 (2) "Division" means the Division of State Fire  
22 Marshal of the department.

23 (3) "Firefighter employee" means any person engaged in  
24 any employment, public or private, as a firefighter under any  
25 appointment or contract of hire or apprenticeship, express or  
26 implied, oral or written, whether lawfully or unlawfully  
27 employed, responding to or assisting with fire or medical  
28 emergencies, whether or not the firefighter is on duty, except  
29 those appointed under s. 590.02(1)(d).

30 (4) "Firefighter employer" means the state and all  
31 political subdivisions of this state, all public and

1 quasi-public corporations in this state, and every person  
2 carrying on any employment for this state, political  
3 subdivisions of this state, and public and quasi-public  
4 corporations in this state which employs firefighters, except  
5 those appointed under s. 590.02(1)(d).

6 (5) "Firefighter employment" or "employment" means any  
7 service performed by a firefighter employee for the  
8 firefighter employer.

9 (6) "Firefighter place of employment" or "place of  
10 employment" means the physical location at which the  
11 firefighter is employed.

12 633.803 Legislative intent.--It is the intent of the  
13 Legislature to enhance firefighter occupational safety and  
14 health in the state through the implementation and maintenance  
15 of policies, procedures, practices, rules, and standards that  
16 reduce the incidence of firefighter employee accidents,  
17 firefighter employee occupational diseases, and firefighter  
18 employee fatalities compensable under chapter 440 or  
19 otherwise. The Legislature further intends that the division  
20 develop a means by which the division can identify individual  
21 firefighter employers with a high frequency or severity of  
22 work-related injuries, conduct safety inspections of those  
23 firefighter employers, and assist those firefighter employers  
24 in the development and implementation of firefighter employee  
25 safety and health programs. In addition, it is the intent of  
26 the Legislature that the division administer the provisions of  
27 ss. 633.801-633.821; provide assistance to firefighter  
28 employers, firefighter employees, and insurers; and enforce  
29 the policies, rules, and standards set forth in ss.  
30 633.801-633.821.

31 633.804 Safety inspections and consultations;



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1 rules.--The division shall adopt rules governing the manner,  
2 means, and frequency of firefighter employer and firefighter  
3 employee safety inspections and consultations by all insurers  
4 and self-insurers.

5 633.805 Division to make study of firefighter employee  
6 occupational diseases.--The division shall make a continuous  
7 study of firefighter employee occupational diseases and the  
8 ways and means for their control and prevention and shall  
9 adopt rules necessary for such control and prevention. For  
10 this purpose, the division is authorized to cooperate with  
11 firefighter employers, firefighter employees, and insurers and  
12 with the Department of Health.

13 633.806 Investigations by the division; refusal to  
14 admit; penalty.--

15 (1) The division shall make studies and investigations  
16 with respect to safety provisions and the causes of  
17 firefighter employee injuries in firefighter employee places  
18 of employment and shall make such recommendations to the  
19 Legislature and firefighter employers and insurers as the  
20 division considers proper as to the best means of preventing  
21 firefighter injuries. In making such studies and  
22 investigations, the division may cooperate with any agency of  
23 the United States charged with the duty of enforcing any law  
24 securing safety against injury in any place of firefighter  
25 employment covered by ss. 633.801-633.821 or any agency or  
26 department of the state engaged in enforcing any law to ensure  
27 safety for firefighter employees.

28 (2) The division by rule may adopt procedures for  
29 conducting investigations of firefighter employers under ss.  
30 633.801-633.821.

31 633.807 Safety; firefighter employer

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1 responsibilities.--Every firefighter employer shall furnish  
2 and use safety devices and safeguards, adopt and use methods  
3 and processes reasonably adequate to render such an employment  
4 and place of employment safe, and do every other thing  
5 reasonably necessary to protect the lives, health, and safety  
6 of such firefighter employees. As used in this section, the  
7 terms "safe" and "safety," as applied to any employment or  
8 place of firefighter employment, mean such freedom from danger  
9 as is reasonably necessary for the protection of the lives,  
10 health, and safety of firefighter employees, including  
11 conditions and methods of sanitation and hygiene. Safety  
12 devices and safeguards required to be furnished by the  
13 firefighter employer by this section or by the division under  
14 authority of this section shall not include personal apparel  
15 and protective devices that replace personal apparel normally  
16 worn by firefighter employees during regular working hours.

17 633.808 Division authority.--The division shall:  
18 (1) Investigate and prescribe by rule what safety  
19 devices, safeguards, or other means of protection must be  
20 adopted for the prevention of accidents in every firefighter  
21 employee place of employment or at any fire scene; determine  
22 what suitable devices, safeguards, or other means of  
23 protection for the prevention of occupational diseases must be  
24 adopted or followed in any or all such firefighter places of  
25 employment or at any fire scene; and adopt reasonable rules  
26 for the prevention of accidents, the safety, protection, and  
27 security of firefighter employees engaged in interior  
28 firefighting, and the prevention of occupational diseases.

29 (2) Ascertain, fix, and order such reasonable  
30 standards and rules for the construction, repair, and  
31 maintenance of firefighter employee places of employment as

1 shall render them safe. Such rules and standards shall be  
2 adopted in accordance with chapter 120.

3 (3) Assist firefighter employers in the development  
4 and implementation of firefighter employee safety training  
5 programs by contracting with professional safety  
6 organizations.

7 (4) Adopt rules prescribing recordkeeping  
8 responsibilities for firefighter employers, which may include  
9 maintaining a log and summary of occupational injuries,  
10 diseases, and illnesses, for producing on request a notice of  
11 injury and firefighter employee accident investigation  
12 records, and prescribing a retention schedule for such  
13 records.

14 633.809 Firefighter employers whose firefighter  
15 employees have a high frequency of work-related injuries.--The  
16 division shall develop a means by which the division may  
17 identify individual firefighter employers whose firefighter  
18 employees have a high frequency or severity of work-related  
19 injuries. The division shall carry out safety inspections of  
20 the facilities and operations of those firefighter employers  
21 in order to assist them in reducing the frequency and severity  
22 of work-related injuries. The division shall develop safety  
23 and health programs for those firefighter employers. Insurers  
24 shall distribute such safety and health programs to the  
25 firefighter employers so identified by the division. Those  
26 firefighter employers identified by the division as having a  
27 high frequency or severity of work-related injuries shall  
28 implement a safety and health program developed by the  
29 division. The division shall carry out safety inspections of  
30 those firefighter employers so identified to ensure compliance  
31 with the safety and health program and to assist such

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1 firefighter employers in reducing the number of work-related  
2 injuries. The division may not assess penalties as a result  
3 of such inspections, except as provided by s. 633.813. Copies  
4 of any report made as the result of such an inspection shall  
5 be provided to the firefighter employer and its insurer.  
6 Firefighter employers may submit their own safety and health  
7 programs to the division for approval in lieu of using the  
8 safety and health program developed by the division. The  
9 division shall promptly review the program submitted and  
10 approve or disapprove the program within 60 days or such  
11 program shall be deemed approved. Upon approval by the  
12 division, the program shall be implemented by the firefighter  
13 employer. If the program is not approved or if a program is  
14 not submitted, the firefighter employer shall implement the  
15 program developed by the division. The division shall adopt  
16 rules setting forth the criteria for safety and health  
17 programs, as such rules relate to this section.

18 633.810 Workplace safety committees and safety  
19 coordinators.--

20 (1) In order to promote health and safety in  
21 firefighter employee places of employment in this state:

22 (a) Each firefighter employer of 20 or more  
23 firefighter employees shall establish and administer a  
24 workplace safety committee in accordance with rules adopted  
25 under this section.

26 (b) Each firefighter employer of fewer than 20  
27 firefighter employees identified by the division as having  
28 high frequency or high severity of work-related injuries shall  
29 establish and administer a workplace safety committee or  
30 designate a workplace safety coordinator who shall establish  
31 and administer workplace safety activities in accordance with

1 rules adopted under this section.

2 (2) The division shall adopt rules:

3 (a) Prescribing the membership of the workplace safety  
4 committees so as to ensure an equal number of firefighter  
5 employee representatives who are volunteers or are elected by  
6 their peers and firefighter employer representatives, and  
7 specifying the frequency of meetings.

8 (b) Requiring firefighter employers to make adequate  
9 records of each meeting and to file and to maintain the  
10 records subject to inspection by the division.

11 (c) Prescribing the duties and functions of the  
12 workplace safety committee and workplace safety coordinator,  
13 which include, but are not limited to:

14 1. Establishing procedures for workplace safety  
15 inspections by the committee.

16 2. Establishing procedures for investigating all  
17 workplace accidents, safety-related incidents, illnesses, and  
18 deaths.

19 3. Evaluating accident prevention and illness  
20 prevention programs.

21 4. Prescribing guidelines for the training of safety  
22 committee members.

23 (3) The composition, selection, and function of  
24 workplace safety committees shall be a mandatory topic of  
25 negotiations with any certified collective bargaining agent  
26 for firefighter employers that operate under a collective  
27 bargaining agreement. Firefighter employers that operate  
28 under a collective bargaining agreement that contains  
29 provisions regulating the formation and operation of workplace  
30 safety committees that meet or exceed the minimum requirements  
31 contained in this section, or firefighter employers who

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1 otherwise have existing workplace safety committees that meet  
2 or exceed the minimum requirements established by this  
3 section, are in compliance with this section.

4 (4) Firefighter employees shall be compensated their  
5 regular hourly wage while engaged in workplace safety  
6 committee or workplace safety coordinator training, meetings,  
7 or other duties prescribed under this section.

8 633.811 Firefighter employer penalties.--If any  
9 firefighter employer violates or fails or refuses to comply  
10 with ss. 633.801-633.821, or with any rule adopted by the  
11 division under such sections in accordance with chapter 120  
12 for the prevention of injuries, accidents, or occupational  
13 diseases or with any lawful order of the division in  
14 connection with ss. 633.801-633.821, or fails or refuses to  
15 furnish or adopt any safety device, safeguard, or other means  
16 of protection prescribed by division rule under ss.  
17 633.801-633.821 for the prevention of accidents or  
18 occupational diseases, the division may assess against the  
19 firefighter employer a civil penalty of not less than \$100 nor  
20 more than \$5,000 for each day the violation, omission,  
21 failure, or refusal continues after the firefighter employer  
22 has been given written notice of such violation, omission,  
23 failure, or refusal. The total penalty for each violation  
24 shall not exceed \$50,000. The division shall adopt rules  
25 requiring penalties commensurate with the frequency or  
26 severity of safety violations. A hearing shall be held in the  
27 county in which the violation, omission, failure, or refusal  
28 is alleged to have occurred, unless otherwise agreed to by the  
29 firefighter employer and authorized by the division. All  
30 penalties assessed and collected under this section shall be  
31 deposited in the Insurance Commissioner's Regulatory Trust

1 Fund.

2 633.812 Division cooperation with Federal Government;  
3 exemption from requirements for private firefighter  
4 employers.--

5 (1) The division shall cooperate with the Federal  
6 Government so that duplicate inspections will be avoided while  
7 at the same time ensuring safe firefighter employee places of  
8 employment for the citizens of this state.

9 (2) Except as provided in this section, a private  
10 firefighter employer is not subject to the requirements of the  
11 division if:

12 (a) The private firefighter employer is subject to the  
13 federal regulations in 29 C.F.R. ss. 1910 and 1926.

14 (b) The private firefighter employer has adopted and  
15 implemented a written safety program that conforms to the  
16 requirements of 29 C.F.R. ss. 1910 and 1926.

17 (c) A private firefighter employer with 20 or more  
18 full-time firefighter employees shall include provisions for a  
19 safety committee in the safety program. The safety committee  
20 shall include firefighter employee representation and shall  
21 meet at least once each calendar quarter. The private  
22 firefighter employer shall make adequate records of each  
23 meeting and maintain the records subject to inspections under  
24 subsection (3). The safety committee shall, if appropriate,  
25 make recommendations regarding improvements to the safety  
26 program and corrections of hazards affecting workplace safety.

27 (d) The private firefighter employer provides the  
28 division with a written statement that certifies compliance  
29 with this subsection.

30 (3) The division may enter at any reasonable time any  
31 place of private firefighter employment for the purpose of

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1 verifying the accuracy of the written certification. If the  
2 division determines that the private firefighter employer has  
3 not complied with the requirements of subsection (2), the  
4 private firefighter employer shall be subject to the rules of  
5 the division until the private firefighter employer complies  
6 with subsection (2) and recertifies that fact to the division.

7 (4) This section shall not restrict the division's  
8 performance of any duties pursuant to a written contract  
9 between the division and the federal Occupational Safety and  
10 Health Administration.

11 633.813 Failure to implement a safety and health  
12 program; cancellations.--If a firefighter employer that is  
13 found by the division to have a high frequency or severity of  
14 work-related injuries fails to implement a safety and health  
15 program, the insurer or self-insurer's fund that is providing  
16 coverage for the firefighter employer may cancel the contract  
17 for insurance with the firefighter employer. In the  
18 alternative, the insurer or fund may terminate any discount or  
19 deviation granted to the firefighter employer for the  
20 remainder of the term of the policy. If the contract is  
21 canceled or the discount or deviation is terminated, the  
22 insurer shall make such reports as are required by law.

23 633.814 Expenses of administration.--The amounts that  
24 are needed to administer ss. 633.801-633.821 shall be  
25 disbursed from the Insurance Commissioner's Regulatory Trust  
26 Fund.

27 633.815 Refusal to admit; penalty.--The division and  
28 authorized representatives of the division may enter and  
29 inspect any firefighter place of employment at any reasonable  
30 time for the purpose of investigating compliance with ss.  
31 633.801-633.821 and conducting inspections for the proper



1 enforcement of ss. 633.801-633.821. A firefighter employer  
2 who refuses to admit any member of the division or authorized  
3 representative of the division to any place of employment or  
4 to allow investigation and inspection pursuant to this section  
5 commits a misdemeanor of the second degree, punishable as  
6 provided in s. 775.082 or s. 775.083.

7 633.816 Firefighter employee rights and  
8 responsibilities.--

9 (1) Each firefighter employee of a firefighter  
10 employer covered under ss. 633.801-633.821 shall comply with  
11 rules adopted by the division and with reasonable workplace  
12 safety and health standards, rules, policies, procedures, and  
13 work practices established by the firefighter employer and the  
14 workplace safety committee. A firefighter employee who  
15 knowingly fails to comply with this subsection may be  
16 disciplined or discharged by the firefighter employer.

17 (2) A firefighter employer may not discharge, threaten  
18 to discharge, cause to be discharged, intimidate, coerce,  
19 otherwise discipline, or in any manner discriminate against a  
20 firefighter employee for any of the following reasons:

21 (a) The firefighter employee has testified or is about  
22 to testify, on her or his own behalf or on behalf of others,  
23 in any proceeding instituted under ss. 633.801-633.821;

24 (b) The firefighter employee has exercised any other  
25 right afforded under ss. 633.801-633.821; or

26 (c) The firefighter employee is engaged in activities  
27 relating to the workplace safety committee.

28 (3) No pay, position, seniority, or other benefit may  
29 be lost for exercising any right under, or for seeking  
30 compliance with any requirement of, ss. 633.801-633.821.

31 633.817 Compliance.--Failure of a firefighter employer

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1 or an insurer to comply with ss. 633.801-633.821, or with any  
2 rules adopted under ss. 633.801-633.821, constitutes grounds  
3 for the division to seek remedies, including injunctive  
4 relief, by making appropriate filings with the circuit court.

5 633.818 False statements to insurers.--A firefighter  
6 employer who knowingly and willfully falsifies or conceals a  
7 material fact, who makes a false, fictitious, or fraudulent  
8 statement or representation, or who makes or uses any false  
9 document knowing the document to contain any false,  
10 fictitious, or fraudulent entry or statement to an insurer of  
11 workers' compensation insurance under ss. 633.801-633.821  
12 commits a misdemeanor of the second degree, punishable as  
13 provided in s. 775.082 or s. 775.083.

14 633.819 Matters within jurisdiction of the division;  
15 false, fictitious, or fraudulent acts, statements, and  
16 representations prohibited; penalty; statute of  
17 limitations.--A person may not, in any matter within the  
18 jurisdiction of the division, knowingly and willfully falsify  
19 or conceal a material fact; make any false, fictitious, or  
20 fraudulent statement or representation; or make or use any  
21 false document, knowing the same to contain any false,  
22 fictitious, or fraudulent statement or entry. A person who  
23 violates this section commits a misdemeanor of the second  
24 degree, punishable as provided in s. 775.082 or s. 775.083.  
25 The statute of limitations for prosecution of an act committed  
26 in violation of this section is 5 years after the date the act  
27 was committed or, if not discovered within 30 days after the  
28 act was committed, 5 years after the date the act was  
29 discovered.

30 633.820 Volunteer firefighters.--Sections  
31 633.803-633.821 apply to volunteer firefighters and volunteer

1 fire departments.  
2 633.821 Workplace safety.--  
3 (1) The division shall assist in making the  
4 firefighter employee place of employment a safer place to work  
5 and decreasing the frequency and severity of on-the-job  
6 injuries in such workplace.  
7 (2) The division shall have the authority to adopt  
8 rules for the purpose of ensuring safe working conditions for  
9 all firefighter employees by authorizing the enforcement of  
10 effective standards, by assisting and encouraging firefighter  
11 employers to maintain safe working conditions, and by  
12 providing for education and training in the field of safety.  
13 Specifically, the division may by rule adopt all or any part  
14 of subparts C through T and subpart Z of 29 C.F.R. s. 1910, as  
15 revised April 8, 1998; the National Fire Protection  
16 Association, Inc., Standard 1500, paragraph 5-7 (Personal  
17 Alert Safety System) (1992 edition); and ANSI A 10.4-1990.  
18 (3) With respect to 29 C.F.R. s. 1910.134(g)(4), the  
19 two individuals located outside the immediately dangerous to  
20 life and health atmosphere may be assigned to an additional  
21 role, such as incident commander, pumper operator, engineer,  
22 or driver, so long as such individual is able to immediately  
23 perform assistance or rescue activities without jeopardizing  
24 the safety or health of any firefighter working at an  
25 incident. Also with respect to 29 C.F.R. s. 1910.134(g)(4):  
26 (a) Each county, municipality, and special district  
27 shall implement such provision by April 1, 2002, except as  
28 provided in paragraphs (b) and (c).  
29 (b) If any county, municipality, or special district  
30 is unable to implement such provision by April 1, 2002,  
31 without adding additional personnel to its firefighting staff

1 or expending significant additional funds, such county,  
 2 municipality, or special district shall have an additional 6  
 3 months within which to implement such provision. Such county,  
 4 municipality, or special district shall notify the division  
 5 that the 6-month extension to implement such provision is in  
 6 effect in such county, municipality, or special district  
 7 within 30 days after its decision to extend the time for the  
 8 additional 6 months. The decision to extend the time for  
 9 implementation shall be made prior to April 1, 2002.

10 (c) If, after the extension granted in paragraph (b),  
 11 the county, municipality, or special district, after having  
 12 worked with and cooperated fully with the division and the  
 13 Firefighters Employment, Standards, and Training Council, is  
 14 still unable to implement such provisions without adding  
 15 additional personnel to its firefighting staff or expending  
 16 significant additional funds, such municipality, county, or  
 17 special district shall be exempt from the requirements of 29  
 18 C.F.R. s. 1910.134(g)(4). However, each year thereafter the  
 19 division shall review each such county, municipality, or  
 20 special district to determine if such county, municipality, or  
 21 special district has the ability to implement such provision  
 22 without adding additional personnel to its firefighting staff  
 23 or expending significant additional funds. If the division  
 24 determines that any county, municipality, or special district  
 25 has the ability to implement such provision without adding  
 26 additional personnel to its firefighting staff or expending  
 27 significant additional funds, the division shall require such  
 28 county, municipality, or special district to implement such  
 29 provision. Such requirement by the division under this  
 30 paragraph constitutes final agency action subject to chapter  
 31 120.

1           (4) The provisions of chapter 440 that pertain to  
 2 workplace safety apply to the division.

3           (5) The division may adopt any rule necessary to  
 4 implement, interpret, and make specific the provisions of this  
 5 section, provided the division may not adopt by rule any other  
 6 standard or standards of the Occupational Safety and Health  
 7 Administration or the National Fire Protection Association  
 8 relating solely to ss. 633.801-633.821 and firefighter  
 9 employment safety without specific legislative authority.

10           Section 17. Section 633.31, Florida Statutes, is  
 11 amended to read:

12           633.31 Firefighters Employment, Standards, and  
 13 Training Council.--

14           (1) There is created within the Department of  
 15 Insurance a Firefighters Employment, Standards, and Training  
 16 Council of 13 ~~nine~~ members ~~appointed by the State Fire~~  
 17 Marshal. Two members shall be fire chiefs appointed by the  
 18 Florida Fire Chiefs Association, two members shall be  
 19 firefighters who are not officers, appointed by the Florida  
 20 Professional Firefighters Association, two members shall be  
 21 firefighter officers who are not fire chiefs, appointed by the  
 22 State Fire Marshal, one member appointed by the Florida League  
 23 of Cities, one member appointed by the Florida Association of  
 24 Counties, one member appointed by the Florida Association of  
 25 Special Districts, one member appointed by the Florida Fire  
 26 Marshal's Association, and one member appointed by the State  
 27 Fire Marshal, and one member shall be a director or instructor  
 28 of a state-certified firefighting training facility appointed  
 29 by the State Fire Marshal. To be eligible for appointment as a  
 30 fire chief member, firefighter officer member, firefighter  
 31 member, or a director or instructor of a state-certified

1 firefighting facility, a person shall have had at least 4  
2 years' experience in the firefighting profession. The  
3 remaining member, who shall be appointed by the State Fire  
4 Marshal, ~~two members~~ shall not be a member or representative  
5 members of the firefighting profession or of any local  
6 government. Members shall serve only as long as they continue  
7 to meet the criteria under which they were appointed, or  
8 unless a member has failed to appear at three consecutive and  
9 properly noticed meetings unless excused by the chair.

10 (2) ~~Initially, the State Fire Marshal shall appoint~~  
11 ~~three members for terms of 4 years, two members for terms of 3~~  
12 ~~years, two members for terms of 2 years, and two members for~~  
13 ~~terms of 1 year. Thereafter, Members shall be appointed for~~  
14 4-year terms and in no event shall a member serve more than  
15 two consecutive terms. Any vacancy shall be filled in the  
16 manner of the original appointment for the remaining time of  
17 the term.

18 (3) The State Fire Marshal, in making her or his  
19 appointments, shall take into consideration representation by  
20 geography, population, and other relevant factors, in order  
21 that the membership on the council will be apportioned to give  
22 representation to the state at large rather than to a  
23 particular area.

24 (4) Membership on the council shall not disqualify a  
25 member from holding any other public office or being employed  
26 by a public entity, except that no member of the Legislature  
27 shall serve on the council.

28 Section 18. Subsections (4) and (5) of section 633.33,  
29 Florida Statutes, are amended to read:

30 633.33 Special powers; firefighter training.--The  
31 council shall have special powers in connection with the

1 employment and training of firefighters to:

2 (4) Consult and cooperate with any employing agency,  
3 university, college, community college, the Florida State Fire  
4 College, or other educational institution concerning the  
5 employment and safety of firefighters, including, but not  
6 limited to, the safety of firefighters while at the scene of a  
7 fire or the scene of an incident related to the provision of  
8 emergency services to which a firefighter responds, and the  
9 development of firefighter training schools and programs of  
10 courses of instruction, including, but not limited to,  
11 education and training in the areas of firefighter employment,  
12 fire science, fire technology, fire administration, and all  
13 allied and supporting fields.

14 (5) Make or support studies on any aspect of  
15 firefighting employment, education, and training or  
16 recruitment.

17 Section 19. Paragraph (c) of subsection (3) of section  
18 383.3362, Florida Statutes, is amended to read:

19 383.3362 Sudden Infant Death Syndrome.--

20 (3) TRAINING.--

21 (c) The Department of Health, in consultation with the  
22 Emergency Medical Services Advisory Council, the Firefighters  
23 Employment, Standards, and Training Council, and the Criminal  
24 Justice Standards and Training Commission, shall develop and  
25 adopt, by rule, curriculum that, at a minimum, includes  
26 training in the nature of SIDS, standard procedures to be  
27 followed by law enforcement agencies in investigating cases  
28 involving sudden deaths of infants, and training in responding  
29 appropriately to the parents or caretakers who have requested  
30 assistance.

31 Section 20. Subsection (4) of section 633.30, Florida

1 Statutes, is amended to read:

2 633.30 Standards for firefighting; definitions.--As  
3 used in this chapter:

4 (4) "Council" means the Firefighters Employment,  
5 Standards, and Training Council.

6 Section 21. Subsection (4) of section 633.32, Florida  
7 Statutes, is amended to read:

8 633.32 Organization; meetings; quorum; compensation;  
9 seal.--

10 (4) The council may adopt a seal for its use  
11 containing the words "Firefighters Employment, Standards, and  
12 Training Council."

13 Section 22. The Legislature determines and declares  
14 that this act fulfills an important state interest.

15 Section 23. Effective June 30, 2002, paragraphs (a)  
16 and (c) of subsection (1) and subsections (4), (5), (6), (7),  
17 (8), and (9) of section 163.05, Florida Statutes, are amended  
18 to read:

19 163.05 Small County Technical Assistance Program.--

20 (1) Among small counties, the Legislature finds that:

21 (a) The percentage of the population of small counties  
22 residing in the unincorporated areas is relatively high based  
23 on the United States Decennial Census of 2000 ~~and increased~~  
24 ~~substantially between 1980 and 1990.~~

25 (c) Fiscal shortfalls persist even though 12 ~~13~~ of the  
26 small counties levied the maximum ad valorem millage  
27 authorized in their jurisdictions in 2001 ~~1990~~ and an  
28 additional 15 ~~13~~ small counties levied between 8 and 10 mills.

29 (4) The Commissioner of Agriculture ~~Comptroller~~ shall  
30 enter into contracts with program providers who shall:

31 (a) Be a foundation that meets the requirements for



1 nonprofit status under s. 501(c)(3) of the Internal Revenue  
2 Code with a governing board which includes in its membership  
3 county commissioners and professional staff of the county  
4 ~~public agency or private, nonprofit corporation, association,~~  
5 ~~or entity.~~

6 (b) Have substantial and documented experience working  
7 closely with county governments in providing both educational  
8 and technical assistance.

9 ~~(c)(b)~~ Use existing resources, services, and  
10 information that are available from state or local agencies,  
11 universities, or the private sector.

12 ~~(d)(c)~~ Seek and accept funding from any public or  
13 private source.

14 ~~(d)~~ ~~Annually submit information to assist the~~  
15 ~~Legislative Committee on Intergovernmental Relations in~~  
16 ~~preparing a performance review that will include an analysis~~  
17 ~~of the effectiveness of the program.~~

18 (e) Assist small counties in developing alternative  
19 revenue sources.

20 (f) Provide assistance to small counties in ~~the~~ areas  
21 such as ~~of~~ financial management, accounting, investing,  
22 purchasing, planning and budgeting, debt issuance, public  
23 management, management systems, computers and information  
24 technology, economic and community development, and public  
25 safety management.

26 (g) Provide for an annual independent financial audit  
27 of the program.

28 (h) In each county served, conduct a needs assessment  
29 upon which the assistance provided for that county will be  
30 designed.

31 (5)(a) The Commissioner of Agriculture ~~Comptroller~~

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1 shall issue a request for proposals to provide assistance to  
2 small counties. The request for proposals shall be required no  
3 more frequently than every third year beginning with fiscal  
4 year 2004-2005. All contracts in existence on the effective  
5 date of this act between the Comptroller and any other party  
6 with respect to the Small County Technical Assistance Program  
7 may be accepted by the Commissioner of Agriculture as the  
8 party in interest and said contracts shall remain in full  
9 force and effect according to their terms. ~~At the request of~~  
10 ~~the Comptroller, the Legislative Committee on~~  
11 ~~Intergovernmental Relations shall assist in the preparation of~~  
12 ~~the request for proposals.~~

13 (b) The Commissioner of Agriculture ~~Comptroller~~ shall  
14 review each contract proposal submitted.

15 ~~(c) The Legislative Committee on Intergovernmental~~  
16 ~~Relations shall review each contract proposal and submit to~~  
17 ~~the Comptroller, in writing, advisory comments and~~  
18 ~~recommendations, citing with specificity the reasons for its~~  
19 ~~recommendations.~~

20 ~~(c)(d)~~ The Commissioner of Agriculture ~~Comptroller~~ and  
21 ~~the council~~ shall consider the following factors in reviewing  
22 contract proposals:

- 23 1. The demonstrated capacity of the provider to  
24 conduct needs assessments and implement the program as  
25 proposed.
- 26 2. The number of small counties to be served under the  
27 proposal.
- 28 3. The cost of the program as specified in a proposed  
29 budget.
- 30 4. The short-term and long-term benefits of the  
31 assistance to small counties.

1           5. The form and extent to which existing resources,  
2 services, and information that are available from state and  
3 local agencies, universities, and the private sector will be  
4 used by the provider under the contract.

5           (6) A decision of the Commissioner of Agriculture  
6 ~~Comptroller~~ to award a contract under this section is final  
7 and shall be in writing ~~with a copy provided to the~~  
8 ~~Legislative Committee on Intergovernmental Relations.~~

9           ~~(7) The Comptroller may enter into contracts and~~  
10 ~~agreements with other state and local agencies and with any~~  
11 ~~person, association, corporation, or entity other than the~~  
12 ~~program providers, for the purpose of administering this~~  
13 ~~section.~~

14           ~~(7)(8)~~ The Commissioner of Agriculture ~~Comptroller~~  
15 shall provide fiscal oversight to ensure that funds expended  
16 for the program are used in accordance with the contracts  
17 entered into pursuant to subsection (4) and shall conduct a  
18 performance review of the program as may be necessary to  
19 ensure that the goals and objectives of the program are being  
20 met.

21           ~~(9) The Legislative Committee on Intergovernmental~~  
22 ~~Relations shall annually conduct a performance review of the~~  
23 ~~program. The findings of the review shall be presented in a~~  
24 ~~report submitted to the Governor, the President of the Senate,~~  
25 ~~the Speaker of the House of Representatives, and the~~  
26 ~~Comptroller by January 15 of each year.~~

27           Section 24. Effective June 30, 2002, Specific  
28 Appropriation 2252 in the 2002-2003 General Appropriations Act  
29 is hereby repealed and an identical amount is hereby  
30 appropriated to the Department of Agriculture and Consumer  
31 Services from the General Revenue Fund for the purposes of

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1 this act.

2 Section 25. Except as otherwise provided herein, this  
3 act shall take effect upon becoming a law.

4  
5

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

7 And the title is amended as follows:

8 remove: the entire title,

9

10 and insert:

11

A bill to be entitled

12

An act relating to governmental reorganization;

13

amending s. 20.04, F.S.; providing an exception

14

to departmental structure requirements;

15

deleting reference to the Department of Banking

16

and Finance and substituting the Department of

17

Financial Services; creating s. 20.121, F.S.;

18

creating the Department of Financial Services;

19

specifying the Chief Financial Officer as the

20

head of the department; providing for

21

departmental structure; creating the Financial

22

Services Commission; providing commission

23

composition, structure, and powers;

24

establishing the Office of Insurance Regulation

25

and the Office of Financial Institutions and

26

Securities Regulation within the commission;

27

providing powers, duties, and responsibilities

28

of such offices; requiring the commission to

29

establish certain additional organizational

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structure of such offices; providing for

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appointment and specifying qualifications of

1 directors of such offices; providing for  
2 administrative support for such offices;  
3 transferring certain programs, including  
4 employees and equipment, from the Department of  
5 Banking and Finance and the Department of  
6 Insurance to the Department of Financial  
7 Services, the Office of Insurance Regulation,  
8 and the Office of Financial Institutions and  
9 Securities Regulation; transferring certain  
10 trust funds from the Department of Banking and  
11 Finance and the Department of Insurance to the  
12 Department of Financial Services, the Office of  
13 Insurance Regulation, and the Office of  
14 Financial Institutions and Securities  
15 Regulation; specifying that certain statutory  
16 appointment responsibilities vested by law in  
17 certain officers are the responsibility of the  
18 Chief Financial Officer; specifying that rules  
19 of the Department of Banking and Finance and  
20 the Department of Insurance become rules of the  
21 Department of Financial Services or the  
22 Financial Services Commission; providing for  
23 preservation of validity of judicial or  
24 administrative actions involving such  
25 departments; providing for substitution of  
26 certain parties in interest in such actions;  
27 creating the Committee of Transition  
28 Management; providing for independent function;  
29 providing for treatment for administrative  
30 purposes as an office of the Executive Office  
31 of the Governor; providing for appointment of

1 committee members; specifying powers and duties  
2 of the committee; requiring certain reports,  
3 proposed organizational plans, and written  
4 recommendations to the Financial Services  
5 Commission and the Legislature; providing  
6 additional legislative intent relating to  
7 statutory responsibility for certain  
8 appointments becoming the responsibility of the  
9 Chief Financial Officer or the Financial  
10 Services Commission; providing for conforming  
11 legislation; providing for assistance of  
12 certain legislative substantive committees by  
13 the Division of Statutory Revision for certain  
14 purposes; amending s. 1, ch. 2002-194, Laws of  
15 Florida; providing an exception to a transfer  
16 provided for in said act; creating s. 11.125,  
17 F.S.; authorizing the President of the Senate  
18 or the Speaker of the House of Representatives  
19 to contract with private entities for certain  
20 administrative services under certain  
21 circumstances; amending s. 288.99, F.S.;  
22 redefining the terms "early stage technology  
23 business" and "qualified distribution";  
24 defining the terms "Program One" and "Program  
25 Two"; revising procedures and dates for  
26 certification and decertification under Program  
27 One and Program Two; revising the process for  
28 earning premium tax credits; providing a  
29 limitation on tax credits under Program Two;  
30 providing for distributions under both  
31 programs; requiring the Department of Revenue

1 to adopt certain rules; providing for  
2 additional premium; providing for additional  
3 allocations of certain insurance premium tax  
4 credits under certain circumstances;  
5 authorizing the Department of Revenue to adopt  
6 rules; amending s. 517.12, Florida Statutes;  
7 exempting general lines insurance agents and  
8 life insurance agents from registration  
9 requirements relating to sales of certain  
10 securities in certain circumstances; amending  
11 s. 570.07, F.S.; specifying emergency powers of  
12 the Commissioner of Agriculture; amending s.  
13 624.91, F.S.; revising provisions of the  
14 Florida Healthy Kids Corporation Act, to  
15 conform; creating ss. 633.801, 633.802,  
16 633.803, 633.804, 633.805, 633.806, 633.807,  
17 633.808, 633.809, 633.810, 633.811, 633.812,  
18 633.813, 633.814, 633.815, 633.816, 633.817,  
19 633.818, 633.819, 633.820, and 633.821, F.S.;  
20 providing a short title; providing definitions;  
21 providing legislative intent; authorizing the  
22 Division of State Fire Marshal of the  
23 Department of Insurance to adopt rules related  
24 to firefighter safety inspections; requiring  
25 the division to conduct a study of firefighter  
26 occupational diseases; authorizing  
27 representatives of the division to enter and  
28 inspect any place of firefighter employment;  
29 requiring firefighter employers to provide safe  
30 employment conditions; authorizing the division  
31 to adopt rules that prescribe means for

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1 preventing accidents in places of firefighter  
2 employment and establish standards for  
3 construction, repair, and maintenance;  
4 requiring the division to inspect places of  
5 firefighter employment and to develop safety  
6 and health programs for those firefighter  
7 employers whose employees have a high frequency  
8 or severity of work-related injuries; requiring  
9 certain firefighter employers to establish  
10 workplace safety committees and to maintain  
11 certain records; providing penalties for  
12 firefighter employers who violate provisions of  
13 the act; providing exemptions; providing a  
14 penalty for the failure to implement a safety  
15 and health program and cancellations; providing  
16 for expenses of administration; providing  
17 penalties for refusal to admit division;  
18 specifying firefighter employee rights and  
19 responsibilities; providing division remedies  
20 for failure to comply; providing penalties for  
21 firefighter employers who make false statements  
22 to the division or to an insurer; providing  
23 criminal penalties for false, malicious, or  
24 fraudulent statements and representatives;  
25 specifying applicability to volunteer  
26 firefighters and fire departments; providing  
27 for workplace safety and to authorize the  
28 division to adopt rules including federal  
29 standards for assuring safe working conditions  
30 for all firefighter employees; amending s.  
31 633.31, F.S.; changing the name of and



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1           expanding and diversifying the Firefighters  
2           Standards and Training Council; amending s.  
3           633.33, F.S.; providing additional duties of  
4           the council; amending ss. 383.3362, 633.330,  
5           and 633.32, F.S.; conforming language;  
6           providing a declaration of important state  
7           interest; amending s. 163.05, F.S.; revising  
8           legislative findings; providing criteria for  
9           contracts between the Commissioner of  
10          Agriculture and program providers; deleting  
11          responsibilities of the Comptroller and the  
12          Legislative Committee on Intergovernmental  
13          Relations; authorizing the Commissioner of  
14          Agriculture to award contracts to provide  
15          assistance to small counties; requiring the  
16          Commissioner of Agriculture to provide fiscal  
17          oversight and performance reviews; providing an  
18          appropriation; providing effective dates.

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