

1 A bill to be entitled
2 An act relating to governmental reorganization;
3 amending s. 20.04, F.S.; providing an exception
4 to departmental structure requirements;
5 deleting reference to the Department of Banking
6 and Finance and substituting the Department of
7 Financial Services; creating s. 20.121, F.S.;
8 creating the Department of Financial Services;
9 specifying the Chief Financial Officer as the
10 head of the department; providing for
11 departmental structure; creating the Financial
12 Services Commission; providing commission
13 composition, structure, and powers;
14 establishing the Office of Insurance Regulation
15 and the Office of Financial Institutions and
16 Securities Regulation within the commission;
17 providing powers, duties, and responsibilities
18 of such offices; requiring the commission to
19 establish certain additional organizational
20 structure of such offices; providing for
21 appointment and specifying qualifications of
22 directors of such offices; providing for
23 administrative support for such offices;
24 transferring certain programs, including
25 employees and equipment, from the Department of
26 Banking and Finance and the Department of
27 Insurance to the Department of Financial
28 Services, the Office of Insurance Regulation,
29 and the Office of Financial Institutions and
30 Securities Regulation; transferring certain
31 trust funds from the Department of Banking and

1 Finance and the Department of Insurance to the
2 Department of Financial Services, the Office of
3 Insurance Regulation, and the Office of
4 Financial Institutions and Securities
5 Regulation; specifying that certain statutory
6 appointment responsibilities vested by law in
7 certain officers are the responsibility of the
8 Chief Financial Officer; specifying that rules
9 of the Department of Banking and Finance and
10 the Department of Insurance become rules of the
11 Department of Financial Services or the
12 Financial Services Commission; providing for
13 preservation of validity of judicial or
14 administrative actions involving such
15 departments; providing for substitution of
16 certain parties in interest in such actions;
17 creating the Committee of Transition
18 Management; providing for independent function;
19 providing for treatment for administrative
20 purposes as an office of the Executive Office
21 of the Governor; providing for appointment of
22 committee members; specifying powers and duties
23 of the committee; requiring certain reports,
24 proposed organizational plans, and written
25 recommendations to the Financial Services
26 Commission and the Legislature; providing
27 additional legislative intent relating to
28 statutory responsibility for certain
29 appointments becoming the responsibility of the
30 Chief Financial Officer or the Financial
31 Services Commission; providing for conforming

1 legislation; providing for assistance of
 2 certain legislative substantive committees by
 3 the Division of Statutory Revision for certain
 4 purposes; amending s. 1, ch. 2002-194, Laws of
 5 Florida; providing an exception to a transfer
 6 provided for in said act; amending s. 288.99,
 7 F.S.; redefining the terms "early stage
 8 technology business" and "qualified
 9 distribution"; defining the terms "Program One"
 10 and "Program Two"; revising procedures and
 11 dates for certification and decertification
 12 under Program One and Program Two; revising the
 13 process for earning premium tax credits;
 14 providing a limitation on tax credits under
 15 Program Two; providing for distributions under
 16 both programs; requiring the Department of
 17 Revenue to adopt certain rules; providing for
 18 additional premium; providing for additional
 19 allocations of certain insurance premium tax
 20 credits under certain circumstances;
 21 authorizing the Department of Revenue to adopt
 22 rules; amending s. 517.12, Florida Statutes;
 23 exempting general lines insurance agents and
 24 life insurance agents from registration
 25 requirements relating to sales of certain
 26 securities in certain circumstances; amending
 27 s. 570.07, F.S.; specifying emergency powers of
 28 the Commissioner of Agriculture; amending s.
 29 624.91, F.S.; revising provisions of the
 30 Florida Healthy Kids Corporation Act, to
 31 conform; creating ss. 633.801, 633.802,

1 633.803, 633.804, 633.805, 633.806, 633.807,
2 633.808, 633.809, 633.810, 633.811, 633.812,
3 633.813, 633.814, 633.815, 633.816, 633.817,
4 633.818, 633.819, 633.820, and 633.821, F.S.;
5 providing a short title; providing definitions;
6 providing legislative intent; authorizing the
7 Division of State Fire Marshal of the
8 Department of Insurance to adopt rules related
9 to firefighter safety inspections; requiring
10 the division to conduct a study of firefighter
11 occupational diseases; authorizing
12 representatives of the division to enter and
13 inspect any place of firefighter employment;
14 requiring firefighter employers to provide safe
15 employment conditions; authorizing the division
16 to adopt rules that prescribe means for
17 preventing accidents in places of firefighter
18 employment and establish standards for
19 construction, repair, and maintenance;
20 requiring the division to inspect places of
21 firefighter employment and to develop safety
22 and health programs for those firefighter
23 employers whose employees have a high frequency
24 or severity of work-related injuries; requiring
25 certain firefighter employers to establish
26 workplace safety committees and to maintain
27 certain records; providing penalties for
28 firefighter employers who violate provisions of
29 the act; providing exemptions; providing a
30 penalty for the failure to implement a safety
31 and health program and cancellations; providing

1 for expenses of administration; providing
 2 penalties for refusal to admit division;
 3 specifying firefighter employee rights and
 4 responsibilities; providing division remedies
 5 for failure to comply; providing penalties for
 6 firefighter employers who make false statements
 7 to the division or to an insurer; providing
 8 criminal penalties for false, malicious, or
 9 fraudulent statements and representatives;
 10 specifying applicability to volunteer
 11 firefighters and fire departments; providing
 12 for workplace safety and to authorize the
 13 division to adopt rules including federal
 14 standards for assuring safe working conditions
 15 for all firefighter employees; amending s.
 16 633.31, F.S.; changing the name of and
 17 expanding and diversifying the Firefighters
 18 Standards and Training Council; amending s.
 19 633.33, F.S.; providing additional duties of
 20 the council; amending ss. 383.3362, 633.330,
 21 and 633.32, F.S.; conforming language;
 22 providing a declaration of important state
 23 interest; amending s. 163.05, F.S.; revising
 24 legislative findings; providing criteria for
 25 contracts between the Commissioner of
 26 Agriculture and program providers; deleting
 27 responsibilities of the Comptroller and the
 28 Legislative Committee on Intergovernmental
 29 Relations; authorizing the Commissioner of
 30 Agriculture to award contracts to provide
 31 assistance to small counties; requiring the

1 Commissioner of Agriculture to provide fiscal
2 oversight and performance reviews; providing an
3 appropriation; providing effective dates.
4

5 Be It Enacted by the Legislature of the State of Florida:
6

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

9 20.04 Structure of executive branch.--The executive
10 branch of state government is structured as follows:

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

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

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

21 (c) The principal unit of the bureau is the "section."
22 Each section is headed by an "administrator."

23 (d) If further subdivision is necessary, sections may
24 be divided into "subsections," which are headed by
25 "supervisors."

26 Section 2. Effective January 7, 2003, section 20.121,
27 Florida Statutes, is created to read:

28 20.121 Department of Financial Services.--There is
29 created a Department of Financial Services.

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

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

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

5 1. The Bureau of Unclaimed Property.

6 2. The Office of Fiscal Integrity which shall function
7 as a criminal justice agency for purposes of ss.
8 943.045-943.08 and shall have a separate budget. The office
9 may conduct investigations within or outside this state as the
10 bureau deems necessary to aid in the enforcement of this
11 section. If during an investigation the office has reason to
12 believe that any criminal law of this state has or may have
13 been violated, the office shall refer any records tending to
14 show such violation to state or federal law enforcement or
15 prosecutorial agencies and shall provide investigative
16 assistance to those agencies as required.

17 (b) The Division of State Fire Marshal.

18 (c) The Division of Risk Management.

19 (d) The Division of Treasury, which shall include a
20 Bureau of Deferred Compensation responsible for administering
21 the Government Employees Deferred Compensation Plan
22 established under s. 112.215 for state employees.

23 (e) The Division of Insurance Fraud.

24 (f) The Division of Rehabilitation and Liquidation.

25 (g) The Division of Insurance Agents and Agency
26 Services.

27 (h) The Division of Consumer Services, which shall
28 include a Bureau of Funeral and Cemetery Services.

29 (i) The Division of Workers' Compensation.

30 (j) The Division of Administration.

31 (k) The Division of Legal Services.

1 (l) The Division of Information Systems.
2 (m) The Office of Insurance Consumer Advocate.
3 (3) FINANCIAL SERVICES COMMISSION.--Effective January
4 7, 2003, there is created within the Department of Financial
5 Services the Financial Services Commission, composed of the
6 Governor, the Attorney General, the Chief Financial Officer,
7 and the Commissioner of Agriculture, which shall for purposes
8 of this section be referred to as the commission. Commission
9 members shall serve as agency head of the Financial Services
10 Commission. The commission shall be a separate budget entity
11 and shall be exempt from the provisions of s. 20.052.
12 Commission action shall be by majority vote consisting of at
13 least three affirmative votes. The commission shall not be
14 subject to control, supervision, or direction by the
15 Department of Financial Services in any manner, including
16 purchasing, transactions involving real or personal property,
17 personnel, or budgetary matters.
18 (a) STRUCTURE.--The major structural unit of the
19 commission is the office. Each office shall be headed by a
20 director. The following offices are established:
21 1. The Office of Insurance Regulation, which shall be
22 responsible for all activities concerning insurers and other
23 risk bearing entities, including licensing, rates, policy
24 forms, market conduct, claims, adjusters, issuance of
25 certificates of authority, solvency, viatical settlements,
26 premium financing, and administrative supervision, as provided
27 under the Insurance Code or chapter 636. The head of the
28 Office of Insurance Regulation is the Director of the Office
29 of Insurance Regulation.
30 2. The Office of Financial Institutions and Securities
31 Regulation, which shall be responsible for all activities of

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

18 (b) ORGANIZATION.--The commission shall establish by
19 rule any additional organizational structure of the offices.
20 It is the intent of the Legislature to provide the commission
21 with the flexibility to organize the offices in any manner
22 they determine appropriate to promote both efficiency and
23 accountability.

24 (c) POWERS.--Commission members shall serve as the
25 agency head for purposes of rulemaking under ss.
26 120.536-120.565 by the commission and all subunits of the
27 commission. Each director is agency head for purposes of
28 final agency action under chapter 120 for all areas within the
29 regulatory authority delegated to the director's office.

30 (d) APPOINTMENT AND QUALIFICATIONS OF DIRECTORS.--The
31 commission shall appoint or remove each director by a majority

1 vote consisting of at least three affirmative votes, with both
2 the Governor and the Chief Financial Officer on the prevailing
3 side. The minimum qualifications of the directors are as
4 follows:

5 1. Prior to appointment as director, the director of
6 the Office of Insurance Regulation must have had, within the
7 previous 10 years, at least 5 years of responsible private
8 sector experience working full-time in areas within the scope
9 of the subject matter jurisdiction of the Office of Insurance
10 Regulation or at least 5 years of experience as a senior
11 examiner or other senior employee of a state or federal agency
12 having regulatory responsibility over insurers or insurance
13 agencies.

14 2. Prior to appointment as director, the director of
15 the Office of Financial Institutions and Securities Regulation
16 must have had, within the previous 10 years, at least 5 years
17 of responsible private sector experience working full-time in
18 areas within the subject matter jurisdiction of the Office of
19 Financial Institutions and Securities Regulation or at least 5
20 years of experience as a senior examiner or other senior
21 employee of a state or federal agency having regulatory
22 responsibility over financial institutions, finance companies,
23 or securities companies.

24 (e) ADMINISTRATIVE SUPPORT.--The offices shall have a
25 sufficient number of attorneys, examiners, investigators,
26 other professional personnel to carry out their
27 responsibilities and administrative personnel as determined
28 annually in the appropriations process. The Department of
29 Financial Services shall provide administrative and
30 information systems support to the offices.

31 Section 3. Transfers.--

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

6 (a) From the Department of Banking and Finance to the
7 Department of Financial Services:

8 1. The Financial Accountability for Public Funds
9 Program.

10 2. The Comptroller and Cabinet Affairs Program.

11 3. The Bureau of Funeral and Cemetery Services.

12 (b) From the Department of Insurance to the Department
13 of Financial Services:

14 1. The Treasury Program.

15 2. The State Fire Marshal Program.

16 3. The Risk Management Program.

17 4. The Office of Insurance Consumer Advocate.

18 5. The Division of Insurance Fraud.

19 6. The Division of Rehabilitation and Liquidation.

20 7. The Division of Agents and Agencies Services,
21 except for those portions of the division that implement
22 functions assigned to the Office of Insurance Regulation under
23 s. 20.121(3)(a)1., Florida Statutes, as created by this act.

24 8. The Division of Insurance Consumer Services, which
25 is renamed the Division of Consumer Services.

26 9. The Division of Legal Services, except for those
27 positions whose responsibilities involve the functions
28 assigned to the Office of Insurance Regulation.

29 10. The Division of Information Systems.
30
31

1 11. The Office of the Treasurer, the Administration
2 Program, and the Office of the Chief of Staff of the
3 Treasurer.

4 (c) From the Department of Banking and Finance to the
5 Office of Financial Institutions and Securities Regulation,
6 the Financial Institutions Regulatory Program.

7 (d) From the Department of Insurance to the Office of
8 Insurance Regulation:

9 1. The Division of Insurer Services.

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

14 3. Those positions within the Division of Legal
15 Services that are not transferred to the Department of
16 Financial Services under subparagraph (b)9.

17
18 For the purposes of this section, employees transferred from
19 the Department of Banking and Finance and the Department of
20 Insurance to the Department of Financial Services or the
21 Financial Services Commission shall not be considered new
22 employees for the purpose of subjecting such employees to an
23 employee probationary period.

24 (2) That portion of the Division of Workers'
25 Compensation transferred pursuant to chapter 2002-194, Laws of
26 Florida, to the Department of Insurance, including the
27 incumbent employees in the existing positions of such division
28 on January 6, 2003, and all property issued and assigned
29 directly to such employees, are transferred by a type two
30 transfer, as defined in s. 20.06(2), Florida Statutes, from
31

1 the Department of Insurance to the Department of Financial
2 Services.

3 (3) The following trust funds are transferred:

4 (a) From the Department of Banking and Finance to the
5 Department of Financial Services:

6 1. The Child Support Depository Trust Fund, FLAIR
7 number 44-2-080.

8 2. The Child Support Clearing Trust Fund, FLAIR number
9 44-2-081.

10 3. The Collections Internal Revenue Clearing Trust
11 Fund, FLAIR number 44-2-101.

12 4. The Consolidated Miscellaneous Deduction Clearing
13 Trust Fund, FLAIR number 44-2-139.

14 5. The Consolidated Payment Trust Fund, FLAIR number
15 44-2-140.

16 6. The Electronic Funds Transfer Clearing Trust Fund,
17 FLAIR number 44-2-188.

18 7. The Employee Refund Clearing Trust Fund, FLAIR
19 number 44-2-194.

20 8. The Federal Tax Levy Clearing Trust Fund, FLAIR
21 number 44-2-274.

22 9. The Federal Use of State Lands Trust Fund, FLAIR
23 number 44-2-307.

24 10. The Florida Retirement Clearing Trust Fund, FLAIR
25 number 44-2-323.

26 11. The Hospital Insurance Tax Clearing Trust Fund,
27 FLAIR number 44-2-370.

28 12. The Miscellaneous Deductions Restoration Trust
29 Fund, FLAIR number 44-2-577.

30 13. The Preneed Funeral Contract Consumer Protection
31 Trust Fund, FLAIR number 44-2-536.

- 1 14. The Prison Industries Trust Fund, FLAIR number
2 44-2-385.
- 3 15. The Social Security Clearing Trust Fund, FLAIR
4 number 44-2-643.
- 5 16. The Tobacco Settlement Clearing Trust Fund, FLAIR
6 number 44-2-123.
- 7 17. The Trust Funds Trust Fund, FLAIR number 44-2-732.
- 8 18. The Unclaimed Property Trust Fund, FLAIR number
9 44-2-007.
- 10 19. The Working Capital Trust Fund, FLAIR number
11 44-2-792.
- 12 (b) From the Department of Insurance to the Department
13 of Financial Services:
- 14 1. The Agents and Solicitors County Tax Trust Fund,
15 FLAIR number 46-2-024.
- 16 2. The Florida Casualty Insurance Risk Management
17 Trust Fund, FLAIR number 46-2-078.
- 18 3. The Government Employees Deferred Compensation
19 Trust Fund, FLAIR number 46-2-155.
- 20 4. The Rehabilitation Administrative Expense Trust
21 Fund, FLAIR number 46-2-582.
- 22 5. The Special Disability Trust Fund, FLAIR number
23 46-2-798.
- 24 6. The State Treasurer Escrow Trust Fund, FLAIR number
25 46-2-622.
- 26 7. The Treasurer's Administrative And Investment Trust
27 Fund, FLAIR number 46-2-725.
- 28 8. The Treasury Cash Deposit Trust Fund, FLAIR number
29 46-2-720.
- 30 9. The Treasurer Investment Trust Fund, FLAIR number
31 46-2-728.

1 10. The Workers' Compensation Administration Trust
2 Fund, FLAIR number 46-2-795.

3 (c) From the Department of Banking and Finance to the
4 Office of Financial Institutions and Securities Regulation
5 within the Department of Financial Services:

6 1. The Administrative Trust Fund, FLAIR number
7 44-2-021, except the moneys in fund account number 44-2-021003
8 are transferred from the Department of Banking and Finance to
9 the Office of Chief Financial Officer.

10 2. The Anti-Fraud Trust Fund, FLAIR number 44-2-038.

11 3. The Comptroller's Federal Equitable Sharing Trust
12 Fund, FLAIR number 44-2-719.

13 4. The Financial Institutions' Regulatory Trust Fund,
14 FLAIR number 44-2-275.

15 5. The Mortgage Brokerage Guaranty Trust Fund, FLAIR
16 number 44-2-485.

17 6. The Regulatory Trust Fund, FLAIR number 44-2-573.

18 7. The Securities Guaranty Fund, FLAIR number
19 44-2-626.

20 (d) From the Department of Insurance to the Department
21 of Financial Services, the Insurance Commissioner's Regulatory
22 Trust Fund, FLAIR number 46-2-393. There is created within the
23 trust fund a subaccount for purposes of funding the Office of
24 Insurance Regulation.

25 (4) The authority to make appointments to the Citizens
26 Property Insurance Corporation shall remain with the Chief
27 Financial Officer as provided in Committee Substitute for
28 Senate Bill 1418 as enacted by the Legislature in the 2002
29 Regular Session.

30 (5) This section shall take effect January 7, 2003.
31

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

9 Section 5. (1) This act shall not affect the validity
10 of any judicial or administrative action involving the
11 Department of Banking and Finance or the Department of
12 Insurance pending on January 7, 2003, and the Department of
13 Financial Services, or the Financial Services Commission, or
14 the respective office, shall be substituted as a party in
15 interest in any such action.

16 (2) Notwithstanding subsection (1), if the action
17 involves the constitutional functions of the Comptroller or
18 Treasurer, the Chief Financial Officer shall instead be
19 substituted as a party in interest.

20 Section 6. Transitional provisions.--

21 (1)(a) There is created the Committee of Transition
22 Management. The committee shall function independently but
23 shall for administrative purposes be treated as an office of
24 the Executive Office of the Governor.

25 (b) The Governor, the Comptroller, the Treasurer, the
26 chair of the House Fiscal Responsibility Council, and the
27 chair of the Senate Appropriations Committee shall each
28 appoint one member to the committee.

29 (c) The committee shall oversee the transition to the
30 new Department of Financial Services and the new Financial
31

1 Services Commission. The management duties of the office shall
2 include, but not be limited to:

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

12 2. Submitting to the Financial Services Commission a
13 proposed organizational plan for the commission, which plan
14 the commission may adopt by rule.

15 3. Providing written recommendations to the
16 commission, the President of the Senate, and the Speaker of
17 the House of Representatives, by no later than February 1,
18 2003, as to statutory changes that are necessary or desirable
19 to facilitate the operations of the department.

20 (d) The Department of Banking and Finance, the
21 Department of Insurance, the Office of the Comptroller, and
22 the Office of the Treasurer shall fully cooperate with the
23 Committee of Transition Management and shall promptly provide
24 the office with any requested information.

25 Section 7. Notwithstanding the provisions of ss.
26 216.292 and 216.351, Florida Statutes, upon approval by the
27 Legislative Budget Committee, the Executive Office of the
28 Governor may transfer funds and positions between agencies to
29 implement this act.

30 Section 8. Conforming legislation.--The Legislature
31 recognizes that there is a need to conform the Florida

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

23 Section 9. Effective July 1, 2002, subsection 1 of
 24 section 1. of chapter 2002-194, Laws of Florida, is amended to
 25 read:

26 Section 1. (1) All powers, duties, functions, rules,
 27 records, personnel, property, and unexpended balances of
 28 appropriations, allocations, and other funds of the Division
 29 of Workers' Compensation are transferred by a type two
 30 transfer, as defined in s. 20.06(2), Florida Statutes, from
 31 the Department of Labor and Employment Security to the

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

1 of the positions for work to be performed at the Department of
 2 Insurance. The number of positions the department establishes
 3 may not exceed the number of authorized positions and the
 4 salary and benefits that were authorized for the Division of
 5 Workers' Compensation within the Department of Labor and
 6 Employment Security prior to the transfer. The Department of
 7 Insurance is further authorized to reassign, reorganize,
 8 reclassify, or otherwise transfer positions to appropriate
 9 administrative subdivisions within the department and to
 10 establish such regional offices as are necessary to properly
 11 enforce and administer its responsibilities under the Florida
 12 Insurance Code and chapter 440, Florida Statutes. The
 13 department may also enter into contracts with public or
 14 private entities to administer its duties and responsibilities
 15 associated with the transfer of the Division of Workers'
 16 Compensation.

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

26 288.99 Certified Capital Company Act.--

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

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

- 29 1. Any person directly or indirectly beneficially
 30 owning, whether through rights, options, convertible
 31 interests, or otherwise, controlling, or holding power to vote

- 1 15 ~~10~~ percent or more of the outstanding voting securities or
2 other voting ownership interests of the insurance company;
- 3 2. Any person 15 ~~10~~ percent or more of whose
4 outstanding voting securities or other voting ownership
5 interest is directly or indirectly beneficially owned, whether
6 through rights, options, convertible interests, or otherwise,
7 controlled, or held with power to vote by the insurance
8 company;
- 9 3. Any person directly or indirectly controlling,
10 controlled by, or under common control with the insurance
11 company;
- 12 4. A partnership in which the insurance company is a
13 general partner; or
- 14 5. Any person who is a principal, director, employee,
15 or agent of the insurance company or an immediate family
16 member of the principal, director, employee, or agent.
- 17 (b) "Certified capital" means an investment of cash by
18 a certified investor in a certified capital company which
19 fully funds the purchase price of either or both its equity
20 interest in the certified capital company or a qualified debt
21 instrument issued by the certified capital company.
- 22 (c) "Certified capital company" means a corporation,
23 partnership, or limited liability company which:
- 24 1. Is certified by the department in accordance with
25 this act.
- 26 2. Receives investments of certified capital from two
27 or more unaffiliated certified investors.
- 28 3. Makes qualified investments as its primary
29 activity.
- 30
- 31

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

4 (e) "Department" means the Department of Banking and
5 Finance.

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

8 (g) "Early stage technology business" means a
9 qualified business that is:

10 1. Involved, at the time of the certified capital
11 company's initial investment in such business, in activities
12 related to developing initial product or service offerings,
13 such as prototype development or the establishment of initial
14 production or service processes; ~~The term includes a~~
15 ~~qualified business that is~~

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

22 3. The Florida Black Business Investment Board; ~~or~~

23 4. Any entity that is majority owned by the Florida
24 Black Business Investment Board; ~~or~~

25 5. Any entity in which the Florida Black Business
26 Investment Board holds a majority voting interest on the board
27 of directors.

28 (h) "Office" means the Office of Tourism, Trade, and
29 Economic Development.
30
31

1 (i) "Premium tax liability" means any liability
2 incurred by an insurance company under the provisions of s.
3 624.509 and s. 624.5091.

4 (j) "Principal" means an executive officer of a
5 corporation, partner of a partnership, manager of a limited
6 liability company, or any other person with equivalent
7 executive functions.

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

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

15 2. At the time a certified capital company makes an
16 initial investment in a business, the business would qualify
17 for investment under ~~is a small business concern as defined in~~
18 ~~13 C.F.R. s. 121.301(c)121.201, "Size Standards Used to~~
19 ~~Define Small Business Concerns" of the United States Small~~
20 ~~Business Administration~~ which is involved in manufacturing,
21 processing or assembling products, conducting research and
22 development, or providing services.

23 3. At the time a certified capital company makes an
24 initial investment in a business, the business certifies in an
25 affidavit that:

26 a. The business is unable to obtain conventional
27 financing, which means that the business has failed in an
28 attempt to obtain funding for a loan from a bank or other
29 commercial lender or that the business cannot reasonably be
30 expected to qualify for such financing under the standards of
31 commercial lending;

1 b. The business plan for the business projects that
2 the business is reasonably expected to achieve in excess of
3 \$25 million in sales revenue within 5 years after the initial
4 investment, or the business is located in a designated Front
5 Porch community, enterprise zone, urban high crime area, rural
6 job tax credit county, or nationally recognized historic
7 district;

8 c. The business will maintain its headquarters in this
9 state for the next 10 years and any new manufacturing facility
10 financed by a qualified investment will remain in this state
11 for the next 10 years, or the business is located in a
12 designated Front Porch community, enterprise zone, urban high
13 crime area, rural job tax credit county, or nationally
14 recognized historic district; and

15 d. The business has fewer than 200 employees and at
16 least 75 percent of the employees are employed in this state.
17 For purposes of this subsection, the term ~~"qualified business"~~
18 also includes the Florida Black Business Investment Board, any
19 entity majority owned by the Florida Black Business Investment
20 Board, or any entity in which the Florida Black Business
21 Investment Board holds a majority voting interest on the board
22 of directors.

23 4. The term does not include:

24 a. Any business predominantly engaged in retail sales,
25 real estate development, insurance, banking, lending, or oil
26 and gas exploration.

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

29 c. Any company that has no historical revenues and
30 either has no specific business plan or purpose or has
31 indicated that its business plan is solely to engage in a

1 merger or acquisition with any unidentified company or other
2 entity.

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

8
9 ~~A business predominantly engaged in retail sales, real estate~~
10 ~~development, insurance, banking, lending, oil and gas~~
11 ~~exploration, or engaged in professional services provided by~~
12 ~~accountants, lawyers, or physicians does not constitute a~~
13 ~~qualified business.~~

14 (1) "Qualified debt instrument" means a debt
15 instrument, or a hybrid of a debt instrument, issued by a
16 certified capital company, at par value or a premium, with an
17 original maturity date of at least 5 years after the date of
18 issuance, a repayment schedule which is no faster than a level
19 principal amortization over a 5-year period, and interest,
20 distribution, or payment features which are not related to the
21 profitability of the certified capital company or the
22 performance of the certified capital company's investment
23 portfolio.

24 (m) "Qualified distribution" means any distribution or
25 payment by ~~to equity holders of~~ a certified capital company
26 for:

27 1. Reasonable costs and expenses, including, but not
28 limited to, professional fees, of forming and, syndicating the
29 certified capital company, if no such costs or expenses are
30 paid to a certified investor, except as provided in
31 subparagraph (4)(f)2., and the total cash, cash equivalents,

1 and other current assets permitted by sub-subparagraph
2 (5)(b)3.g. that can be converted into cash within 5 business
3 days available to the certified capital company at the time of
4 receipt of certified capital from certified investors, after
5 deducting the costs and expenses of forming and syndicating
6 the certified capital company, including any payments made
7 over time for obligations incurred at the time of receipt of
8 certified capital but excluding other future qualified
9 distributions and payments made under paragraph (9)(a), are an
10 amount equal to or greater than 50 percent of the total
11 certified capital allocated to the certified capital pursuant
12 to subsection (7);

13 2. Reasonable costs of managing and operating the
14 certified capital company, not exceeding 5 percent of the
15 certified capital in any single year, including an annual
16 management fee in an amount that does not exceed 2.5 percent
17 of the certified capital of the certified capital company;
18 ~~plus~~

19 3. Reasonable and necessary fees in accordance with
20 industry custom for professional services, including, but not
21 limited to, legal and accounting services, related to the
22 operation of the certified capital company; or

23 ~~4.2.~~ Any projected increase in federal or state taxes,
24 including penalties and interest related to state and federal
25 income taxes, of the equity owners of a certified capital
26 company resulting from the earnings or other tax liability of
27 the certified capital company to the extent that the increase
28 is related to the ownership, management, or operation of a
29 certified capital company.

30 (n)1. "Qualified investment" means the investment of
31 cash by a certified capital company in a qualified business

1 for the purchase of any debt, equity, or hybrid security ~~of~~
2 ~~any nature and description whatsoever~~, including a debt
3 instrument or security that ~~which~~ has the characteristics of
4 debt but which provides for conversion into equity or equity
5 participation instruments such as options or warrants.

6 2. The term does not include:

7 a. Any investment made after the effective date of
8 this act the contractual terms of which require the repayment
9 of any portion of the principal in instances, other than
10 default as determined by department rule, within 12 months
11 following the initial investment by the certified capital
12 company unless such investment has a repayment schedule no
13 faster than a level principal amortization of at least 2
14 years;

15 b. Any "follow-on" or "add-on" investment except for
16 the amount by which the new investment is in addition to the
17 amount of the certified capital company's initial investment
18 returned to it other than in the form of interest, dividends,
19 or other types of profit participation or distributions; or

20 c. Any investment in a qualified business or affiliate
21 of a qualified business that exceeds 15 percent of certified
22 capital.

23 (o) "Program One" means the \$150 million in premium
24 tax credits issued under this section in 1999, the allocation
25 of such credits under this section, and the regulation of
26 certified capital companies and investments made by them
27 hereunder.

28 (p) "Program Two" means the \$150 million in premium
29 tax credits to be issued under subsection (17), the allocation
30 of such credits under this section, and the regulation of
31

1 certified capital companies and investments made by them
2 hereunder.

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

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

8 (b) An applicant for certification as a certified
9 capital company must file a verified application with the
10 department on or before December 1, 1998, a date determined in
11 rules adopted pursuant to subsection (17) in the case of
12 applicants for Program Two, in a form which the department may
13 prescribe by rule. The applicant shall submit a nonrefundable
14 application fee of \$7,500 to the department. The applicant
15 shall provide:

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

18 2. The applicant's form and place of organization and
19 the relevant organizational documents, bylaws, and amendments
20 or restatements of such documents, bylaws, or amendments.

21 3. Evidence from the Department of State that the
22 applicant is registered with the Department of State as
23 required by law, maintains an active status with the
24 Department of State, and has not been dissolved or had its
25 registration revoked, canceled, or withdrawn.

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

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

30 The applicant must have, at the time of application for
31 certification, an equity capitalization of at least \$500,000

1 in the form of cash or cash equivalents. The applicant must
2 maintain this equity capitalization until the applicant
3 receives an allocation of certified capital pursuant to this
4 act showing net capital of not less than \$500,000 within 90
5 days after the date the application is submitted to the
6 department. If the date of the application is more than 90
7 days after preparation of the applicant's fiscal year-end
8 financial statements, the applicant may file financial
9 statements reviewed by an independent certified public
10 accountant for the period subsequent to the audit report,
11 together with the audited financial statement for the most
12 recent fiscal year. If the applicant has been in business
13 less than 12 months, and has not prepared an audited financial
14 statement, the applicant may file a financial statement
15 reviewed by an independent certified public accountant.

16 6. Copies of any offering materials used or proposed
17 to be used by the applicant in soliciting investments of
18 certified capital from certified investors.

19 (c) Within 60 days after receipt of a verified
20 application ~~On December 31, 1998,~~ the department shall grant
21 or deny certification as a certified capital company. If the
22 department denies certification within the time period
23 specified, the department shall inform the applicant of the
24 grounds for the denial. If the department has not granted or
25 denied certification within the time specified, the
26 application shall be deemed approved. The department shall
27 approve the application if the department finds that:

28 1. The applicant satisfies the requirements of
29 paragraph (b).

30 2. No evidence exists that the applicant has committed
31 any act specified in paragraph (d).

1 3. At least two of the principals have a minimum of 5
2 years of experience making venture capital investments out of
3 private equity funds, with not less than \$20 million being
4 provided by third-party investors for investment in the early
5 stage of operating businesses. At least one full-time manager
6 or principal of the certified capital company who has such
7 experience must be primarily located in an office of the
8 certified capital company which is based in this state.

9 4. The applicant's proposed method of doing business
10 and raising certified capital as described in its offering
11 materials and other materials submitted to the department
12 conforms with the requirements of this section.

13 (d) The department may deny certification or decertify
14 a certified capital company if the grounds for decertification
15 are not removed or corrected within 90 days after the notice
16 of such grounds is received by the certified capital company.
17 The department may deny certification or decertify a certified
18 capital company if the certified capital company fails to
19 maintain common stock or paid in capital ~~a net worth~~ of at
20 least \$500,000, or if the department determines that the
21 applicant, or any principal or director of the certified
22 capital company, has:

23 1. Violated any provision of this section;

24 2. Made a material misrepresentation or false
25 statement or concealed any essential or material fact from any
26 person during the application process or with respect to
27 information and reports required of certified capital
28 companies under this section;

29 3. Been convicted of, or entered a plea of guilty or
30 nolo contendere to, a crime against the laws of this state or
31 any other state or of the United States or any other country

1 or government, including a fraudulent act in connection with
2 the operation of a certified capital company, or in connection
3 with the performance of fiduciary duties in another capacity;

4 4. Been adjudicated liable in a civil action on
5 grounds of fraud, embezzlement, misrepresentation, or deceit;
6 or

7 5.a. Been the subject of any decision, finding,
8 injunction, suspension, prohibition, revocation, denial,
9 judgment, or administrative order by any court of competent
10 jurisdiction, administrative law judge, or any state or
11 federal agency, national securities, commodities, or option
12 exchange, or national securities, commodities, or option
13 association, involving a material violation of any federal or
14 state securities or commodities law or any rule or regulation
15 adopted under such law, or any rule or regulation of any
16 national securities, commodities, or options exchange, or
17 national securities, commodities, or options association; or

18 b. Been the subject of any injunction or adverse
19 administrative order by a state or federal agency regulating
20 banking, insurance, finance or small loan companies, real
21 estate, mortgage brokers, or other related or similar
22 industries.

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

25 (e)(f) Any offering material involving the sale of
26 securities of the certified capital company shall include the
27 following statement: "By authorizing the formation of a
28 certified capital company, the State of Florida does not
29 endorse the quality of management or the potential for
30 earnings of such company and is not liable for damages or
31 losses to a certified investor in the company. Use of the

1 word 'certified' in an offering does not constitute a
 2 recommendation or endorsement of the investment by the State
 3 of Florida. Investments in a certified capital company prior
 4 to the time such company is certified are not eligible for
 5 premium tax credits. If applicable provisions of law are
 6 violated, the state may require forfeiture of unused premium
 7 tax credits and repayment of used premium tax credits by the
 8 certified investor."

9 (f)1.~~(g)~~ No insurance company or any affiliate of an
 10 insurance company shall, directly or indirectly, own, whether
 11 through rights, options, convertible interests, or otherwise,
 12 15 percent or more of the voting equity interests of or manage
 13 or control the direction of investments of a certified capital
 14 company. This prohibition does not preclude a certified
 15 investor, insurance company, or any other party from
 16 exercising its legal rights and remedies, which may include
 17 interim management of a certified capital company, if a
 18 certified capital company is in default of its obligations
 19 under law or its contractual obligations to such certified
 20 investor, insurance company, or other party. Nothing in this
 21 subparagraph shall limit an insurance company's ownership of
 22 nonvoting equity interests in a certified capital company.

23 2. A certified capital company may obtain a guaranty,
 24 indemnity, bond, insurance policy or other payment undertaking
 25 in favor of all of the certified investors of the certified
 26 capital company and its affiliates; provided that the entity
 27 from which such guaranty, indemnity, bond, insurance policy or
 28 other payment undertaking is obtained may not be a certified
 29 investor of, or be affiliated with more than one certified
 30 investor of, the certified capital company.

1 ~~(g)(h)~~ On or before December 31 of each year, each
2 certified capital company shall pay to the department an
3 annual, nonrefundable renewal certification fee of \$5,000. If
4 a certified capital company fails to pay its renewal fee by
5 the specified deadline, the company must pay a late fee of
6 \$5,000 in addition to the renewal fee on or by January 31 of
7 each year in order to continue its certification in the
8 program. On or before April 30 of each year, each certified
9 capital company shall file audited financial statements with
10 the department. No renewal fees shall be required within 6
11 months after the date of initial certification.

12 ~~(h)(i)~~ The department shall administer and provide for
13 the enforcement of certification requirements for certified
14 capital companies as provided in this act. The department may
15 adopt any rules necessary to carry out its duties,
16 obligations, and powers related to certification, renewal of
17 certification, or decertification of certified capital
18 companies and may perform any other acts necessary for the
19 proper administration and enforcement of such duties,
20 obligations, and powers.

21 ~~(i)(j)~~ Decertification of a certified capital company
22 under this subsection does not affect the ability of certified
23 investors in such certified capital company from claiming
24 future premium tax credits earned as a result of an investment
25 in the certified capital company during the period in which it
26 was duly certified.

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

28 (b) All capital not invested in qualified investments
29 by the certified capital company:
30
31

- 1 1. Must be held in a financial institution as defined
2 by s. 655.005(1)(h) or held by a broker-dealer registered
3 under s. 517.12, except as set forth in sub-subparagraph 3.g.
4 2. Must not be invested in a certified investor of the
5 certified capital company or any affiliate of the certified
6 investor of the certified capital company, except for an
7 investment permitted by sub-subparagraph 3.g., provided
8 repayment terms do not permit the obligor to directly or
9 indirectly manage or control the investment decisions of the
10 certified capital company.
11 3. Must be invested only in:
12 a. Any United States Treasury obligations;
13 b. Certificates of deposit or other obligations,
14 maturing within 3 years after acquisition of such certificates
15 or obligations, issued by any financial institution or trust
16 company incorporated under the laws of the United States;
17 c. Marketable obligations, maturing within 10 5 years
18 or less after the acquisition of such obligations, which are
19 rated "A" or better by any nationally recognized credit rating
20 agency;
21 d. Mortgage-backed securities, with an average life of
22 5 years or less, after the acquisition of such securities,
23 which are rated "A" or better by any nationally recognized
24 credit rating agency;
25 e. Collateralized mortgage obligations and real estate
26 mortgage investment conduits that are direct obligations of an
27 agency of the United States Government; are not private-label
28 issues; are in book-entry form; and do not include the classes
29 of interest only, principal only, residual, or zero; ~~or~~
30
31

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

4 g. Obligations that are issued by an insurance company
5 that is not a certified investor of the certified capital
6 company making the investment, that has provided a guarantee
7 indemnity bond, insurance policy, or other payment undertaking
8 in favor of the certified capital company's certified
9 investors as permitted by subparagraph (3)(m)1. or an
10 affiliate of such insurance company as defined by subparagraph
11 (3)(a)3. that is not a certified investor of the certified
12 capital company making the investment, provided that such
13 obligations are:

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

18 (II) Not subordinated to other unsecured indebtedness
19 of the issuer or the guarantor.

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

22 (IV) Readily convertible into cash within 5 business
23 days for the purpose of making a qualified investment unless
24 such obligations are held to provide a guarantee, indemnity
25 bond, insurance policy, or other payment undertaking in favor
26 of the certified capital company's certified investors as
27 permitted by subparagraph (3)(m)1.

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

29 (a) Any certified investor who makes an investment of
30 certified capital shall earn a vested credit against premium
31 tax liability equal to 100 percent of the certified capital

1 invested by the certified investor. Certified investors shall
 2 be entitled to use no more than 10 percentage points of the
 3 vested premium tax credit earned under a particular program,
 4 including any carryforward credits from such program under
 5 this act, per year beginning with premium tax filings for
 6 calendar year 2000 for credits earned under Program One. Any
 7 premium tax credits not used by certified investors in any
 8 single year may be carried forward and applied against the
 9 premium tax liabilities of such investors for subsequent
 10 calendar years. ~~The carryforward credit may be applied~~
 11 ~~against subsequent premium tax filings through calendar year~~
 12 ~~2017.~~

13 (7) ANNUAL TAX CREDIT; MAXIMUM AMOUNT; ALLOCATION
 14 PROCESS.--

15 (a) The total amount of tax credits which may be
 16 allocated by the office shall not exceed \$150 million with
 17 respect to Program One and \$150 million with respect to
 18 Program Two.The total amount of tax credits which may be used
 19 by certified investors under this act shall not exceed \$15
 20 million annually with respect to credits earned under Program
 21 One and \$15 million annually with respect to credits earned
 22 under Program Two.

23 (c) Each certified capital company must apply to the
 24 office for an allocation of premium tax credits for potential
 25 certified investors ~~by March 15, 1999~~, on a form developed by
 26 the office with the cooperation of the Department of Revenue.
 27 The form shall be accompanied by an affidavit from each
 28 potential certified investor confirming that the potential
 29 certified investor has agreed to make an investment of
 30 certified capital in a certified capital company up to a
 31 specified amount, subject only to the receipt of a premium tax

1 credit allocation pursuant to this subsection. No certified
2 capital company shall submit premium tax allocation claims on
3 behalf of certified investors that in the aggregate would
4 exceed the total dollar amount appropriated by the Legislature
5 for the specific program. No allocation shall be made to the
6 potential investors of a certified capital company under
7 Program Two unless such certified capital company has filed
8 premium tax allocation claims ~~that would result in an~~
9 ~~allocation to the potential investors in such certified~~
10 ~~capital company~~ of not less than \$15 million in the aggregate.

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

15 (e) If a certified capital company does not receive
16 certified capital equaling the amount of premium tax credits
17 allocated to a potential certified investor for which the
18 investor filed a premium tax allocation claim within 10
19 business days after the investor received a notice of
20 allocation, the certified capital company shall notify the
21 office by overnight common carrier delivery service of the
22 company's failure to receive the capital. That portion of the
23 premium tax credits allocated to the certified capital company
24 shall be forfeited. If the office must make a pro rata
25 allocation under paragraph (f), the office shall reallocate
26 such available credits among the other certified capital
27 companies on the same pro rata basis as the initial
28 allocation.

29 (f) If the total amount of capital committed by all
30 certified investors to certified capital companies in premium
31 tax allocation claims under Program Two exceeds the aggregate

1 cap on the amount of credits that may be awarded under Program
 2 Two, the premium tax credits that may be allowed to any one
 3 certified investor under Program Two shall be allocated using
 4 the following ratio:

$$A/B = X / > \$150,000,000$$

5
 6
 7
 8 where the letter "A" represents the total amount of certified
 9 capital certified investors have agreed to invest in any one
 10 certified capital company under Program Two, the letter "B"
 11 represents the aggregate amount of certified capital that all
 12 certified investors have agreed to invest in all certified
 13 capital companies under Program Two, the letter "X" is the
 14 numerator and represents the total amount of premium tax
 15 credits and certified capital that may be allocated to a
 16 certified capital company on a date determined by rule adopted
 17 by the department pursuant to subsection (17) in calendar year
 18 ~~1999~~, and \$150 million is the denominator and represents the
 19 total amount of premium tax credits and certified capital that
 20 may be allocated to all certified investors under Program Two
 21 ~~in calendar year 1999~~. Any such premium tax credits are not
 22 first available for utilization until annual filings are made
 23 in 2001 for calendar year 2000 in the case of Program One, and
 24 the tax credits may be used at a rate not to exceed 10 percent
 25 annually per program.

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

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

6 (i) The office shall issue a certification letter for
7 each certified investor, showing the amount invested in the
8 certified capital company under each program. The applicable
9 certified capital company shall attest to the validity of the
10 certification letter.

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

12 (a) On an annual basis, on or before January ~~December~~
13 31, each certified capital company shall file with the
14 department and the office, in consultation with the
15 department, on a form prescribed by the office, for each
16 calendar year:

17 1. The total dollar amount the certified capital
18 company received from certified investors, the identity of the
19 certified investors, and the amount received from each
20 certified investor during the immediately preceding calendar
21 year.

22 2. The total dollar amount the certified capital
23 company invested and the amount invested in qualified
24 businesses, together with the identity and location of those
25 businesses and the amount invested in each qualified business
26 during the immediately preceding calendar year.

27 3. For informational purposes only, the total number
28 of permanent, full-time jobs either created or retained by the
29 qualified business during the immediately preceding calendar
30 year, the average wage of the jobs created or retained, the
31 industry sectors in which the qualified businesses operate,

1 and any additional capital invested in qualified businesses
2 from sources other than certified capital companies.

3 (9) REQUIREMENT FOR 100 PERCENT INVESTMENT; STATE
4 PARTICIPATION.--

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

20 (b) Cumulative distributions from a certified capital
21 company from funds related to a particular program to its
22 certified investors and equity holders under such program,
23 other than qualified distributions, in excess of the certified
24 capital company's original certified capital raised under such
25 program and any additional capital contributions to the
26 certified capital company with respect to such program may be
27 audited by a nationally recognized certified public accounting
28 firm acceptable to the department, at the expense of the
29 certified capital company, if the department directs such
30 audit be conducted. The audit shall determine whether
31 aggregate cumulative distributions from the funds related to a

1 particular program made by the certified capital company to
 2 all certified investors and equity holders under such program,
 3 other than qualified distributions, have equaled the sum of
 4 the certified capital company's original certified capital
 5 raised under such program and any additional capital
 6 contributions to the certified capital company with respect to
 7 such program. If at the time of any such distribution made by
 8 the certified capital company, such distribution taken
 9 together with all other such distributions from the funds
 10 related to such program made by the certified capital company,
 11 other than qualified distributions, exceeds in the aggregate
 12 the sum of the certified capital company's original certified
 13 capital raised under such program and any additional capital
 14 contributions to the certified capital company with respect to
 15 such program, as determined by the audit, the certified
 16 capital company shall pay to the Department of Revenue 10
 17 percent of the portion of such distribution in excess of such
 18 amount. Payments to the Department of Revenue by a certified
 19 capital company pursuant to this paragraph shall not exceed
 20 the aggregate amount of tax credits used by all certified
 21 investors in such certified capital company for such program.

22 (10) DECERTIFICATION.--

23 (f) Decertification of a certified capital company for
 24 failure to meet all requirements for continued certification
 25 under paragraph (5)(a) with respect to the certified capital
 26 raised under a particular program may cause the recapture of
 27 premium tax credits previously claimed by such company under
 28 such program and the forfeiture of future premium tax credits
 29 to be claimed by certified investors under such program with
 30 respect to such certified capital company, as follows:

31

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

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

24 3. When a certified capital company meets all
25 requirements for continued certification under subparagraphs
26 (5)(a)1. and 2. with respect to a particular program and
27 subsequently fails to meet the requirements for continued
28 certification under the subparagraph (5)(a)3. with respect to
29 such program, those premium tax credits earned under such
30 program which have been or will be taken by certified
31 investors within 4 years after the certification date of the

1 certified capital company with respect to such program shall
 2 not be subject to recapture or forfeiture; however, all
 3 premium tax credits earned under such program that have been
 4 or will be taken by certified investors after the fourth
 5 anniversary of the certification date of the certified capital
 6 company with respect to such program shall be subject to
 7 recapture and forfeiture.

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

22 5. If a certified capital company has invested an
 23 amount cumulatively equal to 100 percent of its certified
 24 capital raised under a particular program in qualified
 25 investments, all premium tax credits claimed or to be claimed
 26 by its certified investors under such program shall not be
 27 subject to recapture or forfeiture.

28 (11) TRANSFERABILITY.--The premium tax credit
 29 established pursuant to this act may be transferred or sold.
 30 The Department of Revenue shall adopt rules to facilitate the
 31 transfer or sale of such premium tax credits. A transfer or

1 sale shall not affect the time schedule for taking the premium
2 tax credit as provided in this act. Any premium tax credits
3 recaptured shall be the liability of the taxpayer who actually
4 claimed the premium tax credits. The claim of a transferee of
5 a certified investor's unused premium tax credit shall be
6 permitted in the same manner and subject to the same
7 provisions and limitations of this act as the original
8 certified investor. ~~The term "transferee" means any person~~
9 ~~who:~~

10 ~~(a) Through the voluntary sale, assignment, or other~~
11 ~~transfer of the business or control of the business of the~~
12 ~~certified investor, including the sale or other transfer of~~
13 ~~stock or assets by merger, consolidation, or dissolution,~~
14 ~~succeeds to all or substantially all of the business and~~
15 ~~property of the certified investor;~~

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

18 ~~(c) Directly or indirectly owns, whether through~~
19 ~~rights, options, convertible interests, or otherwise,~~
20 ~~controls, or holds power to vote 10 percent or more of the~~
21 ~~outstanding voting securities or other ownership interest of~~
22 ~~the certified investor;~~

23 ~~(d) Is a subsidiary of the certified investor or 10~~
24 ~~percent or more of whose outstanding voting securities or~~
25 ~~other ownership interest are directly or indirectly owned,~~
26 ~~whether through rights, options, convertible interests, or~~
27 ~~otherwise, by the certified investor; or~~

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

30 Section 11. Except as otherwise specifically provided
31 in this act, the provisions of this act shall apply only to

1 "Program Two" as defined in s. 288.99(3), Florida Statutes, as
2 amended by this act.
3 (17) Notwithstanding the limitations set forth in
4 paragraph (7)(a), in the first fiscal year in which the total
5 insurance premium tax collections as determined by the Revenue
6 Estimating Conference exceed collections for fiscal year
7 2000-2001 by more than the total amount of tax credits issued
8 pursuant to this section which were used by certified
9 investors in that year, the office may allocate to certified
10 investors in accordance with paragraph (7)(a) tax credits for
11 Program Two. The department shall establish, by rule, a date
12 and procedures by which certified capital companies must file
13 applications for allocations of such additional premium tax
14 credits, which date shall be no later than 180 days from the
15 date of determination by the Revenue Estimating Conference.
16 With respect to new certified capital invested and premium tax
17 credits earned pursuant to this subsection, the schedule
18 specified in subparagraphs (5)(a)1.-4. is satisfied by
19 investments by December 31 of the 2nd, 3rd, 4th, and 5th
20 calendar year, respectively, after the date established by the
21 department for applications of additional premium tax credits.
22 The department shall adopt rules by which an entity not
23 already certified as a certified capital company may apply for
24 certification as a certified capital company for participation
25 in this additional allocation. The insurance premium tax
26 credit authorized by Program Two may not be used by certified
27 investors until the annual return due March 1, 2004, and may
28 be used on all subsequent returns and estimated payments;
29 however, notwithstanding the provisions of s. 624.5092(2)(b),
30 the installments of taxes due and payable on April 15, 2004,
31 and June 15, 2004, shall be based on the net tax due in 2003

1 not taking into account credits granted pursuant to this
2 section for Program Two.

3 Section 12. Subsection (20) is added to section
4 517.12, Florida Statutes, to read:

5 517.12 Registration of dealers, associated persons,
6 investment advisers, and branch offices.--

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

16 Section 13. Subsection (21) of section 570.07, Florida
17 Statutes, is amended to read:

18 570.07 Department of Agriculture and Consumer
19 Services; functions, powers, and duties.--The department shall
20 have and exercise the following functions, powers, and duties:

21 (21) To declare an emergency when one exists in any
22 matter pertaining to agriculture; to make, adopt, and
23 promulgate rules and issue orders which will be effective
24 during the term of the emergency; and to issue or require to
25 be issued food safety information, pertaining to the
26 emergency, that is based on reliable scientific facts and
27 reliable scientific data. When the Commissioner of Agriculture
28 has declared an agricultural emergency, no county or municipal
29 ordinance relating to any action intended to end the emergency
30 shall be enforced within a county or municipality with respect
31

1 to such action taken by the Department of Agriculture and
2 Consumer Services during the agricultural emergency.

3 Section 14. Paragraph (b) of subsection (4), paragraph
4 (a) of subsection (5), and paragraphs (a) and (c) of
5 subsection (6) of section 624.91, Florida Statutes, as amended
6 by section 20 of chapter 2001-377, Laws of Florida, are
7 amended to read:

8 624.91 The Florida Healthy Kids Corporation Act.--

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

10 (b) The Florida Healthy Kids Corporation shall phase
11 in a program to:

12 1. Organize school children groups to facilitate the
13 provision of comprehensive health insurance coverage to
14 children;

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

20 3. Establish the administrative and accounting
21 procedures for the operation of the corporation;

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

28 5. Establish eligibility criteria which children must
29 meet in order to participate in the program;

30 6. Establish procedures under which applicants to and
31 participants in the program may have grievances reviewed by an

1 impartial body and reported to the board of directors of the
2 corporation;

3 7. Establish participation criteria and, if
4 appropriate, contract with an authorized insurer, health
5 maintenance organization, or insurance administrator to
6 provide administrative services to the corporation;

7 8. Establish enrollment criteria which shall include
8 penalties or waiting periods of not fewer than 60 days for
9 reinstatement of coverage upon voluntary cancellation for
10 nonpayment of family premiums;

11 9. If a space is available, establish a special open
12 enrollment period of 30 days' duration for any child who is
13 enrolled in Medicaid or Medikids if such child loses Medicaid
14 or Medikids eligibility and becomes eligible for the Florida
15 Healthy Kids program;

16 10. Contract with authorized insurers or any provider
17 of health care services, meeting standards established by the
18 corporation, for the provision of comprehensive insurance
19 coverage to participants. Such standards shall include
20 criteria under which the corporation may contract with more
21 than one provider of health care services in program sites.
22 Health plans shall be selected through a competitive bid
23 process. The selection of health plans shall be based
24 primarily on quality criteria established by the board. The
25 health plan selection criteria and scoring system, and the
26 scoring results, shall be available upon request for
27 inspection after the bids have been awarded;

28 11. Develop and implement a plan to publicize the
29 Florida Healthy Kids Corporation, the eligibility requirements
30 of the program, and the procedures for enrollment in the
31

1 program and to maintain public awareness of the corporation
2 and the program;

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

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

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

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

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

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

11 (5) BOARD OF DIRECTORS.--

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

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

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

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

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

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

30
31

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

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 15. 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

1 633.804 Safety inspections and consultations;
2 rules.--The division shall adopt rules governing the manner,
3 means, and frequency of firefighter employer and firefighter
4 employee safety inspections and consultations by all insurers
5 and self-insurers.

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

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

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

29 (2) The division by rule may adopt procedures for
30 conducting investigations of firefighter employers under ss.
31 633.801-633.821.

1 633.807 Safety; firefighter employer
2 responsibilities.--Every firefighter employer shall furnish
3 and use safety devices and safeguards, adopt and use methods
4 and processes reasonably adequate to render such an employment
5 and place of employment safe, and do every other thing
6 reasonably necessary to protect the lives, health, and safety
7 of such firefighter employees. As used in this section, the
8 terms "safe" and "safety," as applied to any employment or
9 place of firefighter employment, mean such freedom from danger
10 as is reasonably necessary for the protection of the lives,
11 health, and safety of firefighter employees, including
12 conditions and methods of sanitation and hygiene. Safety
13 devices and safeguards required to be furnished by the
14 firefighter employer by this section or by the division under
15 authority of this section shall not include personal apparel
16 and protective devices that replace personal apparel normally
17 worn by firefighter employees during regular working hours.

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

30 (2) Ascertain, fix, and order such reasonable
31 standards and rules for the construction, repair, and

1 maintenance of firefighter employee places of employment as
2 shall render them safe. Such rules and standards shall be
3 adopted in accordance with chapter 120.

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

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

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

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

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

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

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

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

1 and administer workplace safety activities in accordance with
2 rules adopted under this section.

3 (2) The division shall adopt rules:

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

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

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

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

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

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

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

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

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

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

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

1 deposited in the Insurance Commissioner's Regulatory Trust
2 Fund.

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

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

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

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

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

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

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

31

1 (3) The division may enter at any reasonable time any
2 place of private firefighter employment for the purpose of
3 verifying the accuracy of the written certification. If the
4 division determines that the private firefighter employer has
5 not complied with the requirements of subsection (2), the
6 private firefighter employer shall be subject to the rules of
7 the division until the private firefighter employer complies
8 with subsection (2) and recertifies that fact to the division.

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

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

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

29 633.815 Refusal to admit; penalty.--The division and
30 authorized representatives of the division may enter and
31 inspect any firefighter place of employment at any reasonable

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

9 633.816 Firefighter employee rights and
10 responsibilities.--

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

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

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

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

28 (c) The firefighter employee is engaged in activities
29 relating to the workplace safety committee.
30
31

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

4 633.817 Compliance.--Failure of a firefighter employer
5 or an insurer to comply with ss. 633.801-633.821, or with any
6 rules adopted under ss. 633.801-633.821, constitutes grounds
7 for the division to seek remedies, including injunctive
8 relief, by making appropriate filings with the circuit court.

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

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

1 act was committed, 5 years after the date the act was
2 discovered.

3 633.820 Volunteer firefighters.--Sections
4 633.803-633.821 apply to volunteer firefighters and volunteer
5 fire departments.

6 633.821 Workplace safety.--

7 (1) The division shall assist in making the
8 firefighter employee place of employment a safer place to work
9 and decreasing the frequency and severity of on-the-job
10 injuries in such workplace.

11 (2) The division shall have the authority to adopt
12 rules for the purpose of ensuring safe working conditions for
13 all firefighter employees by authorizing the enforcement of
14 effective standards, by assisting and encouraging firefighter
15 employers to maintain safe working conditions, and by
16 providing for education and training in the field of safety.
17 Specifically, the division may by rule adopt all or any part
18 of subparts C through T and subpart Z of 29 C.F.R. s. 1910, as
19 revised April 8, 1998; the National Fire Protection
20 Association, Inc., Standard 1500, paragraph 5-7 (Personal
21 Alert Safety System) (1992 edition); and ANSI A 10.4-1990.

22 (3) With respect to 29 C.F.R. s. 1910.134(g)(4), the
23 two individuals located outside the immediately dangerous to
24 life and health atmosphere may be assigned to an additional
25 role, such as incident commander, pumper operator, engineer,
26 or driver, so long as such individual is able to immediately
27 perform assistance or rescue activities without jeopardizing
28 the safety or health of any firefighter working at an
29 incident. Also with respect to 29 C.F.R. s. 1910.134(g)(4):
30
31

1 (a) Each county, municipality, and special district
2 shall implement such provision by April 1, 2002, except as
3 provided in paragraphs (b) and (c).

4 (b) If any county, municipality, or special district
5 is unable to implement such provision by April 1, 2002,
6 without adding additional personnel to its firefighting staff
7 or expending significant additional funds, such county,
8 municipality, or special district shall have an additional 6
9 months within which to implement such provision. Such county,
10 municipality, or special district shall notify the division
11 that the 6-month extension to implement such provision is in
12 effect in such county, municipality, or special district
13 within 30 days after its decision to extend the time for the
14 additional 6 months. The decision to extend the time for
15 implementation shall be made prior to April 1, 2002.

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

1 additional personnel to its firefighting staff or expending
2 significant additional funds, the division shall require such
3 county, municipality, or special district to implement such
4 provision. Such requirement by the division under this
5 paragraph constitutes final agency action subject to chapter
6 120.

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

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

16 Section 16. Section 633.31, Florida Statutes, is
17 amended to read:

18 633.31 Firefighters Employment, Standards, and
19 Training Council.--

20 (1) There is created within the Department of
21 Insurance a Firefighters Employment, Standards, and Training
22 Council of ~~13~~ nine members ~~appointed by the State Fire~~
23 ~~Marshal.~~ Two members shall be fire chiefs appointed by the
24 Florida Fire Chiefs Association, two members shall be
25 firefighters who are not officers, appointed by the Florida
26 Professional Firefighters Association, two members shall be
27 firefighter officers who are not fire chiefs, appointed by the
28 State Fire Marshal, one member appointed by the Florida League
29 of Cities, one member appointed by the Florida Association of
30 Counties, one member appointed by the Florida Association of
31 Special Districts, one member appointed by the Florida Fire

1 Marshal's Association, and one member appointed by the State
 2 Fire Marshal,and one member shall be a director or instructor
 3 of a state-certified firefighting training facility appointed
 4 by the State Fire Marshal. To be eligible for appointment as a
 5 fire chief member, firefighter officer member, firefighter
 6 member, or a director or instructor of a state-certified
 7 firefighting facility, a person shall have had at least 4
 8 years' experience in the firefighting profession. The
 9 remaining member, who shall be appointed by the State Fire
 10 Marshal,~~two members~~ shall not be a member or representative
 11 ~~members~~ of the firefighting profession or of any local
 12 government. Members shall serve only as long as they continue
 13 to meet the criteria under which they were appointed, or
 14 unless a member has failed to appear at three consecutive and
 15 properly noticed meetings unless excused by the chair.

16 (2) ~~Initially, the State Fire Marshal shall appoint~~
 17 ~~three members for terms of 4 years, two members for terms of 3~~
 18 ~~years, two members for terms of 2 years, and two members for~~
 19 ~~terms of 1 year. Thereafter,~~Members shall be appointed for
 20 4-year terms and in no event shall a member serve more than
 21 two consecutive terms. Any vacancy shall be filled in the
 22 manner of the original appointment for the remaining time of
 23 the term.

24 (3) The State Fire Marshal, in making her or his
 25 appointments, shall take into consideration representation by
 26 geography, population, and other relevant factors, in order
 27 that the membership on the council will be apportioned to give
 28 representation to the state at large rather than to a
 29 particular area.

30 (4) Membership on the council shall not disqualify a
 31 member from holding any other public office or being employed

1 by a public entity, except that no member of the Legislature
2 shall serve on the council.

3 Section 17. Subsections (4) and (5) of section 633.33,
4 Florida Statutes, are amended to read:

5 633.33 Special powers; firefighter training.--The
6 council shall have special powers in connection with the
7 employment and training of firefighters to:

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

20 (5) Make or support studies on any aspect of
21 firefighting employment, education, and training or
22 recruitment.

23 Section 18. Paragraph (c) of subsection (3) of section
24 383.3362, Florida Statutes, is amended to read:

25 383.3362 Sudden Infant Death Syndrome.--

26 (3) TRAINING.--

27 (c) The Department of Health, in consultation with the
28 Emergency Medical Services Advisory Council, the Firefighters
29 Employment, Standards, and Training Council, and the Criminal
30 Justice Standards and Training Commission, shall develop and
31 adopt, by rule, curriculum that, at a minimum, includes

1 training in the nature of SIDS, standard procedures to be
2 followed by law enforcement agencies in investigating cases
3 involving sudden deaths of infants, and training in responding
4 appropriately to the parents or caretakers who have requested
5 assistance.

6 Section 19. Subsection (4) of section 633.30, Florida
7 Statutes, is amended to read:

8 633.30 Standards for firefighting; definitions.--As
9 used in this chapter:

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

12 Section 20. Subsection (4) of section 633.32, Florida
13 Statutes, is amended to read:

14 633.32 Organization; meetings; quorum; compensation;
15 seal.--

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

19 Section 21. The Legislature determines and declares
20 that this act fulfills an important state interest.

21 Section 22. Effective June 30, 2002, paragraphs (a)
22 and (c) of subsection (1) and subsections (4), (5), (6), (7),
23 (8), and (9) of section 163.05, Florida Statutes, are amended
24 to read:

25 163.05 Small County Technical Assistance Program.--

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

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

31

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

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

7 (a) Be a foundation that meets the requirements for
8 nonprofit status under s. 501(c)(3) of the Internal Revenue
9 Code with a governing board which includes in its membership
10 county commissioners and professional staff of the county
11 ~~public agency or private, nonprofit corporation, association,~~
12 ~~or entity.~~

13 (b) Have substantial and documented experience working
14 closely with county governments in providing both educational
15 and technical assistance.

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

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

21 (d) ~~Annually submit information to assist the~~
22 ~~Legislative Committee on Intergovernmental Relations in~~
23 ~~preparing a performance review that will include an analysis~~
24 ~~of the effectiveness of the program.~~

25 (e) Assist small counties in developing alternative
26 revenue sources.

27 (f) Provide assistance to small counties in ~~the~~ areas
28 such as ~~of~~ financial management, accounting, investing,
29 purchasing, planning and budgeting, debt issuance, public
30 management, management systems, computers and information
31

1 technology, economic and community development, and public
2 safety management.

3 (g) Provide for an annual independent financial audit
4 of the program.

5 (h) In each county served, conduct a needs assessment
6 upon which the assistance provided for that county will be
7 designed.

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

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

23 ~~(c) The Legislative Committee on Intergovernmental~~
24 ~~Relations shall review each contract proposal and submit to~~
25 ~~the Comptroller, in writing, advisory comments and~~
26 ~~recommendations, citing with specificity the reasons for its~~
27 ~~recommendations.~~

28 ~~(c)(d)~~ The Commissioner of Agriculture ~~Comptroller~~ and
29 ~~the council~~ shall consider the following factors in reviewing
30 contract proposals:
31

1 1. The demonstrated capacity of the provider to
2 conduct needs assessments and implement the program as
3 proposed.

4 2. The number of small counties to be served under the
5 proposal.

6 3. The cost of the program as specified in a proposed
7 budget.

8 4. The short-term and long-term benefits of the
9 assistance to small counties.

10 5. The form and extent to which existing resources,
11 services, and information that are available from state and
12 local agencies, universities, and the private sector will be
13 used by the provider under the contract.

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

18 ~~(7) The Comptroller may enter into contracts and~~
19 ~~agreements with other state and local agencies and with any~~
20 ~~person, association, corporation, or entity other than the~~
21 ~~program providers, for the purpose of administering this~~
22 ~~section.~~

23 (7)(8) The Commissioner of Agriculture Comptroller
24 shall provide fiscal oversight to ensure that funds expended
25 for the program are used in accordance with the contracts
26 entered into pursuant to subsection (4) and shall conduct a
27 performance review of the program as may be necessary to
28 ensure that the goals and objectives of the program are being
29 met.

30 ~~(9) The Legislative Committee on Intergovernmental~~
31 ~~Relations shall annually conduct a performance review of the~~

1 ~~program. The findings of the review shall be presented in a~~
2 ~~report submitted to the Governor, the President of the Senate,~~
3 ~~the Speaker of the House of Representatives, and the~~
4 ~~Comptroller by January 15 of each year.~~

5 Section 23. Effective June 30, 2002, Specific
6 Appropriation 2252 in the 2002-2003 General Appropriations Act
7 is hereby repealed and an identical amount is hereby
8 appropriated to the Department of Agriculture and Consumer
9 Services from the General Revenue Fund for the purposes of
10 this act.

11 Section 24. Except as otherwise provided herein, this
12 act shall take effect upon becoming a law.