

Bill No. CS for SB's 42-E & 26-E

Amendment No.      Barcode 165384

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11 Senator Latvala moved the following amendment:

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**Senate Amendment (with title amendment)**

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Delete everything after the enacting clause

15

16 and insert:

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

19 20.04 Structure of executive branch.--The executive  
20 branch of state government is structured as follows:

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

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

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

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

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1 Each section is headed by an "administrator."

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

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

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

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

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

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

15 1. The Bureau of Unclaimed Property.

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

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

27 (b) The Division of State Fire Marshal.

28 (c) The Division of Risk Management.

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

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

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

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

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

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

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

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

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

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

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

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

10 Section 3. Transfers.--

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

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

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

20 2. The Comptroller and Cabinet Affairs Program.

21 3. The Bureau of Funeral and Cemetery Services.

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

24 1. The Treasury Program.

25 2. The State Fire Marshal Program.

26 3. The Risk Management Program.

27 4. The Office of Insurance Consumer Advocate.

28 5. The Division of Insurance Fraud.

29 6. The Division of Rehabilitation and Liquidation.

30 7. The Division of Agents and Agencies Services,

31 except for those portions of the division that implement

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

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

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

8 10. The Division of Information Systems.

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

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

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

17 1. The Division of Insurer Services.

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

22 3. Those positions within the Division of Legal  
23 Services that are not transferred to the Department of  
24 Financial Services under subparagraph (b)9.

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

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

10           (3) The following trust funds are transferred:

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

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



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1 number 44-2-323.

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

4 12. The Miscellaneous Deductions Restoration Trust  
5 Fund, FLAIR number 44-2-577.

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

8 14. The Prison Industries Trust Fund, FLAIR number  
9 44-2-385.

10 15. The Social Security Clearing Trust Fund, FLAIR  
11 number 44-2-643.

12 16. The Tobacco Settlement Clearing Trust Fund, FLAIR  
13 number 44-2-123.

14 17. The Trust Funds Trust Fund, FLAIR number 44-2-732.

15 18. The Unclaimed Property Trust Fund, FLAIR number  
16 44-2-007.

17 19. The Working Capital Trust Fund, FLAIR number  
18 44-2-792.

19 (b) From the Department of Insurance to the Department  
20 of Financial Services:

21 1. The Agents and Solicitors County Tax Trust Fund,  
22 FLAIR number 46-2-024.

23 2. The Florida Casualty Insurance Risk Management  
24 Trust Fund, FLAIR number 46-2-078.

25 3. The Government Employees Deferred Compensation  
26 Trust Fund, FLAIR number 46-2-155.

27 4. The Rehabilitation Administrative Expense Trust  
28 Fund, FLAIR number 46-2-582.

29 5. The Special Disability Trust Fund, FLAIR number  
30 46-2-798.

31 6. The State Treasurer Escrow Trust Fund, FLAIR number

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1 46-2-622.

2 7. The Treasurer's Administrative And Investment Trust  
3 Fund, FLAIR number 46-2-725.

4 8. The Treasury Cash Deposit Trust Fund, FLAIR number  
5 46-2-720.

6 9. The Treasurer Investment Trust Fund, FLAIR number  
7 46-2-728.

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

10 (c) From the Department of Banking and Finance to the  
11 Office of Financial Institutions and Securities Regulation  
12 within the Department of Financial Services:

13 1. The Administrative Trust Fund, FLAIR number  
14 44-2-021, except the moneys in fund account number 44-2-021003  
15 are transferred from the Department of Banking and Finance to  
16 the Office of Chief Financial Officer.

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

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

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

22 5. The Mortgage Brokerage Guaranty Trust Fund, FLAIR  
23 number 44-2-485.

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

25 7. The Securities Guaranty Fund, FLAIR number  
26 44-2-626.

27 (d) From the Department of Insurance to the Department  
28 of Financial Services, the Insurance Commissioner's Regulatory  
29 Trust Fund, FLAIR number 46-2-393. There is created within the  
30 trust fund a subaccount for purposes of funding the Office of  
31 Insurance Regulation.

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

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

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

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

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

26           Section 6. Transitional provisions.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 288.99 Certified Capital Company Act.--

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



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1 or more unaffiliated certified investors.

2 3. Makes qualified investments as its primary  
3 activity.

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

7 (e) "Department" means the Department of Banking and  
8 Finance.

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

11 (g) "Early stage technology business" means a  
12 qualified business that is:

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

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

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

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

28 5. Any entity in which the Florida Black Business  
29 Investment Board holds a majority voting interest on the board  
30 of directors.

31 (h) "Office" means the Office of Tourism, Trade, and

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1 Economic Development.

2 (i) "Premium tax liability" means any liability  
3 incurred by an insurance company under the provisions of s.  
4 624.509 and s. 624.5091.

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

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

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

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

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

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

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1 commercial lending;

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

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

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

24 4. The term does not include:

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

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

30 c. Any company that has no historical revenues and  
31 either has no specific business plan or purpose or has

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1 indicated that its business plan is solely to engage in a  
2 merger or acquisition with any unidentified company or other  
3 entity.

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

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

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

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

28 1. Reasonable costs and expenses, including, but not  
29 limited to, professional fees, of forming and, syndicating the  
30 certified capital company, if no such costs or expenses are  
31 paid to a certified investor, except as provided in

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

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

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

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

31 (n)1. "Qualified investment" means the investment of

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

7 2. The term does not include:

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

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

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

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

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

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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

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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).



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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

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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

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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.

31 (g)(h) On or before December 31 of each year, each

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

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

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

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

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

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

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1           2. Must not be invested in a certified investor of the  
 2 certified capital company or any affiliate of the certified  
 3 investor of the certified capital company, except for an  
 4 investment permitted by sub-subparagraph 3.g., provided  
 5 repayment terms do not permit the obligor to directly or  
 6 indirectly manage or control the investment decisions of the  
 7 certified capital company.

8           3. Must be invested only in:

9           a. Any United States Treasury obligations;

10          b. Certificates of deposit or other obligations,  
 11 maturing within 3 years after acquisition of such certificates  
 12 or obligations, issued by any financial institution or trust  
 13 company incorporated under the laws of the United States;

14          c. Marketable obligations, maturing within 10 5 years  
 15 or less after the acquisition of such obligations, which are  
 16 rated "A" or better by any nationally recognized credit rating  
 17 agency;

18          d. Mortgage-backed securities, with an average life of  
 19 5 years or less, after the acquisition of such securities,  
 20 which are rated "A" or better by any nationally recognized  
 21 credit rating agency;

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

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

30          g. Obligations that are issued by an insurance company  
 31 that is not a certified investor of the certified capital

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

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

13 (II) Not subordinated to other unsecured indebtedness  
14 of the issuer or the guarantor.

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

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

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

24 (a) Any certified investor who makes an investment of  
25 certified capital shall earn a vested credit against premium  
26 tax liability equal to 100 percent of the certified capital  
27 invested by the certified investor. Certified investors shall  
28 be entitled to use no more than 10 percentage points of the  
29 vested premium tax credit earned under a particular program,  
30 including any carryforward credits from such program under  
31 this act, per year beginning with premium tax filings for

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1 calendar year 2000 for credits earned under Program One. Any  
2 premium tax credits not used by certified investors in any  
3 single year may be carried forward and applied against the  
4 premium tax liabilities of such investors for subsequent  
5 calendar years. ~~The carryforward credit may be applied~~  
6 ~~against subsequent premium tax filings through calendar year~~  
7 ~~2017.~~

8 (7) ANNUAL TAX CREDIT; MAXIMUM AMOUNT; ALLOCATION  
9 PROCESS.--

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

18 (c) Each certified capital company must apply to the  
19 office for an allocation of premium tax credits for potential  
20 certified investors ~~by March 15, 1999,~~ on a form developed by  
21 the office with the cooperation of the Department of Revenue.  
22 The form shall be accompanied by an affidavit from each  
23 potential certified investor confirming that the potential  
24 certified investor has agreed to make an investment of  
25 certified capital in a certified capital company up to a  
26 specified amount, subject only to the receipt of a premium tax  
27 credit allocation pursuant to this subsection. No certified  
28 capital company shall submit premium tax allocation claims on  
29 behalf of certified investors that in the aggregate would  
30 exceed the total dollar amount appropriated by the Legislature  
31 for the specific program.No allocation shall be made to the

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1 potential investors of a certified capital company under  
2 Program Two unless such certified capital company has filed  
3 premium tax allocation claims ~~that would result in an~~  
4 ~~allocation to the potential investors in such certified~~  
5 ~~capital company~~ of not less than \$15 million in the aggregate.

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

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

24 (f) If the total amount of capital committed by all  
25 certified investors to certified capital companies in premium  
26 tax allocation claims under Program Two exceeds the aggregate  
27 cap on the amount of credits that may be awarded under Program  
28 Two, the premium tax credits that may be allowed to any one  
29 certified investor under Program Two shall be allocated using  
30 the following ratio:

31





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1 each certified investor, showing the amount invested in the  
2 certified capital company under each program. The applicable  
3 certified capital company shall attest to the validity of the  
4 certification letter.

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

6 (a) On an annual basis, on or before January ~~December~~  
7 31, each certified capital company shall file with the  
8 department and the office, in consultation with the  
9 department, on a form prescribed by the office, for each  
10 calendar year:

11 1. The total dollar amount the certified capital  
12 company received from certified investors, the identity of the  
13 certified investors, and the amount received from each  
14 certified investor during the immediately preceding calendar  
15 year.

16 2. The total dollar amount the certified capital  
17 company invested and the amount invested in qualified  
18 businesses, together with the identity and location of those  
19 businesses and the amount invested in each qualified business  
20 during the immediately preceding calendar year.

21 3. For informational purposes only, the total number  
22 of permanent, full-time jobs either created or retained by the  
23 qualified business during the immediately preceding calendar  
24 year, the average wage of the jobs created or retained, the  
25 industry sectors in which the qualified businesses operate,  
26 and any additional capital invested in qualified businesses  
27 from sources other than certified capital companies.

28 (9) REQUIREMENT FOR 100 PERCENT INVESTMENT; STATE  
29 PARTICIPATION.--

30 (a) A certified capital company may make qualified  
31 distributions at any time. In order to make a distribution to

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

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

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

16 (10) DECERTIFICATION.--

17 (f) Decertification of a certified capital company for  
18 failure to meet all requirements for continued certification  
19 under paragraph (5)(a) with respect to the certified capital  
20 raised under a particular program may cause the recapture of  
21 premium tax credits previously claimed by such company under  
22 such program and the forfeiture of future premium tax credits  
23 to be claimed by certified investors under such program with  
24 respect to such certified capital company, as follows:

25 1. Decertification of a certified capital company  
26 within 3 years after its certification date with respect to a  
27 particular program shall cause the recapture of all premium  
28 tax credits earned under such program and previously claimed  
29 by such company and the forfeiture of all future premium tax  
30 credits earned under such program which are to be claimed by  
31 certified investors with respect to such company.

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

17           3. When a certified capital company meets all  
18 requirements for continued certification under subparagraphs  
19 (5)(a)1. and 2. with respect to a particular program and  
20 subsequently fails to meet the requirements for continued  
21 certification under the subparagraph (5)(a)3. with respect to  
22 such program, those premium tax credits earned under such  
23 program which have been or will be taken by certified  
24 investors within 4 years after the certification date of the  
25 certified capital company with respect to such program shall  
26 not be subject to recapture or forfeiture; however, all  
27 premium tax credits earned under such program that have been  
28 or will be taken by certified investors after the fourth  
29 anniversary of the certification date of the certified capital  
30 company with respect to such program shall be subject to  
31 recapture and forfeiture.

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

15           5. If a certified capital company has invested an  
16 amount cumulatively equal to 100 percent of its certified  
17 capital raised under a particular program in qualified  
18 investments, all premium tax credits claimed or to be claimed  
19 by its certified investors under such program shall not be  
20 subject to recapture or forfeiture.

21           (11) TRANSFERABILITY.--The premium tax credit  
22 established pursuant to this act may be transferred or sold.  
23 The Department of Revenue shall adopt rules to facilitate the  
24 transfer or sale of such premium tax credits. A transfer or  
25 sale shall not affect the time schedule for taking the premium  
26 tax credit as provided in this act. Any premium tax credits  
27 recaptured shall be the liability of the taxpayer who actually  
28 claimed the premium tax credits. The claim of a transferee of  
29 a certified investor's unused premium tax credit shall be  
30 permitted in the same manner and subject to the same  
31 provisions and limitations of this act as the original

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1 certified investor. ~~The term "transferee" means any person~~  
 2 ~~who:~~

3 ~~(a) Through the voluntary sale, assignment, or other~~  
 4 ~~transfer of the business or control of the business of the~~  
 5 ~~certified investor, including the sale or other transfer of~~  
 6 ~~stock or assets by merger, consolidation, or dissolution,~~  
 7 ~~succeeds to all or substantially all of the business and~~  
 8 ~~property of the certified investor;~~

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

11 ~~(c) Directly or indirectly owns, whether through~~  
 12 ~~rights, options, convertible interests, or otherwise,~~  
 13 ~~controls, or holds power to vote 10 percent or more of the~~  
 14 ~~outstanding voting securities or other ownership interest of~~  
 15 ~~the certified investor;~~

16 ~~(d) Is a subsidiary of the certified investor or 10~~  
 17 ~~percent or more of whose outstanding voting securities or~~  
 18 ~~other ownership interest are directly or indirectly owned,~~  
 19 ~~whether through rights, options, convertible interests, or~~  
 20 ~~otherwise, by the certified investor; or~~

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

23 Section 11. Except as otherwise specifically provided  
 24 in this act, the provisions of this act shall apply only to  
 25 "Program Two" as defined in s. 288.99(3), Florida Statutes, as  
 26 amended by this act.

27 (17) Notwithstanding the limitations set forth in  
 28 paragraph (7)(a), in the first fiscal year in which the total  
 29 insurance premium tax collections as determined by the Revenue  
 30 Estimating Conference exceed collections for fiscal year  
 31 2000-2001 by more than the total amount of tax credits issued

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

27           Section 12. Subsection (20) is added to section  
28 517.12, Florida Statutes, to read:

29           517.12 Registration of dealers, associated persons,  
30 investment advisers, and branch offices.--

31           (20) Subject to approval of the Chief Financial



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1 Officer, the registration requirements of this section do not  
2 apply to individuals licensed under s. 626.041 or its  
3 successor statute, or s. 626.051 or its successor statute, for  
4 the sale of a security as defined in s. 517.021(19)(g), if the  
5 individual is directly authorized by the issuer to offer or  
6 sell the security on behalf of the issuer and the issuer is a  
7 federally chartered savings bank subject to regulation by the  
8 Federal Deposit Insurance Corporation.

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

11           570.07 Department of Agriculture and Consumer  
12 Services; functions, powers, and duties.--The department shall  
13 have and exercise the following functions, powers, and duties:

14           (21) To declare an emergency when one exists in any  
15 matter pertaining to agriculture; to make, adopt, and  
16 promulgate rules and issue orders which will be effective  
17 during the term of the emergency; and to issue or require to  
18 be issued food safety information, pertaining to the  
19 emergency, that is based on reliable scientific facts and  
20 reliable scientific data. When the Commissioner of Agriculture  
21 has declared an agricultural emergency, no county or municipal  
22 ordinance relating to any action intended to end the emergency  
23 shall be enforced within a county or municipality with respect  
24 to such action taken by the Department of Agriculture and  
25 Consumer Services during the agricultural emergency.

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

31           624.91 The Florida Healthy Kids Corporation Act.--

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- 1           (4) CORPORATION AUTHORIZATION, DUTIES, POWERS.--
- 2           (b) The Florida Healthy Kids Corporation shall phase
- 3 in a program to:
- 4           1. Organize school children groups to facilitate the
- 5 provision of comprehensive health insurance coverage to
- 6 children;
- 7           2. Arrange for the collection of any family, local
- 8 contributions, or employer payment or premium, in an amount to
- 9 be determined by the board of directors, to provide for
- 10 payment of premiums for comprehensive insurance coverage and
- 11 for the actual or estimated administrative expenses;
- 12           3. Establish the administrative and accounting
- 13 procedures for the operation of the corporation;
- 14           4. Establish, with consultation from appropriate
- 15 professional organizations, standards for preventive health
- 16 services and providers and comprehensive insurance benefits
- 17 appropriate to children; provided that such standards for
- 18 rural areas shall not limit primary care providers to
- 19 board-certified pediatricians;
- 20           5. Establish eligibility criteria which children must
- 21 meet in order to participate in the program;
- 22           6. Establish procedures under which applicants to and
- 23 participants in the program may have grievances reviewed by an
- 24 impartial body and reported to the board of directors of the
- 25 corporation;
- 26           7. Establish participation criteria and, if
- 27 appropriate, contract with an authorized insurer, health
- 28 maintenance organization, or insurance administrator to
- 29 provide administrative services to the corporation;
- 30           8. Establish enrollment criteria which shall include
- 31 penalties or waiting periods of not fewer than 60 days for

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1 reinstatement of coverage upon voluntary cancellation for  
2 nonpayment of family premiums;

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

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

20           11. Develop and implement a plan to publicize the  
21 Florida Healthy Kids Corporation, the eligibility requirements  
22 of the program, and the procedures for enrollment in the  
23 program and to maintain public awareness of the corporation  
24 and the program;

25           12. Secure staff necessary to properly administer the  
26 corporation. Staff costs shall be funded from state and local  
27 matching funds and such other private or public funds as  
28 become available. The board of directors shall determine the  
29 number of staff members necessary to administer the  
30 corporation;

31           13. As appropriate, enter into contracts with local

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1 school boards or other agencies to provide onsite information,  
2 enrollment, and other services necessary to the operation of  
3 the corporation;

4 14. Provide a report annually ~~on an annual basis~~ to  
5 the Governor, Chief Financial Officer ~~Insurance Commissioner~~,  
6 Commissioner of Education, Senate President, Speaker of the  
7 House of Representatives, and Minority Leaders of the Senate  
8 and the House of Representatives;

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

22 16. Establish eligibility criteria, premium and  
23 cost-sharing requirements, and benefit packages which conform  
24 to the provisions of the Florida Kidcare program, as created  
25 in ss. 409.810-409.820; and

26 17. Notwithstanding the requirements of subparagraph  
27 15. to the contrary, establish a local matching requirement of  
28 \$0.00 for the Title XXI program in each county of the state  
29 for the 2001-2002 fiscal year. This subparagraph shall take  
30 effect upon becoming a law and shall operate retroactively to  
31 July 1, 2001. This subparagraph expires July 1, 2002.

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1 (5) BOARD OF DIRECTORS.--

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

7 1. One member appointed by the Commissioner of  
8 Education from among three persons nominated by the Florida  
9 Association of School Administrators;

10 2. One member appointed by the Commissioner of  
11 Education from among three persons nominated by the Florida  
12 Association of School Boards;

13 3. One member appointed by the Commissioner of  
14 Education from the Office of School Health Programs of the  
15 Florida Department of Education;

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

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

20 6. One member appointed by the Chief Financial Officer  
21 ~~Insurance Commissioner~~ from among three members nominated by  
22 the Florida Hospital Association;

23 7. Two members, appointed by the Chief Financial  
24 Officer ~~Insurance Commissioner~~, who are representatives of  
25 authorized health care insurers or health maintenance  
26 organizations;

27 8. One member, appointed by the Chief Financial  
28 Officer ~~Insurance Commissioner~~, who represents the Institute  
29 for Child Health Policy;

30 9. One member, appointed by the Governor, from among  
31 three members nominated by the Florida Academy of Family

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1 Physicians;

2 10. One member, appointed by the Governor, who  
3 represents the Agency for Health Care Administration; ~~and~~

4 11. One member, appointed by the Chief Financial  
5 Officer, from among three members nominated by the Florida  
6 Association of Counties, representing rural counties;

7 12. One member, appointed by the Governor, from among  
8 three members nominated by the Florida Association of  
9 Counties, representing urban counties; and

10 13.11. The State Health Officer or her or his  
11 designee.

12 (6) LICENSING NOT REQUIRED; FISCAL OPERATION.--

13 (a) The corporation shall not be deemed an insurer.

14 The officers, directors, and employees of the corporation  
15 shall not be deemed to be agents of an insurer. Neither the  
16 corporation nor any officer, director, or employee of the  
17 corporation is subject to the licensing requirements of the  
18 insurance code or the rules of the Department of Financial  
19 Services Insurance. However, any marketing representative  
20 utilized and compensated by the corporation must be appointed  
21 as a representative of the insurers or health services  
22 providers with which the corporation contracts.

23 (c) The Department of Financial Services Insurance  
24 shall supervise any liquidation or dissolution of the  
25 corporation and shall have, with respect to such liquidation  
26 or dissolution, all power granted to it pursuant to the  
27 insurance code.

28 Section 15. Sections 633.801, 633.802, 633.803,  
29 633.804, 633.805, 633.806, 633.807, 633.808, 633.809, 633.810,  
30 633.811, 633.812, 633.813, 633.814, 633.815, 633.816, 633.817,  
31 633.818, 633.819, 633.820, and 633.821, Florida Statutes, are

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1 created to read:

2 633.801 Short title.--Sections 633.801-633.821 may be  
3 cited as the "Florida Firefighters Occupational Safety and  
4 Health Act."

5 633.802 Definitions.--Unless the context clearly  
6 requires otherwise, the following definitions shall apply to  
7 ss. 633.801-633.821:

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

9 (2) "Division" means the Division of State Fire  
10 Marshal of the department.

11 (3) "Firefighter employee" means any person engaged in  
12 any employment, public or private, as a firefighter under any  
13 appointment or contract of hire or apprenticeship, express or  
14 implied, oral or written, whether lawfully or unlawfully  
15 employed, responding to or assisting with fire or medical  
16 emergencies, whether or not the firefighter is on duty, except  
17 those appointed under s. 590.02(1)(d).

18 (4) "Firefighter employer" means the state and all  
19 political subdivisions of this state, all public and  
20 quasi-public corporations in this state, and every person  
21 carrying on any employment for this state, political  
22 subdivisions of this state, and public and quasi-public  
23 corporations in this state which employs firefighters, except  
24 those appointed under s. 590.02(1)(d).

25 (5) "Firefighter employment" or "employment" means any  
26 service performed by a firefighter employee for the  
27 firefighter employer.

28 (6) "Firefighter place of employment" or "place of  
29 employment" means the physical location at which the  
30 firefighter is employed.

31 633.803 Legislative intent.--It is the intent of the

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1 Legislature to enhance firefighter occupational safety and  
2 health in the state through the implementation and maintenance  
3 of policies, procedures, practices, rules, and standards that  
4 reduce the incidence of firefighter employee accidents,  
5 firefighter employee occupational diseases, and firefighter  
6 employee fatalities compensable under chapter 440 or  
7 otherwise. The Legislature further intends that the division  
8 develop a means by which the division can identify individual  
9 firefighter employers with a high frequency or severity of  
10 work-related injuries, conduct safety inspections of those  
11 firefighter employers, and assist those firefighter employers  
12 in the development and implementation of firefighter employee  
13 safety and health programs. In addition, it is the intent of  
14 the Legislature that the division administer the provisions of  
15 ss. 633.801-633.821; provide assistance to firefighter  
16 employers, firefighter employees, and insurers; and enforce  
17 the policies, rules, and standards set forth in ss.  
18 633.801-633.821.

19 633.804 Safety inspections and consultations;  
20 rules.--The division shall adopt rules governing the manner,  
21 means, and frequency of firefighter employer and firefighter  
22 employee safety inspections and consultations by all insurers  
23 and self-insurers.

24 633.805 Division to make study of firefighter employee  
25 occupational diseases.--The division shall make a continuous  
26 study of firefighter employee occupational diseases and the  
27 ways and means for their control and prevention and shall  
28 adopt rules necessary for such control and prevention. For  
29 this purpose, the division is authorized to cooperate with  
30 firefighter employers, firefighter employees, and insurers and  
31 with the Department of Health.



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1           633.806 Investigations by the division; refusal to  
2 admit; penalty.--

3           (1) The division shall make studies and investigations  
4 with respect to safety provisions and the causes of  
5 firefighter employee injuries in firefighter employee places  
6 of employment and shall make such recommendations to the  
7 Legislature and firefighter employers and insurers as the  
8 division considers proper as to the best means of preventing  
9 firefighter injuries. In making such studies and  
10 investigations, the division may cooperate with any agency of  
11 the United States charged with the duty of enforcing any law  
12 securing safety against injury in any place of firefighter  
13 employment covered by ss. 633.801-633.821 or any agency or  
14 department of the state engaged in enforcing any law to ensure  
15 safety for firefighter employees.

16           (2) The division by rule may adopt procedures for  
17 conducting investigations of firefighter employers under ss.  
18 633.801-633.821.

19           633.807 Safety; firefighter employer  
20 responsibilities.--Every firefighter employer shall furnish  
21 and use safety devices and safeguards, adopt and use methods  
22 and processes reasonably adequate to render such an employment  
23 and place of employment safe, and do every other thing  
24 reasonably necessary to protect the lives, health, and safety  
25 of such firefighter employees. As used in this section, the  
26 terms "safe" and "safety," as applied to any employment or  
27 place of firefighter employment, mean such freedom from danger  
28 as is reasonably necessary for the protection of the lives,  
29 health, and safety of firefighter employees, including  
30 conditions and methods of sanitation and hygiene. Safety  
31 devices and safeguards required to be furnished by the

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1 firefighter employer by this section or by the division under  
2 authority of this section shall not include personal apparel  
3 and protective devices that replace personal apparel normally  
4 worn by firefighter employees during regular working hours.

5 633.808 Division authority.--The division shall:

6 (1) Investigate and prescribe by rule what safety  
7 devices, safeguards, or other means of protection must be  
8 adopted for the prevention of accidents in every firefighter  
9 employee place of employment or at any fire scene; determine  
10 what suitable devices, safeguards, or other means of  
11 protection for the prevention of occupational diseases must be  
12 adopted or followed in any or all such firefighter places of  
13 employment or at any fire scene; and adopt reasonable rules  
14 for the prevention of accidents, the safety, protection, and  
15 security of firefighter employees engaged in interior  
16 firefighting, and the prevention of occupational diseases.

17 (2) Ascertain, fix, and order such reasonable  
18 standards and rules for the construction, repair, and  
19 maintenance of firefighter employee places of employment as  
20 shall render them safe. Such rules and standards shall be  
21 adopted in accordance with chapter 120.

22 (3) Assist firefighter employers in the development  
23 and implementation of firefighter employee safety training  
24 programs by contracting with professional safety  
25 organizations.

26 (4) Adopt rules prescribing recordkeeping  
27 responsibilities for firefighter employers, which may include  
28 maintaining a log and summary of occupational injuries,  
29 diseases, and illnesses, for producing on request a notice of  
30 injury and firefighter employee accident investigation  
31 records, and prescribing a retention schedule for such

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1 records.  
2 633.809 Firefighter employers whose firefighter  
3 employees have a high frequency of work-related injuries.--The  
4 division shall develop a means by which the division may  
5 identify individual firefighter employers whose firefighter  
6 employees have a high frequency or severity of work-related  
7 injuries. The division shall carry out safety inspections of  
8 the facilities and operations of those firefighter employers  
9 in order to assist them in reducing the frequency and severity  
10 of work-related injuries. The division shall develop safety  
11 and health programs for those firefighter employers. Insurers  
12 shall distribute such safety and health programs to the  
13 firefighter employers so identified by the division. Those  
14 firefighter employers identified by the division as having a  
15 high frequency or severity of work-related injuries shall  
16 implement a safety and health program developed by the  
17 division. The division shall carry out safety inspections of  
18 those firefighter employers so identified to ensure compliance  
19 with the safety and health program and to assist such  
20 firefighter employers in reducing the number of work-related  
21 injuries. The division may not assess penalties as a result  
22 of such inspections, except as provided by s. 633.813. Copies  
23 of any report made as the result of such an inspection shall  
24 be provided to the firefighter employer and its insurer.  
25 Firefighter employers may submit their own safety and health  
26 programs to the division for approval in lieu of using the  
27 safety and health program developed by the division. The  
28 division shall promptly review the program submitted and  
29 approve or disapprove the program within 60 days or such  
30 program shall be deemed approved. Upon approval by the  
31 division, the program shall be implemented by the firefighter

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1 employer. If the program is not approved or if a program is  
2 not submitted, the firefighter employer shall implement the  
3 program developed by the division. The division shall adopt  
4 rules setting forth the criteria for safety and health  
5 programs, as such rules relate to this section.

6 633.810 Workplace safety committees and safety  
7 coordinators.--

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

10 (a) Each firefighter employer of 20 or more  
11 firefighter employees shall establish and administer a  
12 workplace safety committee in accordance with rules adopted  
13 under this section.

14 (b) Each firefighter employer of fewer than 20  
15 firefighter employees identified by the division as having  
16 high frequency or high severity of work-related injuries shall  
17 establish and administer a workplace safety committee or  
18 designate a workplace safety coordinator who shall establish  
19 and administer workplace safety activities in accordance with  
20 rules adopted under this section.

21 (2) The division shall adopt rules:

22 (a) Prescribing the membership of the workplace safety  
23 committees so as to ensure an equal number of firefighter  
24 employee representatives who are volunteers or are elected by  
25 their peers and firefighter employer representatives, and  
26 specifying the frequency of meetings.

27 (b) Requiring firefighter employers to make adequate  
28 records of each meeting and to file and to maintain the  
29 records subject to inspection by the division.

30 (c) Prescribing the duties and functions of the  
31 workplace safety committee and workplace safety coordinator,

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1 which include, but are not limited to:

2 1. Establishing procedures for workplace safety  
3 inspections by the committee.

4 2. Establishing procedures for investigating all  
5 workplace accidents, safety-related incidents, illnesses, and  
6 deaths.

7 3. Evaluating accident prevention and illness  
8 prevention programs.

9 4. Prescribing guidelines for the training of safety  
10 committee members.

11 (3) The composition, selection, and function of  
12 workplace safety committees shall be a mandatory topic of  
13 negotiations with any certified collective bargaining agent  
14 for firefighter employers that operate under a collective  
15 bargaining agreement. Firefighter employers that operate  
16 under a collective bargaining agreement that contains  
17 provisions regulating the formation and operation of workplace  
18 safety committees that meet or exceed the minimum requirements  
19 contained in this section, or firefighter employers who  
20 otherwise have existing workplace safety committees that meet  
21 or exceed the minimum requirements established by this  
22 section, are in compliance with this section.

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

27 633.811 Firefighter employer penalties.--If any  
28 firefighter employer violates or fails or refuses to comply  
29 with ss. 633.801-633.821, or with any rule adopted by the  
30 division under such sections in accordance with chapter 120  
31 for the prevention of injuries, accidents, or occupational

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

21 633.812 Division cooperation with Federal Government;  
22 exemption from requirements for private firefighter  
23 employers.--

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

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

31 (a) The private firefighter employer is subject to the

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1 federal regulations in 29 C.F.R. ss. 1910 and 1926.

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

5 (c) A private firefighter employer with 20 or more  
6 full-time firefighter employees shall include provisions for a  
7 safety committee in the safety program. The safety committee  
8 shall include firefighter employee representation and shall  
9 meet at least once each calendar quarter. The private  
10 firefighter employer shall make adequate records of each  
11 meeting and maintain the records subject to inspections under  
12 subsection (3). The safety committee shall, if appropriate,  
13 make recommendations regarding improvements to the safety  
14 program and corrections of hazards affecting workplace safety.

15 (d) The private firefighter employer provides the  
16 division with a written statement that certifies compliance  
17 with this subsection.

18 (3) The division may enter at any reasonable time any  
19 place of private firefighter employment for the purpose of  
20 verifying the accuracy of the written certification. If the  
21 division determines that the private firefighter employer has  
22 not complied with the requirements of subsection (2), the  
23 private firefighter employer shall be subject to the rules of  
24 the division until the private firefighter employer complies  
25 with subsection (2) and recertifies that fact to the division.

26 (4) This section shall not restrict the division's  
27 performance of any duties pursuant to a written contract  
28 between the division and the federal Occupational Safety and  
29 Health Administration.

30 633.813 Failure to implement a safety and health  
31 program; cancellations.--If a firefighter employer that is

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1 found by the division to have a high frequency or severity of  
2 work-related injuries fails to implement a safety and health  
3 program, the insurer or self-insurer's fund that is providing  
4 coverage for the firefighter employer may cancel the contract  
5 for insurance with the firefighter employer. In the  
6 alternative, the insurer or fund may terminate any discount or  
7 deviation granted to the firefighter employer for the  
8 remainder of the term of the policy. If the contract is  
9 canceled or the discount or deviation is terminated, the  
10 insurer shall make such reports as are required by law.

11 633.814 Expenses of administration.--The amounts that  
12 are needed to administer ss. 633.801-633.821 shall be  
13 disbursed from the Insurance Commissioner's Regulatory Trust  
14 Fund.

15 633.815 Refusal to admit; penalty.--The division and  
16 authorized representatives of the division may enter and  
17 inspect any firefighter place of employment at any reasonable  
18 time for the purpose of investigating compliance with ss.  
19 633.801-633.821 and conducting inspections for the proper  
20 enforcement of ss. 633.801-633.821. A firefighter employer  
21 who refuses to admit any member of the division or authorized  
22 representative of the division to any place of employment or  
23 to allow investigation and inspection pursuant to this section  
24 commits a misdemeanor of the second degree, punishable as  
25 provided in s. 775.082 or s. 775.083.

26 633.816 Firefighter employee rights and  
27 responsibilities.--

28 (1) Each firefighter employee of a firefighter  
29 employer covered under ss. 633.801-633.821 shall comply with  
30 rules adopted by the division and with reasonable workplace  
31 safety and health standards, rules, policies, procedures, and



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1 work practices established by the firefighter employer and the  
2 workplace safety committee. A firefighter employee who  
3 knowingly fails to comply with this subsection may be  
4 disciplined or discharged by the firefighter employer.

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

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

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

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

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

19 633.817 Compliance.--Failure of a firefighter employer  
20 or an insurer to comply with ss. 633.801-633.821, or with any  
21 rules adopted under ss. 633.801-633.821, constitutes grounds  
22 for the division to seek remedies, including injunctive  
23 relief, by making appropriate filings with the circuit court.

24 633.818 False statements to insurers.--A firefighter  
25 employer who knowingly and willfully falsifies or conceals a  
26 material fact, who makes a false, fictitious, or fraudulent  
27 statement or representation, or who makes or uses any false  
28 document knowing the document to contain any false,  
29 fictitious, or fraudulent entry or statement to an insurer of  
30 workers' compensation insurance under ss. 633.801-633.821  
31 commits a misdemeanor of the second degree, punishable as

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1 provided in s. 775.082 or s. 775.083.

2 633.819 Matters within jurisdiction of the division;  
3 false, fictitious, or fraudulent acts, statements, and  
4 representations prohibited; penalty; statute of  
5 limitations.--A person may not, in any matter within the  
6 jurisdiction of the division, knowingly and willfully falsify  
7 or conceal a material fact; make any false, fictitious, or  
8 fraudulent statement or representation; or make or use any  
9 false document, knowing the same to contain any false,  
10 fictitious, or fraudulent statement or entry. A person who  
11 violates this section commits a misdemeanor of the second  
12 degree, punishable as provided in s. 775.082 or s. 775.083.  
13 The statute of limitations for prosecution of an act committed  
14 in violation of this section is 5 years after the date the act  
15 was committed or, if not discovered within 30 days after the  
16 act was committed, 5 years after the date the act was  
17 discovered.

18 633.820 Volunteer firefighters.--Sections  
19 633.803-633.821 apply to volunteer firefighters and volunteer  
20 fire departments.

21 633.821 Workplace safety.--

22 (1) The division shall assist in making the  
23 firefighter employee place of employment a safer place to work  
24 and decreasing the frequency and severity of on-the-job  
25 injuries in such workplace.

26 (2) The division shall have the authority to adopt  
27 rules for the purpose of ensuring safe working conditions for  
28 all firefighter employees by authorizing the enforcement of  
29 effective standards, by assisting and encouraging firefighter  
30 employers to maintain safe working conditions, and by  
31 providing for education and training in the field of safety.

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1 Specifically, the division may by rule adopt all or any part  
2 of subparts C through T and subpart Z of 29 C.F.R. s. 1910, as  
3 revised April 8, 1998; the National Fire Protection  
4 Association, Inc., Standard 1500, paragraph 5-7 (Personal  
5 Alert Safety System) (1992 edition); and ANSI A 10.4-1990.

6 (3) With respect to 29 C.F.R. s. 1910.134(g)(4), the  
7 two individuals located outside the immediately dangerous to  
8 life and health atmosphere may be assigned to an additional  
9 role, such as incident commander, pumper operator, engineer,  
10 or driver, so long as such individual is able to immediately  
11 perform assistance or rescue activities without jeopardizing  
12 the safety or health of any firefighter working at an  
13 incident. Also with respect to 29 C.F.R. s. 1910.134(g)(4):

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

17 (b) If any county, municipality, or special district  
18 is unable to implement such provision by April 1, 2002,  
19 without adding additional personnel to its firefighting staff  
20 or expending significant additional funds, such county,  
21 municipality, or special district shall have an additional 6  
22 months within which to implement such provision. Such county,  
23 municipality, or special district shall notify the division  
24 that the 6-month extension to implement such provision is in  
25 effect in such county, municipality, or special district  
26 within 30 days after its decision to extend the time for the  
27 additional 6 months. The decision to extend the time for  
28 implementation shall be made prior to April 1, 2002.

29 (c) If, after the extension granted in paragraph (b),  
30 the county, municipality, or special district, after having  
31 worked with and cooperated fully with the division and the

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1 Firefighters Employment, Standards, and Training Council, is  
2 still unable to implement such provisions without adding  
3 additional personnel to its firefighting staff or expending  
4 significant additional funds, such municipality, county, or  
5 special district shall be exempt from the requirements of 29  
6 C.F.R. s. 1910.134(g)(4). However, each year thereafter the  
7 division shall review each such county, municipality, or  
8 special district to determine if such county, municipality, or  
9 special district has the ability to implement such provision  
10 without adding additional personnel to its firefighting staff  
11 or expending significant additional funds. If the division  
12 determines that any county, municipality, or special district  
13 has the ability to implement such provision without adding  
14 additional personnel to its firefighting staff or expending  
15 significant additional funds, the division shall require such  
16 county, municipality, or special district to implement such  
17 provision. Such requirement by the division under this  
18 paragraph constitutes final agency action subject to chapter  
19 120.

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

22 (5) The division may adopt any rule necessary to  
23 implement, interpret, and make specific the provisions of this  
24 section, provided the division may not adopt by rule any other  
25 standard or standards of the Occupational Safety and Health  
26 Administration or the National Fire Protection Association  
27 relating solely to ss. 633.801-633.821 and firefighter  
28 employment safety without specific legislative authority.

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

31 633.31 Firefighters Employment, Standards, and

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1 Training Council.--

2 (1) There is created within the Department of  
3 Insurance a Firefighters Employment, Standards, and Training  
4 Council of 13 ~~nine~~ members ~~appointed by the State Fire~~  
5 ~~Marshal~~. Two members shall be fire chiefs appointed by the  
6 Florida Fire Chiefs Association, two members shall be  
7 firefighters who are not officers, appointed by the Florida  
8 Professional Firefighters Association, two members shall be  
9 firefighter officers who are not fire chiefs, appointed by the  
10 State Fire Marshal, one member appointed by the Florida League  
11 of Cities, one member appointed by the Florida Association of  
12 Counties, one member appointed by the Florida Association of  
13 Special Districts, one member appointed by the Florida Fire  
14 Marshal's Association, and one member appointed by the State  
15 Fire Marshal, and one member shall be a director or instructor  
16 of a state-certified firefighting training facility appointed  
17 by the State Fire Marshal. To be eligible for appointment as a  
18 fire chief member, firefighter officer member, firefighter  
19 member, or a director or instructor of a state-certified  
20 firefighting facility, a person shall have had at least 4  
21 years' experience in the firefighting profession. The  
22 remaining member, who shall be appointed by the State Fire  
23 Marshal, ~~two members~~ shall not be a member or representative  
24 ~~members~~ of the firefighting profession or of any local  
25 government. Members shall serve only as long as they continue  
26 to meet the criteria under which they were appointed, or  
27 unless a member has failed to appear at three consecutive and  
28 properly noticed meetings unless excused by the chair.

29 (2) ~~Initially, the State Fire Marshal shall appoint~~  
30 ~~three members for terms of 4 years, two members for terms of 3~~  
31 ~~years, two members for terms of 2 years, and two members for~~

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1 ~~terms of 1 year. Thereafter,~~ Members shall be appointed for  
2 4-year terms and in no event shall a member serve more than  
3 two consecutive terms. Any vacancy shall be filled in the  
4 manner of the original appointment for the remaining time of  
5 the term.

6 (3) The State Fire Marshal, in making her or his  
7 appointments, shall take into consideration representation by  
8 geography, population, and other relevant factors, in order  
9 that the membership on the council will be apportioned to give  
10 representation to the state at large rather than to a  
11 particular area.

12 (4) Membership on the council shall not disqualify a  
13 member from holding any other public office or being employed  
14 by a public entity, except that no member of the Legislature  
15 shall serve on the council.

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

18 633.33 Special powers; firefighter training.--The  
19 council shall have special powers in connection with the  
20 employment and training of firefighters to:

21 (4) Consult and cooperate with any employing agency,  
22 university, college, community college, the Florida State Fire  
23 College, or other educational institution concerning the  
24 employment and safety of firefighters, including, but not  
25 limited to, the safety of firefighters while at the scene of a  
26 fire or the scene of an incident related to the provision of  
27 emergency services to which a firefighter responds, and the  
28 development of firefighter training schools and programs of  
29 courses of instruction, including, but not limited to,  
30 education and training in the areas of firefighter employment,  
31 fire science, fire technology, fire administration, and all

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1 allied and supporting fields.

2 (5) Make or support studies on any aspect of  
3 firefighting employment, education, and training or  
4 recruitment.

5 Section 18. Paragraph (c) of subsection (3) of section  
6 383.3362, Florida Statutes, is amended to read:

7 383.3362 Sudden Infant Death Syndrome.--

8 (3) TRAINING.--

9 (c) The Department of Health, in consultation with the  
10 Emergency Medical Services Advisory Council, the Firefighters  
11 Employment, Standards, and Training Council, and the Criminal  
12 Justice Standards and Training Commission, shall develop and  
13 adopt, by rule, curriculum that, at a minimum, includes  
14 training in the nature of SIDS, standard procedures to be  
15 followed by law enforcement agencies in investigating cases  
16 involving sudden deaths of infants, and training in responding  
17 appropriately to the parents or caretakers who have requested  
18 assistance.

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

21 633.30 Standards for firefighting; definitions.--As  
22 used in this chapter:

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

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

27 633.32 Organization; meetings; quorum; compensation;  
28 seal.--

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

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

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

7           163.05 Small County Technical Assistance Program.--

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

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

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

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

19           (a) Be a foundation that meets the requirements for  
20 nonprofit status under s. 501(c)(3) of the Internal Revenue  
21 Code with a governing board which includes in its membership  
22 county commissioners and professional staff of the county  
23 ~~public agency or private, nonprofit corporation, association,~~  
24 ~~or entity.~~

25           **(b)** Have substantial and documented experience working  
26 closely with county governments in providing both educational  
27 and technical assistance.

28           ~~(c)~~**(b)** Use existing resources, services, and  
29 information that are available from state or local agencies,  
30 universities, or the private sector.

31           ~~(d)~~**(e)** Seek and accept funding from any public or



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1 private source.

2 ~~(d) Annually submit information to assist the~~  
 3 ~~Legislative Committee on Intergovernmental Relations in~~  
 4 ~~preparing a performance review that will include an analysis~~  
 5 ~~of the effectiveness of the program.~~

6 (e) Assist small counties in developing alternative  
 7 revenue sources.

8 (f) Provide assistance to small counties in ~~the~~ areas  
 9 such as of financial management, accounting, investing,  
 10 purchasing, planning and budgeting, debt issuance, public  
 11 management, management systems, computers and information  
 12 technology, economic and community development, and public  
 13 safety management.

14 (g) Provide for an annual independent financial audit  
 15 of the program.

16 (h) In each county served, conduct a needs assessment  
 17 upon which the assistance provided for that county will be  
 18 designed.

19 (5)(a) The Commissioner of Agriculture ~~Comptroller~~  
 20 shall issue a request for proposals to provide assistance to  
 21 small counties. The request for proposals shall be required no  
 22 more frequently than every third year beginning with fiscal  
 23 year 2004-2005. All contracts in existence on the effective  
 24 date of this act between the Comptroller and any other party  
 25 with respect to the Small County Technical Assistance Program  
 26 may be accepted by the Commissioner of Agriculture as the  
 27 party in interest and said contracts shall remain in full  
 28 force and effect according to their terms. ~~At the request of~~  
 29 ~~the Comptroller, the Legislative Committee on~~  
 30 ~~Intergovernmental Relations shall assist in the preparation of~~  
 31 ~~the request for proposals.~~

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

3           ~~(c) The Legislative Committee on Intergovernmental~~  
4 ~~Relations shall review each contract proposal and submit to~~  
5 ~~the Comptroller, in writing, advisory comments and~~  
6 ~~recommendations, citing with specificity the reasons for its~~  
7 ~~recommendations.~~

8           ~~(c)(d)~~ The Commissioner of Agriculture ~~Comptroller~~ and  
9 the ~~council~~ shall consider the following factors in reviewing  
10 contract proposals:

11           1. The demonstrated capacity of the provider to  
12 conduct needs assessments and implement the program as  
13 proposed.

14           2. The number of small counties to be served under the  
15 proposal.

16           3. The cost of the program as specified in a proposed  
17 budget.

18           4. The short-term and long-term benefits of the  
19 assistance to small counties.

20           5. The form and extent to which existing resources,  
21 services, and information that are available from state and  
22 local agencies, universities, and the private sector will be  
23 used by the provider under the contract.

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

28           ~~(7) The Comptroller may enter into contracts and~~  
29 ~~agreements with other state and local agencies and with any~~  
30 ~~person, association, corporation, or entity other than the~~  
31 ~~program providers, for the purpose of administering this~~

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1 ~~section.~~

2       ~~(7)(8)~~ The Commissioner of Agriculture Comptroller  
3 shall provide fiscal oversight to ensure that funds expended  
4 for the program are used in accordance with the contracts  
5 entered into pursuant to subsection (4) and shall conduct a  
6 performance review of the program as may be necessary to  
7 ensure that the goals and objectives of the program are being  
8 met.

9       ~~(9) The Legislative Committee on Intergovernmental~~  
10 ~~Relations shall annually conduct a performance review of the~~  
11 ~~program. The findings of the review shall be presented in a~~  
12 ~~report submitted to the Governor, the President of the Senate,~~  
13 ~~the Speaker of the House of Representatives, and the~~  
14 ~~Comptroller by January 15 of each year.~~

15       Section 23. Effective June 30, 2002, Specific  
16 Appropriation 2252 in the 2002-2003 General Appropriations Act  
17 is hereby repealed and an identical amount is hereby  
18 appropriated to the Department of Agriculture and Consumer  
19 Services from the General Revenue Fund for the purposes of  
20 this act.

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

23  
24

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

26 And the title is amended as follows:

27       Delete everything before the enacting clause

28

29 and insert:

30

                  A bill to be entitled

31

                  An act relating to governmental reorganization;

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

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

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1 the Division of Statutory Revision for certain  
2 purposes; amending s. 1, ch. 2002-194, Laws of  
3 Florida; providing an exception to a transfer  
4 provided for in said act; amending s. 288.99,  
5 F.S.; redefining the terms "early stage  
6 technology business" and "qualified  
7 distribution"; defining the terms "Program One"  
8 and "Program Two"; revising procedures and  
9 dates for certification and decertification  
10 under Program One and Program Two; revising the  
11 process for earning premium tax credits;  
12 providing a limitation on tax credits under  
13 Program Two; providing for distributions under  
14 both programs; requiring the Department of  
15 Revenue to adopt certain rules; providing for  
16 additional premium; providing for additional  
17 allocations of certain insurance premium tax  
18 credits under certain circumstances;  
19 authorizing the Department of Revenue to adopt  
20 rules; amending s. 517.12, Florida Statutes;  
21 exempting general lines insurance agents and  
22 life insurance agents from registration  
23 requirements relating to sales of certain  
24 securities in certain circumstances; amending  
25 s. 570.07, F.S.; specifying emergency powers of  
26 the Commissioner of Agriculture; amending s.  
27 624.91, F.S.; revising provisions of the  
28 Florida Healthy Kids Corporation Act, to  
29 conform; creating ss. 633.801, 633.802,  
30 633.803, 633.804, 633.805, 633.806, 633.807,  
31 633.808, 633.809, 633.810, 633.811, 633.812,

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

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



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1           appropriation; providing effective dates.  
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