

By Senator Gaetz

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1 A bill to be entitled
2 An act relating to the administrative authority of the
3 executive branch; affirming that Executive Orders 11-
4 72 and 11-211 are consistent with the law and public
5 policy of this state; providing legislative intent;
6 amending s. 20.02, F.S.; providing that gubernatorial
7 appointees are generally subject to the oversight,
8 direction, and control of the Governor; amending s.
9 20.03, F.S.; redefining the term "agency head";
10 specifying that an agency head who is appointed by and
11 serves at the pleasure of the Governor remains subject
12 to the supervision, direction, and control of the
13 Governor; defining the term "serve at the pleasure";
14 specifying that an appointee who serves at the
15 pleasure of an appointing authority remains subject to
16 the direction, supervision, and control of the
17 appointing authority; amending s. 20.05, F.S.;
18 specifying that certain statutory directives to heads
19 of department are subject to the allocation of
20 executive power under the State Constitution; creating
21 s. 120.515, F.S.; specifying that ch. 120, F.S., does
22 not limit or impinge upon the authority of an
23 appointing authority to direct and supervise an
24 appointee serving at the pleasure of the appointing
25 authority; amending s. 120.52, F.S.; specifying that
26 certain acts of an agency head who serves at the
27 pleasure of an appointing authority are official acts,
28 notwithstanding the authority of an appointing
29 authority to direct and supervise the agency head;

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30 amending s. 14.34, F.S.; deleting the authority of the
31 Executive Office of the Governor to adopt rules
32 relating to the award of the Governor's Medal of
33 Merit; amending s. 15.16, F.S.; deleting the authority
34 of the Department of State to adopt rules relating to
35 apostilles conforming to the Hague Convention of 1961;
36 amending s. 15.18, F.S.; deleting the authority of the
37 Secretary of State to adopt rules relating to
38 contracts that are primarily for promotional services
39 and events; deleting a requirement that appropriated
40 funds be expended in accordance with part I of ch.
41 287, F.S.; amending s. 16.60, F.S.; deleting the
42 authority of the Attorney General to adopt rules of
43 procedure to govern its mediation proceedings;
44 amending s. 17.0416, F.S.; deleting the authority of
45 the Department of Financial Services to adopt rules
46 relating to contractual agreements to provide
47 accounting and payroll services on a fee basis;
48 amending s. 17.59, F.S.; deleting the authority of the
49 Chief Financial Officer to adopt rules for the
50 management and maintenance of the collateral
51 management service; repealing s. 25.371, F.S., which
52 relates to the effect of rules adopted by the Supreme
53 Court; repealing s. 28.43, F.S., which relates to the
54 authority of the Department of Revenue to adopt rules
55 relating to the clerks of court; repealing s. 35.07,
56 F.S., which relates to the power of the district
57 courts of appeal to make rules and regulations;
58 amending s. 39.0137, F.S.; deleting the authority of

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59 the Department of Children and Family Services to
60 adopt rules to ensure that the requirements of the
61 Indian Child Welfare Act and the Multi-Ethnic
62 Placement Act of 1994 are enforced; amending s.
63 39.824, F.S.; deleting a request that the Supreme
64 Court adopt rules of juvenile procedure; amending s.
65 63.167, F.S.; deleting the authority of the Department
66 of Children and Family Services to adopt rules
67 relating to the establishment and operation of the
68 state adoption information center; repealing s.
69 88.9051, F.S., which relates to the authority of the
70 Department of Children and Family Services to adopt
71 rules to implement ch. 88, F.S.; amending s. 97.026,
72 F.S.; deleting the authority of the Department of
73 State to adopt rules relating to the provision of
74 forms and ballots in alternative formats; amending s.
75 97.0555, F.S.; deleting the authority of the
76 Department of State to adopt rules specifying
77 documentation that is sufficient for certain
78 individuals to qualify for late registration to vote;
79 amending s. 97.061, F.S.; deleting the authority of
80 the Department of State to adopt rules relating to
81 registration of persons to vote who are unable to read
82 or write or who are disabled; amending s. 101.56062,
83 F.S.; deleting the authority of the Department of
84 State to adopt rules relating to standards for
85 accessible voting systems; amending s. 103.101, F.S.;
86 deleting the authority of the Department of State to
87 promulgate rules relating to the conduct of the

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88 presidential preference primary ballot; amending s.
89 106.165, F.S.; deleting the authority of the
90 Department of State to adopt rules relating to
91 requirements to use closed captioning and descriptive
92 narratives in certain television broadcasts; amending
93 s. 110.1099, F.S.; deleting the authority of the
94 Department of Management Services to adopt rules
95 relating to educational and training opportunities for
96 state employees; amending s. 110.1228, F.S.; deleting
97 the authority of the Department of Management Services
98 to adopt rules relating to the participation of small
99 counties, small municipalities, and district school
100 boards located in small counties to participate in the
101 state group health insurance program; amending s.
102 110.12301, F.S.; deleting the authority of the
103 Department of Management Services to adopt rules
104 providing a process for verifying dependent
105 eligibility in the state group insurance program;
106 amending s. 112.1915, F.S.; deleting the authority of
107 the State Board of Education to adopt rules relating
108 to death benefits for teachers and school
109 administrators; amending s. 118.12, F.S.; deleting the
110 authority of the Department of State to adopt rules
111 relating to the certification of a civil notary's
112 authority; amending s. 121.085, F.S.; deleting the
113 authority of the Department of Management Services to
114 adopt rules relating to the submission of information
115 necessary to establish a member's claim for creditable
116 service; providing an effective date.

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118 WHEREAS, for the preservation of liberty and the protection
119 of individual rights, the people of this state adopted a
120 republican form of government delegating and limiting sovereign
121 power to be exercised by their representatives in three
122 separate, but equal, branches: the legislative, the executive,
123 and the judicial, and

124

125 WHEREAS, under Article IV of the State Constitution the
126 people vested supreme executive power in the Governor and
127 apportioned specific substantive powers among the other elected
128 officers designated in that article, including the Lieutenant
129 Governor, the Attorney General, the Chief Financial Officer, and
the Commissioner of Agriculture, and

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131 WHEREAS, Alexander Hamilton stated in the Federalist No. 70
132 that energy in the executive is a leading character in the
133 definition of good government, and

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135 WHEREAS, Alexander Hamilton further stated in the
136 Federalist No. 70 that a feeble executive implies a feeble
137 execution of the government; that a feeble execution is but
138 another phrase for a bad execution; and that a government ill-
executed, whatever it may be in theory, must be in practice a
bad government, and

139

140 WHEREAS, since the framing of Florida's first constitution
141 in 1838, the people have adhered to the principles expressed by
142 Mr. Hamilton in the vesting of supreme executive power directly
143 in the Governor but choosing to vest other specific executive
powers directly in other denominated officials or entities, and

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145 WHEREAS, in uninterrupted consistency with their
longstanding vesting of the supreme executive power in the

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146 Governor, the people in 1968 adopted s. 6, Art. IV of the State
147 Constitution, generally directing and limiting the Legislature
148 to allot the functions of the executive branch among not more
149 than 25 departments and to place the administration of each
150 department under the direct supervision of the Governor, the
151 Lieutenant Governor, the Governor and Cabinet, a cabinet member,
152 or an officer or board appointed by and serving at the pleasure
153 of the Governor, and

154 WHEREAS, each officer of state government is obligated to
155 construe the language of the State Constitution consistent with
156 its express and clearly implied intent, must give words their
157 ordinary and customary meaning unless the context indicates
158 otherwise, must construe all parts together to give them their
159 full effect, and must not construe the terms of the State
160 Constitution to yield an absurd result, and

161 WHEREAS, consistent with s. 6, Art. IV of the State
162 Constitution, the Legislature adopted and the Governor signed
163 into law chapter 69-106, Laws of Florida, which restructured the
164 executive branch into not more than 25 departments and
165 designated their direct administration, and

166 WHEREAS, at the time of adopting chapter 69-106, Laws of
167 Florida, the Legislature was informed that, in submitting s. 6,
168 Art. IV of the 1968 Constitution to the people for approval, the
169 Legislature intended that the proposal ensure that the
170 administration and policies of each executive branch department
171 would be under the final authority and control of the Governor
172 or one or more elected constitutional officers, and

173 WHEREAS, in construing together ss. 1(a) and 6, Art. IV of
174 the State Constitution, the Legislature understands that these

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175 sections create a general legal presumption against the creation
176 of a class of unelected, subordinate officers exercising
177 executive power independent of the direction and supervision of
178 the Governor or one or more specified elected constitutional
179 officers, and

180 WHEREAS, s. 6, Art. IV of the State Constitution has not
181 been amended since its ratification by the people of this state
182 on November 5, 1968, and

183 WHEREAS, an officer appointed by and serving at the
184 pleasure of the Governor to administer a department exercises a
185 portion of the sovereign power allocated under the State
186 Constitution to the executive branch and remains subject to the
187 direction and supervision of one or more elected constitutional
188 officers who have the ultimate accountability to the people for
189 the faithful discharge of such responsibility, and

190 WHEREAS, Justice Polston stated in a dissenting opinion in
191 *Whiley v. Scott*, 2011 WL 3568804, at *17 (Fla. 2011), that the
192 Governor has the constitutional authority to act as this state's
193 chief administrative officer as well as the constitutional duty
194 to faithfully execute this state's laws and to manage and hold
195 agencies under his charge accountable to state laws, including
196 the Administrative Procedure Act, and that the Governor is given
197 broad authority to fulfill his duty in taking care that the laws
198 are faithfully executed, and

199 WHEREAS, Chief Justice Canady stated in a dissenting
200 opinion in *Whiley v. Scott*, 2011 WL 3568804, at *11 (Fla. 2011),
201 that if the phrase "supreme executive power," as used in s. 6,
202 Art. IV of the State Constitution, "means anything, it must mean
203 that the Governor can supervise and direct the policy-making

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204 choices - within the range of choices permitted by law - of the
205 subordinate executive branch officers who serve at his
206 pleasure," and

207 WHEREAS, the Legislature has not insulated discretionary
208 executive policy decisions from the constitutional structure of
209 accountability to elected officials established in Article IV of
210 the State Constitution, and

211 WHEREAS, the Legislature finds that exercise of delegated
212 quasi-legislative power within the parameters of the
213 Administrative Procedure Act and related statutes involves
214 discretionary policy choices by executive branch officers, and
215 that in the exercise of this power, the Legislature has imposed
216 no restriction on the authority of the Governor or any other
217 constitutional officer or collegial body to supervise and direct
218 such policy choices made by subordinate executive branch
219 officials in rulemaking, and

220 WHEREAS, Florida law provides no specific process for
221 carrying out the Governor's executive duties with respect to
222 holding his executive agencies accountable in their rulemaking
223 functions, and

224 WHEREAS, Chief Justice Canady correctly stated in a
225 dissenting opinion in *Whiley v. Scott*, 2011 WL 3568804, at *11
226 (Fla. 2011), "Given the constitutional structure establishing
227 the power and responsibilities of the Governor, it is
228 unjustified to conclude . . . that by assigning rulemaking power
229 to agency heads, the Legislature implicitly divested the
230 Governor of the supervisory power with respect to executive
231 officials who serve at his pleasure," and

232 WHEREAS, a Governor's actions are presumed to be in accord

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233 with the duties of that office, and

234 WHEREAS, a statutory definition of "agency head" is not
235 intended or effective to change the fundamental general
236 principles of Article IV of the State Constitution that
237 executive branch power may be exercised only under the direct or
238 indirect supervision of one or more elected constitutional
239 officers, and that the supervision of any executive agency not
240 expressly allocated to one or more particular constitutional
241 officers remains under the Governor's supreme executive power,
242 and

243 WHEREAS, the Administrative Procedure Act is a uniform
244 procedural statute ensuring full public access and participation
245 in any exercise of delegated legislative authority by executive
246 branch entities, and

247 WHEREAS, the delegation of rulemaking authority by
248 substantive statute and establishment of uniform procedures
249 under the Administrative Procedure Act were intended by the
250 Legislature to conform and comply with the separation of powers
251 required under s. 3, Art. II of the State Constitution, with no
252 general intrusion into the role and authority of the elected
253 executive branch officers as established in Article IV of the
254 State Constitution, and

255 WHEREAS, continual review and assessment of existing and
256 proposed rules is reasonably necessary to ensure that the laws
257 of this state are faithfully executed without unduly burdening
258 the state's economy and imposing needless costs and requirements
259 on residents, businesses, and local governments, and

260 WHEREAS, fiscal accountability by all agencies is
261 reasonably necessary to ensure integrity in state government,

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262 and

263 WHEREAS, while agency heads and personnel bring expertise
264 to a particular subject matter, they are not directly
265 accountable to the electorate and do not necessarily have an
266 incentive to take a systemic approach to regulatory problems, to
267 budget constraints, or to the overall regulatory burden imposed
268 by the state on residents and businesses, and

269 WHEREAS, the elected constitutional officers of this state
270 have a democratic mandate, are directly answerable to the
271 people, and have the duty and power to assess the overall
272 legality, efficiency, and operation of government within their
273 constitutional and statutory jurisdictions, and

274 WHEREAS, review and oversight of agency rulemaking are
275 encompassed by the Governor's powers and duties under ss. 1(a)
276 and 6, Art. IV of the State Constitution to "take care that the
277 laws be faithfully executed" and to serve as "the chief
278 administrative officer of the state responsible for the planning
279 and budgeting for the state," and

280 WHEREAS, the State Constitution and the Florida Statutes
281 establish that many agencies of state government are
282 administered by an officer appointed by and serving at the
283 pleasure of the Governor, and in order to determine whether an
284 officer continues to serve at the Governor's pleasure, it is
285 necessary for the Governor to set expectations and standards for
286 that officer, and to measure agency performance against those
287 expectations and standards, and

288 WHEREAS, Executive Orders 11-01 and 11-72 established the
289 Office of Fiscal Accountability and Regulatory Reform to ensure
290 that agency rules, proposed and existing, are efficient, are not

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291 overly burdensome, and faithfully adhere to statutes as enacted
292 by the Legislature, and

293 WHEREAS, upon establishment of the Office of Fiscal
294 Accountability and Regulatory Reform, all agencies under the
295 direction of the Governor were required to obtain review by the
296 office and receive approval before developing new rules or
297 amending or repealing existing rules, and

298 WHEREAS, the review process under the Office of Fiscal
299 Accountability and Regulatory Reform has facilitated the
300 Governor's exercise of his power and duty to serve as the chief
301 executive and administrative officer of the state, and

302 WHEREAS, the review process of the Office of Fiscal
303 Accountability and Regulatory Reform has facilitated the
304 Governor's planning and budgeting for the state, and

305 WHEREAS, the Office of Fiscal Accountability and Regulatory
306 Reform has reviewed thousands of rules and regulations and
307 helped agencies identify more than 1,000 unnecessary and
308 unauthorized rules and regulations and recommend that they be
309 repealed, and

310 WHEREAS, since January 4, 2011, the Office of Fiscal
311 Accountability and Regulatory Reform has reviewed hundreds of
312 proposed agency rulemaking actions, and

313 WHEREAS, the review process of the Office of Fiscal
314 Accountability and Regulatory Reform has thus far been
315 successful in helping to ensure the efficient and effective
316 performance of state government, and

317 WHEREAS, a majority of five of the seven justices of the
318 Supreme Court of Florida held in *Whiley v. Scott*, 2011 WL
319 3568804, at *1 (Fla. 2011), that Executive Orders 11-01 and 11-

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320 72 "impermissibly suspended agency rulemaking to the extent that
321 [they] include a requirement that the Office of Fiscal
322 Accountability and Regulatory Reform must first permit an agency
323 to engage in the rulemaking that has been delegated by the
324 Florida Legislature," and

325 WHEREAS, the majority opinion in *Whiley* failed to address
326 and apply the plain meaning of ss. 1 and 6, Art. IV of the State
327 Constitution, and thereby may be read to restrain the power of
328 the Governor under general law with respect to the supervision
329 of agency heads, and

330 WHEREAS, the majority opinion in *Whiley* failed to address
331 the implications of the Court's precedent in *Jones v. Chiles*,
332 638 So.2d 48 (Fla. 1994), which recognized the proper scope of
333 executive power under the State Constitution, and

334 WHEREAS, the majority opinion in *Whiley* failed to address
335 the precedent set by dozens of executive orders issued by
336 previous Florida governors, and

337 WHEREAS, the majority opinion in *Whiley* failed to address
338 the Court's holding in *Chiles v. Children A, B, C, D, E, and F*,
339 589 So.2d 260, 263 (Fla. 1991), that "[t]he principles
340 underlying the governmental separation of powers antedate our
341 Florida Constitution and were collectively adopted by the union
342 of states in our federal constitution," and, in light of that
343 precedent, failed to consider that Executive Orders 11-01 and
344 11-72 cannot be meaningfully distinguished from similar
345 executive orders issued by the last four presidents of the
346 United States and the governors of a least 29 other states, and

347 WHEREAS, the majority opinion in *Whiley* unreasonably relied
348 on a 1983 opinion of the Attorney General, which the Attorney

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349 General distinguished and limited to its facts in an *amicus*
350 brief in *Whiley*, and

351 WHEREAS, the opinions of the two dissenting justices in
352 *Whiley* state the correct interpretation of the State
353 Constitution and present persuasive reasoning and arguments in
354 support of that interpretation, and

355 WHEREAS, the Supreme Court withheld the writ sought by the
356 plaintiff in *Whiley*, and

357 WHEREAS, notwithstanding the other provisions of this
358 preamble, the majority opinion in *Whiley* is to be afforded the
359 deference due an advisory opinion of the Supreme Court as no
360 writ or other final order was entered, NOW, THEREFORE,

361

362 Be It Enacted by the Legislature of the State of Florida:

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364 Section 1. Executive Orders 11-72 and 11-211 are affirmed
365 as being consistent with the law and public policy of the state.

366 Section 2. The Legislature intends that the amendments to
367 ss. 20.02, 20.03, and 20.05, Florida Statutes, made by this act
368 which apply to the organizational structure of the executive
369 branch, and that the creation of s. 120.515, Florida Statutes,
370 and the amendment to s. 120.52, Florida Statutes, made by this
371 act which apply to administrative procedure are to clarify that
372 the placement of an executive department under the direct
373 administration of an officer or board appointed by and serving
374 at the pleasure of the Governor does not implicitly limit or
375 restrict the Governor's authority and responsibility to direct
376 and supervise the actions, policies, and process of such officer
377 or board. The Legislature further intends that the statutory

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378 changes serve as a rejection of any interpretation of the State
379 Constitution or the Florida Statutes which concludes that an
380 unelected agency head has authority to act independently of the
381 direction and supervision of the Governor, except as may be
382 clearly, expressly, and specifically provided by general law.

383 Section 3. Present subsections (3) through (7) of section
384 20.02, Florida Statutes, are renumbered as subsections (4)
385 through (8), respectively, and a new subsection (3) is added to
386 that section, to read:

387 20.02 Declaration of policy.—

388 (3) Unless otherwise expressly provided in this chapter,
389 the administration of any executive branch department or entity
390 placed under the direct supervision of an officer or board
391 appointed by and serving at the pleasure of the Governor shall
392 remain at all times under the executive authority of the
393 Governor, pursuant to ss. 1(a) and 6, Art. IV of the State
394 Constitution, and subject to the oversight, direction, and
395 supervision of the Governor.

396 Section 4. Subsections (4) and (5) of section 20.03,
397 Florida Statutes, are amended, and subsection (13) is added to
398 that section, to read:

399 20.03 Definitions.—To provide uniform nomenclature
400 throughout the structure of the executive branch, the following
401 definitions apply:

402 (4) "Head of the department" means the individual to whom
403 or board to which direct administration ~~in charge~~ of the
404 department is allocated by statute. An agency head who is
405 appointed by and serves at the pleasure of the Governor remains
406 subject to the Governor's supervision, direction, and control

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407 under s. 1(a), Art. IV of the State Constitution.

408 (5) "Secretary" means an individual who is appointed by the
409 Governor to head a department and who is not otherwise named in
410 the State Constitution.

411 (13) "Serve at the pleasure" refers to an appointee who
412 serves in the office until removed by the appointing authority.
413 Consistent with ss. 1 and 6, Art. IV of the State Constitution,
414 an appointee serving at the pleasure of the appointing authority
415 remains subject to the direction, supervision, and control of
416 the appointing authority and does not exercise any independent
417 executive power, except as is clearly, expressly, and
418 specifically provided by law. Unless otherwise expressly
419 provided by law, the exercise of statutory authority by such
420 appointee does not require approval of the appointing authority
421 unless expressly required by the directive of the appointing
422 authority.

423 Section 5. Subsection (1) of section 20.05, Florida
424 Statutes, is amended to read:

425 20.05 Heads of departments; powers and duties.—

426 (1) Each head of a department, subject to the allocation of
427 executive power under Art. IV of the State Constitution, and
428 except as otherwise provided by law, must:

429 (a) Plan, direct, coordinate, and execute the powers,
430 duties, and functions vested in that department or vested in a
431 division, bureau, or section of that department; powers and
432 duties assigned or transferred to a division, bureau, or section
433 of the department must not be construed to limit this authority
434 and this responsibility;

435 (b) Have authority, without being relieved of

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436 responsibility, to execute any of the powers, duties, and
437 functions vested in the department or in any administrative unit
438 thereof through administrative units and through assistants and
439 deputies designated by the head of the department from time to
440 time, unless the head of the department is explicitly required
441 by law to perform the same without delegation;

442 (c) Compile annually a comprehensive program budget
443 reporting all program and fiscal matters related to the
444 operation of his or her department, including each program,
445 subprogram, and activity, and other matters as required by law;

446 (d) Reimburse the members of advisory bodies, commissions,
447 and boards of trustees for their actual and necessary expenses
448 incurred in the performance of their duties in accordance with
449 s. 112.061;

450 (e) Subject to the requirements of chapter 120, exercise
451 existing authority to adopt rules pursuant and limited to the
452 powers, duties, and functions transferred to the department;

453 (f) Exercise authority on behalf of the department to
454 accept gifts, grants, bequests, loans, and endowments for
455 purposes consistent with the powers, duties, and functions of
456 the department. All such funds must be deposited in the State
457 Treasury and appropriated by the Legislature for the purposes
458 for which they were received by the department;

459 (g) If a department is under the direct supervision of a
460 board, including a board consisting of the Governor and Cabinet,
461 however designated, employ an executive director to serve at its
462 pleasure; and

463 (h) Make recommendations concerning more effective internal
464 structuring of the department to the Legislature. Unless

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465 otherwise required by law, such recommendations must be provided
466 to the Legislature at least 30 days before the first day of the
467 regular session at which they are to be considered, when
468 practicable.

469 Section 6. Section 120.515, Florida Statutes, is created to
470 read:

471 120.515 Declaration of policy.—This chapter does not limit
472 or impinge upon the allocation of executive power under Art. IV
473 of the State Constitution, including the authority of an
474 appointing authority to direct and supervise an appointee
475 serving at the pleasure of the appointing authority.

476 Section 7. Subsection (3) of section 120.52, Florida
477 Statutes, is amended to read:

478 120.52 Definitions.—As used in this act:

479 (3) "Agency head" means the person or collegial body in a
480 department or other governmental unit statutorily responsible
481 for final agency action. While an agency head appointed by and
482 serving at the pleasure of an appointing authority remains
483 subject to the direction and supervision of the appointing
484 authority, actions taken by the agency head as authorized by law
485 are official acts.

486 Section 8. Subsection (3) of section 14.34, Florida
487 Statutes, is amended to read:

488 14.34 Governor's Medal of Merit.—

489 ~~(3) The Executive Office of the Governor, in consultation~~
490 ~~with the Adjutant General and other appropriate entities, may~~
491 ~~adopt rules pursuant to ss. 120.536(1) and 120.54 to implement~~
492 ~~this section.~~

493 Section 9. Subsection (7) of section 15.16, Florida

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494 Statutes, is amended to read:

495 15.16 Reproduction of records; admissibility in evidence;
496 electronic receipt and transmission of records; certification;
497 acknowledgment.—

498 (7) The Secretary of State may issue apostilles conforming
499 to the requirements of the international treaty known as the
500 Hague Convention of 1961 and may charge a fee for the issuance
501 of apostilles not to exceed \$10 per apostille. The Secretary of
502 State has the sole authority in this state to establish, in
503 accordance with the laws of the United States, the requirements
504 and procedures for the issuance of apostilles. ~~The Department of
505 State may adopt rules to implement this subsection.~~

506 Section 10. Subsection (7) of section 15.18, Florida
507 Statutes, is amended to read:

508 15.18 International and cultural relations.—The Divisions
509 of Cultural Affairs, Historical Resources, and Library and
510 Information Services of the Department of State promote programs
511 having substantial cultural, artistic, and indirect economic
512 significance that emphasize American creativity. The Secretary
513 of State, as the head administrator of these divisions, shall
514 hereafter be known as "Florida's Chief Cultural Officer." As
515 this officer, the Secretary of State is encouraged to initiate
516 and develop relationships between the state and foreign cultural
517 officers, their representatives, and other foreign governmental
518 officials in order to promote Florida as the center of American
519 creativity. The Secretary of State shall coordinate
520 international activities pursuant to this section with
521 Enterprise Florida, Inc., and any other organization the
522 secretary deems appropriate. For the accomplishment of this

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523 purpose, the Secretary of State shall have the power and
524 authority to:

525 ~~(7) Notwithstanding the provisions of part I of chapter~~
526 ~~287, promulgate rules for entering into contracts which are~~
527 ~~primarily for promotional services and events, which may include~~
528 ~~commodities involving a service. Such rules shall include the~~
529 ~~authority to negotiate costs with the offerors of such services~~
530 ~~and commodities who have been determined to be qualified on the~~
531 ~~basis of technical merit, creative ability, and professional~~
532 ~~competency. The rules shall only apply to the expenditure of~~
533 ~~funds donated for promotional services and events. Expenditures~~
534 ~~of appropriated funds shall be made only in accordance with part~~
535 ~~I of chapter 287.~~

536 Section 11. Paragraph (a) of subsection (3) of section
537 16.60, Florida Statutes, is amended to read:

538 16.60 Public records mediation program within the Office of
539 the Attorney General; creation; duties.—

540 (3) The Office of the Attorney General shall:

541 (a) Employ one or more mediators to mediate disputes
542 involving access to public records. A person may not be employed
543 by the department as a mediator unless that person is a member
544 in good standing of The Florida Bar. ~~The Office of the Attorney~~
545 ~~General may adopt rules of procedure to govern its mediation~~
546 ~~proceedings.~~

547 Section 12. Section 17.0416, Florida Statutes, is amended
548 to read:

549 17.0416 Authority to provide services on a fee basis.—

550 ~~(1)~~ The Chief Financial Officer, through the Department of
551 Financial Services, may provide accounting and payroll services

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552 on a fee basis under contractual agreement with eligible
553 entities, including, but not limited to, state universities,
554 community colleges, units of local government, constitutional
555 officers, and any other person or entity having received any
556 property, funds, or moneys from the state. All funds collected
557 by the department under these contracts shall be deposited into
558 the General Revenue Fund.

559 ~~(2) The Department of Financial Services may adopt rules~~
560 ~~necessary to administer this section.~~

561 Section 13. Subsection (3) of section 17.59, Florida
562 Statutes, is amended, and present subsections (4) through (6) of
563 that section are renumbered as subsections (3) through (5),
564 respectively, to read:

565 17.59 Safekeeping services.—

566 ~~(3) The Chief Financial Officer may adopt rules for the~~
567 ~~proper management and maintenance of the collateral management~~
568 ~~service.~~

569 Section 14. Section 25.371, Florida Statutes, is repealed.

570 Section 15. Section 28.43, Florida Statutes, is repealed.

571 Section 16. Section 35.07, Florida Statutes, is repealed.

572 Section 17. Subsection (2) of section 39.0137, Florida
573 Statutes, is amended to read:

574 39.0137 Federal law; rulemaking authority.—

575 (2) ~~The department shall adopt rules no later than July 1,~~
576 ~~2007, to ensure that the provisions of these federal laws are~~
577 ~~enforced in this state.~~ The department is encouraged to enter
578 into agreements with recognized American Indian tribes in order
579 to facilitate the implementation of the Indian Child Welfare
580 Act.

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581 Section 18. Section 39.824, Florida Statutes, is amended to
582 read:

583 39.824 Procedures and jurisdiction.—

584 ~~(1) The Supreme Court is requested to adopt rules of~~
585 ~~juvenile procedure by October 1, 1989, to implement this part.~~
586 ~~All procedures, including petitions, pleadings, subpoenas,~~
587 ~~summonses, and hearings in cases for the appointment of a~~
588 ~~guardian advocate shall be according to the Florida Rules of~~
589 ~~Juvenile Procedure unless otherwise provided by law.~~

590 (2) The circuit court shall have exclusive original
591 jurisdiction of a proceeding in which appointment of a guardian
592 advocate is sought. The court shall retain jurisdiction over a
593 child for whom a guardian advocate is appointed until
594 specifically relinquished by court order.

595 Section 19. Subsection (3) of section 63.167, Florida
596 Statutes, is amended to read:

597 63.167 State adoption information center.—

598 (3) The department shall ensure equitable distribution of
599 referrals to licensed child-placing agencies, ~~and may promulgate~~
600 ~~rules as necessary for the establishment and operation of the~~
601 ~~state adoption information center.~~

602 Section 20. Section 88.9051, Florida Statutes, is repealed.

603 Section 21. Section 97.026, Florida Statutes, is amended to
604 read:

605 97.026 Forms to be available in alternative formats and via
606 the Internet.—It is the intent of the Legislature that all forms
607 required to be used in chapters 97-106 shall be made available
608 upon request, in alternative formats. Such forms shall include
609 absentee ballots as alternative formats for such ballots become

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610 available and the Division of Elections is able to certify
611 systems that provide them. ~~The department may, pursuant to ss.~~
612 ~~120.536(1) and 120.54, adopt rules to administer this section.~~
613 Whenever possible, such forms, with the exception of absentee
614 ballots, shall be made available by the Department of State via
615 the Internet. Sections that contain such forms include, but are
616 not limited to, ss. 97.051, 97.052, 97.053, 97.057, 97.058,
617 97.0583, 97.071, 97.073, 97.1031, 98.075, 99.021, 100.361,
618 100.371, 101.045, 101.171, 101.20, 101.6103, 101.62, 101.64,
619 101.65, 101.657, 105.031, 106.023, and 106.087.

620 Section 22. Section 97.0555, Florida Statutes, is amended
621 to read:

622 97.0555 Late registration.—An individual or accompanying
623 family member who has been discharged or separated from the
624 uniformed services or the Merchant Marine, or from employment
625 outside the territorial limits of the United States, after the
626 book-closing date for an election pursuant to s. 97.055 and who
627 is otherwise qualified may register to vote in such election
628 until 5 p.m. on the Friday before that election in the office of
629 the supervisor of elections. Such persons must produce
630 sufficient documentation showing evidence of qualifying for late
631 registration pursuant to this section. ~~The Department of State~~
632 ~~shall adopt rules specifying documentation that is sufficient to~~
633 ~~determine eligibility.~~

634 Section 23. Subsection (1) of section 97.061, Florida
635 Statutes, is amended to read:

636 97.061 Special registration for electors requiring
637 assistance.—

638 (1) Any person who is eligible to register and who is

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639 unable to read or write or who, because of some disability,
640 needs assistance in voting shall upon that person's request be
641 registered under the procedure prescribed by this section and
642 shall be entitled to receive assistance at the polls under the
643 conditions prescribed by this section. ~~The department may adopt~~
644 ~~rules to administer this section.~~

645 Section 24. Subsection (3) of section 101.56062, Florida
646 Statutes, is amended to read:

647 101.56062 Standards for accessible voting systems.—

648 ~~(3) The Department of State may adopt rules in accordance~~
649 ~~with s. 120.54 which are necessary to administer this section.~~

650 Section 25. Subsection (5) of section 103.101, Florida
651 Statutes, is amended to read:

652 103.101 Presidential preference primary.—

653 (5) The state executive committee of each party, by rule
654 adopted at least 60 days before ~~prior to~~ the presidential
655 preference primary election, shall determine the number, and
656 establish procedures to be followed in the selection, of
657 delegates and delegate alternates from among each candidate's
658 supporters. A copy of any rule adopted by the executive
659 committee shall be filed with the Department of State within 7
660 days after its adoption and shall become a public record. The
661 Department of State shall review the procedures and shall notify
662 the state executive committee of each political party of any
663 ballot limitations. ~~The Department of State may promulgate rules~~
664 ~~for the orderly conduct of the presidential preference primary~~
665 ~~ballot.~~

666 Section 26. Section 106.165, Florida Statutes, is amended
667 to read:

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668 106.165 Use of closed captioning and descriptive narrative
669 in all television broadcasts.—Each candidate, political party,
670 affiliated party committee, and political committee must use
671 closed captioning and descriptive narrative in all television
672 broadcasts regulated by the Federal Communications Commission
673 that are on behalf of, or sponsored by, a candidate, political
674 party, affiliated party committee, or political committee or
675 must file a written statement with the qualifying officer
676 setting forth the reasons for not doing so. Failure to file this
677 statement with the appropriate qualifying officer constitutes a
678 violation of the Florida Election Code and is under the
679 jurisdiction of the Florida Elections Commission. ~~The Department~~
680 ~~of State may adopt rules in accordance with s. 120.54 which are~~
681 ~~necessary to administer this section.~~

682 Section 27. Subsection (5) of section 110.1099, Florida
683 Statutes, is amended to read:

684 110.1099 Education and training opportunities for state
685 employees.—

686 ~~(5) The Department of Management Services, in consultation~~
687 ~~with the agencies and, to the extent applicable, with Florida's~~
688 ~~public community colleges, public career centers, and public~~
689 ~~universities, shall adopt rules to administer this section.~~

690 Section 28. Subsection (7) of section 110.1228, Florida
691 Statutes, is amended to read:

692 110.1228 Participation by small counties, small
693 municipalities, and district school boards located in small
694 counties.—

695 ~~(7) The Department of Management Services may adopt rules~~
696 ~~necessary to administer this section.~~

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697 Section 29. Section 110.12301, Florida Statutes, is amended
698 to read:

699 110.12301 Competitive procurement of postpayment claims
700 review services.—The Division of State Group Insurance is
701 directed to competitively procure the following:

702 (1) Postpayment claims review services for the state group
703 health insurance plans established pursuant to s. 110.123.
704 Compensation under the contract shall be paid from amounts
705 identified as claim overpayments that are made by or on behalf
706 of the health plans and that are recovered by the vendor. The
707 vendor may retain that portion of the amount recovered as
708 provided in the contract. The contract must require the vendor
709 to maintain all necessary documentation supporting the amounts
710 recovered, retained, and remitted to the division. ~~;~~ ~~and~~

711 (2) A contingency-based contract for dependent eligibility
712 verification services for the state group insurance program;
713 however, compensation under the contract may not exceed
714 historical claim costs for the prior 12 months for the dependent
715 populations disenrolled as a result of the vendor's services.
716 The division may establish a 3-month grace period and hold
717 subscribers harmless for past claims of ineligible dependents.
718 The Department of Management Services shall submit budget
719 amendments pursuant to chapter 216 in order to obtain budget
720 authority necessary to expend funds from the State Employees'
721 Group Health Self-Insurance Trust Fund for payments to the
722 vendor as provided in the contract. ~~The Department of Management~~
723 ~~Services shall adopt rules providing a process for verifying~~
724 ~~dependent eligibility.~~

725 Section 30. Subsections (4) and (5) of section 112.1915,

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726 Florida Statutes, are amended to read:

727 112.1915 Teachers and school administrators; death
728 benefits.—Any other provision of law to the contrary
729 notwithstanding:

730 ~~(4) The State Board of Education shall adopt rules and~~
731 ~~procedures necessary to implement the provisions of this~~
732 ~~section, pursuant to ss. 120.536(1) and 120.54.~~

733 (4)(5) State funding shall be provided annually in the
734 General Appropriations Act.

735 Section 31. Section 118.12, Florida Statutes, is amended to
736 read:

737 118.12 Certification of civil-law notary's authority;
738 apostilles.—If certification of a civil-law notary's authority
739 is necessary for a particular document or transaction, it must
740 be obtained from the Secretary of State. Upon the receipt of a
741 written request from a civil-law notary and the fee prescribed
742 by the Secretary of State, the Secretary of State shall issue a
743 certification of the civil-law notary's authority, in a form
744 prescribed by the Secretary of State, which shall include a
745 statement explaining the legal qualifications and authority of a
746 civil-law notary in this state. The fee prescribed for the
747 issuance of the certification under this section or an apostille
748 under s. 15.16 may not exceed \$10 per document. ~~The Department~~
749 ~~of State may adopt rules to implement this section.~~

750 Section 32. Section 121.085, Florida Statutes, is amended
751 to read:

752 121.085 Creditable service.—~~The following provisions shall~~
753 ~~apply to creditable service as defined in s. 121.021(17):~~

754 ~~(1) The department shall adopt rules establishing~~

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755 ~~procedures for the submission of evidence or information~~
756 ~~necessary to establish a member's claim of creditable service.~~
757 ~~(2) No~~ Creditable service that remains ~~which remained~~
758 unclaimed at retirement may not be claimed or purchased after a
759 retirement benefit payment has been cashed or deposited.
760 Section 33. This act shall take effect July 1, 2012.