

By the Committee on Budget; and Senator Gaetz

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1 A bill to be entitled
2 An act relating to administrative authority; providing
3 legislative findings; providing legislative intent;
4 amending s. 20.02, F.S.; clarifying the authority of
5 the Governor; amending s. 20.03, F.S.; revising the
6 definition of the terms "head of the department" and
7 "secretary"; defining the term "to serve at the
8 pleasure"; clarifying supervisory powers of appointing
9 authority; amending s. 20.05, F.S., relating to powers
10 and duties of department heads; incorporating
11 constitutional allocation of executive authority;
12 creating s. 120.515, F.S.; declaring policy regarding
13 executive authority with respect to the Administrative
14 Procedure Act; amending s. 120.52, F.S.; revising the
15 term "agency head" to clarify supervisory powers of
16 the appointing authority; amending s. 11.242, F.S.;
17 providing for removal of duplicative, redundant, or
18 unused rulemaking authority as part of the reviser's
19 bill process; repealing s. 14.34(3), F.S., relating to
20 the Governor's Medal of Merit; repealing rulemaking
21 authority; amending s. 15.16, F.S.; deleting authority
22 of the Department of State to adopt rules relating to
23 the issuance of apostilles; repealing s. 15.18(7),
24 F.S., relating to international and cultural
25 relations; repealing rulemaking authority of the
26 Secretary of State with respect to entering into
27 contracts that are primarily for promotional services
28 and events; amending s. 16.60, F.S.; deleting
29 authority of the Attorney General to adopt rules

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30 relating to mediation proceedings; repealing s.
31 17.0416(2), F.S., relating to the authority to provide
32 services on a fee basis; repealing rulemaking
33 authority of the Department of Financial Services with
34 respect thereto; repealing s. 17.59(3), F.S., relating
35 to safekeeping services; repealing rulemaking
36 authority of the Chief Financial Officer for the
37 proper management and maintenance of the collateral
38 management service; repealing s. 25.371, F.S.,
39 relating to the effect of rules adopted by the Supreme
40 Court on statutory provisions; repealing s. 28.43,
41 F.S., relating to the adoption of rules in relation to
42 ss. 28.35, 28.36, and 28.37, relating to duties of the
43 Florida Clerks of Court Operations Corporation and
44 clerks of the court; repealing s. 35.07, F.S.,
45 relating to power of the district courts of appeal to
46 make rules and regulations; repealing s. 39.001(11),
47 F.S., relating to rulemaking authority of Executive
48 Office of the Governor with respect to the protection
49 of children under chapter 39; amending s. 39.0137,
50 F.S.; deleting rulemaking authority of the Department
51 of Children and Family Services with respect to
52 enforcement of the federal Indian Child Welfare Act
53 and federal Multi-Ethnic Placement Act of 1994;
54 repealing s. 39.824(1), F.S.; repealing a provision
55 requesting the Supreme Court to adopt rules of
56 juvenile procedure for purposes of pt. XI, ch. 39,
57 relating to guardians ad litem and guardian advocates;
58 amending s. 63.167, F.S.; repealing rulemaking

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59 authority of the Department of Children and Family
60 Services relating to the establishment and operation
61 of the state adoption information center; repealing s.
62 88.9051, F.S., relating to authority of the Department
63 of Revenue to adopt rules to implement the Uniform
64 Interstate Family Support Act; amending ss. 97.026,
65 97.0555, and 97.061, F.S.; repealing rulemaking
66 authority of the Department of State under the
67 Election Code; repealing s. 101.56062(3), F.S.;

68 repealing rulemaking authority of the department
69 relating to standards for accessible voting systems;
70 amending ss. 103.101 and 106.165, F.S.; repealing
71 rulemaking authority of the department relating to
72 conduct of the presidential preference primary and use
73 of closed captioning and descriptive narrative in
74 television broadcasts; amending s. 110.1055, F.S.,
75 relating to rulemaking authority of the Department of
76 Management Services with respect to chapter 110,
77 relating to state employment; deleting obsolete
78 language; repealing s. 110.1099(5), F.S.; repealing
79 rulemaking authority of the department relating to
80 education and training opportunities for state
81 employees; repealing s. 110.1228(7), F.S.; repealing
82 rulemaking authority of the department relating to
83 participation in the state group health insurance and
84 prescription drug coverage programs by small counties,
85 small municipalities, and district school boards
86 located in small counties; amending s. 110.12301,
87 F.S.; repealing rulemaking authority of the department

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88 relating to dependent eligibility verification
89 services for the state group insurance program;
90 repealing s. 112.1915(4), F.S.; repealing rulemaking
91 authority of the State Board of Education relating to
92 death benefits for teachers and school administrators;
93 amending s. 118.12, F.S.; repealing rulemaking
94 authority of the Department of Revenue relating to
95 certification of a civil-law notary's authority;
96 repealing s. 121.085(1), F.S.; repealing authority of
97 the Department of Management Services relating to
98 submission of information necessary to establish a
99 member's claim of creditable service under the Florida
100 Retirement System; repealing s. 121.1001(4)(b), F.S.;
101 repealing rulemaking authority of the Division of
102 Retirement relating to administration of the Florida
103 Retirement System Preservation of Benefits Plan;
104 repealing s. 121.4503(3), F.S.; repealing rulemaking
105 authority of the Department of Management Services
106 relating to the Florida Retirement System
107 Contributions Clearing Trust Fund; amending s.
108 121.5911, F.S.; deleting rulemaking authority of the
109 department relating to maintaining the qualified
110 status of the disability retirement program and the
111 Florida Retirement System Pension Plan; repealing s.
112 125.902(4), F.S.; repealing rulemaking authority of
113 the Department of Children and Family Services
114 relating to children's services council or juvenile
115 welfare board incentive grants; repealing s.
116 154.503(4), F.S.; repealing rulemaking authority of

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117 the Department of Health relating to the Primary Care
118 for Children and Families Challenge Grant Program;
119 amending s. 159.8081, F.S.; repealing rulemaking
120 authority of the Department of Economic Opportunity
121 relating to the manufacturing facility bond pool;
122 amending s. 159.8083, F.S.; repealing rulemaking
123 authority of the department relating to the Florida
124 First Business allocation pool; repealing s.
125 159.825(3), F.S.; repealing rulemaking authority of
126 the State Board of Administration relating to terms of
127 bonds; repealing s. 161.75, F.S.; repealing rulemaking
128 authority of the Department of Environmental
129 Regulation and the Fish and Wildlife Conservation
130 Commission relating to the Oceans and Coastal
131 Resources Act; repealing s. 163.462, F.S.; repealing
132 rulemaking authority of the Department of Community
133 Affairs relating to the Community Redevelopment Act of
134 1969; repealing s. 163.517(6), F.S.; repealing
135 rulemaking authority of the Department of Legal
136 Affairs relating to the Safe Neighborhoods Program;
137 repealing s. 175.341(2), F.S.; repealing rulemaking
138 authority of the Division of Retirement relating to
139 firefighter pensions; repealing s. 177.504(2)(e),
140 F.S.; repealing rulemaking authority of the Department
141 of Environmental Protection relating to the Florida
142 Public Land Survey Restoration and Perpetuation Act;
143 repealing s. 185.23(2), F.S.; repealing rulemaking
144 authority of the Division of Retirement relating to
145 municipal police pensions; repealing s. 255.25001(2),

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146 F.S.; repealing rulemaking authority of the Department
147 of Management Services relating to determining whether
148 a lease-purchase of a state-owned office building is
149 in the best interests of the state; repealing s.
150 257.34(7), F.S.; repealing rulemaking authority of the
151 Division of Library and Information Services of the
152 Department of State relating to the Florida
153 International Archive and Repository; repealing s.
154 364.0135(6), F.S.; repealing rulemaking authority of
155 the Department of Management Services relating to the
156 promotion of broadband adoption; amending s. 366.85,
157 F.S.; repealing rulemaking authority of the Division
158 of Consumer Services of the Department of Agriculture
159 and Consumer Services relating to the Florida Energy
160 Efficiency and Conservation Act; repealing s.
161 409.5092, F.S.; repealing rulemaking authority of the
162 Department of Children and Family Services relating to
163 permission for weatherization; amending s. 501.142,
164 F.S.; repealing rulemaking authority of the Department
165 of Agriculture and Consumer Services relating to
166 retail sales establishments and authority to sanction
167 violations of such rules; amending s. 985.682, F.S.;
168 conforming a cross-reference; providing an effective
169 date.

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

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173 Section 1. Legislative findings.—The Legislature finds
174 that:

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175 (1) For the preservation of liberty and the protection of
176 individual rights, the people of the State of Florida adopted a
177 republican form of government delegating and limiting sovereign
178 power to be exercised by their representatives in three
179 separate, but equal, branches: the legislative branch, the
180 executive branch, and the judicial branch.

181 (2) By Article IV of the State Constitution the people
182 vested supreme executive power in the Governor and apportioned
183 specific substantive powers among the other elected officers
184 designated in that Article, including the Lieutenant Governor,
185 the Attorney General, the Chief Financial Officer, and the
186 Commissioner of Agriculture.

187 (3) As noted by Alexander Hamilton: "Energy in the
188 executive is a leading character in the definition of good
189 government A feeble executive implies a feeble execution of
190 the government. A feeble execution is but another phrase for a
191 bad execution: And a government ill executed, whatever it may be
192 in theory, must be in practice a bad government."

193 (4) Since the framing of Florida's first constitution in
194 1838, the people have adhered to the principles expressed by Mr.
195 Hamilton in the vesting of supreme executive power directly in
196 the Governor but choosing to vest other specific executive
197 powers directly in other denominated officials or entities.

198 (5) In uninterrupted consistency with their longstanding
199 vesting of the supreme executive power in the Governor, the
200 people in 1968 adopted s. 6, Article IV of the State
201 Constitution, generally directing and limiting the Legislature
202 to allot the functions of the executive branch among not more
203 than 25 departments and to place the administration of each

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204 department under the direct supervision of the Governor, the
205 Lieutenant Governor, the Governor and Cabinet, a Cabinet member,
206 or an officer or board appointed by and serving at the pleasure
207 of the Governor.

208 (6) Each officer of state government is obligated to
209 construe the language of the State Constitution consistent with
210 its express and clearly implied intent, must give words their
211 ordinary and customary meaning unless the context indicates
212 otherwise, must construe all parts together to give them their
213 full effect, and must not construe the terms of the State
214 Constitution to yield an absurd result.

215 (7) Under the authority of s. 6, Article IV of the State
216 Constitution, the Legislature adopted and the Governor signed
217 into law chapter 69-106, Laws of Florida, which restructured the
218 executive branch into not more than 25 departments and
219 designated their direct administration.

220 (8) At the time of adopting chapter 69-106, Laws of
221 Florida, the Legislature was informed by the debate in the 41st
222 Legislature (under the Constitution of 1885) about the text for
223 s. 6, Article IV for the proposed State Constitution, that the
224 41st Legislature expressly considered and expressly rejected
225 alternative proposals which would have required general law to
226 provide supervisory authority to elected constitutional officers
227 over the policies of executive departments, and that in
228 submitting the 1968 State Constitution to the people, their
229 Legislature intended the proposal to ensure that the
230 administration and policies of each executive branch department
231 would be under the final authority and control either of the
232 Governor or one or more elected constitutional officers.

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233 (9) Construing together ss. 1(a) and 6, Article IV of the
234 State Constitution, the Legislature at all times understood that
235 these sections create a general legal presumption against the
236 creation of a class of unelected, subordinate officers
237 exercising executive power independent of the direction and
238 supervision of the Governor or one or more specified elected
239 constitutional officers.

240 (10) Section 6, Article IV of the State Constitution has
241 not been amended since its ratification by the people on
242 November 5, 1968.

243 (11) An officer appointed by and serving at the pleasure of
244 the Governor to administer a department exercises a portion of
245 the sovereign power assigned under the State Constitution to the
246 executive branch. Such appointees remain subject to the
247 direction and supervision of one or more elected constitutional
248 officers who have the ultimate accountability to the people for
249 the faithful discharge of such responsibility.

250 (12) Regarding the Governor's accountability for the
251 supervision and direction of those appointed officers serving at
252 the pleasure of the Governor, the Legislature is informed by the
253 following analysis:

254 (a) As opined by Justice Polston: "(T)he Governor has the
255 constitutional authority to act as this State's chief
256 administrative officer as well as the constitutional duty to
257 faithfully execute this State's laws and to manage and hold
258 agencies under his charge accountable to State laws, including
259 the APA. (The Supreme) Court has explained that '[t]he Governor
260 is given broad authority to fulfill his duty in taking "care
261 that the laws be faithfully executed."'"

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262 (b) As opined by Chief Justice Canady: "(I) f 'supreme
263 executive power' means anything, it must mean that the Governor
264 can supervise and direct the policymaking choices – within the
265 range of choices permitted by law – of the subordinate executive
266 branch officers who serve at his pleasure."

267 (13) The Legislature has not expressly insulated
268 discretionary executive policy decisions from the constitutional
269 structure of accountability to elected officials established in
270 Article IV of the State Constitution.

271 (14) Pertaining to the exercise of delegated rulemaking
272 authority, the Legislature is informed by the following:

273 (a) The exercise of delegated quasi-legislative power
274 within the parameters of Florida's Administrative Procedure Act
275 and related statutes involves certain discretionary policy
276 choices by executive branch officers. In authorizing the
277 exercise of this power, the Legislature has imposed no
278 restriction on the authority of the Governor or any other
279 constitutional officer or collegial body to supervise and direct
280 such policy choices made by subordinate executive branch
281 officials in rulemaking.

282 (b) Florida law provides no specific process for carrying
283 out the Governor's executive duties with respect to holding his
284 executive agencies accountable in their rulemaking functions.

285 (c) As correctly opined by Chief Justice Canady: "Given the
286 constitutional structure establishing the power and
287 responsibilities of the Governor, it is unjustified to conclude
288 ... that by assigning rulemaking power to agency heads, the
289 Legislature implicitly divested the Governor of the supervisory
290 power with respect to executive officials who serve at his

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291 pleasure."

292 (d) A Governor's actions are presumed to be in accord with
293 the duties of that office.

294 (15) A statutory definition of "agency head" is neither
295 intended nor effective to change the fundamental general
296 principles of Article IV of the State Constitution:

297 (a) That executive branch power may only be exercised under
298 the direct or indirect supervision of one or more elected
299 constitutional officers; and

300 (b) That the supervision of any executive agency not
301 expressly allocated to one or more particular constitutional
302 officers remains under the Governor's supreme executive power.

303 (16) The Administrative Procedure Act is a uniform
304 procedural statute ensuring full public access and participation
305 in any exercise of delegated legislative authority by executive
306 branch entities.

307 (17) The delegation of rulemaking authority by substantive
308 statute and establishment of uniform procedures under the
309 Administrative Procedure Act were intended and made by the
310 Legislature to conform and comply with the separation of powers
311 required under s. 3, Article II of the State Constitution, with
312 no general intrusion into the role and authority of the elected
313 executive branch officers as established in Article IV of the
314 State Constitution.

315 (18) Continual review and assessment of existing and
316 proposed regulations is reasonably necessary to ensure that the
317 laws of the state are faithfully executed without unduly
318 burdening the state's economy and imposing needless costs and
319 requirements on citizens, businesses, and local governments.

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320 (19) Fiscal accountability by all agencies is reasonably
321 necessary to ensure integrity in state government.

322 (20) While agency heads and personnel bring expertise to a
323 particular subject matter, they are not directly accountable to
324 the electorate and do not necessarily have an incentive to take
325 a systemic approach to regulatory problems, to budget
326 constraints, or to the overall regulatory burden imposed by the
327 state on citizens and businesses.

328 (21) The elected constitutional officers have a democratic
329 mandate, are directly accountable to the people, and have the
330 duty and power to assess the overall legality, efficiency, and
331 operation of government within their constitutional and
332 statutory jurisdictions.

333 (22) Review and oversight of agency rulemaking is
334 encompassed by the Governor's powers and duties under the State
335 Constitution to "take care that the laws be faithfully executed"
336 and to serve as "the chief administrative officer of the state
337 responsible for the planning and budgeting for the state."

338 (23) The State Constitution and the Florida Statutes
339 establish that many agencies of state government are
340 administered by an officer "appointed by and serving at the
341 pleasure of the governor," and in order to determine whether an
342 officer shall continue to serve at the Governor's pleasure, it
343 is necessary for the Governor to set expectations and standards
344 for that officer and to measure agency performance against those
345 expectations and standards.

346 (24) Executive Orders 11-01 and 11-72 established the
347 Office of Fiscal Accountability and Regulatory Reform (OFARR) to
348 ensure that agency rules (proposed and existing) are efficient,

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349 are not overly burdensome, and faithfully adhere to statutes as
350 enacted by the Legislature.

351 (25) Upon establishment of OFARR, all agencies under the
352 direction of the Governor were required to obtain OFARR review
353 and approval before developing new rules or amending or
354 repealing existing rules.

355 (a) OFARR's review process has facilitated the Governor's
356 exercise of the power and duty to serve as the chief executive
357 and administrative officer of the state.

358 (b) OFARR's review process has facilitated the Governor's
359 planning and budgeting for the state.

360 (c) OFARR has reviewed thousands of rules and regulations
361 and helped agencies identify over 1,000 unnecessary and
362 unauthorized rules and regulations for repeal.

363 (d) Since January 4, 2011, OFARR has reviewed hundreds of
364 proposed agency rulemaking actions.

365 (e) OFARR's review process has thus far been successful in
366 helping to ensure efficient and effective performance by state
367 government.

368 (26) The Supreme Court of Florida, in the case of *Whiley v.*
369 *Scott*, No. SC11-592, issued an unsigned opinion joined by five
370 Justices, which held that Executive Orders 11-01 and 11-72
371 "impermissibly suspended agency rulemaking to the extent that
372 [they] included a requirement that [OFARR] must first permit an
373 agency to engage in the rulemaking which has been delegated by
374 the Florida Legislature."

375 (a) The majority opinion in *Whiley*:

376 1. Failed to address and apply the plain meaning of ss. 1
377 and 6 of Article IV of the State Constitution, and thereby may

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378 be read to restrain the power of the Governor under general law
379 with respect to the supervision of agency heads;

380 2. Failed to address the implications of the court's
381 precedent in *Jones v. Chiles*, 638 So. 2d 48 (Fla. 1994), which
382 recognized the proper scope of executive power under the State
383 Constitution;

384 3. Failed to address the precedent set by dozens of
385 executive orders issued by prior governors of Florida;

386 4. Failed to address the court's holding that "[t]he
387 principles underlying the governmental separation of powers
388 antedate our Florida Constitution and were collectively adopted
389 by the union of states in our federal constitution," *Chiles v.*
390 *Children A, B, C, D, E, & F*, 589 So. 2d 260 (Fla. 1991), and in
391 light of that precedent, failed to consider that Executive
392 Orders 11-01 and 11-72 cannot be meaningfully distinguished from
393 similar executive orders issued by the last four presidents of
394 the United States and the governors of at least 29 other states;
395 and

396 5. Unreasonably relied on a 1983 Attorney General Opinion,
397 which the Attorney General distinguished and limited to its
398 facts in an *amicus* brief in *Whiley*.

399 (b) The dissenting opinions of two justices in the *Whiley*
400 case state the correct interpretation of the State Constitution
401 and present persuasive reasoning and arguments in support of
402 that interpretation.

403 (c) The Supreme Court withheld the writ sought by *Whiley*.

404 (d) Notwithstanding the above, the majority opinion in
405 *Whiley* is to be afforded the deference due an advisory opinion
406 of the Supreme Court of Florida because no writ or other final

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407 order was entered beyond a mere declaration of law.

408 Section 2. Executive Orders 11-72 and 11-211 are affirmed
409 to be consistent with state law and the public policy of the
410 state.

411 Section 3. The Legislature intends that the amendments made
412 by this act to ss. 20.02, 20.03, and 20.05, Florida Statutes,
413 which apply to the organizational structure of the executive
414 branch, and the creation of s. 120.515, Florida Statutes, which
415 applies to administrative procedure, are to clarify that the
416 placement of an executive department under the direct
417 administration of an officer or board appointed by and serving
418 at the pleasure of the Governor does not implicitly limit or
419 restrict the Governor's prerogative, legal authority, and
420 constitutional responsibility to direct and supervise the
421 execution of the law and the exercise of lawful discretion.

422 Section 4. Subsections (3) through (7) of section 20.02,
423 Florida Statutes, are renumbered as subsections (4) through (8),
424 respectively, and a new subsection (3) is added to that section
425 to read:

426 20.02 Declaration of policy.—

427 (3) The administration of any executive branch department
428 or entity placed under the direct supervision of an officer or
429 board appointed by and serving at the pleasure of the Governor
430 shall remain at all times under the constitutional executive
431 authority of the Governor, in accordance with ss. 1(a) and 6,
432 Art. IV of the State Constitution and such officer or board
433 generally remains subject to oversight, direction, and
434 supervision by the Governor.

435 Section 5. Subsections (4) and (5) of section 20.03,

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436 Florida Statutes, are amended, and subsection (13) is added to
437 that section, to read:

438 20.03 Definitions.—To provide uniform nomenclature
439 throughout the structure of the executive branch, the following
440 definitions apply:

441 (4) "Head of the department" means the individual under
442 whom or the board under which direct administration in charge of
443 the department is placed by statute. Where direct administration
444 of a department is placed under an officer or board appointed by
445 and serving at the pleasure of the Governor, that officer or
446 board remains subject to the Governor's supervision and
447 direction.

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

451 (13) "To serve at the pleasure" means the appointee serves
452 in the office until removed by the appointing authority.
453 Consistent with the allotment of executive authority under ss. 1
454 and 6, Art. IV of the State Constitution, an appointee serving
455 at the pleasure of the appointing authority generally remains
456 subject to the direction and supervision of the appointing
457 authority.

458 Section 6. Subsection (1) of section 20.05, Florida
459 Statutes, is amended to read:

460 20.05 Heads of departments; powers and duties.—

461 (1) Each head of a department, subject to the allotment of
462 executive power under Art. IV of the State Constitution, and
463 except as otherwise provided by law, must:

464 (a) Plan, direct, coordinate, and execute the powers,

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465 duties, and functions vested in that department or vested in a
466 division, bureau, or section of that department; powers and
467 duties assigned or transferred to a division, bureau, or section
468 of the department must not be construed to limit this authority
469 and this responsibility;

470 (b) Have authority, without being relieved of
471 responsibility, to execute any of the powers, duties, and
472 functions vested in the department or in any administrative unit
473 thereof through administrative units and through assistants and
474 deputies designated by the head of the department from time to
475 time, unless the head of the department is explicitly required
476 by law to perform the same without delegation;

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

481 (d) Reimburse the members of advisory bodies, commissions,
482 and boards of trustees for their actual and necessary expenses
483 incurred in the performance of their duties in accordance with
484 s. 112.061;

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

488 (f) Exercise authority on behalf of the department to
489 accept gifts, grants, bequests, loans, and endowments for
490 purposes consistent with the powers, duties, and functions of
491 the department. All such funds must be deposited in the State
492 Treasury and appropriated by the Legislature for the purposes
493 for which they were received by the department;

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494 (g) If a department is under the direct supervision of a
495 board, including a board consisting of the Governor and Cabinet,
496 however designated, employ an executive director to serve at its
497 pleasure; and

498 (h) Make recommendations concerning more effective internal
499 structuring of the department to the Legislature. Unless
500 otherwise required by law, such recommendations must be provided
501 to the Legislature at least 30 days before the first day of the
502 regular session at which they are to be considered, when
503 practicable.

504 Section 7. Section 120.515, Florida Statutes, is created to
505 read:

506 120.515 Declaration of policy.—This chapter provides
507 uniform procedures for the exercise of specified authority. This
508 chapter does not limit or impinge upon the assignment of
509 executive power under Art. IV of the State Constitution or the
510 legal authority of an appointing authority to direct and
511 supervise those appointees serving at the pleasure of the
512 appointing authority. For purposes of this chapter, adherence to
513 the direction and supervision of an appointing authority does
514 not constitute delegation or transfer of statutory authority
515 assigned to the appointee.

516 Section 8. Subsection (3) of section 120.52, Florida
517 Statutes, is amended to read:

518 120.52 Definitions.—As used in this act:

519 (3) "Agency head" means the person or collegial body in a
520 department or other governmental unit statutorily responsible
521 for final agency action. An agency head appointed by and serving
522 at the pleasure of an appointing authority remains subject to

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523 the direction and supervision of the appointing authority, but
524 actions taken by the agency head as authorized by statute are
525 official acts.

526 Section 9. Paragraphs (j) and (k) of subsection (5) of
527 section 11.242, Florida Statutes, are redesignated as paragraphs
528 (k) and (l), respectively, and a new paragraph (j) is added to
529 that subsection to read:

530 11.242 Powers, duties, and functions as to statutory
531 revision.—The powers, duties, and functions of the Office of
532 Legislative Services in the operation and maintenance of a
533 statutory revision program shall be as follows:

534 (5) In carrying on the work of statutory revision and in
535 preparing the Florida Statutes for publication:

536 (j) All statutes and laws, or parts thereof, which grant
537 duplicative, redundant, or unused rulemaking authority, shall be
538 omitted through the process of reviser's bills duly enacted by
539 the Legislature. Rulemaking authority shall be deemed unused if
540 the provision has been in effect for more than 5 years and no
541 rule has been promulgated in reliance thereon.

542 Section 10. Subsection (3) of section 14.34, Florida
543 Statutes, is repealed.

544 Section 11. Subsection (7) of section 15.16, Florida
545 Statutes, is amended to read:

546 15.16 Reproduction of records; admissibility in evidence;
547 electronic receipt and transmission of records; certification;
548 acknowledgment.—

549 (7) The Secretary of State may issue apostilles conforming
550 to the requirements of the international treaty known as the
551 Hague Convention of 1961 and may charge a fee for the issuance

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552 of apostilles not to exceed \$10 per apostille. The Secretary of
553 State has the sole authority in this state to establish, in
554 accordance with the laws of the United States, the requirements
555 and procedures for the issuance of apostilles. ~~The Department of~~
556 ~~State may adopt rules to implement this subsection.~~

557 Section 12. Subsection (7) of section 15.18, Florida
558 Statutes, is repealed.

559 Section 13. Paragraph (a) of subsection (3) of section
560 16.60, Florida Statutes, is amended to read:

561 16.60 Public records mediation program within the Office of
562 the Attorney General; creation; duties.—

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

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

570 Section 14. Subsection (2) of section 17.0416, Florida
571 Statutes, is repealed.

572 Section 15. Subsection (3) of section 17.59, Florida
573 Statutes, is repealed.

574 Section 16. Section 25.371, Florida Statutes, is repealed.

575 Section 17. Section 28.43, Florida Statutes, is repealed.

576 Section 18. Section 35.07, Florida Statutes, is repealed.

577 Section 19. Subsection (11) of section 39.001, Florida
578 Statutes, is repealed.

579 Section 20. Subsection (2) of section 39.0137, Florida
580 Statutes, is amended to read:

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581 39.0137 Federal law; rulemaking authority.-

582 ~~(2) The department shall adopt rules no later than July 1,~~
583 ~~2007, to ensure that the provisions of these federal laws are~~
584 ~~enforced in this state.~~ The department is encouraged to enter
585 into agreements with recognized American Indian tribes in order
586 to facilitate the implementation of the Indian Child Welfare
587 Act.

588 Section 21. Subsection (1) of section 39.824, Florida
589 Statutes, is repealed.

590 Section 22. Subsection (3) of section 63.167, Florida
591 Statutes, is amended to read:

592 63.167 State adoption information center.-

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

597 Section 23. Section 88.9051, Florida Statutes, is repealed.

598 Section 24. Section 97.026, Florida Statutes, is amended to
599 read:

600 97.026 Forms to be available in alternative formats and via
601 the Internet.-It is the intent of the Legislature that all forms
602 required to be used in chapters 97-106 shall be made available
603 upon request, in alternative formats. Such forms shall include
604 absentee ballots as alternative formats for such ballots become
605 available and the Division of Elections is able to certify
606 systems that provide them. ~~The department may, pursuant to ss.~~
607 ~~120.536(1) and 120.54, adopt rules to administer this section.~~
608 Whenever possible, such forms, with the exception of absentee
609 ballots, shall be made available by the Department of State via

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610 the Internet. Sections that contain such forms include, but are
611 not limited to, ss. 97.051, 97.052, 97.053, 97.057, 97.058,
612 97.0583, 97.071, 97.073, 97.1031, 98.075, 99.021, 100.361,
613 100.371, 101.045, 101.171, 101.20, 101.6103, 101.62, 101.64,
614 101.65, 101.657, 105.031, 106.023, and 106.087.

615 Section 25. Section 97.0555, Florida Statutes, is amended
616 to read:

617 97.0555 Late registration.—An individual or accompanying
618 family member who has been discharged or separated from the
619 uniformed services or the Merchant Marine, or from employment
620 outside the territorial limits of the United States, after the
621 book-closing date for an election pursuant to s. 97.055 and who
622 is otherwise qualified may register to vote in such election
623 until 5 p.m. on the Friday before that election in the office of
624 the supervisor of elections. Such persons must produce
625 sufficient documentation showing evidence of qualifying for late
626 registration pursuant to this section. ~~The Department of State~~
627 ~~shall adopt rules specifying documentation that is sufficient to~~
628 ~~determine eligibility.~~

629 Section 26. Subsection (1) of section 97.061, Florida
630 Statutes, is amended to read:

631 97.061 Special registration for electors requiring
632 assistance.—

633 (1) Any person who is eligible to register and who is
634 unable to read or write or who, because of some disability,
635 needs assistance in voting shall upon that person's request be
636 registered under the procedure prescribed by this section and
637 shall be entitled to receive assistance at the polls under the
638 conditions prescribed by this section. ~~The department may adopt~~

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639 ~~rules to administer this section.~~

640 Section 27. Subsection (3) of section 101.56062, Florida
641 Statutes, is repealed.

642 Section 28. Subsection (5) of section 103.101, Florida
643 Statutes, is amended to read:

644 103.101 Presidential preference primary.—

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

658 Section 29. Section 106.165, Florida Statutes, is amended
659 to read:

660 106.165 Use of closed captioning and descriptive narrative
661 in all television broadcasts.—Each candidate, political party,
662 affiliated party committee, and political committee must use
663 closed captioning and descriptive narrative in all television
664 broadcasts regulated by the Federal Communications Commission
665 that are on behalf of, or sponsored by, a candidate, political
666 party, affiliated party committee, or political committee or
667 must file a written statement with the qualifying officer

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668 setting forth the reasons for not doing so. Failure to file this
669 statement with the appropriate qualifying officer constitutes a
670 violation of the Florida Election Code and is under the
671 jurisdiction of the Florida Elections Commission. ~~The Department~~
672 ~~of State may adopt rules in accordance with s. 120.54 which are~~
673 ~~necessary to administer this section.~~

674 Section 30. Section 110.1055, Florida Statutes, is amended
675 to read:

676 110.1055 Rules and rulemaking authority.—The Department of
677 Management Services shall have authority to adopt rules as
678 necessary to effectuate the provisions of this chapter, ~~as~~
679 ~~amended by this act, and in accordance with the authority~~
680 ~~granted to the department in this chapter. All existing rules~~
681 ~~relating to this chapter are statutorily repealed January 1,~~
682 ~~2002, unless otherwise readopted.~~

683 Section 31. Subsection (5) of section 110.1099, Florida
684 Statutes, is repealed.

685 Section 32. Subsection (7) of section 110.1228, Florida
686 Statutes, is repealed.

687 Section 33. Subsection (2) of section 110.12301, Florida
688 Statutes, is amended to read:

689 110.12301 Competitive procurement of postpayment claims
690 review services.—The Division of State Group Insurance is
691 directed to competitively procure:

692 (2) A contingency-based contract for dependent eligibility
693 verification services for the state group insurance program;
694 however, compensation under the contract may not exceed
695 historical claim costs for the prior 12 months for the dependent
696 populations disenrolled as a result of the vendor's services.

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697 The division may establish a 3-month grace period and hold
698 subscribers harmless for past claims of ineligible dependents.
699 The Department of Management Services shall submit budget
700 amendments pursuant to chapter 216 in order to obtain budget
701 authority necessary to expend funds from the State Employees'
702 Group Health Self-Insurance Trust Fund for payments to the
703 vendor as provided in the contract. ~~The Department of Management~~
704 ~~Services shall adopt rules providing a process for verifying~~
705 ~~dependent eligibility.~~

706 Section 34. Subsection (4) of section 112.1915, Florida
707 Statutes, is repealed.

708 Section 35. Section 118.12, Florida Statutes, is amended to
709 read:

710 118.12 Certification of civil-law notary's authority;
711 apostilles.—If certification of a civil-law notary's authority
712 is necessary for a particular document or transaction, it must
713 be obtained from the Secretary of State. Upon the receipt of a
714 written request from a civil-law notary and the fee prescribed
715 by the Secretary of State, the Secretary of State shall issue a
716 certification of the civil-law notary's authority, in a form
717 prescribed by the Secretary of State, which shall include a
718 statement explaining the legal qualifications and authority of a
719 civil-law notary in this state. The fee prescribed for the
720 issuance of the certification under this section or an apostille
721 under s. 15.16 may not exceed \$10 per document. ~~The Department~~
722 ~~of State may adopt rules to implement this section.~~

723 Section 36. Subsection (1) of section 121.085, Florida
724 Statutes, is repealed.

725 Section 37. Paragraph (b) of subsection (4) of section

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726 121.1001, Florida Statutes, is repealed.

727 Section 38. Subsection (3) of section 121.4503, Florida
728 Statutes, is repealed.

729 Section 39. Section 121.5911, Florida Statutes, is amended
730 to read:

731 121.5911 Disability retirement program; qualified status;
732 rulemaking authority.—It is the intent of the Legislature that
733 the disability retirement program for members of the Florida
734 Retirement System Investment Plan meet all applicable
735 requirements of federal law for a qualified plan. The department
736 shall seek a private letter ruling from the Internal Revenue
737 Service on the disability retirement program. ~~Consistent with~~
738 ~~the private letter ruling, the department shall adopt rules~~
739 ~~necessary to maintain the qualified status of the disability~~
740 ~~retirement program and the Florida Retirement System Pension~~
741 ~~Plan.~~

742 Section 40. Subsection (4) of section 125.902, Florida
743 Statutes, is repealed.

744 Section 41. Subsection (4) of section 154.503, Florida
745 Statutes, is repealed.

746 Section 42. Paragraph (a) of subsection (2) of section
747 159.8081, Florida Statutes, is amended to read:

748 159.8081 Manufacturing facility bond pool.—

749 (2) (a) The first 75 percent of this pool shall be available
750 on a first come, first served basis, except that 15 percent of
751 the state volume limitation allocated to this pool shall be
752 available as provided in paragraph (b). Before issuing any
753 written confirmations for the remaining 25 percent of this pool,
754 the executive director shall forward all notices of intent to

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755 issue which are received by the division for manufacturing
756 facility projects to the Department of Economic Opportunity. The
757 Department of Economic Opportunity shall decide, after receipt
758 of the notices of intent to issue, which notices will receive
759 written confirmations. Such decision shall be communicated in
760 writing by the Department of Economic Opportunity to the
761 executive director within 10 days of receipt of such notices of
762 intent to issue. ~~The Department of Economic Opportunity may~~
763 ~~develop rules to ensure that allocation of the remaining 25~~
764 ~~percent is consistent with the state's economic development~~
765 ~~policy.~~

766 Section 43. Section 159.8083, Florida Statutes, is amended
767 to read:

768 159.8083 Florida First Business allocation pool.—The
769 Florida First Business allocation pool is hereby established.
770 The Florida First Business allocation pool shall be available
771 solely to provide written confirmation for private activity
772 bonds to finance Florida First Business projects certified by
773 the Department of Economic Opportunity as eligible to receive a
774 written confirmation. Allocations from such pool shall be
775 awarded statewide pursuant to procedures specified in s.
776 159.805, except that the provisions of s. 159.805(2), (3), and
777 (6) do not apply. Florida First Business projects that are
778 eligible for a carryforward do not lose their allocation
779 pursuant to s. 159.809(3) on October 1, or pursuant to s.
780 159.809(4) on November 16, if they have applied for and have
781 been granted a carryforward by the division pursuant to s.
782 159.81(1). In issuing written confirmations of allocations for
783 Florida First Business projects, the division shall use the

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784 Florida First Business allocation pool. If allocation is not
785 available from the Florida First Business allocation pool, the
786 division shall issue written confirmations of allocations for
787 Florida First Business projects pursuant to s. 159.806 or s.
788 159.807, in such order. For the purpose of determining priority
789 within a regional allocation pool or the state allocation pool,
790 notices of intent to issue bonds for Florida First Business
791 projects to be issued from a regional allocation pool or the
792 state allocation pool shall be considered to have been received
793 by the division at the time it is determined by the division
794 that the Florida First Business allocation pool is unavailable
795 to issue confirmation for such Florida First Business project.
796 If the total amount requested in notices of intent to issue
797 private activity bonds for Florida First Business projects
798 exceeds the total amount of the Florida First Business
799 allocation pool, the director shall forward all timely notices
800 of intent to issue, which are received by the division for such
801 projects, to the Department of Economic Opportunity, which shall
802 render a decision as to which notices of intent to issue are to
803 receive written confirmations. ~~The Department of Economic~~
804 ~~Opportunity, in consultation with the division, shall develop~~
805 ~~rules to ensure that the allocation provided in such pool is~~
806 ~~available solely to provide written confirmations for private~~
807 ~~activity bonds to finance Florida First Business projects and~~
808 ~~that such projects are feasible and financially solvent.~~

809 Section 44. Subsection (3) of section 159.825, Florida
810 Statutes, is repealed.

811 Section 45. Section 161.75, Florida Statutes, is repealed.

812 Section 46. Section 163.462, Florida Statutes, is repealed.

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813 Section 47. Subsection (6) of section 163.517, Florida
814 Statutes, is repealed.

815 Section 48. Subsection (2) of section 175.341, Florida
816 Statutes, is repealed.

817 Section 49. Paragraph (e) of subsection (2) of section
818 177.504, Florida Statutes, is repealed.

819 Section 50. Subsection (2) of section 185.23, Florida
820 Statutes, is repealed.

821 Section 51. Subsection (2) of section 255.25001, Florida
822 Statutes, is repealed.

823 Section 52. Subsection (7) of section 257.34, Florida
824 Statutes, is repealed.

825 Section 53. Subsection (6) of section 364.0135, Florida
826 Statutes, is repealed.

827 Section 54. Section 366.85, Florida Statutes, is amended to
828 read:

829 366.85 Responsibilities of Division of Consumer Services.—
830 The Division of Consumer Services of the Department of
831 Agriculture and Consumer Services shall be the agency
832 responsible for consumer conciliatory conferences, if such
833 conferences are required pursuant to federal law. The division
834 shall also be the agency responsible for preparing lists of
835 sources for energy conservation products or services and of
836 financial institutions offering energy conservation loans, if
837 such lists are required pursuant to federal law. Notwithstanding
838 any provision of federal law to the contrary, the division shall
839 not require any manufacturer's warranty exceeding 1 year in
840 order for a source of conservation products or services to be
841 included on the appropriate list. The lists shall be prepared

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842 for the service area of each utility and shall be furnished to
843 each utility for distribution to its customers. The division
844 shall update the lists on a systematic basis and shall remove
845 from any list any person who has been disciplined by any state
846 agency or who has otherwise exhibited a pattern of
847 unsatisfactory work and any person who requests removal from
848 such lists. ~~The division is authorized to adopt rules to~~
849 ~~implement the provisions of this section.~~

850 Section 55. Section 409.5092, Florida Statutes, is
851 repealed.

852 Section 56. Subsections (1) and (3) of section 501.142,
853 Florida Statutes, are amended to read:

854 501.142 Retail sales establishments; preemption; notice of
855 refund policy; exceptions; penalty.—

856 (1) The regulation of refunds is preempted to the
857 Department of Agriculture and Consumer Services notwithstanding
858 any other law or local ordinance to the contrary. Every retail
859 sales establishment offering goods for sale to the general
860 public that offers no cash refund, credit refund, or exchange of
861 merchandise must post a sign so stating at the point of sale.
862 Failure of a retail sales establishment to exhibit a "no refund"
863 sign under such circumstances at the point of sale shall mean
864 that a refund or exchange policy exists, and the policy shall be
865 presented in writing to the consumer upon request. Any retail
866 establishment failing to comply with the provisions of this
867 section shall grant to the consumer, upon request and proof of
868 purchase, a refund on the merchandise, within 7 days of the date
869 of purchase, provided the merchandise is unused and in the
870 original carton, if one was furnished. Nothing herein shall

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871 prohibit a retail sales establishment from having a refund
872 policy which exceeds the number of days specified herein. ~~The~~
873 ~~department may adopt rules pursuant to ss. 120.536(1) and 120.54~~
874 ~~to enforce the provisions of this section.~~ However, this
875 subsection does not prohibit a local government from enforcing
876 the provisions established by this section ~~or department rule.~~

877 (3) The department may enter an order doing one or more of
878 the following if the department finds that a person has violated
879 or is operating in violation of any of the provisions of this
880 section or the ~~rules or~~ orders issued under this section:

881 ~~(a) Issue a notice of noncompliance pursuant to s. 120.695.~~

882 (a) ~~(b)~~ Impose an administrative fine not to exceed \$100 for
883 each violation.

884 (b) ~~(c)~~ Direct the person to cease and desist specified
885 activities.

886 Section 57. Paragraph (b) of subsection (15) of section
887 985.682, Florida Statutes, is amended to read:

888 985.682 Siting of facilities; study; criteria.—

889 (15)

890 (b) Notwithstanding s. ~~ss.~~ 255.25(1)(b) and ~~255.25001(2)~~,
891 the department may enter into lease-purchase agreements to
892 provide juvenile justice facilities for the housing of committed
893 youths contingent upon available funds. The facilities provided
894 through such agreements shall meet the program plan and
895 specifications of the department. The department may enter into
896 such lease agreements with private corporations and other
897 governmental entities. However, notwithstanding the provisions
898 of s. 255.25(3)(a), no such lease agreement may be entered into
899 except upon advertisement for the receipt of competitive bids

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900 and award to the lowest and best bidder except when contracting
901 with other governmental entities.

902 Section 58. This act shall take effect July 1, 2012.