

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
 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
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
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
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),
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. 411.01,
164 F.S.; limiting rulemaking authority of the Office of
165 Early Learning relating to school readiness programs
166 and early learning coalitions; repealing s.
167 411.01013(7), F.S.; repealing rulemaking authority of
168 the office relating to the prevailing market rate

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169 schedule; repealing s. 411.0103(3), F.S.; repealing
170 rulemaking authority of the office relating to the
171 Teacher Education and Compensation Helps (TEACH)
172 scholarship program; repealing s. 411.0104(3), F.S.;
173 repealing rulemaking authority of the office relating
174 to Early Head Start collaboration grants; amending s.
175 501.142, F.S.; repealing rulemaking authority of the
176 Department of Agriculture and Consumer Services
177 relating to retail sales establishments and authority
178 to sanction violations of such rules; amending s.
179 985.682, F.S.; conforming a cross-reference; providing
180 an effective date.

181

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

183

184 Section 1. Legislative findings.—The Legislature finds
185 that:

186 (1) For the preservation of liberty and the protection of
187 individual rights, the people of the State of Florida adopted a
188 republican form of government delegating and limiting sovereign
189 power to be exercised by their representatives in three
190 separate, but equal, branches: the legislative branch, the
191 executive branch, and the judicial branch.

192 (2) By Article IV of the State Constitution the people
193 vested supreme executive power in the Governor and apportioned
194 specific substantive powers among the other elected officers
195 designated in that Article, including the Lieutenant Governor,
196 the Attorney General, the Chief Financial Officer, and the

197 Commissioner of Agriculture.

198 (3) As noted by Alexander Hamilton: "Energy in the
 199 executive is a leading character in the definition of good
 200 government A feeble executive implies a feeble execution of
 201 the government. A feeble execution is but another phrase for a
 202 bad execution: And a government ill executed, whatever it may be
 203 in theory, must be in practice a bad government."

204 (4) Since the framing of Florida's first constitution in
 205 1838, the people have adhered to the principles expressed by Mr.
 206 Hamilton in the vesting of supreme executive power directly in
 207 the Governor but choosing to vest other specific executive
 208 powers directly in other denominated officials or entities.

209 (5) In uninterrupted consistency with their longstanding
 210 vesting of the supreme executive power in the Governor, the
 211 people in 1968 adopted s. 6, Art. IV of the State Constitution,
 212 generally directing and limiting the Legislature to allot the
 213 functions of the executive branch among not more than 25
 214 departments and to place the administration of each department
 215 under the direct supervision of the Governor, the Lieutenant
 216 Governor, the Governor and Cabinet, a Cabinet member, or an
 217 officer or board appointed by and serving at the pleasure of the
 218 Governor.

219 (6) Each officer of state government is obligated to
 220 construe the language of the State Constitution consistent with
 221 its express and clearly implied intent, must give words their
 222 ordinary and customary meaning unless the context indicates
 223 otherwise, must construe all parts together to give them their
 224 full effect, and must not construe the terms of the State

225 Constitution to yield an absurd result.

226 (7) Under the authority of s. 6, Art. IV of the State
 227 Constitution, the Legislature adopted and the Governor signed
 228 into law chapter 69-106, Laws of Florida, which restructured the
 229 executive branch into not more than 25 departments and
 230 designated their direct administration.

231 (8) At the time of adopting chapter 69-106, Laws of
 232 Florida, the Legislature was informed by the debate in the 41st
 233 Legislature (under the Constitution of 1885) about the text for
 234 s. 6, Art. IV for the proposed State Constitution, that the 41st
 235 Legislature expressly considered and expressly rejected
 236 alternative proposals which would have required general law to
 237 provide supervisory authority to elected constitutional officers
 238 over the policies of executive departments, and that in
 239 submitting the 1968 State Constitution to the people, their
 240 Legislature intended the proposal to ensure that the
 241 administration and policies of each executive branch department
 242 would be under the final authority and control either of the
 243 Governor or one or more elected constitutional officers.

244 (9) Construing together ss. 1(a) and 6, Art. IV of the
 245 State Constitution, the Legislature at all times understood that
 246 these sections create a general legal presumption against the
 247 creation of a class of unelected, subordinate officers
 248 exercising executive power independent of the direction and
 249 supervision of the Governor or one or more specified elected
 250 constitutional officers.

251 (10) Section 6, Art. IV of the State Constitution has not
 252 been amended since its ratification by the people on November 5,

253 1968.

254 (11) An officer appointed by and serving at the pleasure
 255 of the Governor to administer a department exercises a portion
 256 of the sovereign power assigned under the State Constitution to
 257 the executive branch. Such appointees remain subject to the
 258 direction and supervision of one or more elected constitutional
 259 officers who have the ultimate accountability to the people for
 260 the faithful discharge of such responsibility.

261 (12) Regarding the Governor's accountability for the
 262 supervision and direction of those appointed officers serving at
 263 the pleasure of the Governor, the Legislature is informed by the
 264 following analysis:

265 (a) As opined by Justice Polston: "(T)he Governor has the
 266 constitutional authority to act as this State's chief
 267 administrative officer as well as the constitutional duty to
 268 faithfully execute this State's laws and to manage and hold
 269 agencies under his charge accountable to State laws, including
 270 the APA. (The Supreme) Court has explained that '[t]he Governor
 271 is given broad authority to fulfill his duty in taking "care
 272 that the laws be faithfully executed."'"

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

278 (13) The Legislature has not expressly insulated
 279 discretionary executive policy decisions from the constitutional
 280 structure of accountability to elected officials established in

281 Article IV of the State Constitution.

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

284 (a) The exercise of delegated quasi-legislative power
 285 within the parameters of Florida's Administrative Procedure Act
 286 and related statutes involves certain discretionary policy
 287 choices by executive branch officers. In authorizing the
 288 exercise of this power, the Legislature has imposed no
 289 restriction on the authority of the Governor or any other
 290 constitutional officer or collegial body to supervise and direct
 291 such policy choices made by subordinate executive branch
 292 officials in rulemaking.

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

296 (c) As correctly opined by Chief Justice Canady: "Given
 297 the constitutional structure establishing the power and
 298 responsibilities of the Governor, it is unjustified to conclude
 299 ... that by assigning rulemaking power to agency heads, the
 300 Legislature implicitly divested the Governor of the supervisory
 301 power with respect to executive officials who serve at his
 302 pleasure."

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

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

308 (a) That executive branch power may only be exercised

309 under the direct or indirect supervision of one or more elected
310 constitutional officers; and

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

314 (16) The Administrative Procedure Act is a uniform
315 procedural statute ensuring full public access and participation
316 in any exercise of delegated legislative authority by executive
317 branch entities.

318 (17) The delegation of rulemaking authority by substantive
319 statute and establishment of uniform procedures under the
320 Administrative Procedure Act were intended and made by the
321 Legislature to conform and comply with the separation of powers
322 required under s. 3, Art. II of the State Constitution, with no
323 general intrusion into the role and authority of the elected
324 executive branch officers as established in Article IV of the
325 State Constitution.

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

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

333 (20) While agency heads and personnel bring expertise to a
334 particular subject matter, they are not directly accountable to
335 the electorate and do not necessarily have an incentive to take
336 a systemic approach to regulatory problems, to budget

337 constraints, or to the overall regulatory burden imposed by the
338 state on citizens and businesses.

339 (21) The elected constitutional officers have a democratic
340 mandate, are directly accountable to the people, and have the
341 duty and power to assess the overall legality, efficiency, and
342 operation of government within their constitutional and
343 statutory jurisdictions.

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

349 (23) The State Constitution and the Florida Statutes
350 establish that many agencies of state government are
351 administered by an officer "appointed by and serving at the
352 pleasure of the governor," and in order to determine whether an
353 officer shall continue to serve at the Governor's pleasure, it
354 is necessary for the Governor to set expectations and standards
355 for that officer and to measure agency performance against those
356 expectations and standards.

357 (24) Executive Orders 11-01 and 11-72 established the
358 Office of Fiscal Accountability and Regulatory Reform (OFARR) to
359 ensure that agency rules (proposed and existing) are efficient,
360 are not overly burdensome, and faithfully adhere to statutes as
361 enacted by the Legislature.

362 (25) Upon establishment of OFARR, all agencies under the
363 direction of the Governor were required to obtain OFARR review
364 and approval before developing new rules or amending or

365 repealing existing rules.

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

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

371 (c) OFARR has reviewed thousands of rules and regulations
372 and helped agencies identify over 1,000 unnecessary and
373 unauthorized rules and regulations for repeal.

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

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

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

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

387 1. Failed to address and apply the plain meaning of ss. 1
388 and 6 of Art. IV of the State Constitution, and thereby may be
389 read to restrain the power of the Governor under general law
390 with respect to the supervision of agency heads;

391 2. Failed to address the implications of the court's
392 precedent in *Jones v. Chiles*, 638 So. 2d 48 (Fla. 1994), which

393 recognized the proper scope of executive power under the State
394 Constitution;

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

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

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

410 (b) The dissenting opinions of two justices in the *Whiley*
411 case state the correct interpretation of the State Constitution
412 and present persuasive reasoning and arguments in support of
413 that interpretation.

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

415 (d) Notwithstanding the above, the majority opinion in
416 *Whiley* is to be afforded the deference due an advisory opinion
417 of the Supreme Court of Florida because no writ or other final
418 order was entered beyond a mere declaration of law.

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419 Section 2. Executive Orders 11-72 and 11-211 are affirmed
420 to be consistent with state law and the public policy of the
421 state.

422 Section 3. The Legislature intends that the amendments
423 made by this act to ss. 20.02, 20.03, and 20.05, Florida
424 Statutes, which apply to the organizational structure of the
425 executive branch, and the creation of s. 120.515, Florida
426 Statutes, which applies to administrative procedure, are to
427 clarify that the placement of an executive department under the
428 direct administration of an officer or board appointed by and
429 serving at the pleasure of the Governor does not implicitly
430 limit or restrict the Governor's prerogative, legal authority,
431 and constitutional responsibility to direct and supervise the
432 execution of the law and the exercise of lawful discretion.

433 Section 4. Subsections (3) through (7) of section 20.02,
434 Florida Statutes, are renumbered as subsections (4) through (8),
435 respectively, and a new subsection (3) is added to that section
436 to read:

437 20.02 Declaration of policy.—

438 (3) The administration of any executive branch department
439 or entity placed under the direct supervision of an officer or
440 board appointed by and serving at the pleasure of the Governor
441 shall remain at all times under the constitutional executive
442 authority of the Governor, in accordance with ss. 1(a) and 6,
443 Art. IV of the State Constitution and such officer or board
444 generally remains subject to oversight, direction, and
445 supervision by the Governor.

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

449 20.03 Definitions.—To provide uniform nomenclature
 450 throughout the structure of the executive branch, the following
 451 definitions apply:

452 (4) "Head of the department" means the individual under
 453 whom or the board under which direct administration ~~in charge~~ of
 454 the department is placed by statute. Where direct administration
 455 of a department is placed under an officer or board appointed by
 456 and serving at the pleasure of the Governor, that officer or
 457 board remains subject to the Governor's supervision and
 458 direction.

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

462 (13) "To serve at the pleasure" means the appointee serves
 463 in the office until removed by the appointing authority.
 464 Consistent with the allotment of executive authority under ss. 1
 465 and 6, Art. IV of the State Constitution, an appointee serving
 466 at the pleasure of the appointing authority generally remains
 467 subject to the direction and supervision of the appointing
 468 authority.

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

471 20.05 Heads of departments; powers and duties.—

472 (1) Each head of a department, subject to the allotment of
 473 executive power under Article IV of the State Constitution, and

474 except as otherwise provided by law, must:

475 (a) Plan, direct, coordinate, and execute the powers,
476 duties, and functions vested in that department or vested in a
477 division, bureau, or section of that department; powers and
478 duties assigned or transferred to a division, bureau, or section
479 of the department must not be construed to limit this authority
480 and this responsibility;

481 (b) Have authority, without being relieved of
482 responsibility, to execute any of the powers, duties, and
483 functions vested in the department or in any administrative unit
484 thereof through administrative units and through assistants and
485 deputies designated by the head of the department from time to
486 time, unless the head of the department is explicitly required
487 by law to perform the same without delegation;

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

492 (d) Reimburse the members of advisory bodies, commissions,
493 and boards of trustees for their actual and necessary expenses
494 incurred in the performance of their duties in accordance with
495 s. 112.061;

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

499 (f) Exercise authority on behalf of the department to
500 accept gifts, grants, bequests, loans, and endowments for
501 purposes consistent with the powers, duties, and functions of

502 the department. All such funds must be deposited in the State
 503 Treasury and appropriated by the Legislature for the purposes
 504 for which they were received by the department;

505 (g) If a department is under the direct supervision of a
 506 board, including a board consisting of the Governor and Cabinet,
 507 however designated, employ an executive director to serve at its
 508 pleasure; and

509 (h) Make recommendations concerning more effective
 510 internal structuring of the department to the Legislature.
 511 Unless otherwise required by law, such recommendations must be
 512 provided to the Legislature at least 30 days before the first
 513 day of the regular session at which they are to be considered,
 514 when practicable.

515 Section 7. Section 120.515, Florida Statutes, is created
 516 to read:

517 120.515 Declaration of policy.—This chapter provides
 518 uniform procedures for the exercise of specified authority. This
 519 chapter does not limit or impinge upon the assignment of
 520 executive power under Article IV of the State Constitution or
 521 the legal authority of an appointing authority to direct and
 522 supervise those appointees serving at the pleasure of the
 523 appointing authority. For purposes of this chapter, adherence to
 524 the direction and supervision of an appointing authority does
 525 not constitute delegation or transfer of statutory authority
 526 assigned to the appointee.

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

529 120.52 Definitions.—As used in this act:

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530 (3) "Agency head" means the person or collegial body in a
531 department or other governmental unit statutorily responsible
532 for final agency action. An agency head appointed by and serving
533 at the pleasure of an appointing authority remains subject to
534 the direction and supervision of the appointing authority but
535 actions taken by the agency head as authorized by statute are
536 official acts.

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

541 11.242 Powers, duties, and functions as to statutory
542 revision.—The powers, duties, and functions of the Office of
543 Legislative Services in the operation and maintenance of a
544 statutory revision program shall be as follows:

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

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

553 Section 10. Subsection (3) of section 14.34, Florida
554 Statutes, is repealed.

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

557 15.16 Reproduction of records; admissibility in evidence;

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558 | electronic receipt and transmission of records; certification;
 559 | acknowledgment.—

560 | (7) The Secretary of State may issue apostilles conforming
 561 | to the requirements of the international treaty known as the
 562 | Hague Convention of 1961 and may charge a fee for the issuance
 563 | of apostilles not to exceed \$10 per apostille. The Secretary of
 564 | State has the sole authority in this state to establish, in
 565 | accordance with the laws of the United States, the requirements
 566 | and procedures for the issuance of apostilles. ~~The Department of~~
 567 | ~~State may adopt rules to implement this subsection.~~

568 | Section 12. Subsection (7) of section 15.18, Florida
 569 | Statutes, is repealed.

570 | Section 13. Paragraph (a) of subsection (3) of section
 571 | 16.60, Florida Statutes, is amended to read:

572 | 16.60 Public records mediation program within the Office
 573 | of the Attorney General; creation; duties.—

574 | (3) The Office of the Attorney General shall:

575 | (a) Employ one or more mediators to mediate disputes
 576 | involving access to public records. A person may not be employed
 577 | by the department as a mediator unless that person is a member
 578 | in good standing of The Florida Bar. ~~The Office of the Attorney~~
 579 | ~~General may adopt rules of procedure to govern its mediation~~
 580 | ~~proceedings.~~

581 | Section 14. Subsection (2) of section 17.0416, Florida
 582 | Statutes, is repealed.

583 | Section 15. Subsection (3) of section 17.59, Florida
 584 | Statutes, is repealed.

585 | Section 16. Section 25.371, Florida Statutes, is repealed.

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

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

588 Section 19. Subsection (11) of section 39.001, Florida
 589 Statutes, is repealed.

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

592 39.0137 Federal law; rulemaking authority.—

593 (2) ~~The department shall adopt rules no later than July 1,~~
 594 ~~2007, to ensure that the provisions of these federal laws are~~
 595 ~~enforced in this state.~~ The department is encouraged to enter
 596 into agreements with recognized American Indian tribes in order
 597 to facilitate the implementation of the Indian Child Welfare
 598 Act.

599 Section 21. Subsection (1) of section 39.824, Florida
 600 Statutes, is repealed.

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

603 63.167 State adoption information center.—

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

608 Section 23. Section 88.9051, Florida Statutes, is
 609 repealed.

610 Section 24. Section 97.026, Florida Statutes, is amended
 611 to read:

612 97.026 Forms to be available in alternative formats and
 613 via the Internet.—It is the intent of the Legislature that all

614 forms required to be used in chapters 97-106 shall be made
 615 available upon request, in alternative formats. Such forms shall
 616 include absentee ballots as alternative formats for such ballots
 617 become available and the Division of Elections is able to
 618 certify systems that provide them. ~~The department may, pursuant~~
 619 ~~to ss. 120.536(1) and 120.54, adopt rules to administer this~~
 620 ~~section.~~ Whenever possible, such forms, with the exception of
 621 absentee ballots, shall be made available by the Department of
 622 State via the Internet. Sections that contain such forms
 623 include, but are not limited to, ss. 97.051, 97.052, 97.053,
 624 97.057, 97.058, 97.0583, 97.071, 97.073, 97.1031, 98.075,
 625 99.021, 100.361, 100.371, 101.045, 101.171, 101.20, 101.6103,
 626 101.62, 101.64, 101.65, 101.657, 105.031, 106.023, and 106.087.

627 Section 25. Section 97.0555, Florida Statutes, is amended
 628 to read:

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

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

643 97.061 Special registration for electors requiring
 644 assistance.—

645 (1) Any person who is eligible to register and who is
 646 unable to read or write or who, because of some disability,
 647 needs assistance in voting shall upon that person's request be
 648 registered under the procedure prescribed by this section and
 649 shall be entitled to receive assistance at the polls under the
 650 conditions prescribed by this section. ~~The department may adopt~~
 651 ~~rules to administer this section.~~

652 Section 27. Subsection (3) of section 101.56062, Florida
 653 Statutes, is repealed.

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

656 103.101 Presidential preference primary.—

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

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669 ~~ballet.~~

670 Section 29. Section 106.165, Florida Statutes, is amended
671 to read:

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

686 Section 30. Section 110.1055, Florida Statutes, is amended
687 to read:

688 110.1055 Rules and rulemaking authority.—The Department of
689 Management Services shall have authority to adopt rules as
690 necessary to effectuate the provisions of this chapter, ~~as~~
691 ~~amended by this act, and in accordance with the authority~~
692 ~~granted to the department in this chapter. All existing rules~~
693 ~~relating to this chapter are statutorily repealed January 1,~~
694 ~~2002, unless otherwise readopted.~~

695 Section 31. Subsection (5) of section 110.1099, Florida
696 Statutes, is repealed.

697 Section 32. Subsection (7) of section 110.1228, Florida
 698 Statutes, is repealed.

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

701 110.12301 Competitive procurement of postpayment claims
 702 review services.—The Division of State Group Insurance is
 703 directed to competitively procure:

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

718 Section 34. Subsection (4) of section 112.1915, Florida
 719 Statutes, is repealed.

720 Section 35. Section 118.12, Florida Statutes, is amended
 721 to read:

722 118.12 Certification of civil-law notary's authority;
 723 apostilles.—If certification of a civil-law notary's authority
 724 is necessary for a particular document or transaction, it must

725 be obtained from the Secretary of State. Upon the receipt of a
 726 written request from a civil-law notary and the fee prescribed
 727 by the Secretary of State, the Secretary of State shall issue a
 728 certification of the civil-law notary's authority, in a form
 729 prescribed by the Secretary of State, which shall include a
 730 statement explaining the legal qualifications and authority of a
 731 civil-law notary in this state. The fee prescribed for the
 732 issuance of the certification under this section or an apostille
 733 under s. 15.16 may not exceed \$10 per document. ~~The Department~~
 734 ~~of State may adopt rules to implement this section.~~

735 Section 36. Subsection (1) of section 121.085, Florida
 736 Statutes, is repealed.

737 Section 37. Paragraph (b) of subsection (4) of section
 738 121.1001, Florida Statutes, is repealed.

739 Section 38. Subsection (3) of section 121.4503, Florida
 740 Statutes, is repealed.

741 Section 39. Section 121.5911, Florida Statutes, is amended
 742 to read:

743 121.5911 Disability retirement program; qualified status;
 744 rulemaking authority.—It is the intent of the Legislature that
 745 the disability retirement program for members of the Florida
 746 Retirement System Investment Plan meet all applicable
 747 requirements of federal law for a qualified plan. The department
 748 shall seek a private letter ruling from the Internal Revenue
 749 Service on the disability retirement program. ~~Consistent with~~
 750 ~~the private letter ruling, the department shall adopt rules~~
 751 ~~necessary to maintain the qualified status of the disability~~
 752 ~~retirement program and the Florida Retirement System Pension~~

753 ~~Plan.~~

754 Section 40. Subsection (4) of section 125.902, Florida
 755 Statutes, is repealed.

756 Section 41. Subsection (4) of section 154.503, Florida
 757 Statutes, is repealed.

758 Section 42. Paragraph (a) of subsection (2) of section
 759 159.8081, Florida Statutes, is amended to read:

760 159.8081 Manufacturing facility bond pool.—

761 (2) (a) The first 75 percent of this pool shall be
 762 available on a first come, first served basis, except that 15
 763 percent of the state volume limitation allocated to this pool
 764 shall be available as provided in paragraph (b). Before issuing
 765 any written confirmations for the remaining 25 percent of this
 766 pool, the executive director shall forward all notices of intent
 767 to issue which are received by the division for manufacturing
 768 facility projects to the Department of Economic Opportunity. The
 769 Department of Economic Opportunity shall decide, after receipt
 770 of the notices of intent to issue, which notices will receive
 771 written confirmations. Such decision shall be communicated in
 772 writing by the Department of Economic Opportunity to the
 773 executive director within 10 days of receipt of such notices of
 774 intent to issue. ~~The Department of Economic Opportunity may~~
 775 ~~develop rules to ensure that allocation of the remaining 25~~
 776 ~~percent is consistent with the state's economic development~~
 777 ~~policy.~~

778 Section 43. Section 159.8083, Florida Statutes, is amended
 779 to read:

780 159.8083 Florida First Business allocation pool.—The

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781 Florida First Business allocation pool is hereby established.
782 The Florida First Business allocation pool shall be available
783 solely to provide written confirmation for private activity
784 bonds to finance Florida First Business projects certified by
785 the Department of Economic Opportunity as eligible to receive a
786 written confirmation. Allocations from such pool shall be
787 awarded statewide pursuant to procedures specified in s.
788 159.805, except that the provisions of s. 159.805(2), (3), and
789 (6) do not apply. Florida First Business projects that are
790 eligible for a carryforward do not lose their allocation
791 pursuant to s. 159.809(3) on October 1, or pursuant to s.
792 159.809(4) on November 16, if they have applied for and have
793 been granted a carryforward by the division pursuant to s.
794 159.81(1). In issuing written confirmations of allocations for
795 Florida First Business projects, the division shall use the
796 Florida First Business allocation pool. If allocation is not
797 available from the Florida First Business allocation pool, the
798 division shall issue written confirmations of allocations for
799 Florida First Business projects pursuant to s. 159.806 or s.
800 159.807, in such order. For the purpose of determining priority
801 within a regional allocation pool or the state allocation pool,
802 notices of intent to issue bonds for Florida First Business
803 projects to be issued from a regional allocation pool or the
804 state allocation pool shall be considered to have been received
805 by the division at the time it is determined by the division
806 that the Florida First Business allocation pool is unavailable
807 to issue confirmation for such Florida First Business project.
808 If the total amount requested in notices of intent to issue

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809 private activity bonds for Florida First Business projects
810 exceeds the total amount of the Florida First Business
811 allocation pool, the director shall forward all timely notices
812 of intent to issue, which are received by the division for such
813 projects, to the Department of Economic Opportunity, which shall
814 render a decision as to which notices of intent to issue are to
815 receive written confirmations. ~~The Department of Economic~~
816 ~~Opportunity, in consultation with the division, shall develop~~
817 ~~rules to ensure that the allocation provided in such pool is~~
818 ~~available solely to provide written confirmations for private~~
819 ~~activity bonds to finance Florida First Business projects and~~
820 ~~that such projects are feasible and financially solvent.~~

821 Section 44. Subsection (3) of section 159.825, Florida
822 Statutes, is repealed.

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

824 Section 46. Section 163.462, Florida Statutes, is
825 repealed.

826 Section 47. Subsection (6) of section 163.517, Florida
827 Statutes, is repealed.

828 Section 48. Subsection (2) of section 175.341, Florida
829 Statutes, is repealed.

830 Section 49. Paragraph (e) of subsection (2) of section
831 177.504, Florida Statutes, is repealed.

832 Section 50. Subsection (2) of section 185.23, Florida
833 Statutes, is repealed.

834 Section 51. Subsection (2) of section 255.25001, Florida
835 Statutes, is repealed.

836 Section 52. Subsection (7) of section 257.34, Florida

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837 Statutes, is repealed.

838 Section 53. Subsection (6) of section 364.0135, Florida
839 Statutes, is repealed.

840 Section 54. Section 366.85, Florida Statutes, is amended
841 to read:

842 366.85 Responsibilities of Division of Consumer Services.—
843 The Division of Consumer Services of the Department of
844 Agriculture and Consumer Services shall be the agency
845 responsible for consumer conciliatory conferences, if such
846 conferences are required pursuant to federal law. The division
847 shall also be the agency responsible for preparing lists of
848 sources for energy conservation products or services and of
849 financial institutions offering energy conservation loans, if
850 such lists are required pursuant to federal law. Notwithstanding
851 any provision of federal law to the contrary, the division shall
852 not require any manufacturer's warranty exceeding 1 year in
853 order for a source of conservation products or services to be
854 included on the appropriate list. The lists shall be prepared
855 for the service area of each utility and shall be furnished to
856 each utility for distribution to its customers. The division
857 shall update the lists on a systematic basis and shall remove
858 from any list any person who has been disciplined by any state
859 agency or who has otherwise exhibited a pattern of
860 unsatisfactory work and any person who requests removal from
861 such lists. ~~The division is authorized to adopt rules to~~
862 ~~implement the provisions of this section.~~

863 Section 55. Section 409.5092, Florida Statutes, is
864 repealed.

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865 Section 56. Paragraphs (d) and (e) of subsection (4) of
 866 section 411.01, Florida Statutes, are amended to read:

867 411.01 School readiness programs; early learning
 868 coalitions.—

869 (4) OFFICE OF EARLY LEARNING OF THE DEPARTMENT OF
 870 EDUCATION.—

871 (d) The Office of Early Learning shall:

872 1. Be responsible for the prudent use of all public and
 873 private funds in accordance with all legal and contractual
 874 requirements.

875 2. Provide final approval and every 2 years review early
 876 learning coalitions and school readiness plans.

877 3. Establish a unified approach to the state's efforts
 878 toward enhancement of school readiness. In support of this
 879 effort, the Office of Early Learning shall adopt specific system
 880 support services that address the state's school readiness
 881 programs. An early learning coalition shall amend its school
 882 readiness plan to conform to the specific system support
 883 services adopted by the Office of Early Learning. System support
 884 services shall include, ~~but are not limited to:~~

885 a. Child care resource and referral services;

886 b. Warm-Line services;

887 c. Eligibility determinations;

888 ~~d. Child performance standards;~~

889 ~~e. Child screening and assessment;~~

890 ~~f. Developmentally appropriate curricula;~~

891 ~~d.g.~~ Health and safety requirements requiring compliance
 892 with applicable licensure requirements of the Department of

893 Children and Family Services; and
 894 e.h. Statewide data system requirements.;~~and~~
 895 ~~i. Rating and improvement systems.~~
 896 4. Safeguard the effective use of federal, state, local,
 897 and private resources to achieve the highest possible level of
 898 school readiness for the children in this state.
 899 5. Adopt a rule establishing criteria for the expenditure
 900 of funds designated for the purpose of funding activities to
 901 improve the quality of child care within the state but only as
 902 necessary to comply in accordance with s. 658G of the federal
 903 Child Care and Development Block Grant Act.
 904 6. Provide technical assistance to early learning
 905 coalitions in a manner determined by the Office of Early
 906 Learning based upon information obtained by the office from
 907 various sources, including, but not limited to, public input,
 908 government reports, private interest group reports, office
 909 monitoring visits, and coalition requests for service.
 910 7. In cooperation with the early learning coalitions,
 911 coordinate with the Child Care Services Program Office of the
 912 Department of Children and Family Services to minimize
 913 duplicating interagency activities, health and safety
 914 monitoring, and acquiring and composing data pertaining to child
 915 care training and credentialing.
 916 8. Develop and adopt performance standards and outcome
 917 measures for school readiness programs. The performance
 918 standards must address the age-appropriate progress of children
 919 in the development of school readiness skills. The performance
 920 standards for children from birth to 5 years of age in school

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921 | readiness programs must be integrated with the performance
 922 | standards adopted by the Department of Education for children in
 923 | the Voluntary Prekindergarten Education Program under s.
 924 | 1002.67.

925 | 9. Adopt a standard contract that must be used by the
 926 | coalitions when contracting with school readiness providers.

927 | (e) The Office of Early Learning may adopt rules under ss.
 928 | 120.536(1) and 120.54 to administer the provisions of law
 929 | conferring duties upon the office, including, but not limited
 930 | to, rules governing the administration of system support
 931 | services of school readiness programs, the collection of data,
 932 | the approval of early learning coalitions and school readiness
 933 | plans, the provision of a method whereby an early learning
 934 | coalition may serve two or more counties, ~~the award of~~
 935 | ~~incentives to early learning coalitions, child performance~~
 936 | ~~standards, child outcome measures,~~ the issuance of waivers, and
 937 | the implementation of the state's Child Care and Development
 938 | Fund Plan as approved by the federal Administration for Children
 939 | and Families.

940 | Section 57. Subsection (7) of section 411.01013, Florida
 941 | Statutes, is repealed.

942 | Section 58. Subsection (3) of section 411.0103, Florida
 943 | Statutes, is repealed.

944 | Section 59. Subsection (3) of section 411.0104, Florida
 945 | Statutes, is repealed.

946 | Section 60. Subsections (1) and (3) of section 501.142,
 947 | Florida Statutes, are amended to read:

948 | 501.142 Retail sales establishments; preemption; notice of

949 refund policy; exceptions; penalty.-

950 (1) The regulation of refunds is preempted to the
 951 Department of Agriculture and Consumer Services notwithstanding
 952 any other law or local ordinance to the contrary. Every retail
 953 sales establishment offering goods for sale to the general
 954 public that offers no cash refund, credit refund, or exchange of
 955 merchandise must post a sign so stating at the point of sale.
 956 Failure of a retail sales establishment to exhibit a "no refund"
 957 sign under such circumstances at the point of sale shall mean
 958 that a refund or exchange policy exists, and the policy shall be
 959 presented in writing to the consumer upon request. Any retail
 960 establishment failing to comply with the provisions of this
 961 section shall grant to the consumer, upon request and proof of
 962 purchase, a refund on the merchandise, within 7 days of the date
 963 of purchase, provided the merchandise is unused and in the
 964 original carton, if one was furnished. Nothing herein shall
 965 prohibit a retail sales establishment from having a refund
 966 policy which exceeds the number of days specified herein. ~~The~~
 967 ~~department may adopt rules pursuant to ss. 120.536(1) and 120.54~~
 968 ~~to enforce the provisions of this section.~~ However, this
 969 subsection does not prohibit a local government from enforcing
 970 the provisions established by this section ~~or department rule.~~

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

975 (a) ~~Issue a notice of noncompliance pursuant to s.~~
 976 ~~120.695.~~

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

979 (b) ~~(c)~~ Direct the person to cease and desist specified
 980 activities.

981 Section 61. Paragraph (b) of subsection (15) of section
 982 985.682, Florida Statutes, is amended to read:

983 985.682 Siting of facilities; study; criteria.-

984 (15)

985 (b) Notwithstanding s. ~~ss.~~ 255.25(1)(b) ~~and 255.25001(2)~~,
 986 the department may enter into lease-purchase agreements to
 987 provide juvenile justice facilities for the housing of committed
 988 youths contingent upon available funds. The facilities provided
 989 through such agreements shall meet the program plan and
 990 specifications of the department. The department may enter into
 991 such lease agreements with private corporations and other
 992 governmental entities. However, notwithstanding the provisions
 993 of s. 255.25(3)(a), no such lease agreement may be entered into
 994 except upon advertisement for the receipt of competitive bids
 995 and award to the lowest and best bidder except when contracting
 996 with other governmental entities.

997 Section 62. This act shall take effect July 1, 2012.