

1 A bill to be entitled
2 An act relating to transportation; amending s. 206.46,
3 F.S.; limiting the amount of certain revenues in the
4 State Transportation Trust Fund which the Department
5 of Transportation may annually commit to public
6 transit projects; providing exceptions; amending s.
7 288.9606, F.S.; conforming provisions to changes made
8 by the act; amending s. 316.003, F.S.; revising the
9 definition of the term "teleoperation system";
10 amending s. 316.303, F.S.; authorizing a motor vehicle
11 with a teleoperation system engaged to be operated
12 while the vehicle is actively displaying certain
13 television or video content while the vehicle is in
14 motion; amending s. 316.85, F.S.; providing
15 construction and requirements for a remote human
16 operator of a motor vehicle when the teleoperation
17 system is engaged; limiting liability of such remote
18 human operator; providing automobile insurance
19 requirements for a motor vehicle while a teleoperation
20 system is engaged; revising legislative intent to
21 preempt specified local government regulations
22 relating to teleoperation systems, motor vehicles
23 equipped with such systems, and remote human operators
24 of such motor vehicles; amending s. 318.14, F.S.;
25 increasing the number of times a driver may elect to

26 attend a basic driver improvement course approved by
27 the Department of Highway Safety and Motor Vehicles in
28 lieu of a court appearance; amending ss. 318.1451 and
29 322.095, F.S.; requiring the department to annually
30 review changes made to certain laws and to require
31 course content for specified driving courses to be
32 modified in accordance with relevant changes; amending
33 s. 334.30, F.S.; authorizing the Department of
34 Transportation to enter into comprehensive agreements
35 with private entities for certain purposes; revising
36 provisions relating to a traffic and revenue study
37 provided by a private entity; revising the time period
38 during which the department will accept additional
39 proposals after receiving an unsolicited proposal,
40 based on project complexity; authorizing the
41 department to enter into an interim agreement with a
42 private entity before or in connection with
43 negotiating a comprehensive agreement; providing
44 requirements; authorizing the department secretary to
45 authorize an agreement term of up to 75 years for
46 certain projects; requiring the department to notify
47 the Division of Bond Finance before entering into an
48 interim or comprehensive agreement; amending s.
49 336.044, F.S.; prohibiting a local governmental entity
50 from deeming reclaimed asphalt pavement material as

51 solid waste; amending s. 337.11, F.S.; requiring the
52 department to receive at least three letters of
53 interest in order to proceed with a request for
54 proposals for design-build contracts and phased
55 design-build contracts; requiring a motor vehicle used
56 for specified work on a department project to be
57 registered in compliance with certain provisions;
58 amending s. 337.18, F.S.; authorizing the department
59 to allow the issuance of certain contract performance
60 and payment bonds for phased design-build contracts;
61 authorizing the department to determine whether to
62 reduce bonding requirements; revising the time periods
63 within which certain actions must be instituted by a
64 claimant; amending s. 337.195, F.S.; providing
65 definitions; providing a presumption that if a death,
66 injury, or damage results from a motor vehicle crash
67 within a construction zone in which the driver of a
68 vehicle was under the influence of certain marijuana,
69 the driver's operation of such vehicle was the
70 proximate cause of his or her own death, injury, or
71 damage; revising conditions under which a contractor
72 is immune from liability; conforming provisions to
73 changes made by the act; amending s. 337.25, F.S.;
74 requiring the department to issue a right of first
75 refusal to the previous owner of certain property

76 | acquired by the department if such previous owner
77 | provides written notice to the department, within a
78 | specified timeframe, of his or her interest in
79 | reacquiring such property; requiring the department to
80 | acknowledge receipt of such notice in writing within a
81 | specified timeframe; amending s. 338.26, F.S.;
82 | removing the term of an interlocal agreement for a
83 | certain fire station; increasing the amount of
84 | reimbursement to the local governmental entity for
85 | operating the fire station; providing for an increase
86 | in such amount based on the Consumer Price Index;
87 | providing requirements for the replacement and surplus
88 | of fire apparatus; prohibiting fire apparatus
89 | purchased with state funds from being used at another
90 | fire station; requiring ownership and title of certain
91 | equipment purchased with state funds to transfer to
92 | the state at the end of the term of the interlocal
93 | agreement; creating s. 339.28201, F.S.; creating a
94 | Local Agency Program within the department for certain
95 | funding purposes; requiring oversight by the
96 | department; providing requirements for the
97 | department's project cost estimate; providing for
98 | prioritization and budget of certain local projects;
99 | providing funding eligibility requirements; providing
100 | contract requirements; amending ss. 339.2825 and

101 627.06501, F.S.; conforming provisions to changes made
 102 by the act; providing an effective date.
 103

104 Be It Enacted by the Legislature of the State of Florida:
 105

106 Section 1. Subsection (6) is added to section 206.46,
 107 Florida Statutes, to read:

108 206.46 State Transportation Trust Fund.—

109 (6) The department may not annually commit more than 20
 110 percent of the revenues derived from state fuel taxes and motor
 111 vehicle license-related fees deposited into the State
 112 Transportation Trust Fund to public transit projects, in
 113 accordance with chapter 341, except as otherwise provided
 114 herein. Notwithstanding the foregoing, the department may
 115 annually commit more than 20 percent of such revenues for any of
 116 the following:

117 (a) A public transit project that uses revenues derived
 118 from state fuel taxes and motor vehicle license-related fees to
 119 match funds made available by the Federal Government.

120 (b) A public transit project included in the
 121 transportation improvement program adopted pursuant to s.
 122 339.175(8) and approved by a supermajority vote of the board of
 123 county commissioners or the governing board of a consolidated
 124 county and city government where the project is located.

125 (c) A bus rapid transit or rail project that would result

126 in maintaining or enhancing the level of service of the state
 127 highway system along the corridor of the project, provided state
 128 funds do not exceed 50 percent of the nonfederal share of the
 129 costs and the percentage of the local share.

130 Section 2. Subsections (6) and (7) of section 288.9606,
 131 Florida Statutes, are amended to read:

132 288.9606 Issue of revenue bonds.—

133 (6) The proceeds of any bonds of the corporation may not
 134 be used, in any manner, to acquire any building or facility that
 135 will be, during the pendency of the financing, used by, occupied
 136 by, leased to, or paid for by any state, county, or municipal
 137 agency or entity. This subsection does not prohibit the use of
 138 proceeds of bonds of the corporation for the purpose of
 139 financing the acquisition or construction of a transportation
 140 facility under a comprehensive ~~public-private partnership~~
 141 agreement authorized by s. 334.30.

142 (7) Notwithstanding any provision of this section, the
 143 corporation in its corporate capacity may, without authorization
 144 from a public agency under s. 163.01(7), issue revenue bonds or
 145 other evidence of indebtedness under this section to:

146 (a) Finance the undertaking of any project within the
 147 state that promotes renewable energy as defined in s. 366.91 or
 148 s. 377.803;

149 (b) Finance the undertaking of any project within the
 150 state that is a project contemplated or allowed under s. 406 of

151 the American Recovery and Reinvestment Act of 2009; ~~or~~

152 (c) If permitted by federal law, finance qualifying
153 improvement projects within the state under s. 163.08; ~~or~~

154 (d) Finance the costs of acquisition or construction of a
155 transportation facility by a private entity or consortium of
156 private entities under a comprehensive ~~public-private~~
157 ~~partnership~~ agreement authorized by s. 334.30.

158 Section 3. Subsection (95) of section 316.003, Florida
159 Statutes, is amended to read:

160 316.003 Definitions.—The following words and phrases, when
161 used in this chapter, shall have the meanings respectively
162 ascribed to them in this section, except where the context
163 otherwise requires:

164 (95) TELEOPERATION SYSTEM.—The hardware and software
165 installed in a motor vehicle which allow a remote human operator
166 to supervise or perform aspects of, or the entirety of, the
167 dynamic driving task. The term "remote human operator" means a
168 natural person who:

169 (a) Is not physically present in the motor ~~a~~ vehicle;
170 ~~equipped with an automated driving system who~~

171 (b) Engages or monitors the motor vehicle from a remote
172 location; ~~. A remote human operator may have~~

173 (c) Has the ability to perform aspects of, or the entirety
174 of, the dynamic driving task for the motor vehicle;

175 (d) Has the ability to ~~or~~ cause the motor vehicle to

176 | achieve a reasonably safe state, such as bringing the vehicle to
 177 | a complete stop and activating the vehicle's hazard lamps;
 178 | ~~minimal risk condition as defined in s. 319.145(2). A remote~~
 179 | ~~human operator must be~~

180 | (e) Is physically present in the United States; and ~~be~~
 181 | (f) Is licensed to operate a motor vehicle by a United
 182 | States jurisdiction.

183 | Section 4. Subsection (1) of section 316.303, Florida
 184 | Statutes, is amended to read:

185 | 316.303 Television receivers.—

186 | (1) A motor vehicle may not be operated on the highways of
 187 | this state if the vehicle is actively displaying moving
 188 | television broadcast or pre-recorded video entertainment content
 189 | that is visible from the driver's seat while the vehicle is in
 190 | motion, unless the vehicle is being operated with the automated
 191 | driving system or teleoperation system engaged.

192 | Section 5. Subsections (5) and (6) of section 316.85,
 193 | Florida Statutes, are amended to read:

194 | 316.85 Autonomous vehicles and motor vehicles equipped
 195 | with teleoperation systems; operation; compliance with traffic
 196 | and motor vehicle laws; testing.—

197 | (5) (a) Notwithstanding any other provision of this
 198 | chapter, a motor ~~an autonomous vehicle or a fully autonomous~~
 199 | vehicle equipped with a teleoperation system may operate without
 200 | a human operator physically present in the motor vehicle when

201 the teleoperation system is engaged. When the teleoperation
 202 system is engaged, the remote human operator is deemed to be the
 203 driver or operator of the motor vehicle and must operate the
 204 motor vehicle in compliance with the applicable traffic and
 205 motor vehicle laws of this state. The remote human operator
 206 shall not be held personally liable for any injury, property
 207 damage, or death arising from the performance of his or her
 208 duties unless caused directly by his or her negligence,
 209 recklessness, or willful misconduct.

210 (b) A motor vehicle equipped with a teleoperation system,
 211 while the teleoperation system is engaged, must be covered by a
 212 policy of automobile insurance which provides:

213 1. Primary liability coverage of at least \$1 million for
 214 death, bodily injury, and property damage.

215 2. Personal injury protection benefits that meet the
 216 minimum coverage amounts required under ss. 627.730-627.7405.

217 3. Uninsured and underinsured vehicle coverage as required
 218 by s. 627.727 ~~A vehicle that is subject to this subsection must~~
 219 ~~meet the requirements of s. 319.145 and is considered a vehicle~~
 220 ~~that meets the definition provided in s. 316.003(3)(c) for the~~
 221 ~~purposes of ss. 316.062(5), 316.063(4), 316.065(5), 316.1975(3),~~
 222 ~~and 316.303(1).~~

223 (6) It is the intent of the Legislature to provide for
 224 uniformity of laws governing autonomous vehicles and motor
 225 vehicles equipped with teleoperation systems throughout the

226 | state. A local government may not impose any tax, fee, for-hire
 227 | vehicle requirement, or other requirement on automated driving
 228 | systems or autonomous vehicles; teleoperation systems or motor
 229 | vehicles equipped with teleoperation systems; ~~or on~~ a person who
 230 | operates an autonomous vehicle, including, but not limited to, a
 231 | person who operates an autonomous vehicle for purposes of
 232 | providing passenger transportation services; or a remote human
 233 | operator of a motor vehicle with a teleoperation system engaged.

234 | This subsection does not prohibit an airport or a seaport from
 235 | charging reasonable fees consistent with any fees charged to
 236 | companies that provide similar services at that airport or
 237 | seaport for their use of the airport's or seaport's facilities,
 238 | nor does it prohibit the airport or seaport from designating
 239 | locations for staging, pickup, or other similar operations at
 240 | the airport or seaport.

241 | Section 6. Subsection (9) of section 318.14, Florida
 242 | Statutes, is amended to read:

243 | 318.14 Noncriminal traffic infractions; exception;
 244 | procedures.—

245 | (9) Any person who does not hold a commercial driver
 246 | license or commercial learner's permit and who is cited while
 247 | driving a noncommercial motor vehicle for an infraction under
 248 | this section other than a violation of s. 316.183(2), s.
 249 | 316.187, or s. 316.189 when the driver exceeds the posted limit
 250 | by 30 miles per hour or more, s. 320.0605, s. 320.07(3) (a) or

251 (b), s. 322.065, s. 322.15(1), s. 322.61, or s. 322.62 may, in
 252 lieu of a court appearance, elect to attend in the location of
 253 his or her choice within this state a basic driver improvement
 254 course approved by the Department of Highway Safety and Motor
 255 Vehicles. In such a case, adjudication must be withheld, any
 256 civil penalty that is imposed by s. 318.18(3) must be reduced by
 257 18 percent, and points, as provided by s. 322.27, may not be
 258 assessed. However, a person may not make an election under this
 259 subsection if the person has made an election under this
 260 subsection in the preceding 12 months. A person may not make
 261 more than eight ~~five~~ elections within his or her lifetime under
 262 this subsection. The requirement for community service under s.
 263 318.18(8) is not waived by a plea of nolo contendere or by the
 264 withholding of adjudication of guilt by a court.

265 Section 7. Paragraph (d) of subsection (6) of section
 266 318.1451, Florida Statutes, is amended to read:

267 318.1451 Driver improvement schools.—

268 (6) The department shall adopt rules establishing and
 269 maintaining policies and procedures to implement the
 270 requirements of this section. These policies and procedures may
 271 include, but shall not be limited to, the following:

272 (d) Course content.—The department shall set and modify
 273 course content requirements to keep current with laws and safety
 274 information. The department shall annually review changes made
 275 to major traffic laws of this state, including s. 316.126(1) (b),

276 and shall require course content for courses referenced in this
277 section to be modified in accordance with changes relevant to
278 the courses. Course content includes all items used in the
279 conduct of the course.

280 Section 8. Subsection (7) of section 322.095, Florida
281 Statutes, is amended to read:

282 322.095 Traffic law and substance abuse education program
283 for driver license applicants.—

284 (7) Courses approved under this section must be updated at
285 the department's request. The department shall annually review
286 changes made to major traffic laws of this state, including s.
287 316.126(1)(b), and shall require course content for courses
288 referenced in this section to be modified in accordance with
289 changes relevant to the courses. Failure of a course provider to
290 update the course within 90 days after the department's request
291 shall result in the suspension of the course approval until such
292 time that the updates are submitted and approved by the
293 department.

294 Section 9. Subsections (8) through (13) of section 334.30,
295 Florida Statutes, are renumbered as subsections (9) through
296 (14), respectively, subsections (1), (2), and (6) and present
297 subsections (8), (10), (11), and (13) are amended, and a new
298 subsection (8) is added to that section, to read:

299 334.30 Public-private transportation facilities.—The
300 Legislature finds and declares that there is a public need for

301 the rapid construction of safe and efficient transportation
302 facilities for the purpose of traveling within the state, and
303 that it is in the public's interest to provide for the
304 construction of additional safe, convenient, and economical
305 transportation facilities.

306 (1) The department may receive or solicit proposals and,
307 with legislative approval as evidenced by approval of the
308 project in the department's work program, enter into
309 comprehensive agreements with private entities, or consortia
310 thereof, for the building, operation, ownership, or financing of
311 transportation facilities. The department may advance projects
312 programmed in the adopted 5-year work program or projects
313 increasing transportation capacity and greater than \$500 million
314 in the 10-year Strategic Intermodal Plan using funds provided by
315 public-private partnerships or private entities to be reimbursed
316 from department funds for the project as programmed in the
317 adopted work program. The department shall by rule establish an
318 application fee for the submission of unsolicited proposals
319 under this section. The fee must be sufficient to pay the costs
320 of evaluating the proposals. The department may engage the
321 services of private consultants to assist in the evaluation.
322 Before approval, the department must determine that the proposed
323 project:

- 324 (a) Is in the public's best interest;
325 (b) Would not require state funds to be used unless the

326 project is on the State Highway System;

327 (c) Would have adequate safeguards in place to ensure that
328 no additional costs or service disruptions would be realized by
329 the traveling public and residents of the state in the event of
330 default or cancellation of the comprehensive agreement by the
331 department;

332 (d) Would have adequate safeguards in place to ensure that
333 the department or the private entity has the opportunity to add
334 capacity to the proposed project and other transportation
335 facilities serving similar origins and destinations; and

336 (e) Would be owned by the department upon completion or
337 termination of the comprehensive agreement.

338
339 The department shall ensure that all reasonable costs to the
340 state, related to transportation facilities that are not part of
341 the State Highway System, are borne by the private entity. The
342 department shall also ensure that all reasonable costs to the
343 state and substantially affected local governments and
344 utilities, related to the private transportation facility, are
345 borne by the private entity for transportation facilities that
346 are owned by private entities. For projects on the State Highway
347 System, the department may use state resources to participate in
348 funding and financing the project as provided for under the
349 department's enabling legislation. Because the Legislature
350 recognizes that private entities or consortia thereof would

351 perform a governmental or public purpose or function when they
352 enter into comprehensive agreements with the department to
353 design, build, operate, own, or finance transportation
354 facilities, the transportation facilities, including leasehold
355 interests thereof, are exempt from ad valorem taxes as provided
356 in chapter 196 to the extent property is owned by the state or
357 other government entity, and from intangible taxes as provided
358 in chapter 199 and special assessments of the state, any city,
359 town, county, special district, political subdivision of the
360 state, or any other governmental entity. The private entities or
361 consortia thereof are exempt from tax imposed by chapter 201 on
362 all documents or obligations to pay money which arise out of the
363 comprehensive agreements to design, build, operate, own, lease,
364 or finance transportation facilities. Any private entities or
365 consortia thereof must pay any applicable corporate taxes as
366 provided in chapter 220, and reemployment assistance taxes as
367 provided in chapter 443, and sales and use tax as provided in
368 chapter 212 shall be applicable. The private entities or
369 consortia thereof must also register and collect the tax imposed
370 by chapter 212 on all their direct sales and leases that are
371 subject to tax under chapter 212. The comprehensive agreement
372 between the private entity or consortia thereof and the
373 department establishing a transportation facility under this
374 chapter constitutes documentation sufficient to claim any
375 exemption under this section.

376 (2) Comprehensive agreements entered into pursuant to this
377 section may authorize the private entity to impose tolls or
378 fares for the use of the facility. The following provisions
379 shall apply to such comprehensive agreements:

380 (a) With the exception of the Florida Turnpike System, the
381 department may lease existing toll facilities through public-
382 private partnerships. The comprehensive ~~public-private~~
383 ~~partnership~~ agreement must ensure that the transportation
384 facility is properly operated, maintained, and renewed in
385 accordance with department standards.

386 (b) The department may develop new toll facilities or
387 increase capacity on existing toll facilities through public-
388 private partnerships. The comprehensive ~~public-private~~
389 ~~partnership~~ agreement must ensure that the toll facility is
390 properly operated, maintained, and renewed in accordance with
391 department standards.

392 (c) Any toll revenues shall be regulated by the department
393 pursuant to s. 338.165(3). The regulations governing the future
394 increase of toll or fare revenues shall be included in the
395 comprehensive ~~public-private partnership~~ agreement.

396 (d) The department shall provide the analysis required in
397 subparagraph (6)(e)2. to the Legislative Budget Commission
398 created pursuant to s. 11.90 for review and approval before
399 ~~prior to~~ awarding a contract on a lease of an existing toll
400 facility.

401 (e) The department shall include provisions in the
402 comprehensive ~~public-private partnership~~ agreement that ensure a
403 negotiated portion of revenues from tolled or fare generating
404 projects ~~is~~ are returned to the department over the life of the
405 comprehensive ~~public-private partnership~~ agreement. In the case
406 of a lease of an existing toll facility, the department shall
407 receive a portion of funds upon closing on the comprehensive
408 agreements and shall also include provisions in the
409 comprehensive agreement to receive payment of a portion of
410 excess revenues over the life of the public-private partnership.

411 (f) The private entity shall provide an independent
412 ~~investment grade~~ traffic and revenue study prepared by a ~~an~~
413 ~~internationally recognized~~ traffic and revenue expert as part of
414 the private entity proposal. The private entity shall provide a
415 traffic and revenue study that is accepted by the national bond
416 rating agencies for the financing that supports the
417 comprehensive agreement at financial close for the public-
418 private partnership project. The private entity shall also
419 provide a finance plan that identifies the project cost,
420 revenues by source, financing, major assumptions, internal rate
421 of return on private investments, and whether any government
422 funds are assumed to deliver a cost-feasible project, and a
423 total cash flow analysis beginning with implementation of the
424 project and extending for the term of the comprehensive
425 agreement.

426 (6) The procurement of public-private partnerships by the
427 department shall follow the provisions of this section. Sections
428 337.025, 337.11, 337.14, 337.141, 337.145, 337.175, 337.18,
429 337.185, 337.19, 337.221, and 337.251 shall not apply to
430 procurements under this section unless a provision is included
431 in the procurement documents. The department shall ensure that
432 generally accepted business practices for exemptions provided by
433 this subsection are part of the procurement process or are
434 included in the comprehensive ~~public-private partnership~~
435 agreement.

436 (a) The department may request proposals from private
437 entities for public-private transportation projects or, if the
438 department receives an unsolicited proposal, the department
439 shall publish a notice in the Florida Administrative Register
440 and a newspaper of general circulation at least once a week for
441 2 weeks stating that the department has received the proposal
442 and will accept, between 30 and ~~for~~ 120 days after the initial
443 date of publication as determined by the department based on the
444 complexity of the project, other proposals for the same project
445 purpose. A copy of the notice must be mailed to each local
446 government in the affected area.

447 (b) Public-private partnerships shall be qualified by the
448 department as part of the procurement process as outlined in the
449 procurement documents, provided such process ensures that the
450 private firm meets at least the minimum department standards for

451 qualification in department rule for professional engineering
452 services and road and bridge contracting before ~~prior to~~
453 submitting a proposal under the procurement.

454 (c) The department shall ensure that procurement documents
455 include provisions for performance of the private entity and
456 payment of subcontractors, including, but not limited to, surety
457 bonds, letters of credit, parent company guarantees, and lender
458 and equity partner guarantees. The department shall balance the
459 structure of the security package for the public-private
460 partnership that ensures performance and payment of
461 subcontractors with the cost of the security to ensure the most
462 efficient pricing.

463 (d) After the public notification period has expired, the
464 department shall rank the proposals in order of preference. In
465 ranking the proposals, the department may consider factors that
466 include, but are not limited to, professional qualifications,
467 general business terms, innovative engineering or cost-reduction
468 terms, finance plans, and the need for state funds to deliver
469 the project. If the department is not satisfied with the results
470 of the negotiations, the department may, at its sole discretion,
471 terminate negotiations with the proposer. If these negotiations
472 are unsuccessful, the department may go to the second-ranked and
473 lower-ranked firms, in order, using this same procedure. If only
474 one proposal is received, the department may negotiate in good
475 faith and, if the department is not satisfied with the results

476 of the negotiations, the department may, at its sole discretion,
477 terminate negotiations with the proposer. Notwithstanding this
478 subsection, the department may, at its discretion, reject all
479 proposals at any point in the process up to completion of a
480 contract with the proposer.

481 (e) The department shall provide an independent analysis
482 of the proposed public-private partnership that demonstrates the
483 cost-effectiveness and overall public benefit at the following
484 times:

485 1. Before ~~Prior to~~ moving forward with the procurement;
486 and

487 2. If the procurement moves forward, before ~~prior to~~
488 awarding the contract.

489 (8) Before or in connection with the negotiation of a
490 comprehensive agreement, the department may enter into an
491 interim agreement with the private entity proposing the
492 development or operation of the qualifying project. An interim
493 agreement does not obligate the department to enter into a
494 comprehensive agreement. The interim agreement is discretionary
495 with the parties and is not required on a qualifying project for
496 which the parties may proceed directly to a comprehensive
497 agreement without the need for an interim agreement. An interim
498 agreement must be limited to provisions that:

499 (a) Authorize the private entity to commence activities
500 for which it may be compensated related to the proposed

501 qualifying project, including, but not limited to, project
 502 planning and development, design, environmental analysis and
 503 mitigation, survey, other activities concerning any part of the
 504 proposed qualifying project, and ascertaining the availability
 505 of financing for the proposed facility or facilities.

506 (b) Establish the process and timing of the negotiation of
 507 the comprehensive agreement.

508 (c) Contain such other provisions that the department and
 509 the private entity deem appropriate related to an aspect of the
 510 development or operation of a qualifying project.

511 (9)-(8) The department may enter into a comprehensive
 512 agreement ~~public-private partnership agreements~~ that includes
 513 ~~include~~ extended terms providing annual payments for performance
 514 based on the availability of service or the facility being open
 515 to traffic or based on the level of traffic using the facility.
 516 In addition to other provisions in this section, the following
 517 provisions shall apply:

518 (a) The annual payments under such comprehensive agreement
 519 shall be included in the department's tentative work program
 520 developed under s. 339.135 and the long-range transportation
 521 plan for the applicable metropolitan planning organization
 522 developed under s. 339.175. The department shall ensure that
 523 annual payments on multiyear comprehensive ~~public-private~~
 524 ~~partnership~~ agreements are prioritized ahead of new capacity
 525 projects in the development and updating of the tentative work

526 program.

527 (b) The annual payments are subject to annual
 528 appropriation by the Legislature as provided in the General
 529 Appropriations Act in support of the first year of the tentative
 530 work program.

531 ~~(11)-(10)~~ Before ~~Prior to~~ entering into such comprehensive
 532 agreement where funds are committed from the State
 533 Transportation Trust Fund, the project must be prioritized as
 534 follows:

535 (a) The department, in coordination with the local
 536 metropolitan planning organization, shall prioritize projects
 537 included in the Strategic Intermodal System 10-year and long-
 538 range cost-feasible plans.

539 (b) The department, in coordination with the local
 540 metropolitan planning organization or local government where
 541 there is no metropolitan planning organization, shall prioritize
 542 projects, for facilities not on the Strategic Intermodal System,
 543 included in the metropolitan planning organization cost-feasible
 544 transportation improvement plan and long-range transportation
 545 plan.

546 ~~(12)-(11)~~ Comprehensive ~~Public-private partnership~~
 547 agreements under this section shall be limited to a term not
 548 exceeding 50 years. Upon making written findings that a
 549 comprehensive ~~an~~ agreement under this section requires a term in
 550 excess of 50 years, the secretary of the department may

551 authorize a term of up to 75 years for projects that are
 552 partially or completely funded from project user fees.
 553 Comprehensive agreements under this section shall not have a
 554 term in excess of 75 years unless specifically approved by the
 555 Legislature. The department shall identify each new project
 556 under this section with a term exceeding 75 years in the
 557 transmittal letter that accompanies the submittal of the
 558 tentative work program to the Governor and the Legislature in
 559 accordance with s. 339.135.

560 ~~(14)~~ ~~(13)~~ In connection with a proposal to finance or
 561 refinance a transportation facility pursuant to this section,
 562 the department shall consult with the Division of Bond Finance
 563 of the State Board of Administration. The department shall
 564 notify the division before entering into an interim or
 565 comprehensive agreement and provide the division with the
 566 information necessary to provide timely consultation and
 567 recommendations. The Division of Bond Finance may make an
 568 independent recommendation to the Executive Office of the
 569 Governor.

570 Section 10. Subsection (5) of section 336.044, Florida
 571 Statutes, is amended to read:

572 336.044 Use of recyclable materials in construction.—

573 (5) Notwithstanding any law, rule, or ordinance to the
 574 contrary, a local governmental entity may not adopt standards or
 575 specifications that are contrary to the department standards or

576 specifications for permissible use of reclaimed asphalt pavement
 577 material and may not deem reclaimed asphalt pavement in
 578 ~~construction. For purposes of this section, such material as may~~
 579 ~~not be considered~~ solid waste.

580 Section 11. Paragraph (e) of subsection (7) and subsection
 581 (13) of section 337.11, Florida Statutes, are amended to read:

582 337.11 Contracting authority of department; bids;
 583 emergency repairs, supplemental agreements, and change orders;
 584 combined design and construction contracts; progress payments;
 585 records; requirements of vehicle registration.-

586 (7)

587 (e) For design-build contracts and phased design-build
 588 contracts, the department must receive at least three letters of
 589 interest in order to proceed with a request for proposals. The
 590 department shall request proposals from no fewer than three of
 591 the ~~design-build~~ firms submitting letters of interest. If a
 592 ~~design-build~~ firm withdraws from consideration after the
 593 department requests proposals, the department may continue if at
 594 least two proposals are received.

595 (13) A motor vehicle used ~~Each contract let by the~~
 596 ~~department~~ for the performance of road or bridge construction or
 597 maintenance work on a department project must ~~shall require all~~
 598 ~~motor vehicles that the contractor operates or causes to be~~
 599 ~~operated in this state to be registered in compliance with~~
 600 chapter 320.

601 Section 12. Paragraphs (a) and (d) of subsection (1) of
 602 section 337.18, Florida Statutes, are amended to read:

603 337.18 Surety bonds for construction or maintenance
 604 contracts; requirement with respect to contract award; bond
 605 requirements; defaults; damage assessments.—

606 (1)(a) A surety bond shall be required of the successful
 607 bidder in an amount equal to the awarded contract price.
 608 However, the department may choose, in its discretion and
 609 applicable only to multiyear maintenance contracts, to allow for
 610 incremental annual contract bonds that cumulatively total the
 611 full, awarded, multiyear contract price. The department may also
 612 choose, in its discretion and applicable only to phased design-
 613 build contracts under s. 337.11(7)(b), to allow the issuance of
 614 multiple contract performance and payment bonds in succession to
 615 align with each phase of the contract to meet the bonding
 616 requirement in this subsection.

617 1. The department may waive the requirement for all or a
 618 portion of a surety bond if:

619 a. The contract price is \$250,000 or less and the
 620 department determines that the project is of a noncritical
 621 nature and that nonperformance will not endanger public health,
 622 safety, or property;

623 b. The prime contractor is a qualified nonprofit agency
 624 for the blind or for the other severely handicapped under s.
 625 413.036(2); or

626 c. The prime contractor is using a subcontractor that is a
627 qualified nonprofit agency for the blind or for the other
628 severely handicapped under s. 413.036(2). However, the
629 department may not waive more than the amount of the
630 subcontract.

631 2. If the department ~~Secretary of Transportation or the~~
632 ~~secretary's designee~~ determines that it is in the best interests
633 of the department to reduce the bonding requirement for a
634 project and that to do so will not endanger public health,
635 safety, or property, the department may waive the requirement of
636 a surety bond in an amount equal to the awarded contract price
637 for a project having a contract price of \$250 million or more
638 and, in its place, may set a surety bond amount that is a
639 portion of the total contract price and provide an alternate
640 means of security for the balance of the contract amount that is
641 not covered by the surety bond or provide for incremental surety
642 bonding and provide an alternate means of security for the
643 balance of the contract amount that is not covered by the surety
644 bond. Such alternative means of security may include letters of
645 credit, United States bonds and notes, parent company
646 guarantees, and cash collateral. The department may require
647 alternate means of security if a surety bond is waived. The
648 surety on such bond shall be a surety company authorized to do
649 business in the state. All bonds shall be payable to the
650 department and conditioned for the prompt, faithful, and

651 efficient performance of the contract according to plans and
652 specifications and within the time period specified, and for the
653 prompt payment of all persons defined in s. 713.01 furnishing
654 labor, material, equipment, and supplies for work provided in
655 the contract; however, whenever an improvement, demolition, or
656 removal contract price is \$25,000 or less, the security may, in
657 the discretion of the bidder, be in the form of a cashier's
658 check, bank money order of any state or national bank, certified
659 check, or postal money order. The department shall adopt rules
660 to implement this subsection. Such rules shall include
661 provisions under which the department shall refuse to accept
662 bonds on contracts when a surety wrongfully fails or refuses to
663 settle or provide a defense for claims or actions arising under
664 a contract for which the surety previously furnished a bond.

665 (d) An action, except an action for recovery of retainage,
666 must be instituted by a claimant, regardless of whether in
667 privity with the contractor ~~or not~~, against the contractor or
668 the surety on the payment bond or the payment provisions of a
669 combined payment and performance bond within 365 days after the
670 performance of the labor or completion of delivery of the
671 materials or supplies. An action for recovery of retainage must
672 be instituted against the contractor or the surety within 365
673 days after final acceptance of the contract work by the
674 department. A claimant may not waive in advance his or her right
675 to bring an action under the bond against the surety. In any

676 action brought to enforce a claim against a payment bond under
677 this section, the prevailing party is entitled to recover a
678 reasonable fee for the services of his or her attorney for trial
679 and appeal or for arbitration, in an amount to be determined by
680 the court, which fee must be taxed as part of the prevailing
681 party's costs, as allowed in equitable actions.

682 Section 13. Section 337.195, Florida Statutes, is amended
683 to read:

684 337.195 Limits on liability.—

685 (1) As used in this section, the term:

686 (a) "Contract documents" has the same meaning as in the
687 applicable contract between the department and the contractor.

688 (b) "Contractor" means a person or an entity, at any
689 contractual tier, including any member of a design-build team
690 pursuant to s. 337.11, who constructs, maintains, or repairs a
691 highway, road, street, bridge, or other transportation facility
692 for the department in connection with a department project.

693 (c) "Design engineer" means a person or an entity,
694 including the design consultant of a design-build team, who
695 contracts at any tier to prepare or provide engineering plans,
696 including traffic control plans, for the construction or repair
697 of a highway, road, street, bridge, or other department
698 transportation facility for the department or in connection with
699 a department project.

700 (d) "Traffic control plans" means the maintenance of
 701 traffic plans designed by a professional engineer, or otherwise
 702 in accordance with the department's standard plans, and approved
 703 by the department.

704 (2)-(1) In a civil action for the death of or injury to a
 705 person, or for damage to property, against the department ~~of~~
 706 ~~Transportation~~ or its agents, consultants, or contractors for
 707 work performed on a highway, road, street, bridge, or other
 708 transportation facility when the death, injury, or damage
 709 resulted from a motor vehicle crash within a construction zone
 710 in which the driver of one of the vehicles was under the
 711 influence of alcoholic beverages as set forth in s. 316.193,
 712 under the influence of any chemical substance as set forth in s.
 713 877.111, under the influence of marijuana as authorized by s.
 714 381.986, excluding low-THC cannabis, or illegally under the
 715 influence of any substance controlled under chapter 893 to the
 716 extent that her or his normal faculties were impaired or that
 717 she or he operated a vehicle recklessly as defined in s.
 718 316.192, it is presumed that the driver's operation of the
 719 vehicle was the sole proximate cause of her or his own death,
 720 injury, or damage. This presumption can be overcome if the gross
 721 negligence or intentional misconduct of the department ~~of~~
 722 ~~Transportation~~, or of its agents, consultants, or contractors,
 723 was a proximate cause of the driver's death, injury, or damage.

724 (3)-(2) A contractor who constructs, maintains, or repairs
 725 a highway, road, street, bridge, or other transportation
 726 facility for the department ~~of Transportation~~ is not liable to a
 727 claimant for personal injury, property damage, or death arising
 728 from the performance of the construction, maintenance, or repair
 729 if, at the time of the personal injury, property damage, or
 730 death, the contractor was in compliance with contract documents
 731 material to the condition that was the proximate cause of the
 732 personal injury, property damage, or death.

733 (a) The limitations ~~limitation~~ on liability contained in
 734 this subsection do ~~does~~ not apply when the proximate cause of
 735 the personal injury, property damage, or death is a latent
 736 condition, defect, error, or omission that was created by the
 737 contractor and not a defect, error, or omission in the contract
 738 documents; or when the proximate cause of the personal injury,
 739 property damage, or death was the contractor's failure to
 740 ~~perform, update, or comply with the maintenance of the~~ traffic
 741 control plans ~~safety plan~~ as required by the contract documents.

742 (b) ~~Nothing in~~ This subsection may not ~~shall~~ be
 743 interpreted or construed as relieving the contractor of any
 744 obligation to provide the department ~~of Transportation~~ with
 745 written notice of any apparent error or omission in the contract
 746 documents.

747 (c) ~~Nothing in~~ This subsection may not shall be
748 interpreted or construed to alter or affect any claim of the
749 department ~~of Transportation~~ against such contractor.

750 (d) This subsection does not affect any claim of any
751 entity against such contractor, which claim is associated with
752 such entity's facilities on or in department ~~of Transportation~~
753 roads or other transportation facilities.

754 (4)~~(3)~~ In all cases involving personal injury, property
755 damage, or death, a design engineer is ~~person or entity who~~
756 ~~contracts to prepare or provide engineering plans for the~~
757 ~~construction or repair of a highway, road, street, bridge, or~~
758 ~~other transportation facility for the Department of~~
759 ~~Transportation shall be~~ presumed to have prepared such
760 engineering plans using the degree of care and skill ordinarily
761 exercised by other engineers in the field under similar
762 conditions and in similar localities and with due regard for
763 acceptable engineering standards and principles if the
764 engineering plans conformed to the department's ~~Department of~~
765 ~~Transportation's~~ design standards material to the condition or
766 defect that was the proximate cause of the personal injury,
767 property damage, or death. This presumption can be overcome only
768 upon a showing of the design engineer's ~~person's or entity's~~
769 gross negligence in the preparation of the engineering plans and
770 may shall not be interpreted or construed to alter or affect any
771 claim of the department ~~of Transportation~~ against such design

772 engineer ~~person or entity~~. The limitation on liability contained
773 in this subsection does ~~shall~~ not apply to any hidden or
774 undiscoverable condition created by the design engineer. This
775 subsection does not affect any claim of any entity against such
776 design engineer ~~or engineering firm~~, which claim is associated
777 with such entity's facilities on or in department ~~of~~
778 ~~Transportation~~ roads or other transportation facilities.

779 ~~(4) In any civil action for death, injury, or damages~~
780 ~~against the Department of Transportation or its agents,~~
781 ~~consultants, engineers, or contractors for work performed on a~~
782 ~~highway, road, street, bridge, or other transportation facility,~~
783 ~~if the department, its agents, consultants, engineers, or~~
784 ~~contractors are immune from liability pursuant to this section~~
785 ~~or are not parties to the litigation, they may not be named on~~
786 ~~the jury verdict form or be found to be at fault or responsible~~
787 ~~for the injury, death, or damage that gave rise to the damages.~~

788 Section 14. Subsection (4) of section 337.25, Florida
789 Statutes, is amended to read:

790 337.25 Acquisition, lease, and disposal of real and
791 personal property.—

792 (4) The department may convey, in the name of the state,
793 any land, building, or other property, real or personal, which
794 was acquired under subsection (1) and which the department has
795 determined is not needed for the construction, operation, and
796 maintenance of a transportation facility. When such a

797 determination has been made, property may be disposed of through
798 negotiations, sealed competitive bids, auctions, or any other
799 means the department deems to be in its best interest, with due
800 advertisement for property valued by the department at greater
801 than \$10,000. A sale may not occur at a price less than the
802 department's current estimate of value, except as provided in
803 paragraphs (a)-(d). The department may afford a right of first
804 refusal to the local government or other political subdivision
805 in the jurisdiction in which the parcel is situated, except in a
806 conveyance transacted under paragraph (a), paragraph (c), or
807 paragraph (e). Notwithstanding any provision of this section to
808 the contrary, before any conveyance under this subsection may be
809 made, except a conveyance under paragraph (a) or paragraph (c),
810 the department shall first afford a right of first refusal to
811 the previous property owner for the department's current
812 estimate of value of the property. The right of first refusal
813 must be made in writing and sent to the previous owner via
814 certified mail or hand delivery, effective upon receipt. The
815 right of first refusal must provide the previous owner with a
816 minimum of 30 days to exercise the right in writing and must be
817 sent to the originator of the offer by certified mail or hand
818 delivery, effective upon dispatch. If the previous owner
819 exercises his or her right of first refusal, the previous owner
820 has a minimum of 90 days to close on the property. The right of
821 first refusal set forth in this subsection may not be required

822 for the disposal of property acquired more than 10 years before
823 the date of disposition by the department. If, within 10 years
824 after the date of the department's acquisition of the property,
825 the previous property owner notifies the department, in writing
826 provided via certified mail to the department's district
827 secretary of the district in which the property is located, of
828 the previous property owner's interest in reacquiring the
829 property, the right to receive the right of first refusal vests
830 with such previous owner, and the department is thereafter
831 obligated to issue a right of first refusal to the previous
832 property owner in accordance with this subsection before
833 disposal or conveyance of the property, whenever that may occur.
834 Within 60 days after the department's receipt of the previous
835 property owner's notice of interest as provided in this
836 subsection, the department must acknowledge receipt of such
837 notice, in writing provided via certified mail, to the previous
838 property owner.

839 (a) If the property has been donated to the state for
840 transportation purposes and a transportation facility has not
841 been constructed for at least 5 years, plans have not been
842 prepared for the construction of such facility, and the property
843 is not located in a transportation corridor, the governmental
844 entity may authorize reconveyance of the donated property for no
845 consideration to the original donor or the donor's heirs,
846 successors, assigns, or representatives.

847 (b) If the property is to be used for a public purpose,
848 including, but not limited to, affordable housing as provided in
849 ss. 125.379 and 166.0451, the property may be conveyed without
850 consideration to a governmental entity.

851 (c) If the property was originally acquired specifically
852 to provide replacement housing for persons displaced by
853 transportation projects, the department may negotiate for the
854 sale of such property as replacement housing. As compensation,
855 the state shall receive at least its investment in such property
856 or the department's current estimate of value, whichever is
857 lower. It is expressly intended that this benefit be extended
858 only to persons actually displaced by the project. Dispositions
859 to any other person must be for at least the department's
860 current estimate of value.

861 (d) If the department determines that the property
862 requires significant costs to be incurred or that continued
863 ownership of the property exposes the department to significant
864 liability risks, the department may use the projected
865 maintenance costs over the next 10 years to offset the
866 property's value in establishing a value for disposal of the
867 property, even if that value is zero.

868 (e) If, at the discretion of the department, a sale to a
869 person other than an abutting property owner would be
870 inequitable, the property may be sold to the abutting owner for
871 the department's current estimate of value.

872 Section 15. Paragraph (a) of subsection (3) of section
 873 338.26, Florida Statutes, is amended to read:

874 338.26 Alligator Alley toll road.—

875 (3)(a) Fees generated from tolls shall be deposited in the
 876 State Transportation Trust Fund and shall be used:

877 1. To reimburse outstanding contractual obligations;

878 2. To operate and maintain the highway and toll
 879 facilities, including reconstruction and restoration;

880 3. To pay for those projects that are funded with
 881 Alligator Alley toll revenues and that are contained in the
 882 1993-1994 adopted work program or the 1994-1995 tentative work
 883 program submitted to the Legislature on February 22, 1994; and

884 4. By interlocal agreement ~~effective July 1, 2019, through~~
 885 ~~no later than June 30, 2027,~~ to reimburse a local governmental
 886 entity for the direct actual costs of operating the fire station
 887 at mile marker 63 on Alligator Alley, which shall be used by the
 888 local governmental entity to provide fire, rescue, and emergency
 889 management services exclusively to the public on Alligator
 890 Alley. The local governmental entity must contribute 10 percent
 891 of the direct actual operating costs. Beginning July 1, 2024,
 892 the amount of reimbursement in any state fiscal year to the
 893 local governmental entity may not exceed \$2 million, which shall
 894 increase to reflect any upward adjustment adopted by the Bureau
 895 of Labor Statistics of the United States Department of Labor for
 896 the previous 12 months in the Consumer Price Index for All Urban

897 Consumers for Miami-Fort Lauderdale-West Palm Beach. In
898 accordance with the capital improvement plan of the local
899 governmental entity, the local governmental entity shall also be
900 reimbursed for replacement of fire apparatus that is a like or
901 similar model to Class A fire apparatus in use at the fire
902 station and that conforms to the currently adopted equipment
903 needs and safety standards of the local governmental entity. Any
904 funds received by the local governmental entity from the surplus
905 of fire apparatus being replaced in accordance with this
906 subparagraph shall be used to reduce the amount reimbursed to
907 the local governmental entity for that year. Any fire apparatus
908 purchased with state funds may not be used at another fire
909 station of the local governmental entity ~~\$1.4 million in any~~
910 state fiscal year. At the end of the term of the interlocal
911 agreement, the ownership and title of all fire, rescue, and
912 emergency equipment purchased with state funds and used at the
913 fire station during the term of the interlocal agreement
914 transfers to the state.

915 Section 16. Section 339.28201, Florida Statutes, is
916 created to read:

917 339.28201 Local Agency Program.—

918 (1) There is created within the department a Local Agency
919 Program for the purpose of providing assistance to subrecipient
920 agencies, which include counties, municipalities,
921 intergovernmental agencies, and other eligible governmental

922 entities, to develop, design, and construct transportation
923 facilities using funds allocated by federal agencies to the
924 department which are then suballocated by the department to
925 local agencies.

926 (2) The department is responsible for oversight of funded
927 projects on behalf of the Federal Highway Administration. The
928 department shall update the project cost estimate in the year
929 the project is granted to the local agency and shall include a
930 contingency amount as part of the project cost estimate.

931 (3) Local agencies shall prioritize and budget local
932 projects through their respective metropolitan planning
933 organizations or governing boards that are eligible for
934 reimbursement for the services provided to the traveling public
935 through compliance with applicable federal statutes, rules, and
936 regulations.

937 (4) Federal-aid highway funds are available only to local
938 agencies that are certified by the department based on their
939 qualifications, experience, ability to comply with federal
940 requirements, and ability to undertake and satisfactorily
941 complete the work.

942 (5) At a minimum, such local agencies shall include in
943 their contracts to develop, design, or construct transportation
944 facilities the department's Division I General Requirements and
945 Covenants for local agencies and a contingency amount in the
946 project cost to account for unforeseen conditions.

947 Section 17. Subsection (3) of section 339.2825, Florida
 948 Statutes, is amended to read:

949 339.2825 Approval of contractor-financed projects.-

950 (3) This section does not apply to a comprehensive ~~public-~~
 951 ~~private-partnership~~ agreement authorized in s. 334.30(2)(a).

952 Section 18. Subsection (4) of section 627.06501, Florida
 953 Statutes, is amended to read:

954 627.06501 Insurance discounts for certain persons
 955 completing driver improvement course.-

956 (4) This section does not apply if the driver improvement
 957 course is taken in lieu of a court appearance for a traffic
 958 infraction as provided for in s. 318.14(9). However, the eight-
 959 election ~~five-election~~ restriction enumerated in that section is
 960 not applicable to taking the course for the purposes of
 961 receiving insurance premium reductions.

962 Section 19. This act shall take effect July 1, 2024.