Journal of the Senate

Number 24—Regular Session **Thursday, April 30, 1998**

CONTENTS

CALL TO ORDER

The Senate was called to order by President Jennings at 9:00 a.m. A quorum present—39:

Madam President	Crist	Horne	Myers
Bankhead	Diaz-Balart	Jones	Ostalkiewicz
Bronson	Dudley	Kirkpatrick	Rossin
Brown-Waite	Dyer	Klein	Scott
Burt	Forman	Kurth	Silver
Campbell	Geller	Latvala	Sullivan
Casas	Grant	Laurent	Thomas
Childers	Hargrett	Lee	Turner
Clary	Harris	McKay	Williams
Cowin	Holzendorf	Meadows	

PRAYER

The following prayer was offered by Chaplain Dan Pabon, Florida Hospital Medical Center, Longwood:

Chaplain Pabon sang "The Lord's Prayer".

Our Father who art in heaven, Hallowed be thy name. Thy kingdom come. Thy will be done on earth, as it is in heaven. Give us this day our daily bread. And forgive us our debts, as we forgive our debtors. And lead us not into temptation, but deliver us from evil: For thine is the kingdom, and the power, and the glory, for ever. Amen.

PLEDGE

Senate Pages Kelsey Anderson of Gainesville and Charles Douglas of Palatka, led the Senate in the pledge of allegiance to the flag of the United States of America.

ADOPTION OF RESOLUTIONS

At the request of Senator Silver—

By Senator Silver—

SR 2552—A resolution in recognition of Congregation Beth David, Miami's original Jewish congregation, on its 85th anniversary.

WHEREAS, long before the hundreds of thousands of Jews who now live in South Florida moved to this state and created a presence as one of America's largest Jewish communities, Congregation Beth David existed, and

WHEREAS, a spiritual home to more than 70 Key Biscayne families, the congregation was founded in 1912 by a handful of pioneers who came from Key West to live in the frontier town of Miami, and

WHEREAS, religious services for the Beth David congregation were originally held in private homes with laymen officiating, and Beth David members established a Jewish section at the City of Miami cemetery, and

WHEREAS, as the congregation grew, services took place in public halls until 1916, when congregates purchased a permanent home at N.E. 8th Street and 2nd Avenue in the heart of town, and

WHEREAS, in 1949, the congregation moved to the landmark classical sanctuary on Coral Way at S.W. 26 Road, near Key Biscayne, and

WHEREAS, the temple has since grown to include a school building, offices, a library, a ballroom, and a Judaica museum, and

WHEREAS, Miami's pioneer synagogue commemorated its 85 years in Miami during Shabbat service on November 22, 1997, and

WHEREAS, Congregation Beth David is proud of its historical significance as Miami's pioneer Jewish congregation and looks forward to continuing its role as the leading congregation in the Miami community, NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida:

That the Senate of the State of Florida hereby recognizes Congregation Beth David, Miami's first Jewish congregation, on its 85th anniversary.

BE IT FURTHER RESOLVED that a copy of this resolution be presented to Rabbi David Oler of Congregation Beth David as a tangible token of the sentiments expressed herein.

—**SR 2552** was introduced, read and adopted by publication.

At the request of Senator Gutman—

By Senator Gutman—

SR 2568—A resolution recognizing and commending Stiefel Laboratories, Inc., on its success as an international leader in dermatology and healthcare products.

WHEREAS, Stiefel Laboratories, Inc., an international corporation specializing in skin care products, had its beginning in 1847 in Germany as a maker of soaps and candles, and made its transition into dermatology in response to the therapeutic use of soaps as a delivery system for many medications during the mid-nineteenth century, and

WHEREAS, Stiefel focused on producing medicated soaps focusing on the skin's health, and

WHEREAS, August C. Stiefel and his sons opened their first manufacturing facility in this country in 1945, in Oak Hill, New York, and

WHEREAS, dedicated research and development efforts and a close cooperation with the medical community created new opportunities for

Stiefel to address the market and its therapeutic needs through the introduction of new products, and

WHEREAS, during the last five decades, Stiefel Laboratories has grown into a significant global manufacturing and distribution organization with subsidiaries in over 30 countries that serve more than 100 countries, and

WHEREAS, Stiefel Laboratories is recognized for its "leading edge" technology for the treatment of skin conditions, and

WHEREAS, Stiefel is the largest dermatology specialty company in the world and boasts six primary manufacturing sites on four continents, providing products for the world market, and

WHEREAS, Stiefel Laboratories has grown to a force that employs more than 1,500 people, but maintains a family-oriented corporate culture, and

WHEREAS, Stiefel Laboratories, Inc., maintains a home office in Coral Cables, Florida, and creates jobs and opportunities for people throughout Florida, and

WHEREAS, Stiefel is a unique international corporation that is family-directed and employee-friendly and that has roots going back more than 150 years, yet is positioned for success in the twenty-first century, NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida:

That Stiefel Laboratories, Inc., is recognized and commended for its outstanding accomplishments and its proud 150-year history in the field of dermatology and healthcare products in this state and throughout the United States and around the world.

BE IT FURTHER RESOLVED that a copy of this resolution, with the Seal of the Senate affixed, be presented to Stiefel Laboratories, Inc., as a tangible token of the esteem of the Florida Senate.

—**SR 2568** was introduced, read and adopted by publication.

At the request of Senator Silver—

By Senator Silver—

SR 2630—A resolution honoring Edward Villella, Founding Artistic Director of Miami City Ballet and recipient of the National Medal of Arts.

WHEREAS, Edward Villella has had one of the most spectacular careers of any American male dancer and, during his performance career with the New York City Ballet, originated numerous roles and introduced the public to neoclassical and classical dance and the work of George Balanchine through his work on television's "Bell Telephone Hour" and the Public Broadcasting series "Dance in America," and

WHEREAS, Edward Villella was presented with the 1997 National Medal of Arts by President William Clinton and First Lady Hillary Rodham Clinton during ceremonies on the South Lawn of the White House on September 29, 1997, and

WHEREAS, on December 7, 1997, Edward Villella was once again greeted at the White House by President Clinton as a recipient of the Kennedy Center Honors in recognition of his artistic achievements and contributions to the cultural life of this country, and

WHEREAS, as Miami City Ballet enters its thirteenth season, Edward Villella is exerting perhaps his greatest influence as the founding artistic director of a premier dance company that has presented over 81 ballets, including 32 world premieres, and that performs throughout the United States and in Europe, Israel, and Central and South America, NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida:

That the Florida Senate commends Edward Villella for his achievements as an extraordinary performer and also for his contribution to the state in molding Miami City Ballet into one of the fastest growing and most exciting ballet companies in the country.

BE IT FURTHER RESOLVED that copies of this resolution, with the Seal of the Senate affixed, be presented to Edward Villella, Founding Artistic Director of Miami City Ballet.

—**SR 2630** was introduced, read and adopted by publication.

At the request of Senator Hargrett—

By Senator Hargrett—

SR 2730—A resolution honoring Sergeant William Rousseau and the Tampa Police Department.

WHEREAS, Sergeant Rousseau, the Domestic Violence coordinator for the Tampa Police Department, is recognized as an expert on domestic violence by the United States Department of Justice, the Florida Governor's Domestic and Sexual Violence Task Force, and the James Harrell Center for Domestic Violence at the University of South Florida, and

WHEREAS, Sergeant Rousseau created and administers a three-day Domestic Violence Investigator School in Tampa for law enforcement, victim advocates, and social service providers, which school has trained over 600 domestic violence investigators throughout the state, and

WHEREAS, an active member of the Hillsborough County Domestic Violence Council, Sergeant Rousseau has coordinated a three-day training conference in Tampa for the United States Department of Justice, has spoken on domestic violence issues at C.O.P.S. seminars in Boston, Phoenix, and San Diego, and has lectured at the Maine Criminal Justice Academy in Bar Harbor, Maine, and

WHEREAS, Sergeant Rousseau, in conjunction with the Florida Law Enforcement Research Coalition of Florida State University, participated in the development of the model law enforcement policies for domestic and sexual violence and, in 1997, was awarded a S.T.O.P. grant to teach the model policies to law enforcement officers throughout the state, and

WHEREAS, Sergeant Rousseau was honored by the Hillsborough County Bar Association in 1997 as its "Law Enforcement Officer of the Year," and, in 1998, he and the Tampa Police Department received the Governor's "Peace At Home" Award from Governor Lawton Chiles for their outstanding work in preventing and controlling domestic violence, NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida:

That the Florida Senate pauses in its deliberations to express its appreciation to Sergeant William Rousseau and the Tampa Police Department for their accomplishments in addressing the problems of domestic violence.

BE IT FURTHER RESOLVED that a copy of this resolution, with the Seal of the Senate affixed, be presented to Sergeant William Rousseau and to the Tampa Police Department as a tangible token of the sentiments of the Florida Senate.

—**SR 2730** was introduced, read and adopted by publication.

At the request of Senator Turner—

By Senator Turner—

SR 2736—A resolution expressing regret at the death of Dr. John Albert McKinney.

WHEREAS, the Florida Senate, with deep regret, has learned of the death of Dr. John Albert McKinney, and

WHEREAS, Dr. McKinney for 35 years had an outstanding career as a Dade County school administrator, and

WHEREAS, it is fitting that the Florida Senate commemorate the passing of a distinguished Florida resident who contributed greatly to the well-being of this state, NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida:

That this legislative body does pause in its deliberations to pay its respects to the late Dr. John Albert McKinney and that the Florida Senate in session assembled does record this testimonial of esteem and bereavement:

IN MEMORIAM
JOHN ALBERT MCKINNEY

John Albert McKinney was born in Miami, attended the Dade County public schools, and was graduated from Booker T. Washington High School in Overtown. Subsequently, Dr. McKinney earned a B.S. degree in History at Florida A & M University, a master's degree at Barry University, and a doctorate in Education at Nova University. He then dedicated his life and career to educating youthful minds.

Dr. McKinney's numerous career highlights include serving as the principal of Holmes Elementary School and opening adult centers at Miami Central Senior High School and at Miami Sunset Senior High School. In addition to being county school administrator, he was a site administrator for Nova University, a professor of teacher education and director of the Masters and Educational Specialist program in Nova's Center for the Advancement of Education, and a professor of education at Nova-Southeastern University and at The Union Institute.

During his career, John A. McKinney received hundreds of civil and education awards, including recognition as one of the 500 Male Role Models of Excellence. He also capably fulfilled many civic and community duties and was the devoted husband of Rhonda Edwards McKinney and the father of three sons, Mario, Chauncey, and JaRon McKinney.

Dr. John A. McKinney will long be remembered by the many residents of Dade County whose lives he touched for his 35 years of educational service and dedication to the students and community of Dade County.

I, William H. "Bill" Turner, Senator, 36th District, State of Florida, on behalf of myself and of the Florida Senate, do express condolences to the family of Dr. John Albert McKinney and do proclaim our appreciation and respect for his many contributions to our county and state.

BE IT FURTHER RESOLVED that a copy of this resolution, with the Seal of the Senate affixed, be transmitted to Mrs. Rhonda Edwards McKinney, widow of Dr. John Albert McKinney, as a tangible token of the respect of the members of the Florida Senate.

—**SR 2736** was introduced, read and adopted by publication.

At the request of Senator Turner—

By Senator Turner—

SR 2738—A resolution honoring the Miami Northwestern Senior High School Varsity Football Team.

WHEREAS, Miami Northwestern High School has established itself as a bastion of excellence in the academic arena, providing comprehensive, college-ready education for the children of Northwest Dade County, and

WHEREAS, the football team of Miami Northwestern High School, under the outstanding leadership of Coach William Rolle, has led to a season comprising eight wins and three losses and a victory at the 28th Annual Soul Bowl Classic in the presence of 25,000 enthusiastic fans in the Orange Bowl stadium, and

WHEREAS, all of Miami-Dade County is proud of Coach William Rolle, the coaching staff, cheerleaders, marching band, students, and every member of the Miami Northwestern High School football team, and

WHEREAS, it is appropriate that official recognition be given to Miami Northwestern High School, its football team, athletic program, students, and staff, NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida:

That the Miami Northwestern High School varsity football team is commended for its outstanding season, for its academic excellence, and for its victory in the 28th Annual Soul Bowl Classic.

BE IT FURTHER RESOLVED that a copy of this resolution, with the Seal of the Senate affixed, be presented to Miami Northwestern High School as a tangible token of the esteem of the Florida Senate for the school's proud tradition and fine athletes.

—**SR 2738** was introduced, read and adopted by publication.

At the request of Senator Turner—

By Senator Turner—

SR 2740—A resolution honoring the Miami Carol City Senior High School varsity football team.

WHEREAS, Miami Carol City High School is a beacon of academic excellence, sponsoring several special student programs, including a Legal and Public Affairs Magnet, Criminal Justice, Gifted, and Pacesetters programs, and having approximately 225 football scholarships awarded over the past 15 years, and

WHEREAS, the athletic department of Miami Carol City High School has proven itself to be a powerhouse among high school athletics, winning state championships in thirteen sports from 1969 through 1997, and

WHEREAS, the varsity football team of Miami Carol City High School, under the outstanding leadership of Coach Walt Frazier, was led to a perfect season of 15 and 0, and

WHEREAS, the Miami Carol City High School varsity football team intrepidly defeated the Lake City Columbia High School football team in the Class 6-A State Championships by a score of 20-17, and

WHEREAS, this victory has elevated Miami Carol City High School to the distinction of being the first Class 6-A high school to win consecutive, back-to-back football state championships, and

WHEREAS, Coach Walt Frazier, the coaching staff, cheerleaders, marching band, and every member of the Miami Carol City High School varsity football team is held in high esteem by the residents of Dade County, NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida:

That the Miami Carol City High School varsity football team is to be commended for its incredible season and for its repeat victory at the Class 6-A State Football Championships.

BE IT FURTHER RESOLVED that a copy of this resolution, with the Seal of the Senate affixed, be presented to Miami Carol City High School as a tangible token of the appreciation and respect of the Florida Senate for such a proud tradition and such fine athletes.

—**SR 2740** was introduced, read and adopted by publication.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Bankhead, by two-thirds vote **CS for CS for HB's 683 and 2131** and **CS for HB 4415** were withdrawn from the committees of reference and the rules were waived and by two-thirds vote placed first on the Special Order Calendar for this day.

On motion by Senator Sullivan, by two-thirds vote **CS for SB 1740** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan, by two-thirds vote **HB 4715**, **HB 4717**, **HB 4719**, **HB 4721**, **HB 4723**, **HB 4725** and **HB 4813** were withdrawn from the Committee on Ways and Means and by two-thirds vote placed on the Special Order Trust Fund Bill Calendar.

MOTIONS

On motion by Senator Silver, the House was requested to return **HB 3971**.

On motion by Senator Silver, the House was requested to return **CS for SB 2474**.

On motion by Senator Bankhead, the rules were waived and a deadline of 9:00 p.m. this day was set for filing amendments to the Special Order Calendar and Bills on Third Reading to be considered Friday, May 1.

CONSIDERATION OF BILLS ON THIRD READING

Consideration of **CS for CS for SB's 2024 and 2648**, **SJR 1008** and **CS for SB 1338** was deferred.

SENATOR BANKHEAD PRESIDING

CS for SB 570—A bill to be entitled An act relating to assessments on health care entities; amending s. 395.701, F.S.; exempting outpatient radiation therapy services provided by certain hospitals from the annual assessment on net operating revenues of such hospitals; amending s. 395.7015, F.S.; exempting freestanding radiation therapy centers from the annual assessment on net operating revenues of certain health care entities; providing legislative intent to evaluate the implication of an Adult Heart Transplant Program in this state; providing for a report by legislative committees; providing parameters for the report; providing for the report to be presented to the Social Services Estimating Conference; providing for review and certification of the cost estimates by the conference; providing an effective date.

—as amended April 29 was read the third time by title.

On motion by Senator Dudley, **CS for SB 570** as amended was passed and certified to the House. The vote on passage was:

Yeas—39

Bankhead	Diaz-Balart	Horne	Myers
Bronson	Dudley	Jones	Ostalkiewicz
Brown-Waite	Dyer	Kirkpatrick	Rossin
Burt	Forman	Klein	Scott
Campbell	Geller	Kurth	Silver
Casas	Grant	Latvala	Sullivan
Childers	Gutman	Laurent	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams
Crist	Holzendorf	Meadows	

Nays—None

CS for CS for SB 1074—A bill to be entitled An act relating to the Florida Retirement System; amending s. 121.055, F.S.; adding assistant state attorneys, assistant statewide prosecutors, and assistant public defenders to the Senior Management Service Class of the Florida Retirement System; authorizing the state courts to pay Select Exempt benefits to judicial assistants; providing an appropriation; providing an effective date.

—as amended April 29 was read the third time by title.

On motion by Senator Silver, **CS for CS for SB 1074** as amended was passed and certified to the House. The vote on passage was:

Yeas—39

Bankhead	Diaz-Balart	Horne	Myers
Bronson	Dudley	Jones	Ostalkiewicz
Brown-Waite	Dyer	Kirkpatrick	Rossin
Burt	Forman	Klein	Scott
Campbell	Geller	Kurth	Silver
Casas	Grant	Latvala	Sullivan
Childers	Gutman	Laurent	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams
Crist	Holzendorf	Meadows	

Nays—None

CS for CS for HB 271—A bill to be entitled An act relating to public assistance; creating s. 414.103, F.S.; providing for drug testing under the "Work and Gain Economic Self-sufficiency (WAGES) Act" for illegal use of controlled substances; providing legislative intent and findings; directing the Department of Children and Family Services to implement a program to screen and test WAGES Program applicants; requiring certain notice; providing procedures for screening, testing, retesting, and appeal of test results; providing for notice of local substance abuse programs; requiring the department to provide a rehabilitation treatment program for certain persons; specifying circumstances resulting in termination of temporary assistance or services; providing limitations; providing for rules; providing an effective date.

—as amended April 29 was read the third time by title.

On motion by Senator Holzendorf, **CS for CS for HB 271** as amended was passed and certified to the House. The vote on passage was:

Yeas—39

Bankhead	Diaz-Balart	Horne	Myers
Bronson	Dudley	Jones	Ostalkiewicz
Brown-Waite	Dyer	Kirkpatrick	Rossin
Burt	Forman	Klein	Scott
Campbell	Geller	Kurth	Silver
Casas	Grant	Latvala	Sullivan
Childers	Gutman	Laurent	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams
Crist	Holzendorf	Meadows	

Nays—None

CS for CS for SB 714—A bill to be entitled An act relating to health care; amending s. 381.0035, F.S.; requiring certain information related to HIV testing and counseling to be included in HIV educational courses; amending s. 381.004, F.S.; requiring informed consent before an HIV test may be ordered; requiring certain information to be provided when informed consent is sought; providing requirements with respect to notification and release of test results; authorizing certain disclosures of test results; providing for court orders for testing in specified circumstances; providing for emergency action against a registration; providing requirements for model protocols; providing penalties; amending s. 384.25, F.S.; deleting provisions relating to protocols and to notification to school superintendents; amending s. 455.604, F.S.; requiring certain information related to HIV testing to be included in HIV educational courses for certain licensed professions; amending s. 112.0455, F.S., relating to the Drug-Free Workplace Act; requiring background screening for an applicant for licensure of certain laboratories; authorizing the use of certain body hair for drug testing; creating s. 381.60225, F.S.; requiring background screening for an applicant for certification to operate an organ procurement organization, a tissue bank, or an eye bank; amending s. 383.302, F.S., relating to the regulation of birth centers; revising definitions to reflect the transfer of regulatory authority from the Department of Health and Rehabilitative Services to the Agency for Health Care Administration; amending s. 383.305, F.S.; requiring background screening for an applicant for licensure of a birth center; amending ss. 383.308, 383.309, 383.31, 383.312, 383.313, 383.318, 383.32, 383.324, 383.325, 383.327, 383.33, 383.331, F.S., relating to the regulation of birth centers; conforming provisions to reflect the transfer of regulatory authority to the Agency for Health Care Administration; amending s. 390.015, F.S.; requiring background screening for an applicant for licensure of an abortion clinic; amending s. 391.206, F.S.; requiring background screening for an applicant for licensure to operate a pediatric extended care center; amending s. 393.063, F.S., relating to developmental disabilities; providing a definition; amending s. 393.067, F.S.; requiring background screening for an applicant for licensure to operate an intermediate care facility for the developmentally disabled; amending s. 394.4787, F.S., relating to the regulation of mental health facilities; conforming a cross-reference to changes made by the act; amending s. 394.67, F.S., relating to community alcohol, drug abuse, and mental health services; revising definitions; amending s. 394.875, F.S.; requiring background screening for an applicant for licensure of a crisis stabilization unit or residential treatment facility; amending ss. 394.876, 394.877, 394.878, 394.879, 394.90, 394.902, 394.903, 394.904, 394.907, F.S., relating to the regulation of mental health facilities; conforming provisions to reflect the transfer of regulatory authority to the Agency

for Health Care Administration; amending s. 395.002, F.S., relating to hospital licensing and regulation; providing definitions; creating s. 395.0055, F.S.; requiring background screening for an applicant for licensure of a facility operated under ch. 395, F.S.; amending s. 395.0199, F.S.; requiring background screening for an applicant for registration as a utilization review agent; amending s. 400.051, F.S.; conforming a cross-reference; amending s. 400.071, F.S.; requiring background screening for an applicant for licensure of a nursing home; amending s. 400.411, F.S.; requiring background screening for an applicant for licensure of an assisted living facility; amending ss. 400.414, 400.417, 400.4174, 400.4176, F.S., relating to the regulation of assisted living facilities; providing additional grounds for denial, revocation, or suspension of a license; requiring background screening for employees hired on or after a specified date; amending ss. 400.461, F.S., relating to the regulation of home health agencies; conforming a cross-reference; amending s. 400.471, F.S.; requiring background screening for an applicant for licensure of a home health agency; amending s. 400.506, F.S.; requiring background screening for an applicant for licensure of a nurse registry; amending s. 400.555, F.S.; requiring background screening for an applicant for licensure of an adult day care center; amending s. 400.556, F.S., relating to disciplinary actions against adult day care center licensees; making noncompliance with background screening requirements a basis for disciplinary action; amending s. 400.557, F.S., relating to renewal of an adult day care center license; requiring an affidavit of compliance with background screening requirements when a license is renewed; creating s. 400.5572, F.S.; requiring background screening for employees of an adult day care center hired on or after a specified date; amending s. 400.606, F.S.; requiring background screening for an applicant for licensure of a hospice; creating s. 400.6065, F.S.; providing requirements for background screening of hospice employees; amending s. 400.607, F.S., relating to disciplinary actions against a hospice license; making noncompliance with background screening requirements a basis for disciplinary action; amending s. 400.619, F.S.; revising background screening requirements for an applicant for licensure of an adult family care home; providing screening requirements for designated relief persons; deleting agency authority to take disciplinary action against an adult family-care-home license; revising rulemaking authority; creating s. 400.6194, F.S.; providing for disciplinary action against an adult family-care-home license; making noncompliance with screening requirements a basis for disciplinary action; amending s. 400.801, F.S.; requiring background screening for an applicant for licensure of a home for special services; amending s. 400.805, F.S.; requiring background screening for an applicant for licensure of a transitional living facility; amending s. 430.04, F.S.; providing duties and responsibilities of the Department of Elderly Affairs; requiring the department to take disciplinary action against an area agency on aging for failure to implement and maintain a department-approved grievance resolution procedure; amending s. 455.654, F.S., relating to referring health care providers; conforming cross-references to changes made by the act; amending s. 468.505, F.S., relating to disciplinary action against certain medical professionals and activities exempt from regulation; updating provisions and conforming cross-references; amending s. 483.101, F.S.; requiring background screening for an applicant for licensure of a clinical laboratory; amending s. 483.106, F.S., relating to a certificate of exemption; correcting terminology; amending s. 483.30, F.S.; requiring background screening for an applicant for licensure of a multiphasic health testing center; repealing s. 455.661, F.S., which provides for licensure of designated health care services; providing appropriations and authorizing positions; authorizing certain positions in excess of those otherwise authorized; providing funding; providing for applicability of background screening requirements; providing for future repeal; providing for a review of certain background screening requirements; providing an effective date.

—as amended April 29 was read the third time by title.

On motion by Senator Forman, **CS for CS for SB 714** as amended was passed and certified to the House. The vote on passage was:

Yeas—39

Bankhead	Childers	Dyer	Harris
Bronson	Clary	Forman	Holzendorf
Brown-Waite	Cowin	Geller	Horne
Burt	Crist	Grant	Jones
Campbell	Diaz-Balart	Gutman	Kirkpatrick
Casas	Dudley	Hargrett	Klein
Kurth	McKay	Rossin	Thomas
Latvala	Meadows	Scott	Turner
Laurent	Myers	Silver	Williams
Lee	Ostalkiewicz	Sullivan	

Nays—None

Consideration of **CS for SB 772** was deferred.

SPECIAL ORDER CALENDAR

Consideration of **CS for CS for HB's 683 and 2131** and **CS for HB 4415** was deferred.

On motion by Senator Bronson, the Senate resumed consideration of—

SB 404—A bill to be entitled An act relating to jails; amending s. 951.23, F.S.; providing a criminal penalty for refusing to obey jail rules and regulations; providing an effective date.

—which was previously considered and amended April 29. Pending **Amendment 3** by Senators Silver and Jones was withdrawn.

Pending further consideration of **SB 404** as amended, on motion by Senator Bronson, by two-thirds vote **CS for HB 3527** was withdrawn from the Committee on Criminal Justice.

On motion by Senator Bronson—

CS for HB 3527—A bill to be entitled An act relating to jails; amending s. 951.23, F.S., relating to county and municipal detention facilities; providing criminal penalties for repeatedly, knowingly, and willfully refusing to obey certain rules and regulations while a prisoner in any such facility; providing an effective date.

—a companion measure, was substituted for **SB 404** as amended and read the second time by title.

Senator Bronson moved the following amendment which was adopted:

Amendment 1 (with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Subsection (11) is added to section 951.23, Florida Statutes, to read:

951.23 County and municipal detention facilities; definitions; administration; standards and requirements.—

(11)(a) Any prisoner in a county or municipal detention facility who knowingly and willfully refuses on three or more occasions to obey or comply with any rule governing the conduct of prisoners commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Such punishment must be in addition to any sentence he or she may be serving. A prisoner may be charged with, convicted of, and sentenced for a violation of this subsection in addition to any other criminal offense committed while detained in a county or municipal detention facility.

(b) Upon a prisoner's classification in a county or municipal detention facility, he or she must be provided with a printed copy of the rules governing the conduct of prisoners. Translation assistance must be provided, as needed.

(c) As used in this subsection, the term "rules governing the conduct of prisoners" means any of the rules relating to order and discipline provided in the Florida Model Jail Standards, adopted pursuant to subsection (4) and effective on October 1, 1997.

Section 2. *(1) The following trust funds and fund accounts are terminated on July 1, 1998:*

(a) Within the state courts system:

1. Appellate Opinion Distribution Trust Fund, SAMAS number 222215.

2. Working Capital Trust Fund, SAMAS number 222792.

(b) Within the Department of Corrections:

1. Hurricane Andrew Recovery and Rebuilding Trust Fund, SAMAS number 702205.

2. Working Capital Trust Fund, SAMAS number 702792.

(2) All current balances remaining in, and all revenues of, the trust funds and fund accounts terminated by this act shall be transferred to the General Revenue Fund.

(3) For each trust fund or fund account terminated by this act, the state courts system or Department of Corrections, as applicable, shall pay any outstanding debts or obligations of the terminated fund or account as soon as practicable, and the Comptroller shall close out and remove the terminated fund or account from the various state accounting systems using generally accepted accounting principles concerning warrants outstanding, assets, and liabilities.

Section 3. Section 216.272, Florida Statutes, is amended to read:

216.272 Working Capital Trust Funds.—

(1) There are hereby created Working Capital Trust Funds for the purpose of providing sufficient funds for the operation of data processing centers, which may include the creation of a reserve account within the Working Capital Trust Fund to pay for future information technology resource acquisitions as appropriated by the Legislature. Such funds shall be created from moneys budgeted for data processing services and equipment by those agencies~~, and the judicial branch,~~ to be served by the data processing center.

(2) The funds so allocated shall be in an amount sufficient to finance the center's operation; however, each agency ~~or judicial branch~~ served by the center shall contribute an amount equal to its proportionate share of cost of operating such data processing center. Each agency~~, or the judicial branch,~~ utilizing the services of the data processing center shall pay such moneys into the appropriate Working Capital Trust Fund on a quarterly basis or such other basis as may be determined by the Executive Office of the Governor ~~or the Chief Justice as appropriate~~.

Section 4. Section 945.215, Florida Statutes, is amended to read:

945.215 Inmate welfare and employee benefit trust funds.—

(1) *INMATE WELFARE TRUST FUND; DEPARTMENT OF CORRECTIONS.—*

(a) *The Inmate Welfare Trust Fund constitutes a trust held by the department for the benefit and welfare of offenders and inmates under the jurisdiction of the Department of Corrections. Funds shall be credited to the trust fund as follows:*

1. All *funds* ~~moneys~~ held in any auxiliary, canteen, welfare, or similar fund in any *correctional facility operated directly by the department* ~~state institution under the jurisdiction of the Department of Corrections shall be deposited in the Inmate Welfare Trust Fund of the department, which fund is created in the State Treasury, to be appropriated annually by the Legislature and deposited in the Department of Corrections Grants and Donations Trust Fund~~.

2. All net proceeds from operating inmate canteens, vending machines used primarily by inmates, hobby shops, and other such facilities; however, *funds necessary to* ~~moneys budgeted by the department for the~~ purchase ~~of~~ items for resale at *inmate* canteens *and* ~~or~~ vending machines must be deposited into local bank accounts designated by the department. ~~The department shall submit to the President of the Senate and the Speaker of the House of Representatives by January 1 of each year a report that documents the receipts and expenditures, including a verification of telephone commissions, from the Inmate Welfare Trust Fund for the previous fiscal year. The report must present this information by program, by institution, and by type of receipt.~~

3. All proceeds from contracted telephone commissions. The department shall develop and update, as necessary, administrative procedures to verify that:

a. Contracted telephone companies accurately record and report all telephone calls made by inmates incarcerated in correctional facilities under the department's jurisdiction;

b. Persons who accept collect calls from inmates are charged the contracted rate; and

c. The department receives the contracted telephone commissions.

4. Any funds that may be assigned by inmates or donated to the department by the general public or an inmate service organization; however, the department shall not accept any donation from, or on behalf of, any individual inmate.

5. Repayment of the one-time sum of $500,000 appropriated in fiscal year 1996-1997 from the Inmate Welfare Trust Fund for correctional work programs pursuant to s. 946.008.

6. All proceeds from:

a. The confiscation and liquidation of any contraband found upon, or in the possession of, any inmate:

b. Disciplinary fines imposed against inmates;

c. Forfeitures of inmate earnings; and

d. Unexpended balances in individual inmate trust fund accounts of less than $1.

7. All interest earnings and other proceeds derived from investments of funds deposited in the trust fund. In the manner authorized by law for fiduciaries, the secretary of the department, or the secretary's designee, may invest any funds in the trust fund when it is determined that such funds are not needed for immediate use.

(b) *Funds* ~~Beginning with the legislative appropriation for fiscal year 1995-1996 and thereafter, the money~~ in the Inmate Welfare Trust Fund must be used exclusively *for the following purposes at correctional facilities operated directly by the department*:

1. To *operate inmate canteens and vending machines, including purchasing* ~~purchase~~ items for resale at ~~the~~ inmate canteens *and* ~~or~~ vending machines, ~~maintained at the correctional facilities;~~

~~2.~~ *employing* ~~To employ~~ personnel and inmates to manage, supervise, and operate *inmate* ~~the~~ canteens and vending machines, ~~at the correctional facilities;~~

~~3.~~ *and covering other* ~~For~~ operating and fixed capital *outlay* expenses associated with *operating* ~~the operation of~~ inmate canteens and vending machines;

2.~~4.~~ To employ personnel to manage and supervise the proceeds from telephone commissions;

3. To develop, implement, and maintain the medical copayment accounting system;

4.~~5. To employ personnel for correctional education~~ To provide literacy programs, vocational training *programs,* and *educational* ~~academic~~ programs that comply with standards of the Department of Education, *including employing personnel and covering other*~~;~~

~~6. For~~ operating and fixed capital *outlay* expenses associated with *providing such programs* ~~the delivery to inmates of literacy programs, vocational training, and academic programs that comply with standards of the Department of Education~~;

5.~~7.~~ *To operate inmate chapels, faith-based programs, visiting pavilions, libraries, and law libraries, including employing personnel and covering other* ~~For~~ operating and fixed capital *outlay* expenses associated with *operating* ~~the operation of~~ inmate chapels, *faith-based programs, visiting pavilions,* libraries, and *law libraries* ~~visiting pavilions~~;

~~8. To employ personnel to operate the libraries, chapels, and visiting pavilions;~~

6.~~9.~~ *To provide* for expenses associated with various inmate clubs;

7.~~10.~~ *To provide* for expenses associated with legal services for inmates;

8.~~11.~~ ~~To employ personnel~~ To provide inmate substance abuse treatment *programs* and transition and life skills training programs, *including employing personnel*~~;~~ and

~~12.~~ *covering other* ~~For~~ operating and fixed capital *outlay* expenses associated with *providing such programs* ~~the delivery of inmate substance abuse treatment and transition and life skills training programs~~.

(c) The *Legislature shall annually appropriate the funds deposited in the Inmate Welfare Trust Fund. It is the intent of the Legislature that* total annual expenditures for *providing literacy programs, vocational training programs, and educational programs exceed the combined* ~~items listed in subparagraphs 5. and 6. must exceed the~~ total annual expenditures for *operating inmate chapels, faith-based programs, visiting pavilions, libraries, and law libraries, covering expenses associated with inmate clubs, and providing inmate substance abuse treatment programs and transition and life skills training programs* ~~items listed in subparagraphs 7. through 12~~.

(d) Funds in the Inmate Welfare Trust Fund or any other fund may not be used to purchase cable television service, to rent or purchase videocassettes, videocassette recorders, or other audiovisual or electronic equipment used primarily for recreation purposes. This paragraph does not preclude the purchase or rental of electronic or audiovisual equipment for inmate training or educational programs. ~~The department shall develop administrative procedures to verify that contracted telephone commissions are being received, that persons who have accepted collect calls from inmates are being charged the contracted rate, and that contracted telephone companies are accurately and completely recording and reporting all inmate telephone calls made.~~

~~(c) There shall be deposited in the Inmate Welfare Trust Fund all net proceeds from the operation of canteens, vending machines, hobby shops, and other such facilities and any moneys that may be assigned by the inmates or donated to the department by the general public or an inmate service organization for deposit in the fund. However, the department shall refuse to accept any donations from or on behalf of any individual inmate. The moneys of the fund shall constitute a trust held by the department for the benefit and welfare of the inmates of the institutions under the jurisdiction of the department.~~

~~(d) There shall be deposited in the Inmate Welfare Trust Fund such moneys as constitute repayment of the one-time sum appropriated pursuant to s. 946.008.~~

~~(e) Any contraband found upon, or in the possession of, any inmate in any institution under the jurisdiction of the department shall be confiscated and liquidated, and the proceeds thereof shall be deposited in the Inmate Welfare Trust Fund of the department.~~

~~(f) The secretary of the department or the secretary's designee may invest in the manner authorized by law for fiduciaries any money in the Inmate Welfare Trust Fund of the department that in his or her opinion is not necessary for immediate use, and the interest earned and other increments derived from such investments made pursuant to this section shall be deposited in the Inmate Welfare Trust Fund of the department.~~

(e)~~(g)~~ Items for resale at ~~the~~ inmate canteens *and* ~~or~~ vending machines maintained at the correctional facilities shall be priced comparatively with like items for retail sale at fair market prices.

(f)~~(h)~~ Notwithstanding any other provision of law, inmates with sufficient balances in their individual inmate bank trust fund accounts, after all debts against the account are satisfied, shall be allowed to request a weekly draw of up to $45 to be expended for personal use on canteen *and vending machine* items.

(g) The department shall annually compile a report that specifically documents Inmate Welfare Trust Fund receipts and expenditures. This report shall be compiled at both the statewide and institutional levels. The department must submit this report for the previous fiscal year by September 1 of each year to the chairs of the appropriate substantive and fiscal committees of the Senate and the House of Representatives and to the Executive Office of the Governor.

(2) *PRIVATELY OPERATED INSTITUTIONS INMATE WELFARE TRUST FUND; PRIVATE CORRECTIONAL FACILITIES.—*

(a) For purposes of this subsection, privately operated institutions or private correctional facilities are those correctional facilities under contract with the department pursuant to chapter 944 or the Correctional Privatization Commission pursuant to chapter 957.

(b)1. The net proceeds derived from inmate canteens, vending machines used primarily by inmates, telephone commissions, and similar sources at private correctional facilities shall be deposited in the Privately Operated Institutions Inmate Welfare Trust Fund.

2. Funds in the Privately Operated Institutions Inmate Welfare Trust Fund shall be expended only pursuant to legislative appropriation.

(c) The Correctional Privatization Commission shall annually compile a report that documents Privately Operated Institutions Inmate Welfare Trust Fund receipts and expenditures at each private correctional facility. This report must specifically identify receipt sources and expenditures. The Correctional Privatization Commission shall compile this report for the prior fiscal year and shall submit the report by September 1 of each year to the chairs of the appropriate substantive and fiscal committees of the Senate and House of Representatives and to the Executive Office of the Governor.

(3) EMPLOYEE BENEFIT TRUST FUND; DEPARTMENT OF CORRECTIONS.—

(a) The department may establish an Employee Benefit Trust Fund. Trust fund sources may be derived from any of the following:

1.~~(a)~~ Proceeds of vending machines or other such services not intended for use by inmates.

2.~~(b)~~ Donations, except donations by, or on behalf of, an individual inmate.

3.~~(c)~~ Additional trust funds and grants which may become available.

(b) Funds from the Employee Benefit Trust Fund ~~Such fund shall be maintained and audited separately and apart from the Inmate Welfare Trust Fund. Portions of the fund~~ may be used to construct, *operate, and maintain* training and recreation facilities at *correctional facilities for the exclusive use of department employees* ~~respective institutions~~. Such facilities *are* ~~shall be~~ the property of the department and *must* ~~shall~~ provide the maximum benefit to *all* interested employees, *regardless of gender* ~~of both sexes, including teachers, clerical staff, medical and psychological services personnel, and officers and administrators~~.

Section 5. Paragraph (d) of subsection (2) of section 944.803, Florida Statutes, is amended to read:

944.803 Faith-based programs for inmates.—

(2) It is the intent of the Legislature that the Department of Corrections and the private vendors operating private correctional facilities shall continuously:

(d) Fund through the use of ~~the~~ inmate welfare trust *funds* ~~fund~~ pursuant to s. 945.215 an adequate number of chaplains and support staff to operate *faith-based* ~~chaplaincy~~ programs in ~~state~~ correctional institutions.

Section 6. Section 945.31, Florida Statutes, is amended to read:

945.31 Restitution and other payments.—The department may establish bank accounts outside the State Treasury for the purpose of collecting and disbursing restitution and other court-ordered payments from persons in its custody or under its supervision, and may collect an administrative processing fee in an amount equal to 4 percent of the gross amounts of such payments. Such administrative processing fee shall be deposited in the department's *Operating* ~~Grants and Donations~~ Trust Fund and shall be used to offset the cost of the department's services.

Section 7. Section 945.76, Florida Statutes, is amended to read:

945.76 Certification and monitoring of batterers' intervention programs; fees.—

(1) Pursuant to s. 741.32, the Department of Corrections is authorized to assess and collect:

(a) An annual certification *fee* ~~fees~~ not to exceed $300 for the certification and monitoring of *batterers' intervention* programs ~~certified by the Department of Corrections' Office of Certification and Monitoring of Batterers' Intervention Programs and~~.

(b) An annual certification fee not to exceed $200 for the certification and monitoring of assessment personnel providing direct services to persons who:

1.~~(a)~~ Are ordered by the court to participate in a domestic violence prevention program;

2.~~(b)~~ Are adjudged to have committed an act of domestic violence as defined in s. 741.28;

3.~~(c)~~ Have an injunction entered for protection against domestic violence; or

4.~~(d)~~ Agree to attend a program as part of a diversion or pretrial intervention agreement by the offender with the state attorney.

(2) All persons required by the court to attend domestic violence programs certified by the Department of Corrections' Office of Certification and Monitoring of Batterers' Intervention Programs shall pay an additional $30 fee for each 29-week program to the Department of Corrections.

(3) The *fees assessed and collected under this section* ~~fee~~ shall be deposited in the *department's Operating* ~~Grants and Donations~~ Trust Fund ~~to be used by the department~~ to fund the cost of certifying and monitoring batterers' intervention programs.

Section 8. Subsection (7) of section 944.10, Florida Statutes, is amended to read:

944.10 Department of Corrections to provide buildings; sale and purchase of land; contracts to provide services and inmate labor.—

(7) The department may enter into contracts with federal, state, or local governmental entities or subdivisions to provide services and inmate labor for the construction of buildings, parks, roads, any detention or commitment facilities, or any other project deemed to be appropriate by the Department of Corrections, which may include, but is not limited to, the planning, design, site acquisition or preparation, management, or construction of such projects. The department may charge fees for providing such services. All fees collected must be placed in the *Correctional Work Program* ~~Grants and Donations~~ Trust Fund.

Section 9. Subsection (2) of section 948.09, Florida Statutes, is amended to read:

948.09 Payment for cost of supervision and rehabilitation.—

(2) Any person being electronically monitored by the department as a result of placement on community control shall be required to pay a $1-per-day surcharge in addition to the cost of supervision fee as directed by the sentencing court. The surcharge shall be deposited in the *Operating* ~~Grants and Donations~~ Trust Fund to be used by the department for purchasing and maintaining electronic monitoring devices.

Section 10. Subsection (10) of section 951.23, Florida Statutes, is amended to read:

951.23 County and municipal detention facilities; definitions; administration; standards and requirements.—

(10) Nothing in this section prohibits the governing board of a county or municipality to enter into an agreement with the Department of Corrections authorizing the department to inspect the local detention facilities under the jurisdiction of the governing body. A governing board of a county or municipality may enter into such agreements with the department upon consultation with the sheriff if the sheriff operates the detention facility. The inspections performed by the department shall be consultatory in nature and for the purpose of advising the local governing bodies concerning compliance with the standards adopted by the detention facility's chief correctional officer. Such agreements must include, but are not limited to, provisions for the physical and operational standards that were adopted by the chief correctional officer of the detention facility, the manner and frequency of inspections to be conducted by the department, whether such inspections are to be announced or unannounced by the department, the type of access the department may have to the detention facility, and the amount of payment by the local governing body, if any, for the services rendered by the department. Inspections and access to local detention facilities shall not interfere with custody of inmates or the security of the facilities as determined by the chief correctional officer of each facility. Any fees collected by the department pursuant to such agreements must be deposited into the *Operating* ~~Grants and Donations~~ Trust Fund and shall be used to pay the cost of the services provided by the department to monitor local detention facilities pursuant to such agreements. This subsection shall be repealed effective October 1, 1999.

Section 11. *There is appropriated $550,000 from the Inmate Welfare Trust Fund to the Department of Corrections for the New Horizon Community Mental Health Center's Family Intervention, Preservation, and Support Program for fiscal year 1998-1999.*

Section 12. *There is appropriated $770,000 from the Inmate Welfare Trust Fund to the Department of Corrections for the fixed capital outlay needs of the AGAPE program in Dade County, including the purchase of new housing units and renovations to existing AGAPE facilities, for fiscal year 1998-1999.*

Section 13. Section 386.213, Florida Statutes, is created to read:

386.213 Smoking prohibited inside state correctional facilities.—

(1) The purpose of this section is to protect the health, comfort, and environment of employees of the Department of Corrections, employees of privately operated correctional facilities, employees of the Correctional Privatization Commission, and inmates by prohibiting inmates from using tobacco products inside any offices or buildings within state correctional facilities, and by ensuring that employees and visitors do not use tobacco products inside any office or building within state correctional facilities. Scientific evidence links the use of tobacco products with numerous significant health risks. The use of tobacco products by inmates, employees, or visitors is contrary to efforts by the Department of Corrections to reduce the costs of inmate health care and to limit unnecessary litigation. The Department of Corrections and the private vendors operating correctional facilities shall make smoking cessation assistance available to inmates in order to implement this section. The Department of Corrections and the private vendors operating correctional facilities shall implement this section as soon as possible, and all provisions of this section must be fully implemented by January 1, 1999.

(2) As used in this section, the term:

(a) "Department" means the Department of Corrections.

(b) "Employee" means an employee of the department or a private vendor in a contractual relationship with either the Department of Corrections or the Correctional Privatization Commission, and includes persons such as contractors, volunteers, or law enforcement officers who are within a state correctional facility to perform a professional service.

(c) "State correctional facility" means a state or privately operated correctional institution as defined in s. 944.02, or a correctional institution or facility operated under s. 944.105 or chapter 957.

(d) "Tobacco products" means items such as cigars, cigarettes, snuff, loose tobacco, or similar goods made with any part of the tobacco plant, which are prepared or used for smoking, chewing, dipping, sniffing, or other personal use.

(e) "Visitor" means any person other than an inmate or employee who is within a state correctional facility for a lawful purpose and includes, but is not limited to, persons who are authorized to visit state correctional institutions pursuant to s. 944.23, and persons authorized to visit as prescribed by departmental rule or vendor policy.

(f) "Prohibited areas" means any indoor areas of any building, portable or other enclosed structure within a state correctional facility.

(3)(a) An inmate within a state correctional facility may not use tobacco products in prohibited areas at any time while in the custody of the department or under the supervision of a private vendor operating a correctional facility.

(b)1. An employee or visitor may not use any tobacco products in prohibited areas.

2. The superintendent, warden, or supervisor of a state correctional facility shall take reasonable steps to ensure that the tobacco prohibition for employees and visitors is strictly enforced.

(4) An inmate who violates this section commits a disciplinary infraction and is subject to punishment determined to be appropriate by the disciplinary authority in the state correctional facility, including, but not limited to, forfeiture of gain-time or the right to earn gain-time in the future under s. 944.28.

(5) The department may adopt rules and the private vendors operating correctional facilities may adopt policies and procedures for the designation of prohibited areas and smoking areas and for the imposition of penalties pursuant to this section. For the purposes of this section, the designation of prohibited areas shall not include employee housing on the grounds of a state correctional facility or maximum security inmate housing areas.

Section 14. Subsection (1) of section 386.203, Florida Statutes, is amended to read:

386.203 Definitions.—As used in this part:

(1) "Public place" means the following enclosed, indoor areas used by the general public:

(a) Government buildings;

(b) Public means of mass transportation and their associated terminals not subject to federal smoking regulation;

(c) Elevators;

(d) Hospitals;

(e) Nursing homes;

(f) Educational facilities;

(g) Public school buses;

(h) Libraries;

(i) Courtrooms;

(j) Jury waiting and deliberation rooms;

(k) Museums;

(l) Theaters;

(m) Auditoriums;

(n) Arenas;

(o) Recreational facilities;

(p) Restaurants which seat more than 50 persons;

(q) Retail stores, except a retail store the primary business of which is the sale of tobacco or tobacco related products;

(r) Grocery stores;

(s) Places of employment;

(t) Health care facilities;

(u) Day care centers; ~~and~~

(v) Common areas of retirement homes and condominiums~~.~~*; and*

(w) State correctional facilities.

Section 15. Subsection (1) of section 921.141, Florida Statutes, is amended to read:

921.141 Sentence of death or life imprisonment for capital felonies; further proceedings to determine sentence.—

(1) SEPARATE PROCEEDINGS ON ISSUE OF PENALTY.—

(a) Upon conviction or adjudication of guilt of a defendant of a capital felony, the court shall conduct a separate sentencing proceeding to determine whether the defendant should be sentenced to death or life imprisonment as authorized by s. 775.082. The proceeding shall be conducted by the trial judge before the trial jury as soon as practicable. If, through impossibility or inability, the trial jury is unable to reconvene for a hearing on the issue of penalty, having determined the guilt of the accused, the trial judge may summon a special juror or jurors as provided in chapter 913 to determine the issue of the imposition of the penalty. If the trial jury has been waived, or if the defendant pleaded guilty, the sentencing proceeding shall be conducted before a jury impaneled for that purpose, unless waived by the defendant. In the proceeding, evidence may be presented as to any matter that the court deems relevant to the nature of the crime and the character of the defendant and shall include matters relating to any of the aggravating or mitigating circumstances enumerated in subsections (5) and (6). Any such evidence which the court deems to have probative value may be received, regardless of its admissibility under the exclusionary rules of evidence, provided the defendant is accorded a fair opportunity to rebut any hearsay statements. However, this subsection shall not be construed to authorize the introduction of any evidence secured in violation of the Constitution of the United States or the Constitution of the State of Florida. The state and the defendant or the defendant's counsel shall be permitted to present argument for or against sentence of death.

(b) If the court determines, by a preponderance of the evidence, that the defendant suffers from mental retardation, and has an IQ less than 55 the court shall sentence the defendant to life imprisonment.

Section 16. Subsection (2) of section 921.142, Florida Statutes, is amended to read:

921.142 Sentence of death or life imprisonment for capital drug trafficking felonies; further proceedings to determine sentence.—

(2) SEPARATE PROCEEDINGS ON ISSUE OF PENALTY.—

(a) Upon conviction or adjudication of guilt of a defendant of a capital felony under s. 893.135, the court shall conduct a separate sentencing proceeding to determine whether the defendant should be sentenced to death or life imprisonment as authorized by s. 775.082. The proceeding shall be conducted by the trial judge before the trial jury as soon as practicable. If, through impossibility or inability, the trial jury is unable to reconvene for a hearing on the issue of penalty, having determined the guilt of the accused, the trial judge may summon a special juror or jurors as provided in chapter 913 to determine the issue of the imposition of the penalty. If the trial jury has been waived, or if the defendant pleaded guilty, the sentencing proceeding shall be conducted before a jury impaneled for that purpose, unless waived by the defendant. In the proceeding, evidence may be presented as to any matter that the court deems relevant to the nature of the crime and the character of the defendant and shall include matters relating to any of the aggravating or mitigating circumstances enumerated in subsections (6) and (7). Any such evidence which the court deems to have probative value may be received, regardless of its admissibility under the exclusionary rules of evidence, provided the defendant is accorded a fair opportunity to rebut any hearsay statements. However, this subsection shall not be construed to authorize the introduction of any evidence secured in violation of the Constitution of the United States or the Constitution of the State of Florida. The state and the defendant or the defendant's counsel shall be permitted to present argument for or against sentence of death.

(b) If the court determines, by a preponderance of the evidence, that the defendant suffers from mental retardation, and has an IQ less than 55 the court shall sentence the defendant to life imprisonment.

Section 17. Paragraph (m) is added to subsection (1) of section 924.07, Florida Statutes, to read:

924.07 Appeal by state.—

(1) The state may appeal from:

(m) An order pursuant to s. 921.141(1)(a) or s. 921.142(2)(a) declaring a defendant mentally retarded.

Section 18. *For purposes of sections 921.141 and 921.142, Florida Statutes, the term "mental retardation" means significantly subaverage*

general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the period from conception to age 18. The term "significantly subaverage general intellectual functioning," for the purpose of this definition, means an intelligence quotient of 55 or less on a standardized intelligence test specified in the rules of the Department of Children and Family Services. The term "adaptive behavior," for the purpose of this definition, means the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected of the individual's age, cultural group, and community.

Section 19. Section 945.10, Florida Statutes, is amended to read:

945.10 Confidential information*; illegal acts; penalties*.—

(1) Except as otherwise provided by law or in this section, the following records and information of the Department of Corrections are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

(a) Mental health, medical, or substance abuse records of an inmate or an offender.

(b) Preplea, pretrial intervention, presentence or postsentence investigative records.

(c) Information regarding a person in the federal witness protection program.

(d) Parole Commission records which are confidential or exempt from public disclosure by law.

(e) Information which if released would jeopardize a person's safety.

(f) Information concerning a victim's statement and identity.

(g) The identity of an executioner.

(h) Records that are otherwise confidential or exempt from public disclosure by law.

(2) The records and information specified in paragraphs (1)(b)-(h) may be released as follows unless expressly prohibited by federal law:

(a) Information specified in paragraphs (1)(b), (d), and (f) to the Office of the Governor, the Legislature, the Parole Commission, the Department of Health and Rehabilitative Services, a private correctional facility or program that operates under a contract, the Department of Legal Affairs, a state attorney, the court, or a law enforcement agency. A request for records or information pursuant to this paragraph need not be in writing.

(b) Information specified in paragraphs (1)(c), (e), and (h) to the Office of the Governor, the Legislature, the Parole Commission, the Department of Health and Rehabilitative Services, a private correctional facility or program that operates under contract, the Department of Legal Affairs, a state attorney, the court, or a law enforcement agency. A request for records or information pursuant to this paragraph must be in writing and a statement provided demonstrating a need for the records or information.

(c) Information specified in paragraph (1)(b) to an attorney representing an inmate under sentence of death, except those portions of the records containing a victim's statement or address, or the statement or address of a relative of the victim. A request for records of information pursuant to this paragraph must be in writing and a statement provided demonstrating a need for the records or information.

(d) Information specified in paragraph (1)(b) to a public defender representing a defendant, except those portions of the records containing a victim's statement or address, or the statement or address of a relative of the victim. A request for records or information pursuant to this paragraph need not be in writing.

(e) Information specified in paragraph (1)(b) to state or local governmental agencies. A request for records or information pursuant to this paragraph must be in writing and a statement provided demonstrating a need for the records or information.

(f) Information specified in paragraph (1)(b) to a person conducting legitimate research. A request for records and information pursuant to this paragraph must be in writing, the person requesting the records or information must sign a confidentiality agreement, and the department must approve the request in writing.

Records and information released under this subsection remain confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution when held by the receiving person or entity.

(3) Due to substantial concerns regarding institutional security and unreasonable and excessive demands on personnel and resources if an inmate or an offender has unlimited or routine access to records of the Department of Corrections, an inmate or an offender who is under the jurisdiction of the department may not have unrestricted access to the department's records or to information contained in the department's records. However, except as to another inmate's or offender's records, the department may permit limited access to its records if an inmate or an offender makes a written request and demonstrates an exceptional need for information contained in the department's records and the information is otherwise unavailable. Exceptional circumstances include, but are not limited to:

(a) The inmate or offender requests documentation to resolve a conflict between the inmate's court documentation and the commitment papers or court orders received by the department regarding the inmate or offender.

(b) The inmate's or offender's release is forthcoming and a prospective employer requests, in writing, documentation of the inmate's or offender's work performance.

(c) The inmate or offender needs information concerning the amount of victim restitution paid during the inmate's or offender's incarceration.

(d) The requested records contain information required to process an application or claim by the inmate or offender with the Internal Revenue Service, the Social Security Administration, the Department of Labor and Employment Security, or any other similar application or claim with a state agency or federal agency.

(e) The inmate or offender wishes to obtain the current address of a relative whose address is in the department's records and the relative has not indicated a desire not to be contacted by the inmate or offender.

(f) Other similar circumstances that do not present a threat to the security, order, or rehabilitative objectives of the correctional system or to any person's safety.

(4) The Department of Corrections shall adopt rules to prevent disclosure of confidential records or information to unauthorized persons.

(5) The Department of Corrections and the Parole Commission shall mutually cooperate with respect to maintaining the confidentiality of records that are exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(6)(a) As used in this subsection:

1. The term "personal information about another person" means the home addresses, telephone numbers, social security numbers, and photographs of health care clinicians of the Department of Corrections who are licensed or certified pursuant to chapter 458, chapter 459, chapter 464, chapter 465, chapter 466, or chapter 490 and of educational personnel of the Department of Corrections who are certified pursuant to s. 231.17 and of other state officers and employees whose duties are performed in whole or in part in state correctional institutions; the home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of such persons; and the names and locations of schools and day care facilities attended by the children of such persons.

2. The terms "another person" and "such person" mean any person described in subparagraph 1.

3. The term "harass" means engaging in a course of conduct directed at another person which causes substantial emotional distress to such person and serves no legitimate purpose.

(b) An inmate or offender in the correctional system or under correctional supervision, whether on parole, probation, postrelease supervision, or any other form of supervision, is prohibited from disclosing or using personal information about another person with the intent to obtain a benefit from, harass, harm, or defraud such person. Any inmate or offender who violates this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) An inmate or offender who has been convicted of an offense under paragraph (b) is prohibited from subsequently participating in any correctional work or other correctional program that provides inmates or offenders with access to personal information about persons who are not in the correctional system or under correctional supervision. If, during a term of imprisonment, an inmate or offender is convicted of the offense under paragraph (b), the inmate or offender shall be subject to forfeiture of all or any part of his or her gain-time pursuant to rules adopted by the department. The department may adopt rules to prohibit the subsequent participation of an inmate who has been convicted of an offense under paragraph (b) in any correctional work or other correctional program that provides inmates access to personal information about another person. The department may also adopt rules to implement the forfeiture or deletion of gain-time.

Section 20. Subsection (5) of section 99.012, Florida Statutes, is amended to read:

99.012 Restrictions on individuals qualifying for public office.—

(5)*(a)* A person who is a subordinate officer, deputy sheriff, or police officer *must* ~~need not~~ resign *effective upon qualifying, pursuant to Chapter 99, F.S., if* ~~pursuant to this section unless~~ the person is seeking to qualify for a public office which is currently held by an officer who has authority to appoint, employ, promote, or otherwise supervise that person and who has qualified as a candidate for reelection to that office.

(b) ~~However,~~ Upon qualifying *pursuant to Chapter 99, F.S., a* ~~the~~ subordinate officer, deputy sheriff, or police officer *who is seeking public office and who is not required to resign under paragraph (a)* must take a leave of absence without pay during the period in which he or she is a candidate for office.

Section 21. *There is appropriated from the General Revenue Fund to Hillsborough County the sum of $500,000 for fiscal year 1998-1999 for the planning, design, development, acquisition and construction of the Hillsborough County Sheriff's District 4 Office with such sums released only upon a two to one matching funding commitment from Hillsborough County for the completion of such project.*

Section 22. This act shall take effect upon becoming a law.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to criminal justice; amending s. 951.23, F.S.; providing a criminal penalty for refusing to obey jail rules and regulations; requiring that a printed copy of rules be provided to prisoners; providing a definition; terminating specified trust funds and fund accounts within the state courts system and the Department of Corrections; providing for the transfer of current balances to general revenue, the paying of outstanding debts and obligations, and the removal of the terminated funds and accounts from the various state accounting systems; modifying provisions relating to specified trust funds and fund accounts within the state courts system and the Department of Corrections; amending s. 216.272, F.S., relating to Working Capital Trust Funds used to fund data processing centers; removing reference to the judicial branch; amending s. 945.215, F.S.; providing sources of funds and purposes of the Inmate Welfare Trust Fund, the Privately Owned Institutions Inmate Welfare Trust Fund, and the Employee Benefit Trust Fund within the department; providing for annual appropriation of funds deposited in the Inmate Welfare Trust Fund; requiring certain annual reports; amending s. 944.803, F.S., relating to faith-based programs for inmates; revising a reference, to conform; amending s. 945.31, F.S.; providing for deposit of the department's administrative processing fee in the department's Operating Trust Fund; amending s. 945.76, F.S.; revising provisions relating to fees for certification and monitoring of batterers' intervention programs; providing for deposit of such fees in the department's Operating Trust Fund; amending s. 944.10, F.S.; providing for deposit of contractual service and inmate labor fees in the Correctional Work Program Trust Fund; amending s. 948.09, F.S.; providing for deposit of the electronic monitoring surcharge in the department's Operating Trust Fund; amending s. 951.23, F.S.; providing for deposit of fees collected pursuant to local detention facility inspection agreements in the department's Operating Trust Fund; creating s. 386.213, F.S.; providing legislative intent; requiring the Department of Corrections and private vendors operating state correctional facilities to make smoking-cessation assistance available to inmates; requiring full implementation of the act by a specified date; providing definitions; prohibiting an inmate within a state correctional facility from using tobacco products in prohibited areas; prohibiting employees or visitors from using tobacco products in prohibited areas; providing penalties; authorizing the department to adopt rules; amending s. 386.203 (1), F.S.; adding state correctional facilities to the definition of public place; amending ss. 921.141, 921.142, F.S.; prescribing the penalty to be imposed if the defendant is determined to be mentally retarded; amending s. 924.07, F.S.; providing that the state may appeal a determination that a defendant is mentally retarded; providing a definition of mental retardation; amending s. 945.10, F.S., relating to confidential information and other information available to inmates and offenders in the correctional system or under supervision; defining terms; prohibiting certain disclosure or use of certain "personal information about another person," as defined, by an inmate or offender with intent to obtain a benefit from, harass, harm, or defraud such person; providing penalties; providing that an inmate or offender convicted of such offense is prohibited from subsequent participation in correctional work programs or other programs; providing that an inmate or offender convicted of such offense is subject to forfeiture of gain-time; providing for adoption of rules by the department; amending s. 99.012, F.S.; requiring a subordinate officer, deputy sheriff, or police officer seeking to qualify for a public office to resign or take a leave of absence, depending on certain circumstances relating to the office sought; providing an appropriation; providing an effective date.

On motion by Senator Bronson, by two-thirds vote **CS for HB 3527** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Bankhead	Diaz-Balart	Horne	Myers
Bronson	Dudley	Jones	Ostalkiewicz
Brown-Waite	Dyer	Kirkpatrick	Rossin
Burt	Forman	Klein	Scott
Campbell	Geller	Kurth	Silver
Casas	Grant	Latvala	Sullivan
Childers	Gutman	Laurent	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams
Crist	Holzendorf	Meadows	

Nays—None

On motion by Senator Turner, by two-thirds vote **CS for HB 945** was withdrawn from the Committees on Governmental Reform and Oversight; and Ways and Means.

On motion by Senator Turner, by two-thirds vote—

CS for HB 945—A bill to be entitled An act relating to environmental equity and justice; creating s. 760.854, F.S.; creating the Center for Environmental Equity and Justice; providing purpose of the center; providing an effective date.

—a companion measure, was substituted for **CS for SB 1516** and by two-thirds vote read the second time by title.

Senator Turner moved the following amendment which was adopted:

Amendment 1 (with title amendment)—On page 2, between lines 3 and 4, insert:

Section 3. Section 381.102, Florida Statutes, is created to read:

381.102 Short title.—Sections 381.102-381.107 may be cited as the "Florida Community Environmental Health Protection Act."

Section 4. Section 381.103, Florida Statutes, is created to read:

381.103 Community environmental health protection; legislative findings.—

(1) This state is committed to the economic, environmental, and public health revitalization of its communities.

(2) Low-income communities bear a significant burden of environmental contamination that thwarts the revitalization of these communities.

(3) This state has made progress in addressing the economic development and environmental needs of its communities.

(4) Measures to address the public health needs of low-income communities that are exposed to contaminated sites must be implemented in order to ensure the sustainability of the communities in this state.

(5) The Legislature has determined that it would be beneficial to provide resources in this state to undertake a series of pilot projects that demonstrate techniques and approaches to ensure health care for low-income persons who are living in communities that are adversely affected by contaminated sites, to mobilize additional resources from the government, private sector, and private foundations to address this need, and to develop a mechanism for collecting data.

(6) The implementation of these measures will enhance cooperative efforts among the private sector, government, and nonprofit organizations in this state to ensure the sustainability of this state.

(7) Efforts to initiate measures that address public health problems in communities affected by contaminated sites will enable this state to leverage additional resources available from the Federal Government and private foundations for this purpose.

Section 5. Section 381.104, Florida Statutes, is created to read:

381.104 Definitions.—As used in ss. 381.102-381.107, the term:

(1) "Low-income community" means a contiguous grouping of residences with a significant portion of occupants who have a family income equal to or below 100 percent of the most recent federal poverty level and who are exposed to multiple sources of environmental contamination.

(2) "Contaminated site" means any contiguous land, surface water, or groundwater areas that may contain contaminants that may be harmful to human health or the environment and includes federal Superfund sites and state or federally designated Brownfield areas.

Section 6. Section 381.105, Florida Statutes, is created to read:

381.105 Community Environmental Health Program; creation; purposes.—There is created the Community Environmental Health Program. The primary purpose of the program is to ensure the availability of public health services to members of low-income communities that may be adversely affected by contaminated sites located in or near the community. These services extend beyond health services that are currently provided pursuant to chapter 154 and include measures to address the cumulative and synergistic health effects that may be associated with exposure to environmental contamination. An additional purpose is to ensure the collection of information and data on health effects potentially caused by acute and chronic exposure to low and high levels of environmental contaminants so that the information and data may be used for research, education, and the improvement of decisionmaking on sustainability goals.

Section 7. Section 381.106, Florida Statutes, is created to read:

381.106 Community Environmental Health Program pilot projects.—

(1) Community Environmental Health Program pilot projects are hereby established within the Department of Health to promote disease prevention and health protection among low-income people who live in communities that have Superfund or legally designated Brownfield areas. The pilot projects must seek to build upon existing environmental and economic efforts to address contaminated sites through the Florida Brownfields Redevelopment Act, the Eastward Ho! Brownfields Partnership, the federal Superfund Program, and other state and federal programs that address public health and the environment. The pilot projects may form partnerships with existing health care providers, contribute to a health care needs assessment, and serve as the basis for the development of health care capacity in underserved areas.

(2) A pilot project must be established to serve each of the following:

(a) In Escambia County, the low-income communities surrounding the Escambia Treating Company and Agrico Company Superfund sites that are part of the national pilot relocation project and the former workers at those sites;

(b) In Broward County, the low-income communities surrounding the Wingate Superfund site, which is located in the federally designated Brownfield Showcase Community;

(c) In Palm Beach County, within the City of Riviera Beach, the low-income communities surrounding the BMI-Textron Superfund site, which is located in the federally designated Brownfield Showcase community;

(d) In Pinellas County, the low-income communities designated as a pilot project under the 1997 Florida Brownfields Redevelopment Act, including the Greenwood community in Clearwater;

(e) In Miami-Dade County, the low income communities in Liberty City and Brownsville, which are located in the federally designated Brownfield Showcase Community;

(f) In Polk County, the low-income communities surrounding the Alpha Chemical Corporation Superfund site;

(g) In Hillsborough County, the low-income communities surrounding the Kassouf-Kimberling Battery Disposal Superfund site, the Landfill Superfund site, and the Sixty-Second Street Dump Superfund site, which have been designated as a proposed Brownfield Redevelopment project area; and

(h) In Duval County, the low-income communities surrounding the Pickettville Road Landfill Superfund site.

(3) The Department of Health shall establish a Community Environmental Health Advisory Board for each pilot project, and the majority of board members shall be low-income residents who are beneficiaries of the pilot project. The board must also include representatives from the respective county health departments, health care professionals and providers, and elected officials. The board shall identify the community environmental health needs and types of services which should be provided by the pilot project, initiate and support efforts to secure additional resources to meet these needs, oversee the functions and operations of the pilot project, evaluate the pilot project, and prepare for the Legislature a report that discusses the progress of the pilot project toward achieving its stated goals and recommends future courses of action.

Section 8. Section 381.107, Florida Statutes, is created to read:

381.107 Duties of Department of Health.—The Department of Health shall, to the extent that resources are available:

(1) Assist each pilot project in obtaining low-cost health care services designed to treat the effects of exposure to environmental contaminants and to ensure disease prevention and health promotion.

(2) Facilitate the application to other appropriate Superfund sites and Brownfield areas in the state the techniques and approaches developed by the pilot project to ensure health care for low-income persons who are living in communities with contaminated sites.

(3) Develop a proactive, rapid-identification system for evaluating the health impact of exposure to environmental contamination and for detecting health effects.

(4) Explore alternative methodologies for evaluating the human health consequences of exposure to environmental contamination.

(5) Develop and maintain a registry to track health problems addressed by the project.

(6) Develop environmental education and outreach programs for health care providers and communities which increase awareness and

reporting of health effects resulting from exposure to environmental contamination within communities.

(7) Work with affected communities, appropriate agencies, and ongoing initiatives, such as Eastward Ho! Brownfields Partnership, to implement communication between government agencies and affected communities.

(8) Collect data on potential environmental health effects of environmental contamination.

Section 9. *The sum of $100,000 is appropriated from the General Revenue Fund during the 1998-1999 fiscal year for the Community Environmental Health Program and must be used for the establishment of voluntary community environmental health advisory boards for each pilot project for the purpose of determining the public health needs of the community, identifying and accessing additional public and private sector resources, and laying the foundation for implementing the pilot projects described in this act when funding is available.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 5, after the semicolon (;) insert: creating ss. 381.102, 381.103, 381.104, 381.105, 381.106, 381.107, F.S., the "Florida Community Environmental Health Protection Act"; providing a short title; providing for community environmental health protection; providing legislative findings; providing definitions; creating the Community Environmental Health Program; providing purposes of the program; designating pilot projects; providing for Committee Environmental Health Advisory Boards; requiring a report to the Legislature; providing duties of the Department of Health; providing an appropriation;

On motion by Senator Turner, by two-thirds vote **CS for HB 945** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Bankhead	Dudley	Jones	Ostalkiewicz
Bronson	Dyer	Kirkpatrick	Rossin
Brown-Waite	Forman	Klein	Scott
Campbell	Geller	Kurth	Silver
Casas	Grant	Latvala	Sullivan
Childers	Gutman	Laurent	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams
Crist	Holzendorf	Meadows	
Diaz-Balart	Horne	Myers	

Nays—None

On motion by Senator Forman, by two-thirds vote **HB 4259** was withdrawn from the Committees on Education; and Ways and Means.

On motion by Senator Forman—

HB 4259—A bill to be entitled An act relating to postsecondary education; amending s. 232.2466, F.S.; revising requirements for the college-ready diploma program; amending s. 239.117, F.S.; exempting specified students from postsecondary fees; amending s. 239.225, F.S.; revising provisions relating to the Vocational Improvement Program; amending s. 240.1163, F.S.; revising dual enrollment provisions; amending s. 240.235, F.S.; exempting specified university students from fees; amending s. 240.321, F.S., relating to duties of community college district boards of trustees; requiring notification of alternative remedial options; providing student requirements relating to enrollment in courses; amending s. 240.324, F.S., relating to the community college accountability process; providing for coinciding reporting deadlines; clarifying language; amending s. 240.35, F.S.; exempting specified community college students from fees; amending s. 240.36, F.S.; revising provisions relating to the matching of funds and the uses of proceeds of a trust fund for community colleges; amending s. 240.382, F.S.; correcting a cross reference; amending s. 240.4097, F.S., relating to the Florida Postsecondary Student Assistance Grant Program; requiring the establishment of application deadlines; amending s. 246.201, F.S.; revising legislative intent; amending s. 246.203, F.S.; renaming the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools the State Board of Nonpublic Career Education; revising definition of schools regulated by the board; amending s. 246.205, F.S.; conforming language; amending s. 246.207, F.S.; revising powers and duties of the board; amending s. 246.213, F.S.; conforming language; amending s. 246.215, F.S.; requiring licensing of specified programs by the board; creating s. 246.216, F.S.; providing for exemption from licensure for specified entities; providing for statements of exemption; providing for revocation of statements of exemption; providing for remedies; amending ss. 246.219, 246.220, 246.2265, 246.227, and 246.31, F.S.; conforming language; amending ss. 20.15, 240.40204, 246.011, 246.081, 246.085, 246.091, 246.111, 246.50, 455.2125, 455.554, 467.009, 476.178, 477.023, and 488.01, F.S.; conforming language; providing an effective date.

—a companion measure, was substituted for **CS for SB 2100** and read the second time by title.

Senators Forman and Kirkpatrick offered the following amendment which was moved by Senator Forman:

Amendment 1 (with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Section 232.2466, Florida Statutes, is amended to read:

232.2466 College-ready diploma program.—

(1) Beginning with the *1998-1999* ~~1997-1998~~ school year, each school district shall award a differentiated college-ready diploma to each student who:

(a) Successfully completes the requirements for a standard high school diploma as prescribed by s. 232.246. Among courses taken to fulfill the 24-academic-credit requirement, a student must take *high school courses that are adopted by the Board of Regents and recommended by the State Board of Community Colleges as college-preparatory academic courses.*~~:~~

~~1. Two credits in algebra and one credit in geometry, or their equivalents, as determined by the state board.~~

~~2. One credit in biology, one credit in chemistry, and one credit in physics, or their equivalents, as determined by the state board.~~

~~3. Two credits in the same foreign language, taken for elective credit. A student whose native language is not English is exempt from this requirement if the student demonstrates proficiency in the native language. American sign language constitutes a foreign language.~~

(b) Takes the postsecondary education common placement test prescribed in s. 240.117, or an equivalent test identified by the State Board of Education, before graduation and scores at or above the established statewide passing score in each test area.

(2) A college-ready diploma entitles a student to admission without *additional* placement testing to a public postsecondary education program that terminates in a technical certificate, *an applied technology diploma, an associate in applied science degree,* an associate in science degree, or an associate in arts degree, if the student enters postsecondary education within 2 years after earning the college-ready diploma.

(3) The Department of Education shall *periodically* convene a task force of educators and employers to recommend additional incentives for students to pursue a college-ready diploma. The incentives may include awards and recognition, preference for positions in firms, and early registration privileges in postsecondary education institutions.

Section 2. Paragraph (f) is added to subsection (4) of section 239.117, Florida Statutes, to read:

239.117 Postsecondary student fees.—

(4) The following students are exempt from the payment of registration, matriculation, and laboratory fees:

(f) A student who is a proprietor, owner, or worker of a company whose business has been at least 50 percent negatively financially impacted by the buy-out of property around Lake Apopka by the State of Florida. Such a student may receive a fee exemption only if the student has not received compensation because of the buy-out, the student is

designated a Florida resident for tuition purposes, pursuant to s. 240.1201, and the student has applied for and been denied financial aid, pursuant to s. 240.404, which would have provided, at a minimum, payment of all student fees. The student is responsible for providing evidence to the postsecondary education institution verifying that the conditions of this paragraph have been met, including support documentation provided by the Department of Revenue. The student must be currently enrolled in, or begin coursework within, a program area by fall semester 2000. The exemption is valid for a period of 4 years from the date that the postsecondary education institution confirms that the conditions of this paragraph have been met.

Section 3. Subsection (1) and paragraph (c) of subsection (3) of section 239.225, Florida Statutes, are amended, and subsection (5) is added to said section, to read:

239.225 Vocational Improvement Program.—

(1) There is established the Vocational Improvement Program to be administered by the Department of Education pursuant to this section ~~and rules of the State Board for Career Education. Such rules must provide for the submission of applications and distribution of funds pursuant to this section~~. The priorities for allocation of funds for the program are the development of vocational programs for disadvantaged persons; recruitment, preservice and inservice activities for vocational counselors and teachers; the development of information systems that are compatible between school districts and community colleges; job placement services for vocational completers; the development of exploratory vocational courses; activities that provide faculty articulation for the purpose of integrating vocational and academic instruction; and activities that ensure greater community involvement in career education.

(3)

~~(c) The State Board for Career Education may adopt rules necessary to implement the provisions of this subsection.~~

(5) The State Board for Career Education may adopt rules to implement this program.

Section 4. Subsections (4) and (5) are added to section 240.1163, Florida Statutes, to read:

240.1163 Joint dual enrollment and advanced placement instruction.—

(4) School districts and community colleges must weigh college-level dual enrollment courses the same as honors courses and advanced placement courses when grade point averages are calculated. Alternative grade calculation or weighting systems that discriminate against dual enrollment courses are prohibited.

(5) The Commissioner of Education may approve dual enrollment agreements for limited course offerings that have statewide appeal. Such programs shall be limited to a single site with multiple county participation.

Section 5. Subsections (6), (7), (8), and (9) of section 240.235, Florida Statutes, are renumbered as subsections (7), (8), (9), and (10), respectively, and a new subsection (6) is added to said section to read:

240.235 Fees.—

(6) Any proprietor, owner, or worker of a company whose business has been at least 50 percent negatively financially impacted by the buy-out of property around Lake Apopka by the State of Florida is exempt from the payment of registration, matriculation, and laboratory fees. A student receiving a fee exemption in accordance with this subsection must not have received compensation because of the buy-out, must be designated a Florida resident for tuition purposes, pursuant to s. 240.1201, and must first have applied for and been denied financial aid, pursuant to s. 240.404, which would have provided, at a minimum, payment of all student fees. The student is responsible for providing evidence to the postsecondary education institution verifying that the conditions of this subsection have been met, including support documentation provided by the Department of Revenue. The student must be currently enrolled in, or begin coursework within, a program area by fall semester 2000. The exemption is valid for a period of 4 years from the date that the postsecondary education institution confirms that the conditions of this subsection have been met.

Section 6. Subsection (3) of section 240.311, Florida Statutes, is amended to read:

240.311 State Board of Community Colleges; powers and duties.—

(3) The State Board of Community Colleges shall:

(a) Provide for each community college to offer educational training and service programs designed to meet the needs of both students and the communities served.

(b) Provide, through rule, for the coordination of the state community college system.

(c) Review new associate degree or certificate programs for relationship to student demand; conduct periodic reviews of existing programs; and provide rules for termination of associate degree or certificate programs when excessive duplication exists.

(d) Ensure that the rules and procedures of community college district boards relating to admission to, enrollment in, employment in, and programs, services, functions, and activities of each college provide equal access and equal opportunity for all persons.

(e) Advise presidents of community colleges of the fiscal policies adopted by the Legislature and of their responsibilities to follow such policies.

(f) Specify, by rule, procedures to be used by the boards of trustees in the periodic evaluations of presidents and formally review the evaluations of presidents by the boards of trustees.

(g) Recommend to the State Board of Education minimum standards for the operation of each community college as required in s. 240.325, which standards may include, but are not limited to, general qualifications of personnel, budgeting, accounting and financial procedures, educational programs, student admissions and services, and community services.

(h) Establish an effective information system which will provide composite data about the community colleges and assure that special analyses and studies about the colleges are conducted, as necessary, for provision of accurate and cost-effective information about the colleges and about the community college system as a whole.

(i) Encourage the colleges and the system as a whole to cooperate with other educational institutions and agencies and with all levels and agencies of government in the interest of effective utilization of all resources, programs, and services.

(j) Establish criteria for making recommendations relative to modifying district boundary lines and for making recommendations upon all proposals for the establishment of additional centers or campuses for community colleges.

(k) Develop a plan in cooperation with the local school district and the Department of Education to include any and all counties in a community college service district.

(l) Assess the need to consolidate any community colleges.

(m) Develop and adopt guidelines relating to salary and fringe benefit policies for community college administrators, including community college presidents.

(n) Develop and adopt guidelines relating to official travel by community college employees.

(o) Receive an annual administrative review of each community college.

1. Such review shall include, but is not limited to, the administrator-to-faculty ratio, the percent of funds for administrative costs in the total budget, and the percent of funds in support programs compared to the percent of funds in instructional programs and may include such other indicators of quality as are necessary.

2. The review shall also include all courses offered by a community college outside its district. Courses offered outside the home district which are not approved by the State Board of Community Colleges shall not be counted for funding purposes or to meet enrollment assignments. *For purposes of this subparagraph, electronically originated instruction, to include satellite, broadcast, and internet delivered instruction, shall be exempt. Exemption is only permitted when the community college's intent is to offer the instruction for students residing within the community college's home district and only markets the instruction to students residing within the community college's home district. If a community college's intent is to market the electronically originated instruction outside its home district and thus recruit students outside its home district, the community college must receive the approval of the State Board of Community Colleges. The State Board of Community Colleges shall have authority to review any electronically originated instruction for compliance with this section.*

(p) Encourage and support activities which promote and advance college and statewide direct-support organizations.

(q) Specify, by rule, the degree program courses that may be taken by students concurrently enrolled in college-preparatory instruction.

Section 7. Section 240.321, Florida Statutes, is amended to read:

240.321 Community college district board of trustees; rules for admissions of students.—The board of trustees shall make rules governing admissions of students. These rules shall include the following:

(1) Admissions counseling shall be provided to all students entering college credit programs, which counseling shall utilize tests to measure achievement of college-level communication and computation competencies by all students entering college credit programs.

(2) Admission to associate degree programs is subject to minimum standards adopted by the State Board of Education and shall require:

(a) A *standard* high school diploma, a high school equivalency diploma as prescribed in s. 229.814, previously demonstrated competency in college credit postsecondary coursework, or, in the case of a student who is home educated, a signed affidavit submitted by the student's parent or legal guardian attesting that the student has completed a home education program pursuant to the requirements of s. 232.02(4). Students who are enrolled in a dual enrollment or early admission program pursuant to s. 240.116 and secondary students enrolled in college-level instruction creditable toward the associate degree, but not toward the high school diploma, shall be exempt from this requirement.

(b) A demonstrated level of achievement of college-level communication and computation skills. Students entering a postsecondary education program within 2 years of graduation from high school with an earned college-ready diploma issued pursuant to s. 232.2466 shall be exempt from this testing requirement.

(c) Any other requirements established by the board of trustees.

(3) Admission to other programs within the community college shall include education requirements as established by the board of trustees.

Each board of trustees shall establish policies that notify students about, and place students into, adult basic education, adult secondary education, or other instructional programs that provide students with alternatives to traditional college-preparatory instruction, including private provider instruction. *Such notification shall include a written listing or a prominent display of information on alternative remedial options that must be available to each student who scores below college level in any area on the common placement test. The list or display shall include, but is not limited to, options provided by the community college, adult education programs, and programs provided by private-sector providers. The college shall not endorse, recommend, evaluate, or rank any of the providers. The list of providers or the display materials shall include all those providers that request to be included. The written list must provide students with specific contact information and disclose the full costs of the course tuition, laboratory fees, and instructional materials of each option listed. A student who elects a private provider for remedial instruction is entitled to enroll in up to 12 credits of college-level courses in skill areas other than those for which the student is being remediated. A student is prohibited from enrolling in additional college-level courses until the student scores above the cut-score on all sections of the common placement test.*

Section 8. Section 240.324, Florida Statutes, is amended to read:

240.324 Community college accountability process.—

(1) It is the intent of the Legislature that a management and accountability process be implemented which provides for the systematic, ongoing improvement and assessment of the improvement of the quality and efficiency of the State Community College System. Accordingly, the State Board of Community Colleges and the community college boards of trustees shall develop and implement *an accountability* ~~a~~ plan to improve and evaluate the instructional and administrative efficiency and effectiveness of the State Community College System. This plan *shall be designed in consultation with staff of the Governor and the Legislature and* must address the following issues:

(a) Graduation rates of A.A. and A.S. degree-seeking students compared to first-time-enrolled students seeking the associate degree.

(b) Minority student enrollment and retention rates.

(c) Student performance, including student performance in college-level academic skills, mean grade point averages for community college A.A. transfer students, and community college student performance on state licensure examinations.

(d) Job placement rates of community college vocational students.

(e) Student progression by admission status and program.

(f) Vocational accountability standards identified in s. 239.229.

(g) Other measures as identified by the Postsecondary Education Planning Commission and approved by the State Board of Community Colleges.

(2) ~~By January 1, 1992, the State Board of Community Colleges shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives a plan for addressing these issues. The plan must provide a specific timetable that identifies specific issues to be addressed each year and must provide for full implementation by December 31, 1994.~~ Beginning *September 1, 1998* ~~December 31, 1992~~, the State Board of Community Colleges shall submit an annual ~~interim~~ report, *to coincide with the submission of the agency strategic plan required by law,* providing the results of initiatives taken during the prior year and the initiatives and related objective performance measures proposed for the next year. ~~The initial plan and each interim plan shall be designed in consultation with staff of the Governor and the Legislature.~~

(3) ~~Beginning January 1, 1993,~~ The State Board of Community Colleges shall address within the annual evaluation of the performance of the executive director, and the boards of trustees shall address within the annual evaluation of the presidents, the achievement of the performance goals established *by the accountability process* ~~in the community college accountability plan~~.

Section 9. Subsections (4) through (14) of section 240.35, Florida Statutes, as amended by chapter 97-383, Laws of Florida, are renumbered as subsections (5) through (15), respectively, paragraph (c) of present subsection (10) is amended, and a new subsection (4) is added to said section, to read:

240.35 Student fees.—Unless otherwise provided, the provisions of this section apply only to fees charged for college credit instruction leading to an associate degree, including college-preparatory courses defined in s. 239.105.

(4) Any proprietor, owner, or worker of a company whose business has been at least 50 percent negatively financially impacted by the buy-out of property around Lake Apopka by the State of Florida is exempt from the payment of registration, matriculation, and laboratory fees. A student receiving a fee exemption in accordance with this subsection must not have received compensation because of the buy-out, must be designated a Florida resident for tuition purposes pursuant to s. 240.1201, and must first have applied for and been denied financial aid, pursuant to s. 240.404, which would have provided, at a minimum, payment of all student fees. The student is responsible for providing evidence to the postsecondary education institution verifying that the conditions of this subsection have been met, including support documentation provided by

the Department of Revenue. The student must be currently enrolled in, or begin coursework within, a program area by fall semester 2000. The exemption is valid for a period of 4 years from the date that the postsecondary education institution confirms that the conditions of this subsection have been met.

(11)~~(10)~~

(c) Up to 25 percent or $250,000, whichever is greater, of the fees collected may be used to assist students who demonstrate academic merit, who participate in athletics, public service, cultural arts, and other extracurricular programs as determined by the institution, or who are identified as members of a targeted gender or ethnic minority population. The financial aid fee revenues allocated for athletic scholarships and fee exemptions provided pursuant to subsection *(15)* ~~(14)~~ for athletes shall be distributed equitably as required by s. 228.2001(3)(d). A minimum of 50 percent of the balance of these funds shall be used to provide financial aid based on absolute need, and the remainder of the funds shall be used for academic merit purposes and other purposes approved by the district boards of trustees. Such other purposes shall include the payment of child care fees for students with financial need. The State Board of Community Colleges shall develop criteria for making financial aid awards. Each college shall report annually to the Department of Education on the criteria used to make awards, the amount and number of awards for each criterion, and a delineation of the distribution of such awards. Awards which are based on financial need shall be distributed in accordance with a nationally recognized system of need analysis approved by the State Board of Community Colleges. An award for academic merit shall require a minimum overall grade point average of 3.0 on a 4.0 scale or the equivalent for both initial receipt of the award and renewal of the award.

Section 10. Subsections (4) and (7) of section 240.36, Florida Statutes, are amended to read:

240.36 Dr. Philip Benjamin Academic Improvement Trust Fund for Community Colleges.—

(4) Challenge grants shall be proportionately allocated from the trust fund on the basis of matching each $4 of state funds with $6 of local or private funds. ~~The matching funds shall come from contributions made after July 1, 1983, for the purposes of matching this grant.~~ To be eligible, a minimum of $4,500 must be raised from private sources~~, and such contributions must be in excess of the total average annual cash contributions made to the foundation at each community college in the 3 fiscal years before July 1, 1983~~.

(7)(a) The board of trustees of the community college and the State Board of Community Colleges are responsible for determining the uses for the proceeds of their respective trust funds. Such uses of the proceeds shall be limited to expenditure of the funds for:

1. Scientific and technical equipment.

2. Other activities that will benefit future students as well as students currently enrolled at the community college and that will improve the quality of education at the community college or in the community college system.

3. Scholarships, *loans, or need-based grants*~~, which are the lowest priority for use of these funds~~.

(b) If a community college includes scholarships, *loans, or need-based grants in its proposal, it shall create an endowment in its academic improvement trust fund and use the earnings of the endowment to provide scholarships, loans, or need-based grants.* ~~in its proposal, it shall create an endowment in its academic improvement trust fund and use the earnings of the endowment to provide scholarships. Such scholarships must be program specific and require high academic achievement for students to qualify for or retain the scholarship. A scholarship program may be used for minority recruitment but may not be used for athletic participants. The board of trustees may award scholarships to students in associate in arts programs and vocational programs. However, for vocational programs, the board of trustees must have designated the program as a program of emphasis for quality improvement, a designation that should be restricted to a limited number of programs at the community college. In addition, the board of trustees must have adopted a specific plan that details how the community college will improve the quality of the program designated for emphasis and that includes quality measures and outcome measures. Over a period of time, the community college operating budget should show additional financial commitment to the program of emphasis above and beyond the average increases to other programs offered by the community college. Fundraising activities must be specifically identified as being for the program of emphasis or scholarship money. The community college must fully levy the amount for financial aid purposes provided by s. 240.35(10) in addition to the tuition and matriculation fee before any scholarship funds are awarded to the community college as part of its approved request.~~

(b)~~(c)~~ Proposals for use of the trust fund shall be submitted to the State Board of Community Colleges for approval. Any proposal not acted upon in 60 days shall be considered not approved.

Section 11. Subsection (5) of section 240.382, Florida Statutes, is amended to read:

240.382 Establishment of child development training centers at community colleges.—

(5) In addition to revenues derived from child care fees charged to parents and other external resources, each child development training center may be funded by a portion of funds from the student activity and service fee authorized by s. 240.35*(10)*~~(9)~~ and the capital improvement fee authorized by s. 240.35*(14)*~~(13)~~. Community colleges are authorized to transfer funds as necessary from the college's general fund to support the operation of the child development training center.

Section 12. Subsection (2) of section 240.4097, Florida Statutes, is amended to read:

240.4097 Florida Postsecondary Student Assistance Grant Program; eligibility for grants.—

(2)(a) Florida postsecondary student assistance grants through the State Student Financial Assistance Trust Fund may be made only to full-time degree-seeking students who meet the general requirements for student eligibility as provided in s. 240.404, except as otherwise provided in this section. Such grants shall be awarded for the amount of demonstrated unmet need for tuition and fees and may not exceed a total of $1,500 per academic year, or as specified in the General Appropriations Act, to any applicant. A demonstrated unmet need of less than $200 shall render the applicant ineligible for a Florida postsecondary student assistance grant. Recipients of such grants must have been accepted at a postsecondary institution that is located in ~~and chartered as a domestic corporation by~~ the state and that is:

1. A private nursing diploma school approved by the Florida Board of Nursing; or

2. An institution either licensed by the State Board of Independent Colleges and Universities or exempt from licensure pursuant to s. 246.085(1)(a), excluding those institutions the students of which are eligible to receive a Florida private student assistance grant pursuant to s. 240.4095.

No student may receive an award for more than the equivalent of 9 semesters or 14 quarters in a period of not more than 6 consecutive years, except as otherwise provided in s. 240.404(3).

(b) A student applying for a Florida postsecondary student assistance grant shall be required to apply for the Pell Grant. The Pell Grant entitlement shall be considered by the department when conducting an assessment of the financial resources available to each student.

(c) The criteria and procedure for establishing standards of eligibility shall be determined by the department. The department is directed to establish a rating system upon which to base the approval of grants, including the use of a nationally recognized system of need analysis. The system shall include a certification of acceptability by the school of the applicant's choice. Priority in the distribution of grant moneys shall be given to students with the lowest total family resources, as determined pursuant to this subsection, taking into consideration the receipt of Pell Grants and student contributions to educational costs.

(d) The department is directed to establish, for fall enrollment, an initial application deadline for students attending all eligible institutions and an additional application deadline for students who apply to

all eligible institutions after the initial application deadline. The second deadline shall be October 1 following the initial application deadline. The department shall reserve an amount to be designated annually in the General Appropriations Act for the purpose of providing awards to post-secondary students who apply for a student assistance grant after the initial application deadline. Applicants who apply during the initial application period and are eligible to receive an award, but do not receive an award because of insufficient funds, shall have their applications reconsidered with those applicants who apply after the initial application deadline. The provisions of this paragraph shall take effect with the 1999-2000 academic year.

Section 13. Section 246.201, Florida Statutes, is amended to read:

246.201 Legislative intent.—

(1) Sections 246.201-246.231 shall provide for the protection of the health, education, and welfare of the citizens of Florida and shall facilitate and promote the acquisition of a minimum satisfactory career~~, technical, trade, and business~~ education by all the citizens of this state. ~~There are presently many fine nonpublic schools existing in this state, but there are some nonpublic schools which do not generally offer those educational opportunities which the citizens of Florida deem essential. The latter type of school also fails to contribute to the ultimate health, education, and welfare of the citizens of Florida.~~ It shall be in the interest of, and essential to, the public health and welfare that the state create the means whereby all *nonpublic postsecondary career* ~~independent degree career education, technical, trade, and business~~ schools as defined in s. 246.203(1) shall satisfactorily meet minimum educational standards *and fair consumer practices*.

(2) A common practice in our society is to use diplomas and degrees for many purposes. Some of these purposes are: for employers to judge the qualifications of prospective employees; for public and nonpublic professional groups, vocational groups, educational agencies, governmental agencies, and educational institutions to determine the qualifications for admission to, and continuation of, educational goals, occupational goals, professional affiliations, or occupational affiliations; and for public and professional assessment of the extent of competency of individuals engaged in a wide range of activities within our society.

(3) Because of the common use of diplomas and degrees, the minimum legal requirements provided by ss. 246.201-246.231 for the establishment and operation of *nonpublic postsecondary career* ~~independent degree career education, technical, trade, and business~~ schools shall protect the individual student from deceptive, fraudulent, or substandard education; protect such ~~independent degree career education, technical, trade, and business~~ schools; and protect the citizens of Florida holding diplomas or degrees.

~~(4) Nothing contained herein is intended in any way, nor shall be construed, to regulate the stated purpose of an independent degree career education, technical, trade, and business school or to restrict any religious instruction or training in a nonpublic school. Any school or business regulated by the state or approved, certified, or regulated by the Federal Aviation Administration is hereby expressly exempt from ss. 246.201-246.231. Nonprofit schools, owned, controlled, operated, and conducted by religious, denominational, eleemosynary, or similar public institutions exempt from property taxation under the laws of this state shall be exempt from the provisions of ss. 246.201-246.231. However, such schools may choose to apply for a license hereunder, and, upon approval and issuance thereof, such schools shall be subject to ss. 246.201-246.231.~~

Section 14. Subsections (1) and (7) of section 246.203, Florida Statutes, are amended to read:

246.203 Definitions.—As used in ss. 246.201-246.231, unless the context otherwise requires:

(1) "School" means any *nonpublic postsecondary noncollegiate career educational institution, association, corporation, person, partnership, or organization of any type that:*

(a) Offers to provide or provides any postsecondary program of instruction, course, or class through the student's personal attendance, in the presence of an instructor, in a classroom, clinical, or other practicum setting or through correspondence or other distance learning; and

(b) Represents, directly or by implication, that the instruction will qualify the student for employment in any occupation whose practice in this state does not require a degree, as defined in s. 246.021(5); and

(c) Receives remuneration from the student or any other source on the enrollment of a student or on the number of students enrolled; or

(d) Offers to award or awards a diploma, as defined in subsection (6), regardless of whether or not it engages in the activities described in paragraph (a), paragraph (b), or paragraph (c). ~~nongovernmental, postsecondary, vocational, technical, trade, or business noncollegiate educational institution, organization program, home study course, or class maintained or conducted in residence or through correspondence by any person, partnership, association, organization, or corporation for the purpose of offering instruction of any kind leading to occupational objectives or of furnishing a diploma, as defined in subsection (6), in business, management, trade, technical, or other career education and professional schools not otherwise regulated. Nonpublic colleges and universities which award a baccalaureate or higher degree, and nonpublic junior colleges which award an associate degree in liberal arts do not fall under the authority granted in ss. 246.201-246.231 unless the college, university, or junior college conducts, or seeks to conduct, a program for which a diploma, as defined in subsection (6), is to be awarded. Any nonpublic college, university, or junior college which conducts or seeks to conduct a diploma program shall, for the purposes of ss. 246.201-246.231, be included in the definition of "school." Schools offering only examination preparation courses for which they do not award a diploma as defined in subsection (6) do not fall under the authority granted in ss. 246.201-246.231; nor does a nonprofit class provided and operated entirely by an employer, a group of employers in related business or industry, or a labor union solely for its employees or prospective employees or members.~~

(7) "Board" means the State Board of *Nonpublic Career Education* ~~Independent Postsecondary Vocational, Technical, Trade, and Business Schools~~.

Section 15. Subsections (1) and (2) of section 246.205, Florida Statutes, are amended to read:

246.205 State Board of *Nonpublic Career Education* ~~Independent Postsecondary Vocational, Technical, Trade, and Business Schools~~.—

(1) There shall be established in the Department of Education a State Board of *Nonpublic Career Education* ~~Independent Postsecondary Vocational, Technical, Trade, and Business Schools~~. The board shall be assigned to the Department of Education only for the purpose of payroll, procurement, and related administrative functions which shall be exercised by the head of the department. The board shall independently exercise the other powers, duties, and functions prescribed by law. The board shall include nine members, appointed by the Governor as follows:

(a) One from a business school;

(b) One from a technical school;

(c) One from a home study school;

(d) One from a nonpublic school;

(e) Four from business and industry; and

(f) An administrator of vocational-technical education from a public school district or community college.

(2) Each of the members shall be appointed by the Governor, subject to confirmation by the Senate, for a term of 3 years. Of the original members appointed by the Governor, three shall serve for terms of 1 year, three shall serve for terms of 2 years, and three shall serve for terms of 3 years. Of the appointive members from the *nonpublic postsecondary career* ~~independent~~ schools, each shall have occupied executive or managerial positions in *a nonpublic postsecondary career* ~~an independent~~ school in this state for at least 5 years. All members shall be residents of this state. In the event of a vacancy on the board caused other than by the expiration of a term, the Governor shall appoint a successor to serve the unexpired term.

Section 16. Subsection (1) and paragraph (e) of subsection (2) of section 246.207, Florida Statutes, are amended to read:

246.207 Powers and duties of board.—

(1) The board shall:

(a) Hold such meetings as are necessary to administer efficiently the provisions of ss. 246.201-246.231.

(b) Select annually a chairperson and a vice chairperson.

~~(c) Adopt and use an official seal in the authentication of its acts.~~

(c)~~(d)~~ Make rules for its own government.

(d)~~(e)~~ Prescribe and recommend to the State Board of Education rules as are required by ss. 246.201-246.231 or as it may find necessary to aid in carrying out the objectives and purposes of ss. 246.201-246.231.

(e)~~(f)~~ Administer ss. 246.201-246.231 and execute such rules adopted pursuant thereto by the State Board of Education for the establishment and operation of *nonpublic postsecondary career* ~~independent~~ schools as defined in s. 246.203(1).

(f)~~(g)~~ Appoint, on the recommendation of its chairperson, executives, deputies, clerks, and employees of the board.

(g)~~(h)~~ Maintain a record of its proceedings.

(h)~~(i)~~ Cooperate with other state and federal agencies in administering ss. 246.201-246.231.

(i)~~(j)~~ Prepare an annual budget.

(j)~~(k)~~ Transmit all fees, donations, and other receipts of money to the *Institutional Assessment Trust Fund* ~~State Treasurer to be deposited in the General Revenue Fund~~.

(k)~~(l)~~ Transmit to the Governor, the Speaker of the House of Representatives, the President of the Senate, the minority leader of the Senate, and the minority leader of the House of Representatives on July 1, 1987, and each succeeding year an annual report which shall include, but not be limited to:

1. A detailed accounting of all funds received and expended.

2. The number of complaints received and investigated, by type.

3. The number of findings of probable cause.

4. A description of disciplinary actions taken, by statutory classification.

5. A description of all administrative hearings and court actions.

6. A description of the board's major activities during the previous year.

(l)~~(m)~~ Assure that no school that has met board requirements established by law or rule be made to operate without a current license due to scheduling of board meetings or application procedures for license renewal.

(m)~~(n)~~ Cause to be investigated criminal justice information, as defined in s. 943.045, for each owner, administrator, and agent employed by a school applying for licensure or renewal of licensure.

(n)~~(o)~~ Serve as a central agency for collection and distribution of current information regarding institutions licensed by the board.

1. The data collected by the board shall include information relating to the school administration, calendar system, admissions requirements, student costs and financial obligations, financial aid information, refund policy, placement services, number of full-time and part-time faculty, student enrollment and demographic figures, programs, and off-campus programs. Other information shall be collected in response to specific needs or inquiries. Financial information of a strictly proprietary, commercial nature is excluded from this requirement.

2. The data collected by the board must also include the data for the career education program evaluation reports required by s. 239.233 for each school that chooses to provide public information under s. 239.245.

3. The board shall provide to each participating institution annually the format, definitions, and instructions for submitting the required information.

4. The data submitted by each institution shall be accompanied by a letter of certification signed by the chief administrative officer of the institution, affirming that the information submitted is accurate.

5. A summary of the data collected by the board shall be included in the annual report to the Governor, the Speaker of the House of Representatives and the President of the Senate, the minority leader of the Senate, and the minority leader of the House of Representatives. The information collected by the board may also be used by the Department of Education for such purposes as statewide master planning, state financial aid programs, and publishing directories, by the Legislature, and to respond to consumer inquiries received by the board.

~~(p) Publish and index all policies and agency statements. If a policy or agency statement meets the criteria of a rule, as defined in s. 120.52, the board shall adopt it as a rule.~~

(o)~~(q)~~ Establish and publicize the procedures for receiving and responding to complaints from students, faculty, and others about schools or programs licensed by the board and shall keep records of such complaints in order to determine their frequency and nature for specific institutions of higher education. With regard to any written complaint alleging a violation of any provision of ss. 246.201-246.231 or any rule promulgated pursuant thereto, the board shall periodically notify, in writing, the person who filed the complaint of the status of the investigation, whether probable cause has been found, and the status of any administrative action, civil action, or appellate action, and if the board has found that probable cause exists, it shall notify, in writing, the party complained against of the results of the investigation and disposition of the complaint. The findings of the probable cause panel, if a panel is established, shall not be disclosed until the information is no longer confidential.

(2) The board may:

(e) Issue a license to any school subject to ss. 246.201-246.231 which is *exempted* ~~excluded~~ from the licensing and regulatory requirements of ss. 246.201-246.231, upon voluntary application for such license and upon payment of the appropriate fee as set forth in s. 246.219.

Section 17. Section 246.213, Florida Statutes, is amended to read:

246.213 Power of State Board of Education.—

(1) The State Board of Education, acting on the recommendation of the State Board of *Nonpublic Career Education* ~~Independent Postsecondary Vocational, Technical, Trade, and Business Schools~~, shall adopt such minimum standards and rules as are required for the administration of ss. 246.201-246.231.

(2)(a) The minimum educational standards for the licensing of schools shall include, but not be limited to: name of school, purpose, administrative organization, educational program and curricula, finances, financial stability, faculty, library, student personnel services, physical plant and facilities, publications, and disclosure statements about the status of the institution in relation to professional certification and licensure.

(b) Rules of the State Board of Education shall require that nonpublic schools administer an entry-level test of basic skills to each student who enrolls in a nondegree program of at least 450 clock hours, or the credit hour equivalent, which purports to prepare such student for employment. The State Board of *Nonpublic Career Education* ~~Independent Postsecondary Vocational, Technical, Trade, and Business Schools~~ shall designate examinations authorized for use for entry-level testing purposes. State Board of Education rules shall require that applicable schools provide students who are deemed to lack a minimal level of basic skills with a structured program of basic skills instruction. No student shall be granted a diploma, as defined in s. 246.203, until he or she has demonstrated mastery of basic skills. Exceptional students, as defined in s. 228.041, may be exempted from the provisions of this paragraph. The State Board of Education shall identify means through which students who are capable of demonstrating mastery of basic skills may be exempted from the provisions of this paragraph.

(c) The State Board of *Nonpublic Career Education* ~~Independent Postsecondary Vocational, Technical, Trade, and Business Schools~~ may request that schools within its jurisdiction provide the board all documents associated with institutional accreditation. The board shall solicit from schools which provide such documents only such additional information undisclosed in the accreditation documents provided. The board may conduct a comprehensive study of a school that fails to provide all documents associated with its institutional accreditation. The cost of such study shall be borne by the institution. Standards imposed by the board shall not be constrained in quality or quantity to those imposed by the respective accrediting body.

(d) The State Board of *Nonpublic Career Education* ~~Independent Postsecondary Vocational, Technical, Trade, and Business Schools~~ shall recommend to the State Board of Education minimum placement standards for institutions that conduct programs that prepare students for employment.

(3) The minimum requirements for the licensing of agents shall include: name, residential and business addresses, background training, institution or institutions to be represented, and demonstrated knowledge of statutes and rules related to the authority granted to agents and the limitations imposed upon such authority. No employee of a nonpublic school shall solicit prospective students for enrollment in such school until that employee is licensed by the State Board of *Nonpublic Career Education* ~~Independent Postsecondary Vocational, Technical, Trade, and Business Schools~~ as an agent.

(4) The State Board of *Nonpublic Career Education* ~~Independent Postsecondary Vocational, Technical, Trade, and Business Schools~~ shall adopt criteria for specialized associate degrees, diplomas, certificates, or other educational credentials that will be recognized in licensed schools. The State Board of *Nonpublic Career Education* ~~Independent Postsecondary Vocational, Technical, Trade, and Business Schools~~ shall adopt a common definition for each credential. To determine the level of *a nonpublic* ~~an independent~~ institution's vocational program or to establish criteria for a specialized degree, the board shall use procedures developed pursuant to s. 239.205, which requires the Department of Education to determine the level of each public degree career education program.

Section 18. Section 246.215, Florida Statutes, is amended to read:

246.215 License required.—

(1) No *nonpublic postsecondary career* ~~independent~~ school required to be licensed pursuant to ss. 246.201-246.231 shall be operated or established within the state until such school makes application and obtains a license or authorization from the board. Each nonpublic school that seeks licensure shall first submit articles of incorporation to the Department of State. After the Department of State approves such articles and verifies that the articles indicate the corporation is a postsecondary school within the meaning and intent of s. 246.203, the corporation shall apply for licensure by the board within 60 days of approval of the articles. Department of State approval of the articles of incorporation shall not constitute authorization to operate the nonpublic school. The Department of State shall immediately transmit approved articles of incorporation for nonpublic schools to the board.

(2) No agent shall solicit any prospective student for enrollment in a nonpublic school until both the agent and the school are appropriately licensed or otherwise authorized by the board.

(3) No *nonpublic postsecondary career* ~~independent~~ school required to be licensed pursuant to ss. 246.201-246.231 shall advertise in any manner until such school is granted an appropriate license by the board, nor shall any licensed school advertise in any manner while such school is under an injunction against operating, soliciting students, or offering diplomas.

(4) No license granted by the board shall be transferable to another *nonpublic postsecondary career* ~~independent~~ school or to another agent, nor shall school licensure transfer upon a change in ownership of the institution.

(5) Each license granted by the board shall delineate the specific nondegree programs that the nonpublic school is authorized to offer. No such school shall conduct a program unless express authority is granted in its license.

(6) A diploma program offered by a nonpublic junior college, college, or university must be licensed by the board, notwithstanding the fact that such institution is concurrently subject to the jurisdiction of the State Board of Independent Colleges and Universities, if such program does the following:

(a) The program qualifies a student for employment or engagement in an occupation whose practice in this state does not require a degree.

(b) The program awards a diploma, as defined in s. 246.203(6), for successful completion, including any program that is organized to give students an option of exiting at a specified point and receiving a diploma, or continuing and receiving a degree, as defined in s. 246.021(5).

Section 19. Section 246.216, Florida Statutes, is created to read:

246.216 Exemption from licensure.—

(1) A person or entity which otherwise fits the definition of school in s. 246.203(1) shall be exempt from licensure if it meets the criteria specified in this section and applies to the board for a statement of exemption. The board shall issue a statement of exemption if it determines, based on all available information, that the applicant meets the following criteria:

(a) The entity is a church or religious organization whose programs of instruction include:

1. A religious modifier in the title of the program, immediately preceding the name of the occupation to which the instruction relates, and in the title of the diploma.

2. No representation, directly or by implication, that individuals who successfully complete the program will be qualified to be employed in the field to which the training relates by an employer other than a church or religious organization.

3. No students who receive state or federal financial aid to pursue the program;

(b) The person or entity is regulated by the Federal Aviation Administration, another agency of the Federal Government, or an agency of the state whose regulatory laws are similar in nature and purpose to those of the board and require minimum educational standards, for at least curriculum, instructors, and academic progress and provide protection against fraudulent, deceptive, and substandard education practices;

(c) The person or entity offers only examination preparation courses provided that:

1. A diploma as defined in s. 246.203(6) is not awarded.

2. The courses do not include state licensing examinations in occupations for which state laws do not require a licensee to have a bachelor's degree or higher academic or professional degree;

(d) The person or entity is:

1. An employer who offers training and trains only its own bona fide employees;

2. A trade or professional association or a group of employers in the same or related business who in writing agree to offer training and to train only individuals who are bona fide employees of an employer who is a member of the association or a party to the written agreement; or

3. An independent contractor engaged by any of the foregoing by written contract to provide the training on its behalf exclusively to individuals who are selected by the employer, association, or group which engaged the contractor and who are bona fide employees thereof.

For purposes of this paragraph, a bona fide employee is an individual who works for salary or wages paid by the employer in at least the minimum amount required by law;

(e) The entity is a labor union or group of labor unions which offers training to, and trains only, individuals who are dues paying members of a participating labor union; or the person or entity is an independent contractor engaged by the labor union or group of labor unions, by written contract, to provide the training on its behalf exclusively to individuals who are selected by the labor union or group of labor unions which engaged the contractor and who are dues paying members thereof;

(f) The person or entity offers only continuing education programs to individuals who engage in an occupation or profession whose practitioners are subject to licensure, certification, or registration by a state agency which recognizes the programs for continuing education purposes and provides a written statement of such recognition; or

(g) The person or entity offers a program of instruction whose objective is not occupational, but is avocational and only for personal enrichment and which:

1. Prior to enrollment, gives to each enrollee, and maintains a record copy of, a written statement which states substantially the following: "This program is not designed or intended to qualify its participants and graduates for employment in (the field to which the training pertains). It is intended solely for the avocation, personal enrichment, and enjoyment of its participants."

2. Makes no other verbal or written statements which negate the written statement required in subparagraph 1. by stating or implying that persons who enroll in or complete the program have any more substantial likelihood of getting employment in the field to which the training pertains than persons who do not.

3. Maintains and makes available to the board, upon request, records which demonstrate that each enrollee received the statement required by subparagraph 1. prior to enrollment.

To be eligible for the statement of exemption, the applicant must maintain records documenting its qualification for exemption. A person or entity which is exempt pursuant to this subsection and which is also a licensee for programs which do not qualify for exemption may not include in the catalog, contract, or advertising relating to its licensed program any reference to its unlicensed programs. This restriction does not apply to a licensee which voluntarily becomes licensed to offer programs which would otherwise qualify for exemption.

(2) The board shall revoke a statement of exemption if it determines, based on all available information, that the entity does not meet the criteria required in subsection (1) because of the following:

(a) There has been a material change in circumstances or in the law;

(b) The statement was erroneously issued as a result of false or misleading information provided by the applicant or other source;

(c) There was a misunderstanding by the board of the information which it had considered; or

(d) New information has been received.

Probable cause proceedings do not apply to the foregoing board decisions.

(3) The board may invoke the remedies provided in s. 246.227 when no application for a statement of exemption is pending; in conjunction with, or subsequent to, its notice of denial of an application; or in conjunction with, or subsequent to, its notice of revocation. The filing of a civil action pursuant to s. 246.227 shall have the effect of suspending administrative proceedings under this section unless the board takes a voluntary dismissal without prejudice in a judicial case. An order of the court which determines or renders moot an issue presented in suspended administrative proceedings shall be grounds for dismissal of the administrative proceeding as to that issue.

Section 20. Subsection (1) of section 246.219, Florida Statutes, is amended to read:

246.219 License fees.—

(1) Each initial application for a license to operate a *nonpublic postsecondary career* school shall be accompanied by a license fee of not less than $500, and each application for the renewal of such license shall be accompanied by an annual license fee of at least $300, provided that the fee for a biennial license shall be at least $600. A fee shall be charged for a supplementary application for the approval of any additional field or course of instruction. Such fees shall be delineated, by rule, by the board.

Section 21. Section 246.220, Florida Statutes, is amended to read:

246.220 Surety bonds or insurance.—Surety bonds or insurance shall not be required of any school licensed by the State Board of *Nonpublic Career Education* ~~Independent Postsecondary Vocational, Technical, Trade, and Business Schools~~, except as may be required by the board to insure the train-out of projected or currently enrolled students, issuance of refunds to projected or currently enrolled students, payment of liabilities to the Student Protection Fund, or for the retrieval or safekeeping of student records.

Section 22. Subsections (1) and (4) of section 246.2265, Florida Statutes, are amended to read:

246.2265 Additional regulatory powers while disciplinary proceedings are pending; cease and desist orders.—

(1) The board may, in conjunction with an administrative complaint or notice of denial of licensure, issue cease and desist orders for the purpose of protecting the health, safety, and welfare of students, prospective students, and the general public. Such orders may be mandatory or prohibitory in form and may order *a nonpublic* ~~an independent~~ postsecondary *career* institution, officer, employee, or agent to:

(a) Cease and desist from specified conduct which relates to acts or omissions stated in the administrative complaint or notice of denial of licensure; or

(b) Cease and desist from failing to engage in specified conduct which is necessary to achieve or preserve the regulatory purposes of ss. 246.201-246.231.

(4) The executive director of the board, with the approval of the chair of the board, may issue and deliver a cease and desist order to *a nonpublic* ~~an independent~~ postsecondary *career* institution.

Section 23. Subsections (2) and (3) of section 246.227, Florida Statutes, are amended to read:

246.227 Injunctive relief; unlicensed operation of a school; cease and desist notice; civil penalty.—

(2) An unlicensed *nonpublic* ~~independent~~ postsecondary *career* institution required to be licensed pursuant to ss. 246.201-246.231 that advertises or causes advertisements to be made public through which students are solicited for enrollment or are offered diplomas shall be in violation of the provisions of ss. 246.201-246.231. A licensed *nonpublic* ~~independent~~ postsecondary *career* institution that is under temporary or permanent injunction against operating or offering diplomas that advertises or causes advertisements to be made public through which students are solicited for enrollment or are offered diplomas shall be in violation of such injunctive order upon presentation to the court of the advertisement.

(3) The executive director of the board, with the approval of the chair of the board, may issue and deliver a cease and desist order to any *nonpublic* ~~independent~~ postsecondary *career* institution or agent required to be licensed pursuant to ss. 246.201-246.231 that is not so licensed. The board may file, in the name of the state, a proceeding which seeks issuance of an injunction against any person in violation of any provision of such order.

Section 24. Subsection (1) of section 246.31, Florida Statutes, is amended to read:

246.31 Institutional Assessment Trust Fund.—

(1) There is created an Institutional Assessment Trust Fund to be administered by the Department of Education pursuant to this section and rules of the State Board of Education. The trust fund shall consist of all fees and fines imposed upon nonpublic colleges and schools pursuant to this chapter, including all fees collected from nonpublic colleges for participation in the common course designation and numbering system. The department shall maintain separate revenue accounts for the State Board of Independent Colleges and Universities; the State Board of *Nonpublic Career Education* ~~Independent Postsecondary Vocational, Technical, Trade, and Business Schools~~; and the Department of Education.

Section 25. Subsection (6) of section 20.15, Florida Statutes, is amended to read:

20.15 Department of Education.—There is created a Department of Education.

(6) COUNCILS AND COMMITTEES.—Notwithstanding anything contained in law to the contrary, the Commissioner of Education shall appoint all members of all councils and committees of the Department of Education, except the Board of Regents, the State Board of Community Colleges, the community college district boards of trustees, the Postsecondary Education Planning Commission, the Education Practices Commission, the Education Standards Commission, the State Board of Independent Colleges and Universities, the Florida Commission on Education Reform and Accountability, and the State Board of *Nonpublic Career Education* ~~Independent Postsecondary Vocational, Technical, Trade, and Business Schools~~.

Section 26. Subsection (5) of section 240.40204, Florida Statutes, is amended to read:

240.40204 Florida Bright Futures Scholarship Program; eligible postsecondary education institutions.—A student is eligible for an award or the renewal of an award from the Florida Bright Futures Scholarship Program if the student meets the requirements for the program as described in this act and is enrolled in a postsecondary education institution that meets the description in any one of the following subsections:

(5) A Florida independent postsecondary education institution that is licensed by the State Board of *Nonpublic Career Education* ~~Independent Postsecondary Vocational, Technical, Trade, or Business Schools~~ and which:

(a) Has a program completion and placement rate of at least the rate required by the current Florida Statutes, the Florida Administrative Code, or the Department of Education for an institution at its level; and

(b) Shows evidence of sound financial condition; and either:

1. Is accredited at the institutional level by an accrediting agency recognized by the United States Department of Education and has operated in the state for at least 3 years during which there has been no complaint for which probable cause has been found; or

2. Has operated in Florida for 5 years during which there has been no complaint for which probable cause has been found.

Section 27. Subsection (3) of section 246.011, Florida Statutes, is amended to read:

246.011 Purpose.—

(3) It is the intent of the Legislature that a nonpublic college which offers both degrees and vocational certificates or diplomas shall be subject to the rules of the State Board of Independent Colleges and Universities as provided by ss. 246.011-246.151 and the State Board of *Nonpublic Career Education* ~~Independent Postsecondary Vocational, Technical, Trade, and Business Schools~~ as provided by ss. 246.201-246.231.

Section 28. Subsection (3) of section 246.081, Florida Statutes, is amended to read:

246.081 License, certificate of exemption, or authorization required; exceptions.—

(3) No nonpublic college shall continue to conduct or begin to conduct any diploma program, as defined in s. 246.203, unless the college applies for and obtains from the State Board of *Nonpublic Career Education* ~~Independent Postsecondary Vocational, Technical, Trade, and Business Schools~~ a license or authorization for such diploma program in the manner and form prescribed by the State Board of *Nonpublic Career Education* ~~Independent Postsecondary Vocational, Technical, Trade, and Business Schools~~.

Section 29. Subsection (3) of section 246.085, Florida Statutes, is amended to read:

246.085 Certificate of exemption.—

(3) Any college which holds a certificate of exemption and which conducts any diploma program, as defined in s. 246.203, shall be subject to licensure of such diploma program by the State Board of *Nonpublic Career Education* ~~Independent Postsecondary Vocational, Technical, Trade, and Business Schools~~.

Section 30. Subsection (3) of section 246.091, Florida Statutes, is amended to read:

246.091 License period and renewal.—

(3) A licensed college which seeks to conduct any diploma program, as defined in s. 246.203, shall apply to the State Board of *Nonpublic Career Education* ~~Independent Postsecondary Vocational, Technical, Trade, and Business Schools~~ for licensure for such program.

Section 31. Subsection (1) of section 246.111, Florida Statutes, is amended to read:

246.111 Denial, probation, or revocation of license or certificate of exemption.—

(1) Any temporary license, provisional license, or regular license, agent's license, certificate of exemption, or other authorization required under the provisions of ss. 246.011-246.151 may be denied, placed on probation, or revoked by the board. A college which has its certificate of exemption revoked shall become subject to the licensing provisions of the board. The board shall promulgate rules for these actions. Placement of a college on probation for a period of time and subject to such conditions as the board may specify may also carry the imposition of an administrative fine not to exceed $5,000. Such fine shall be deposited into the Institutional Assessment Trust Fund. Disciplinary action undertaken pursuant to this section against a college that is also licensed by the State Board of *Nonpublic Career Education* ~~Independent Postsecondary Vocational, Technical, Trade, and Business Schools~~ shall prompt disciplinary proceedings pursuant to s. 246.226.

Section 32. Subsection (1) of section 246.50, Florida Statutes, is amended to read:

246.50 Certified Teacher-Aide Welfare Transition Program; participation by independent postsecondary schools.—An independent postsecondary school may participate in the Certified Teacher-Aide Welfare Transition Program and may receive incentives for successful performance from the Performance Based Incentive Funding Program if:

(1) The school is accredited by the Southern Association of Colleges and Schools and licensed by the State Board of *Nonpublic Career Education* ~~Independent Postsecondary Vocational, Technical, Trade, and Business Schools~~;

Section 33. Section 455.2125, Florida Statutes, is amended to read:

455.2125 Consultation with postsecondary education boards prior to adoption of changes to training requirements.—Any state agency or board that has jurisdiction over the regulation of a profession or occupation shall consult with the State Board of Independent Colleges and Universities; the State Board of *Nonpublic Career Education* ~~Independent Postsecondary Vocational, Technical, Trade, and Business Schools~~; the Board of Regents; and the State Board of Community Colleges prior to adopting any changes to training requirements relating to entry into the profession or occupation. This consultation must allow the educational board to provide advice regarding the impact of the proposed changes in terms of the length of time necessary to complete the training program and the fiscal impact of the changes. The educational board must be consulted only when an institution offering the training program falls under its jurisdiction.

Section 34. Section 455.554, Florida Statutes, is amended to read:

455.554 Consultation with postsecondary education boards prior to adoption of changes to training requirements.—Any state agency or board that has jurisdiction over the regulation of a profession or occupation shall consult with the State Board of Independent Colleges and Universities; the State Board of *Nonpublic Career Education* ~~Independent Postsecondary Vocational, Technical, Trade, and Business Schools~~; the Board of Regents; and the State Board of Community Colleges prior to adopting any changes to training requirements relating to entry into the profession or occupation. This consultation must allow the educational board to provide advice regarding the impact of the proposed changes in terms of the length of time necessary to complete the training program and the fiscal impact of the changes. The educational board must be consulted only when an institution offering the training program falls under its jurisdiction.

Section 35. Subsection (8) of section 467.009, Florida Statutes, is amended to read:

467.009 Midwifery programs; education and training requirements.—

(8) Nonpublic educational institutions that conduct approved midwifery programs shall be accredited by a member of the Commission on Recognition of Postsecondary Accreditation and shall be licensed by the State Board of *Nonpublic Career Education* ~~Independent Postsecondary Vocational, Technical, Trade, and Business Schools~~.

Section 36. Section 476.178, Florida Statutes, is amended to read:

476.178 Schools of barbering; licensure.—No private school of barbering shall be permitted to operate without a license issued by the State Board of *Nonpublic Career Education* ~~Independent Postsecondary Vocational, Technical, Trade, and Business Schools~~ pursuant to chapter 246. However, this section shall not be construed to prevent certification by the Department of Education of barber training programs within the public school system or to prevent government operation of any other program of barbering in this state.

Section 37. Section 477.023, Florida Statutes, is amended to read:

477.023 Schools of cosmetology; licensure.—No private school of cosmetology shall be permitted to operate without a license issued by the State Board of *Nonpublic Career Education* ~~Independent Postsecondary Vocational, Technical, Trade, and Business Schools~~ pursuant to chapter 246. However, nothing herein shall be construed to prevent certification by the Department of Education of cosmetology training programs within the public school system or to prevent government operation of any other program of cosmetology in this state.

Section 38. Section 488.01, Florida Statutes, is amended to read:

488.01 License to engage in business of operating a driver's school required.—The Department of Highway Safety and Motor Vehicles shall oversee and license all commercial driver's schools except truck driving schools. All commercial truck driving schools shall be required to be licensed pursuant to chapter 246, and additionally shall be subject to the provisions of ss. 488.04 and 488.05. No person, group, organization, institution, business entity, or corporate entity may engage in the business of operating a driver's school without first obtaining a license therefor from the Department of Highway Safety and Motor Vehicles pursuant to this chapter or from the State Board of *Nonpublic Career Education* ~~Independent Postsecondary Vocational, Technical, Trade, and Business Schools~~ pursuant to chapter 246.

Section 39. Effective July 1, 1999, subsection (1) and paragraph (a) of subsection (6) of section 232.246, Florida Statutes, are amended to read:

232.246 General requirements for high school graduation.—

(1) Graduation requires successful completion of either a minimum of 24 academic credits in grades 9 through 12 or an International Baccalaureate curriculum. The 24 credits shall be distributed as follows:

(a) Four credits in English, with major concentration in composition and literature.

(b) Three credits in mathematics. Effective for students entering the 9th grade in the 1997-1998 school year and thereafter, one of these credits must be Algebra I, a series of courses equivalent to Algebra I, or a higher-level mathematics course.

(c) Three credits in science, two of which must have a laboratory component. The State Board of Education may grant an annual waiver of the laboratory requirement to a school district that certifies that its laboratory facilities are inadequate, provided the district submits a capital outlay plan to provide adequate facilities and makes the funding of this plan a priority of the school board.

(d) One credit in American history.

(e) One credit in world history, including a comparative study of the history, doctrines, and objectives of all major political systems.

(f) One-half credit in economics, including a comparative study of the history, doctrines, and objectives of all major economic systems. The Florida Council on Economic Education shall provide technical assistance to the department and local school boards in developing curriculum materials for the study of economics.

(g) One-half credit in American government, including study of the Constitution of the United States. For students entering the 9th grade in the 1997-1998 school year and thereafter, the study of Florida government, including study of the State Constitution, the three branches of state government, and municipal and county government, shall be included as part of the required study of American government.

(h)1. One credit in practical arts career education or exploratory career education. Any vocational course as defined in s. 228.041(22) may be taken to satisfy the high school graduation requirement for one credit in practical arts or exploratory career education provided in this subparagraph;

2. One credit in performing fine arts to be selected from music, dance, drama, painting, or sculpture. A course in any art form, in addition to painting or sculpture, that requires manual dexterity, or a course in speech and debate, may be taken to satisfy the high school graduation requirement for one credit in performing arts pursuant to this subparagraph; or

3. One-half credit each in practical arts career education or exploratory career education and performing fine arts, as defined in this paragraph.

Such credit for practical arts career education or exploratory career education or for performing fine arts shall be made available in the 9th grade, and students shall be scheduled into a 9th grade course as a priority.

(i) One-half credit in life management skills to include consumer education, positive emotional development, nutrition, prevention of human immunodeficiency virus infection and acquired immune deficiency syndrome and other sexually transmissible diseases, benefits of sexual abstinence and consequences of teenage pregnancy, information and instruction on breast cancer detection and breast self-examination, cardiopulmonary resuscitation, drug education, and the hazards of smoking. Such credit shall be given for a course to be taken by all students in either the 9th or 10th grade.

(j) *One* ~~One-half~~ credit in physical education to include assessment, improvement, and maintenance of personal fitness. Participation in an interscholastic sport~~, whether~~ at the ~~freshman,~~ junior varsity~~,~~ or varsity level, for *two* ~~a~~ full *seasons* ~~season~~, shall satisfy the *one-credit* ~~one-half credit~~ requirement in physical education *if the student passes a competency test on personal fitness with a score of "C" or better. The competency test on personal fitness must be developed by the Department of Education. A school board may not require that the one credit in physical education be taken during the 9th grade year.*

(k) *Eight and one-half* ~~Nine~~ elective credits.

School boards may award a maximum of one-half credit in social studies and one-half elective credit for student completion of nonpaid voluntary community or school service work. Students choosing this option must complete a minimum of 75 hours of service in order to earn the one-half credit in either category of instruction. Credit may not be earned for service provided as a result of court action. School boards that approve the award of credit for student volunteer service shall develop guidelines regarding the award of the credit, and school principals are responsible for approving specific volunteer activities. A course designated in the Course Code Directory as grade 9 through grade 12 which is taken below the 9th grade may be used to satisfy high school graduation requirements or Florida Academic *Scholars award* ~~Scholar's Certificate Program~~ requirements as specified in a district's pupil progression plan.

(6) The Legislature recognizes that adult learners are unique in situation and needs. The following graduation requirements are therefore instituted for students enrolled in adult general education in accordance with s. 239.301 in pursuit of a high school diploma:

(a) The *one* ~~one-half~~ credit in physical education required for graduation, pursuant to subsection (1), is not required for graduation and shall be substituted with elective credit keeping the total credits needed for graduation consistent with subsection (1).

Section 40. Section 233.0616, Florida Statutes, is created to read:

233.0616 Personal fitness programs.—Each elementary school and middle school is encouraged to implement a personal fitness program, approved by the Department of Education, that complies with American Heart Association guidelines for elementary school and middle school personal fitness courses. From incentive funds provided in the General Appropriations Act, the Department of Education shall allocate funds to schools implementing personal fitness programs pursuant to this section.

Section 41. *From funds provided in the General Appropriations Act, the Department of Education shall allocate funds to provide for an additional one-fourth-time position to upgrade the physical education specialist position in the department from a three-fourths-time position to a full-time position.*

Section 42. Subsections (3) and (13) of section 240.61, Florida Statutes, are amended to read:

240.61 College reach-out program.—

(3) To participate in the college reach-out program, a community college, a public university, or an independent postsecondary institution ~~that is participating in a special program for students from disadvantaged backgrounds pursuant to 20 U.S.C., ss. 1070d et seq.~~ may submit a proposal to the Department of Education. The State Board of Education shall consider the proposals and determine which proposals to implement as programs that will strengthen the educational motivation and preparation of low-income educationally disadvantaged students.

(13) By *February 15* ~~January 15~~ of each year, the Postsecondary Education Planning Commission shall submit to the President of the Senate, the Speaker of the House of Representatives, the Commissioner of Education, and the Governor a report that evaluates the effectiveness of the college reach-out program. The report must be based upon information provided by participating institutions, the Division of Universities, the Division of Community Colleges, and the Division of Workforce Development pursuant to subsections (7) and (12). ~~The evaluation must include longitudinal cohort assessments of college reach-out program participants from their entry into the program to their graduation from postsecondary institutions.~~ To the extent feasible, the performance of college reach-out program participants must be compared to the performance of comparable cohorts of students in public school and postsecondary education.

Section 43. *Sections 240.154, 240.278, 240.521, 240.522, 240.523, and 240.525, Florida Statutes, are repealed.*

Section 44. Subsection (4) of section 216.136, Florida Statutes, is amended to read:

216.136 Consensus estimating conferences; duties and principals.—

(4) EDUCATION ESTIMATING CONFERENCE.—

(a) Duties.—The Education Estimating Conference shall develop such official information relating to the state public educational system, including forecasts of student enrollments, *the number of* students qualified for state financial aid programs *and the appropriation required to fund the full award amounts for each program*, fixed capital outlay needs, and Florida Education Finance Program formula needs, as the conference determines is needed for the state planning and budgeting system. The conference's initial projections of enrollments in public schools shall be forwarded by the conference to each school district no later than 2 months prior to the start of the regular session of the Legislature. Each school district may, in writing, request adjustments to the initial projections. Any adjustment request shall be submitted to the conference no later than 1 month prior to the start of the regular session of the Legislature and shall be considered by the principals of the conference. A school district may amend its adjustment request, in writing, during the first 3 weeks of the legislative session, and such amended adjustment request shall be considered by the principals of the conference. For any adjustment so requested, the district shall indicate and explain, using definitions adopted by the conference, the components of anticipated enrollment changes that correspond to continuation of current programs with workload changes; program improvement; program reduction or elimination; initiation of new programs; and any other information that may be needed by the Legislature. For public schools, the conference shall submit its full-time equivalent student consensus estimate to the Legislature no later than 1 month after the start of the regular session of the Legislature. No conference estimate may be changed without the agreement of the full conference.

(b) Adjustments.—No later than 2 months prior to the start of the regular session of the Legislature, the conference shall forward to each eligible postsecondary education institution its initial projections of the number of students qualified for state financial aid programs and the appropriation required to fund those students at the full award amount. Each postsecondary education institution may request, in writing, adjustments to the initial projection. Any adjustment request must be submitted to the conference no later than 1 month prior to the start of the regular session of the Legislature and shall be considered by the principals of the conference. For any adjustment so requested, the postsecondary education institution shall indicate and explain, using definitions adopted by the conference, the components of anticipated changes that correspond to continuation of current programs with enrollment changes, program reduction or elimination, initiation of new programs, award amount increases or decreases, and any other information that is considered by the conference. The conference shall submit its consensus estimate to the Legislature no later than 1 month after the start of the regular session of the Legislature. No conference estimate may be changed without the agreement of the full conference.

(c)~~(b)~~ Principals.—The Associate Deputy Commissioner for Educational Management, the Executive Office of the Governor, the director of the Division of Economic and Demographic Research of the Joint Legislative Management Committee, and professional staff of the Senate and House of Representatives who have forecasting expertise, or their designees, are the principals of the Education Estimating Conference. The Associate Deputy Commissioner for Educational Management or his or her designee shall preside over sessions of the conference.

Section 45. Effective *July* ~~January~~ 1, 1999, section 240.409, Florida Statutes, is amended to read:

240.409 Florida Public Student Assistance Grant Program; eligibility for grants.—

(1) There is hereby created a Florida Public Student Assistance Grant Program. *The program shall* ~~to~~ be administered by the *participating institutions* ~~Department of Education~~ in accordance with rules of the state board.

(2)(a) State student assistance grants through the program may be made only to full-time degree-seeking students who meet the general requirements for student eligibility as provided in s. 240.404, except as otherwise provided in this section. Such grants shall be awarded annually for the amount of demonstrated unmet need for the cost of education and may not exceed an amount equal to the average prior academic year cost of ~~tuition and~~ matriculation fees *and other registration fees* for 30 credit hours at state universities or such other amount as specified in the General Appropriations Act, to any recipient. A demonstrated unmet need of less than $200 shall render the applicant ineligible for a state student assistance grant. Recipients of such grants must have been accepted at a state university or community college authorized by Florida law. No student may receive an award for more than the equivalent of 9 semesters or 14 quarters *of full-time enrollment* ~~in a period of not more than 6 consecutive years~~, except as otherwise provided in s. 240.404(3).

(b) A student applying for a Florida public student assistance grant shall be required to apply for the Pell Grant. The Pell Grant entitlement shall be considered ~~by the department~~ when conducting an assessment of the financial resources available to each student.

(c) ~~The criteria and procedure for establishing standards of eligibility shall be determined by the department. The department is directed to establish a rating system upon which to base the approval of grants, and such system shall include a certification of acceptability by the state university or community college of the applicant's choice and the use of a nationally recognized system of need analysis.~~ Priority in the distribution of grant moneys shall be given to students with the lowest total family resources, *in accordance with a nationally recognized system of need analysis* ~~as determined pursuant to this subsection, taking into consideration the receipt of Pell Grants and student contributions to educational costs~~. *Using the system of need analysis, the department shall establish a maximum expected family contribution. An institution*

may not make a grant from this program to a student whose expected family contribution exceeds the level established by the department.

(d) *Each participating institution shall report, to the department by the established date, the eligible students to whom grant moneys are disbursed each academic term. Each institution shall also report to the department necessary demographic and eligibility data for such students.* ~~The department is directed to establish, for fall enrollment, an initial application deadline for students attending all eligible institutions and an additional application deadline for community college applicants who apply after the initial application deadline. The second community college deadline shall be at the close of each institution's drop-add period. The department shall reserve an amount to be designated annually in the General Appropriations Act for the purpose of providing awards to community college students who apply for a student assistance grant after the initial application deadline. Community college applicants who apply during the initial application period and are eligible to receive an award, but do not receive an award because of insufficient funds, shall have their applications reconsidered with those community college applicants who apply after the initial application deadline. The provisions of this paragraph shall take effect beginning with the 1990-1991 academic year.~~

(3) Based on the unmet financial need of an eligible applicant, the ~~full~~ amount of a Florida public student assistance grant must be between $200 and *the weighted average of the cost of matriculation and other registration fees for 30 credit hours at state universities* ~~$1,500~~ per academic year or the amount specified in the General Appropriations Act. ~~When funds are not sufficient to make full awards to all eligible applicants, the department shall reduce the amount of each recipient's grant award pro rata. For any year in which a pro rata grant reduction is necessary, such adjustment shall be made by reducing the second semester or the second and third quarter award disbursements to grant recipients. In each such instance, institutions shall notify students of award adjustments.~~

~~(4) In the event that a Florida public student assistance grant recipient transfers from one institution eligible under this section, s. 240.4095, or s. 240.4097 to another, his or her eligibility shall be transferable upon approval of the department. When approved by the department, the amount of the unmet need shall be recalculated for the new institution and shall be adjusted accordingly.~~

(4)~~(5)~~(a) *The funds appropriated for the Florida Public Student Assistance Grant shall be distributed to eligible institutions in accordance with a formula recommended by the Department of Education's Florida Council of Student Financial Aid Advisors and reviewed by the Postsecondary Education Planning Commission, the State Board of Community Colleges, and the Board of Regents. The formula shall consider at least the prior year's distribution of funds, the number of full-time eligible applicants who did not receive awards, the standardization of the expected family contribution, and provisions for unused funds.*

(b) Payment of Florida public student assistance grants *shall* ~~may~~ be transmitted to the president of the state university or community college ~~which the recipient is attending~~, or to his or her representative, in advance of the registration period. Institutions shall notify students of the amount of their awards.

(c)~~(b) Institutions shall certify to the department, within 30 days of the end of regular registration, the eligibility status of each awarded student.~~ The eligibility status of each student to receive a disbursement shall be determined by each institution as of the end of its regular registration period, inclusive of a drop-add period. Institutions shall not be required to reevaluate a student's eligibility status after this date for purposes of *changing* ~~amending~~ eligibility determinations previously made. ~~However, an institution shall be required to make refunds for students who receive award disbursements and terminate enrollment for any reason during the academic term when an institution's refund policies permit a student to receive a refund under these circumstances.~~

(d)~~(c)~~ Institutions shall certify to the department the amount of funds disbursed to each student and shall remit to the department any undisbursed advances *by June 1 of each year* ~~within 60 days of the end of regular registration~~.

(5)~~(6)~~ Funds appropriated by the Legislature for state student assistance grants shall be deposited in the State Student Financial Assistance Trust Fund. Notwithstanding the provisions of s. 216.301 and pursuant to s. 216.351, any balance in the trust fund at the end of any fiscal year that has been allocated to the Florida Public Student Assistance Grant Program shall remain therein and shall be available for carrying out the purposes of this section.

(6)~~(7)~~ The State Board of Education shall establish rules necessary to implement this section.

Section 46. Effective July 1, 1999, section 240.4095, Florida Statutes, is amended to read:

240.4095 Florida Private Student Assistance Grant Program; eligibility for grants.—

(1) There is hereby created a Florida Private Student Assistance Grant Program. *The program shall* ~~to~~ be administered by the *participating institutions* ~~Department of Education~~ in accordance with rules of the state board.

(2)(a) Florida private student assistance grants from the State Student Financial Assistance Trust Fund may be made only to full-time degree-seeking students who meet the general requirements for student eligibility as provided in s. 240.404, except as otherwise provided in this section. Such grants shall be awarded for the amount of demonstrated unmet need for tuition and fees and may not exceed *an amount equal to the average matriculation and other registration fees for 30 credit hours at state universities plus $1,000* ~~a total of $1,500~~ per academic year, or as specified in the General Appropriations Act, to any applicant. A demonstrated unmet need of less than $200 shall render the applicant ineligible for a Florida private student assistance grant. Recipients of such grants must have been accepted at a baccalaureate-degree-granting independent nonprofit college or university, which is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools~~, and which has a secular purpose,~~ and which is located in and chartered as a domestic corporation by the state. No student may receive an award for more than the equivalent of 9 semesters or 14 quarters *of full-time enrollment* ~~in a period of not more than 6 consecutive years~~, except as otherwise provided in s. 240.404(3).

(b) A student applying for a Florida private student assistance grant shall be required to apply for the Pell Grant. The Pell Grant entitlement shall be considered ~~by the department~~ when conducting an assessment of the financial resources available to each student.

(c) ~~The criteria and procedure for establishing standards of eligibility shall be determined by the department. The department is directed to establish a rating system upon which to base the approval of grants, including the use of a nationally recognized system of need analysis. The system shall include a certification of acceptability by the independent nonprofit college or university of the applicant's choice.~~ Priority in the distribution of grant moneys shall be given to students with the lowest total family resources, *in accordance with a nationally recognized system of need analysis* ~~as determined pursuant to this subsection, taking into consideration the receipt of Pell Grants and student contributions to educational costs~~. *Using the system of need analysis, the department shall establish a maximum expected family contribution. An institution may not make a grant from this program to a student whose expected family contribution exceeds the level established by the department.*

(d) Each participating institution shall report, to the department by the established date, the eligible students to whom grant moneys are disbursed each academic term. Each institution shall also report to the department necessary demographic and eligibility data for such students.

(3) Based on the unmet financial need of an eligible applicant, the ~~full~~ amount of a Florida private student assistance grant must be between $200 and *the average cost of matriculation and other registration fees for 30 credit hours at state universities plus $1,000* ~~$1,500~~ per academic year or the amount specified in the General Appropriations Act. ~~When funds are not sufficient to make full awards to all eligible applicants, the department shall reduce the amount of each recipient's grant award pro rata. For any year in which a pro rata grant reduction is necessary, such adjustment shall be made by reducing the second semester or the second and third quarter award disbursements to grant recipients. In each such instance, institutions shall notify students of award adjustments.~~

~~(4) In the event that a Florida private student assistance grant recipient transfers from one institution eligible under this section, s. 240.409, or s. 240.4097 to another, his or her eligibility shall be transferable upon approval of the department. When approved by the department, the amount of the unmet need shall be recalculated for the new institution and shall be adjusted accordingly.~~

(4)~~(5)~~(a) *The funds appropriated for the Florida Private Student Assistance Grant shall be distributed to eligible institutions in accordance with a formula recommended by the Department of Education's Florida Council of Student Financial Aid Advisors and reviewed by the Postsecondary Education Planning Commission and the Independent Colleges and Universities of Florida. The formula shall consider at least the prior year's distribution of funds, the number of full-time eligible applicants who did not receive awards, the standardization of the expected family contribution, and provisions for unused funds.*

(b) Payment of Florida private student assistance grants *shall* ~~may~~ be transmitted to the president of the college or university ~~which the recipient is attending~~, or to his or her representative, in advance of the registration period. Institutions shall notify students of the amount of their awards.

(c)~~(b) Institutions shall certify to the department, within 30 days of the end of regular registration, the eligibility status of each awarded student.~~ The eligibility status of each student to receive a disbursement shall be determined by each institution as of the end of its regular registration period, inclusive of a drop-add period. Institutions shall not be required to reevaluate a student's eligibility status after this date for purposes of *changing* ~~amending~~ eligibility determinations previously made. ~~However, an institution shall be required to make refunds for students who receive award disbursements and terminate enrollment for any reason during the academic term when an institution's refund policies permit a student to receive a refund under these circumstances.~~

(d)~~(c)~~ Institutions shall certify to the department the amount of funds disbursed to each student and shall remit to the department any undisbursed advances *by June 1 of each year* ~~within 60 days of the end of regular registration~~.

(e)~~(d)~~ Each institution that receives moneys through the Florida Private Student Assistance Grant Program shall cause to be prepared a biennial report that includes an independent external audit of the institution's administration of the program and a complete accounting of moneys in the State Student Financial Assistance Trust Fund allocated to the institution for the program. Such report shall be submitted to the department on or before March 1 every other year. The department may conduct its own annual or biennial audit of an institution's administration of the program and its allocated funds in lieu of the required biennial report and independent external audit. The department may suspend or revoke an institution's eligibility to receive future moneys from the trust fund for the program or request a refund of any moneys overpaid to the institution through the trust fund for the program if the department finds that an institution has not complied with the provisions of this section. Any refund requested pursuant to this paragraph shall be remitted within 60 days.

(5)~~(6)~~ Funds appropriated by the Legislature for Florida private student assistance grants shall be deposited in the State Student Financial Assistance Trust Fund. Notwithstanding the provisions of s. 216.301 and pursuant to s. 216.351, any balance in the trust fund at the end of any fiscal year that has been allocated to the Florida Private Student Assistance Grant Program shall remain therein and shall be available for carrying out the purposes of this section and as otherwise provided by law.

(6)~~(7)~~ The State Board of Education shall adopt rules necessary to implement this section.

Section 47. Effective July 1, 1999, section 240.4097, Florida Statutes, is amended to read:

240.4097 Florida Postsecondary Student Assistance Grant Program; eligibility for grants.—

(1) There is hereby created a Florida Postsecondary Student Assistance Grant Program. *The program shall* ~~to~~ be administered by the *participating institutions* ~~Department of Education~~ in accordance with rules of the state board.

(2)(a) Florida postsecondary student assistance grants through the State Student Financial Assistance Trust Fund may be made only to full-time degree-seeking students who meet the general requirements for student eligibility as provided in s. 240.404, except as otherwise provided in this section. Such grants shall be awarded for the amount of demonstrated unmet need for tuition and fees and may not exceed *an amount equal to the average prior-academic-year cost of matriculation and other registration fees for 30 credit hours at state universities plus $1,000* ~~a total of $1,500~~ per academic year, or as specified in the General Appropriations Act, to any applicant. A demonstrated unmet need of less than $200 shall render the applicant ineligible for a Florida postsecondary student assistance grant. Recipients of such grants must have been accepted at a postsecondary institution that is located in and chartered as a domestic corporation by the state and that is:

1. A private nursing diploma school approved by the Florida Board of Nursing; or

2. An institution either licensed by the State Board of Independent Colleges and Universities or exempt from licensure pursuant to s. 246.085(1)(a), excluding those institutions the students of which are eligible to receive a Florida private student assistance grant pursuant to s. 240.4095.

No student may receive an award for more than the equivalent of 9 semesters or 14 quarters *of full-time enrollment* ~~in a period of not more than 6 consecutive years~~, except as otherwise provided in s. 240.404(3).

(b) A student applying for a Florida postsecondary student assistance grant shall be required to apply for the Pell Grant. The Pell Grant entitlement shall be considered ~~by the department~~ when conducting an assessment of the financial resources available to each student.

(c) ~~The criteria and procedure for establishing standards of eligibility shall be determined by the department. The department is directed to establish a rating system upon which to base the approval of grants, including the use of a nationally recognized system of need analysis. The system shall include a certification of acceptability by the school of the applicant's choice.~~ Priority in the distribution of grant moneys shall be given to students with the lowest total family resources, *in accordance with a nationally recognized system of need analysis* ~~as determined pursuant to this subsection, taking into consideration the receipt of Pell Grants and student contributions to educational costs~~. *Using the system of need analysis, the department shall establish a maximum expected family contribution. An institution may not make a grant from this program to a student whose expected family contribution exceeds the level established by the department.*

(d) Each participating institution shall report, to the department by the established date, the eligible students to whom grant moneys are disbursed each academic term. Each institution shall also report to the department necessary demographic and eligibility data for such students.

(3) Based on the unmet financial need of an eligible applicant, the ~~full~~ amount of a Florida postsecondary student assistance grant must be between $200 and *the average cost of matriculation and other registration fees for 30 credit hours at state universities plus $1,000* ~~$1,500~~ per academic year or the amount specified in the General Appropriations Act. ~~When funds are not sufficient to make full awards to all eligible applicants, the department shall reduce the amount of each recipient's grant award pro rata. For any year in which a pro rata grant reduction is necessary, such adjustment shall be made by reducing the second semester or the second and third quarter award disbursements to grant recipients. In each such instance, institutions shall notify students of award adjustments.~~

~~(4) In the event that a student assistance grant recipient transfers from one institution eligible under this section, s. 240.409, or s. 240.4095 to another, his or her eligibility shall be transferable upon approval of the department. When approved by the department, the amount of the unmet need shall be recalculated for the new institution and shall be adjusted accordingly.~~

(4)~~(5)~~(a) *The funds appropriated for the Florida Postsecondary Student Assistance Grant shall be distributed to eligible institutions in accordance with a formula recommended by the Department of Education's Florida Council of Student Financial Aid Advisors and reviewed by the Postsecondary Education Planning Commission and the Florida Association of Postsecondary Schools and Colleges. The formula shall consider*

at least the prior year's distribution of funds, the number of full-time eligible applicants who did not receive awards, the standardization of the expected family contribution, and provisions for unused funds.

(b) Payment of Florida postsecondary student assistance grants *shall* ~~may~~ be transmitted to the president of the eligible institution ~~which the recipient is attending~~, or to his or her representative, in advance of the registration period. Institutions shall notify students of the amount of their awards.

(c)~~(b) Institutions shall certify to the department, within 30 days of the end of regular registration, the eligibility status of each awarded student.~~ The eligibility status of each student to receive a disbursement shall be determined by each institution as of the end of its regular registration period, inclusive of a drop-add period. Institutions shall not be required to reevaluate a student's eligibility status after this date for purposes of *changing* ~~amending~~ eligibility determinations previously made. ~~However, an institution shall be required to make refunds for students who receive award disbursements and terminate enrollment for any reason during the academic term when an institution's refund policies permit a student to receive a refund under these circumstances.~~

(d)~~(c)~~ Institutions shall certify to the department the amount of funds disbursed to each student and shall remit to the department any undisbursed advances *by June 1 of each year* ~~within 60 days of the end of regular registration~~.

(e)~~(d)~~ Each institution that receives moneys through the Florida Postsecondary Student Assistance Grant Program shall cause to be prepared a biennial report that includes an independent external audit of the institution's administration of the program and a complete accounting of moneys in the State Student Financial Assistance Trust Fund allocated to the institution for the program. Such report shall be submitted to the department on or before March 1 every other year. The department may conduct its own annual or biennial audit of an institution's administration of the program and its allocated funds in lieu of the required biennial report and independent external audit. The department may suspend or revoke an institution's eligibility to receive future moneys from the trust fund for the program or request a refund of any moneys overpaid to the institution through the trust fund for the program if the department finds that an institution has not complied with the provisions of this section. Any refund requested pursuant to this paragraph shall be remitted within 60 days.

(5)~~(6)~~ Any institution that was eligible to receive state student assistance grants on January 1, 1989, and that is not eligible to receive grants pursuant to s. 240.4095 is eligible to receive grants pursuant to this section.

(6)~~(7)~~ Funds appropriated by the Legislature for Florida postsecondary student assistance grants shall be deposited in the State Student Financial Assistance Trust Fund. Notwithstanding the provisions of s. 216.301 and pursuant to s. 216.351, any balance in the trust fund at the end of any fiscal year that has been allocated to the Florida Postsecondary Student Assistance Grant Program shall remain therein and shall be available for carrying out the purposes of this section and as otherwise provided by law.

(7)~~(8)~~ The State Board of Education shall adopt rules necessary to implement this section.

Section 48. Except as otherwise provided in this act, this act shall take effect July 1, 1998.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to postsecondary education; amending s. 232.2466, F.S.; revising requirements for the college-ready diploma program; amending s. 239.117, F.S.; exempting specified students from postsecondary fees; amending s. 239.225, F.S.; revising provisions relating to the Vocational Improvement Program; amending s. 240.1163, F.S.; revising dual enrollment provisions; amending s. 240.235, F.S.; exempting specified university students from fees; amending s. 240.311, F.S., relating to powers and duties of the State Board of Community Colleges; amending s. 240.321, F.S., relating to duties of community college district boards of trustees; requiring notification of alternative remedial options; amending s. 240.324, F.S., relating to the community college accountability process; providing for coinciding reporting deadlines; clarifying language; amending s. 240.35, F.S.; exempting specified community college students from fees; amending s. 240.36, F.S.; revising provisions relating to the uses of a trust fund for community colleges; amending s. 240.382, F.S.; correcting a cross-reference; amending s. 240.4097, F.S., relating to the Florida Postsecondary Student Assistance Grant Program; requiring the establishment of application deadlines; amending s. 246.201, F.S.; revising legislative intent; amending s. 246.203, F.S.; renaming the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools the State Board of Nonpublic Career Education; revising definition of schools regulated by the board; amending s. 246.205, F.S.; conforming provisions; amending s. 246.207, F.S.; revising powers and duties of the board; amending s. 246.213, F.S.; conforming provisions; amending s. 246.215, F.S.; requiring licensing of specified programs by the board; creating s. 246.216, F.S.; providing for exemption from licensure for specified entities; providing for statements of exemption; providing for revocation of statements of exemption; providing for remedies; amending ss. 246.219, 246.220, 246.2265, 246.227, and 246.31, F.S.; conforming provisions; amending ss. 20.15, 240.40204, 246.011, 246.081, 246.085, 246.091, 246.111, 246.50, 455.2125, 455.554, 467.009, 476.178, 477.023, and 488.01, F.S.; conforming provisions; amending s. 232.246, F.S.; revising credit requirements for high school graduation; creating s. 233.0616, F.S.; encouraging elementary schools and middle schools to implement personal fitness programs and providing for the allocation of funds; providing for the allocation of funds for upgrading a physical education specialist position in the Department of Education; amending s. 240.61, F.S.; revising criteria for participating in the college reach-out program; revising the due date for a report on the college reach-out program; removing the requirement for including longitudinal cohort assessment; repealing s. 240.154, F.S., which provides for undergraduate enhancement; repealing s. 240.278, F.S., which provides for the establishment and use of the Quality Assurance Fund; repealing s. 240.521, F.S., which provides for the establishment of a state university or a branch of an existing state university to be located in East Central Florida; repealing s. 240.522, F.S., which provides for the establishment of a university in Southwest Florida; repealing s. 240.523, F.S., which provides for the establishment of a 4-year college in Dade County; repealing s. 240.525, F.S., which provides for the establishment of a state university or branch of an existing state university or state college in Duval County; amending s. 216.136, F.S.; providing duties of the Education Estimating Conference; amending s. 240.409, F.S.; authorizing eligibility determination and grant distribution for the Florida Public Student Assistance Grant Program to be conducted by the receiving institution; specifying a dollar value range for grant awards; amending s. 240.4095, F.S.; authorizing eligibility determination and grant distribution for the Florida Private Student Assistance Grant Program to be conducted by the receiving institution; specifying a dollar value range for grant awards; amending s. 240.4097, F.S.; authorizing eligibility determination and grant distribution for the Florida Postsecondary Student Assistance Grant Program to be conducted by the receiving institution; specifying a dollar value range for grant awards; providing effective dates.

On motion by Senator Latvala, further consideration of **HB 4259** with pending **Amendment 1** was deferred.

Consideration of **CS for CS for SB 2198** was deferred.

SB 1954—A bill to be entitled An act relating to ad valorem taxation; providing for the partial abatement of taxes on certain property destroyed or damaged by a tornado; providing procedures; providing for expiration of the act; providing an effective date.

—was read the second time by title.

An amendment was considered and adopted to conform **SB 1954** to **HB 4261**.

Pending further consideration of **SB 1954** as amended, on motion by Senator Bronson, by two-thirds vote **HB 4261** was withdrawn from the Committees on Community Affairs; and Ways and Means.

On motion by Senator Bronson, by two-thirds vote—

HB 4261—A bill to be entitled An act relating to ad valorem taxation; providing for the partial abatement of taxes on certain property destroyed or damaged by a tornado; providing procedures; providing for expiration of the act; providing an effective date.

—a companion measure, was substituted for **SB 1954** as amended and by two-thirds vote read the second time by title. On motion by Senator Bronson, by two-thirds vote **HB 4261** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Bankhead	Diaz-Balart	Jones	Ostalkiewicz
Bronson	Dudley	Kirkpatrick	Rossin
Brown-Waite	Dyer	Klein	Scott
Burt	Forman	Kurth	Silver
Campbell	Geller	Latvala	Sullivan
Casas	Grant	Laurent	Thomas
Childers	Hargrett	Lee	Turner
Clary	Harris	McKay	Williams
Cowin	Holzendorf	Meadows	
Crist	Horne	Myers	

Nays—None

On motion by Senator Crist, by two-thirds vote **CS for HB 1381** was withdrawn from the Committees on Judiciary; Criminal Justice; and Ways and Means.

On motion by Senator Crist—

CS for HB 1381—A bill to be entitled An act relating to collection of court costs and fines; creating the "Comprehensive Court Enforcement Program Act"; providing legislative intent; creating s. 938.30, F.S.; providing for supplementary proceedings for enforcement of court-ordered payment of financial obligations in criminal cases; providing for examination under oath regarding a person's ability to pay financial obligations in a criminal case; providing for reduction of the obligation based on a person's ability to pay; providing for service or actual notice of orders to appear; providing for taking of testimony; providing for orders that nonexempt property in the hands of another be applied toward satisfying an obligation; providing for a judgment of civil lien; providing for applicability of the Uniform Fraudulent Transfer Act in certain collection matters; providing or payment schedules; providing for civil contempt sanctions for failure to appear or comply with certain orders; providing for specified enforcement costs and fees and attorney's fees to be assessed to offset the costs of operating the program; providing for the use of special masters; providing that the clerk of court shall make quarterly reports to the chief judge; permitting county commissions to refer certain court-imposed financial obligations to collection agents; permitting use of the new provisions in addition to or in lieu of other provisions of law; providing for certain court orders; providing an effective date.

—a companion measure, was substituted for **CS for SB 462** and read the second time by title. On motion by Senator Crist, by two-thirds vote **CS for HB 1381** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Bankhead	Diaz-Balart	Horne	Myers
Bronson	Dudley	Jones	Ostalkiewicz
Brown-Waite	Dyer	Kirkpatrick	Rossin
Burt	Forman	Klein	Scott
Campbell	Geller	Kurth	Silver
Casas	Grant	Latvala	Sullivan
Childers	Gutman	Laurent	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams
Crist	Holzendorf	Meadows	

Nays—None

The Senate resumed consideration of—

HB 4259—A bill to be entitled An act relating to postsecondary education; amending s. 232.2466, F.S.; revising requirements for the college-ready diploma program; amending s. 239.117, F.S.; exempting specified students from postsecondary fees; amending s. 239.225, F.S.; revising provisions relating to the Vocational Improvement Program; amending s. 240.1163, F.S.; revising dual enrollment provisions; amending s. 240.235, F.S.; exempting specified university students from fees; amending s. 240.321, F.S., relating to duties of community college district boards of trustees; requiring notification of alternative remedial options; providing student requirements relating to enrollment in courses; amending s. 240.324, F.S., relating to the community college accountability process; providing for coinciding reporting deadlines; clarifying language; amending s. 240.35, F.S.; exempting specified community college students from fees; amending s. 240.36, F.S.; revising provisions relating to the matching of funds and the uses of proceeds of a trust fund for community colleges; amending s. 240.382, F.S.; correcting a cross reference; amending s. 240.4097, F.S., relating to the Florida Postsecondary Student Assistance Grant Program; requiring the establishment of application deadlines; amending s. 246.201, F.S.; revising legislative intent; amending s. 246.203, F.S.; renaming the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools the State Board of Nonpublic Career Education; revising definition of schools regulated by the board; amending s. 246.205, F.S.; conforming language; amending s. 246.207, F.S.; revising powers and duties of the board; amending s. 246.213, F.S.; conforming language; amending s. 246.215, F.S.; requiring licensing of specified programs by the board; creating s. 246.216, F.S.; providing for exemption from licensure for specified entities; providing for statements of exemption; providing for revocation of statements of exemption; providing for remedies; amending ss. 246.219, 246.220, 246.2265, 246.227, and 246.31, F.S.; conforming language; amending ss. 20.15, 240.40204, 246.011, 246.081, 246.085, 246.091, 246.111, 246.50, 455.2125, 455.554, 467.009, 476.178, 477.023, and 488.01, F.S.; conforming language; providing an effective date.

—with pending **Amendment 1** by Senator Forman.

Senator Forman moved the following amendment to **Amendment 1** which was adopted:

Amendment 1A—On page 18, lines 8-24, delete those lines.

THE PRESIDENT PRESIDING

On motion by Senator Forman, further consideration of **HB 4259** with pending **Amendment 1** as amended was deferred.

CS for CS for SB 2198—A bill to be entitled An act relating to programs and services for juveniles; providing a short title; creating the Florida Children's Cabinet within the Executive Office of the Governor; providing for membership; requiring the Children's Cabinet to hold public meetings; providing for appropriations to the Children's Cabinet; requiring that the Children's Cabinet coordinate programs to prevent juvenile crime and victimization; requiring that the Children's Cabinet submit a multiagency plan to the Legislature; providing for regional workshops; requiring a report to the Legislature; amending s. 216.0166, F.S., relating to performance-based budget requests; requiring certain agencies to conform budget requests to the multiagency plan for preventing juvenile crime and victimization; amending s. 230.23, F.S., relating to district school board duties; revising provisions relating to alternative education programs for students in residential care facilities; amending s. 230.2316, F.S.; requiring coordination between a school district's dropout-prevention program and juvenile assessment centers; amending s. 230.23161, F.S.; providing findings relating to juvenile assessment centers; providing school board and school district duties; providing requirements relating to teachers assigned to juvenile justice education programs; providing for the operation of specified education programs by the Department of Education; providing legislative intent with respect to educational programs operated by the Department of Juvenile Justice; requiring that the Juvenile Justice Advisory Board conduct a study of the educational programs for juvenile offenders; providing for the board to report to the Governor and the Legislature; requiring the board to hold public hearings; providing an appropriation; requiring that the Office of Program Policy Analysis and Government Accountability conduct a performance review of educational programs for juvenile offenders; creating s. 985.317, F.S.; providing legislative intent with respect to literacy programs for juvenile offenders; providing for the Department of Education to develop and administer literacy programs in residential commitment programs of the Department of Juvenile Justice; providing requirements for juveniles who participate in literacy programs; specifying requirements for the programs; providing for an initial assessment

when a juvenile is admitted to a residential commitment facility; providing for certain juveniles to be exempt from participating in literacy programs; requiring that the Juvenile Justice Advisory Board evaluate the program and report to the Legislature; providing an effective date.

—was read the second time by title.

Amendments were considered and adopted to conform **CS for CS for SB 2198** to **HB 4315**.

Pending further consideration of **CS for CS for SB 2198** as amended, on motion by Senator Bankhead, by two-thirds vote **HB 4315** was withdrawn from the Committees on Governmental Reform and Oversight; and Ways and Means.

On motion by Senator Bankhead, by two-thirds vote—

HB 4315—A bill to be entitled An act relating to juvenile justice education programs; requiring the Juvenile Justice Advisory Board to conduct a study relating to education programs for juvenile offenders; requiring findings and recommendations; requiring a performance review by the Office of Program Policy Analysis and Government Accountability; providing an appropriation; amending s. 230.23, F.S., relating to district school board duties; revising provisions relating to alternative education programs for students in residential care facilities; amending s. 230.2316, F.S.; providing for certain coordination with school district dropout prevention programs; amending s. 230.23161, F.S.; revising provisions relating to educational services in Department of Juvenile Justice programs; providing findings relating to juvenile assessment centers; providing school board and school district duties; providing requirements relating to teachers assigned to juvenile justice education programs; providing for the operation of specified education programs by the Department of Education; amending s. 402.22, F.S.; revising provisions relating to education programs for students who reside in residential care facilities operated by the Department of Children and Family Services; creating s. 985.317, F.S.; requiring the development of a Juvenile Offender Functional Literacy Program; providing intent, eligibility, and program requirements; requiring initial assessment; providing for exemption from the program; providing for evaluation and reporting; amending s. 985.404, F.S.; revising provisions relating to a cost data report; providing definitions; prohibiting a state agency from expanding the existing Orlando Regional Juvenile Detention Center; prohibiting a state agency from building a new detention center or other commitment facility on property contiguous to the existing detention center; prohibiting a state agency from using property contiguous to the existing detention center to operate a detention center or other commitment facility; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB 2198** as amended and by two-thirds vote read the second time by title. On motion by Senator Bankhead, by two-thirds vote **HB 4315** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Madam President	Crist	Horne	Myers
Bankhead	Diaz-Balart	Jones	Ostalkiewicz
Bronson	Dudley	Kirkpatrick	Rossin
Brown-Waite	Dyer	Klein	Scott
Burt	Forman	Kurth	Silver
Campbell	Geller	Latvala	Sullivan
Casas	Grant	Laurent	Thomas
Childers	Gutman	Lee	Turner
Clary	Harris	McKay	Williams
Cowin	Holzendorf	Meadows	

Nays—None

COMMUNICATION

The Honorable Toni Jennings, President April 29, 1998
The Florida Senate

Dear Madam President:

Pursuant to Senate Rule 4.5, copies of the Conference Committee Report on **CS for SB 874**, relating to Civil Litigation Reform, have been furnished to each member of the Senate.

Delivery was completed April 29, 1998, at 7:40 p.m., EDT.

Respectfully submitted,
Faye W. Blanton, Secretary

By direction of the President the following Conference Committee Report was read:

CONFERENCE COMMITTEE REPORT ON CS FOR SB 874

The Honorable Toni Jennings April 29, 1998
President of the Senate

The Honorable Daniel Webster
Speaker, House of Representatives

Dear President Jennings and Speaker Webster:

Your Conference Committee on the disagreeing votes of the two houses on CS for SB 874, same being:

An act relating to civil actions

having met, and after full and free conference, do recommend to their respective Houses as follows:

1. That the Senate adopt the Conference Committee Amendment attached hereto and by reference made a part of this report and pass **CS for SB 874** as amended by said Conference Committee Amendment.

2. That the House of Representatives recede from **House Amendment 1** to **CS for SB 874** and adopt the Conference Committee Amendment, and pass **CS for SB 874** as amended by said Conference Committee Amendment.

s/John McKay, Chairman	*s/Tom Warner,* Vice Chairman I disapprove and dissent
s/W. G. (Bill) Bankhead	*s/David Bitner*
s/Locke Burt	*s/Rudy Bradley*
Fred R. Dudley	*s/Johnnie B. Byrd, Jr.*
Buddy Dyer	*s/Scott Clemons*
s/Jack Latvala	*s/R.Z. (Sandy) Safley*
Tom Rossin	*s/John Thrasher*
Managers on the part of the Senate	Managers on the part of the House of Representatives

Summary of Conference Committee Action:

As amended by Conference Committee Amendment 1, the bill is a product of the joint Committee on Litigation Reform between the Florida Senate and the House of Representatives to deal with the impact of the civil litigation system on Florida's business climate. The bill makes a wide variety of modifications and additions to both the procedural and the substantive aspects of the civil litigation system in Florida. Some of the major provisions:

- Provide a series of jury reform measures to inform and instruct jurors, and allow greater participation by the jurors in civil trials to include the provision of juror notebooks in civil trials likely to exceed 5 days, and permission to direct written questions to witnesses;

- Authorize more sanctions to deter litigation activities that are frivolous in nature or that are designed to delay the process;

- Provide for new or alternative court procedures in more civil cases;

- Eliminate automatic application of joint and several liability in cases with total damages of $25,000 or less, and specify that joint and several liability will only apply only up to $300,000 of the total of economic damages when a party's fault exceeds the claimant's fault and the party's own fault exceeds 20% (comparative fault is applied to the remainder of the economic damages, if any);

- Require a defendant to affirmatively plead the fault of a non-party and prove by a preponderance of the evidence at trial in order to include the non-party on the verdict form;

- Create a 12-year statute of repose for products liability cases with the period commencing from the date of delivery of the

completed project to its original purchaser, and providing a grandfather clause for certain actions to be filed until July 1, 2003;

- Create a "government rules defense" allowing manufacturers and sellers to assert a rebuttable presumption that products are not defective or unreasonably dangerous if the product complies with certain state or federal regulatory or statutory standards;
- Prescribe a rebuttable presumption against a claim of negligent hiring provided an employer takes investigatory steps of the prospective employee;
- Limit or prohibit recovery of certain damages, under specified conditions, when the influence of drugs or alcohol is involved;
- Provide definitions and duties relating to liability to different categories of trespassers on real property;
- Limit the vicarious liability of certain motor vehicle owners or rental companies for damages due to the operation of the vehicle by a person other than the owner/lessor to $100,000 per person and $300,000 per occurrence for bodily injury and $50,000 for property damage, but allowing an additional cap of $500,000 in economic damages when the operator is uninsured or under-insured;
- Revise burden of proof standard and conditions for recovery of punitive damages including the prohibition of repetitive punitive damages award under certain conditions;
- Set forth legislative intent to promote the adoption of stricter requirements on advertisements and solicitation of legal services; and
- Provide for an actuarial study to report, by March 1, 2001, expected reduction in judgments, settlements, and other related costs in claims of certain insurers resulting from impact of litigation reform measures in this act, and provide for subsequent review by Department of Insurance of certain insurers rate filings.

This bill substantially amends the following sections of the Florida Statutes: 44.102, 57.071, 57.105, 90.803, 95.031, 324.021, 400.023, 768.075, 768.095, 768.72, 768.73, 768.77, 768.78, 768.79, and 768.81. The bill also creates the following sections: 40.50, 44.1051, 47.025, 768.0705, 768.096, 768.1256, 768.36, 768.725, 768.735, 768.736. The bill also repeals the following subsections: 768.77(2) and 768.81(5).

Conference Committee Amendment (with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Section 40.50, Florida Statutes, is created to read:

40.50 Jury duty and instructions in civil cases.—

(1) In any civil action immediately after the jury is sworn, the court shall instruct the jury concerning its duties, its conduct, the order of proceedings, the procedure for submitting written questions of witnesses, and the elementary legal principles that will govern the proceeding as provided in this section.

(2) The court shall instruct that the jurors may take notes regarding the evidence and keep the notes for the purpose of refreshing their memory for use during recesses and deliberations. The court may provide materials suitable for this purpose. The confidentiality of the notes should be emphasized to the jurors. After the jury has rendered its verdict, the notes shall be collected by the bailiff or clerk who shall promptly destroy them.

(3) In any case in which the court determines that the trial could exceed 5 days, the court shall provide a notebook for each juror. Notebooks may contain:

(a) A copy of the preliminary jury instructions, including special instructions on the issues to be tried.

(b) Jurors' notes.

(c) Witnesses' names and either photographs or biographies or both.

(d) Copies of key documents admitted into evidence and an index of all exhibits in evidence.

(e) A glossary of technical terms.

(f) A copy of the court's final instructions.

In its discretion, the court may authorize documents and exhibits in evidence to be included in notebooks for use by the jurors during trial to aid them in performing their duties. The preliminary jury instructions should be removed, discarded, and replaced by the final jury instructions before the latter are read to the jury by the court.

(4) The court shall permit jurors to have access to their notes and, in appropriate cases, notebooks during recesses and deliberations.

(5) The court shall permit jurors to submit to the court written questions directed to witnesses or to the court. Opportunity shall be given to counsel to object to such questions out of the presence of the jury. The court may, as appropriate, limit the submission of questions to witnesses.

(6) The court shall instruct the jury that any questions directed to witnesses or the court must be in writing, unsigned, and given to the bailiff. If the court determines that the juror's question calls for admissible evidence, the question may be asked by court or counsel in the court's discretion. Such question may be answered by stipulation or other appropriate means, including, but not limited to, additional testimony upon such terms and limitations as the court prescribes. If the court determines that the juror's question calls for inadmissible evidence, the question shall not be read or answered. If a juror's question is rejected, the jury should be told that trial rules do not permit some questions to be asked and that the jurors should not attach any significance to the failure of having their question asked.

(7) The court has discretion to give final instructions to the jury before closing arguments of counsel instead of after, in order to enhance jurors' ability to apply the applicable law to the facts. In that event, the court may wish to withhold giving the necessary procedural and housekeeping instructions until after closing arguments.

Section 2. Section 44.102, Florida Statutes, is amended to read:

44.102 Court-ordered mediation.—

(1) Court-ordered mediation shall be conducted according to rules of practice and procedure adopted by the Supreme Court.

(2) A court, under rules adopted by the Supreme Court:

(a) Must refer to mediation any filed civil action for monetary damages, unless:

1. The action is a landlord and tenant dispute that does not include a claim for personal injury.

2. The action is filed for the purpose of collecting a debt.

3. The action is a claim of medical malpractice.

4. The action is governed by the Florida Small Claims Rules.

5. The court determines that the action is proper for referral to nonbinding arbitration under this chapter.

6. The parties have agreed to binding arbitration.

(b)~~(a)~~ May refer to mediation all or any part of a filed civil action *for which mediation is not required under this section.*

(c)~~(b)~~ In circuits in which a family mediation program has been established and upon a court finding of a dispute, shall refer to mediation all or part of custody, visitation, or other parental responsibility issues as defined in s. 61.13. Upon motion or request of a party, a court shall not refer any case to mediation if it finds there has been a history of domestic violence that would compromise the mediation process.

(d)~~(c)~~ In circuits in which a dependency or in need of services mediation program has been established, may refer to mediation all or any portion of a matter relating to dependency or to a child in need of services or a family in need of services.

(3) Each party involved in a court-ordered mediation proceeding has a privilege to refuse to disclose, and to prevent any person present at the proceeding from disclosing, communications made during such proceeding. All oral or written communications in a mediation proceeding, other than an executed settlement agreement, shall be exempt from the requirements of chapter 119 and shall be confidential and inadmissible as evidence in any subsequent legal proceeding, unless all parties agree otherwise.

(4) There shall be no privilege and no restriction on any disclosure of communications made confidential in subsection (3) in relation to disciplinary proceedings filed against mediators pursuant to s. 44.106 and court rules, to the extent the communication is used for the purposes of such proceedings. In such cases, the disclosure of an otherwise privileged communication shall be used only for the internal use of the body conducting the investigation. Prior to the release of any disciplinary files to the public, all references to otherwise privileged communications shall be deleted from the record. When an otherwise confidential communication is used in a mediator disciplinary proceeding, such communication shall be inadmissible as evidence in any subsequent legal proceeding. "Subsequent legal proceeding" means any legal proceeding between the parties to the mediation which follows the court-ordered mediation.

(5) The chief judge of each judicial circuit shall maintain a list of mediators who have been certified by the Supreme Court and who have registered for appointment in that circuit.

(a) Whenever possible, qualified individuals who have volunteered their time to serve as mediators shall be appointed. If a mediation program is funded pursuant to s. 44.108, volunteer mediators shall be entitled to reimbursement pursuant to s. 112.061 for all actual expenses necessitated by service as a mediator.

(b) Nonvolunteer mediators shall be compensated according to rules adopted by the Supreme Court. If a mediation program is funded pursuant to s. 44.108, a mediator may be compensated by the county or by the parties. When a party has been declared indigent or insolvent, that party's pro rata share of a mediator's compensation shall be paid by the county at the rate set by administrative order of the chief judge of the circuit.

(6)(a) When an action is referred to mediation by court order, the time periods for responding to an offer of settlement pursuant to s. 45.061, or to an offer or demand for judgment pursuant to s. 768.79, respectively, shall be tolled until:

1. An impasse has been declared by the mediator; or

2. The mediator has reported to the court that no agreement was reached.

(b) Sections 45.061 and 768.79 notwithstanding, an offer of settlement or an offer or demand for judgment may be made at any time after an impasse has been declared by the mediator, or the mediator has reported that no agreement was reached. An offer is deemed rejected as of commencement of trial.

Section 3. Section 44.1051, Florida Statutes, is created to read:

44.1051 Voluntary trial resolution.—

(1) Two or more parties who are involved in a civil dispute may agree in writing to submit the controversy to voluntary trial resolution in lieu of litigation of the issues involved, prior to or after a lawsuit has been filed, provided that no constitutional issue is involved.

(2) If the parties have entered into an agreement that provides for a method for appointment of a member of The Florida Bar in good standing for more than 5 years to act as trial resolution judge, the court shall proceed with the appointment as prescribed.

(3) The trial resolution judge shall be compensated by the parties according to their agreement.

(4) Within 10 days after the submission of the request for binding voluntary trial resolution, the court shall provide for the appointment of the trial resolution judge. Once appointed, the trial resolution judge shall notify the parties of the time and place for the hearing.

(5) Application for voluntary trial resolution shall be filed and fees paid to the clerk of the court as if for complaints initiating civil actions. The clerk of the court shall handle and account for these matters in all respects as if they were civil actions except that the clerk of the court shall keep separate the records of the applications for voluntary binding trial resolution from all other civil actions.

(6) Filing of the application for binding voluntary trial resolution will toll the running of the applicable statutes of limitation.

(7) The appointed trial resolution judge shall have such power to administer oaths or affirmations and to conduct the proceedings as the rules of court provide. At the request of any party, the trial resolution judge shall issue subpoenas for the attendance of witnesses and for the production of books, records, documents, and other evidence and may apply to the court for orders compelling attendance and production. Subpoenas shall be served and shall be enforceable as provided by law.

(8) The hearing shall be conducted by the trial resolution judge, who may determine any question and render a final decision.

(9) The Florida Evidence Code shall apply to all proceedings under this section.

(10) Any party may enforce a final decision rendered in a voluntary trial by filing a petition for final judgment in the circuit court in the circuit in which the voluntary trial took place. Upon entry of final judgment by the circuit court an appeal may be taken to the appropriate appellate court. The "harmless error doctrine" shall apply in all appeals. No further review shall be permitted unless a constitutional issue is raised. Factual findings determined in the voluntary trial shall not be subject to appeal.

(11) If no appeal is taken within the time provided by rules of the Supreme Court, the decision shall be referred to the presiding court judge in the case, or, if one has not been assigned, to the chief judge of the circuit for assignment to a circuit judge, who shall enter such orders and judgments as are required to carry out the terms of decision, which orders shall be enforceable by the contempt powers of the court and for which judgment executions shall issue on request of a party.

(12) This section does not apply to any dispute involving child custody, visitation, or child support, or to any dispute that involves the rights of a person who is not a party to the voluntary trial resolution.

Section 4. Section 57.105, Florida Statutes, is amended to read:

57.105 Attorney's fee*; sanctions for raising unfounded claims or defenses; damages for delay of litigation.—*

(1) *Upon the court's initiative or motion of any party,* the court shall award a reasonable attorney's fee to be paid to the prevailing party in equal amounts by the losing party and the losing party's attorney *on any claim or defense at any time during a* ~~in any~~ civil *proceeding or* action in which the court finds that *the losing party or the losing party's attorney knew or should have known that a claim or defense when initially presented to the court or at any time before trial:*

(a) Was not supported by the material facts necessary to establish the claim or defense; or

(b) Would not be supported by the application of then-existing law to those material facts. ~~there was a complete absence of a justiciable issue of either law or fact raised by the complaint or defense of the losing party; provided,~~

However, ~~that~~ the losing party's attorney is not personally responsible if he or she has acted in good faith, based on the representations of his or her client *as to the existence of those material facts.* If the court *awards attorney's fees to a claimant pursuant to this subsection* ~~finds that there was a complete absence of a justiciable issue of either law or fact raised by the defense~~, the court shall also award prejudgment interest.

(2) Subsection (1) does not apply if the court determines that the claim or defense was initially presented to the court as a good-faith attempt with a reasonable probability of changing then-existing law as it applied to the material facts.

(3) At any time in any civil proceeding or action in which the moving party proves by a preponderance of the evidence that any action taken by

the opposing party, including, but not limited to, the filing of any pleading or part thereof, the assertion of or response to any discovery demand, the assertion of any claim or defense, or the response to any request by any other party, was taken primarily for the purpose of unreasonable delay, the court shall award damages to the moving party for the time necessitated by the conduct in question.

(4) The court also may impose such additional sanctions or other remedies as are just and warranted under the circumstances of the particular case, including, but not limited to, contempt of court, award of taxable costs, striking of a claim or defense, or dismissal of the pleading.

(5)~~(2)~~ If a contract contains a provision allowing attorney's fees to a party when he or she is required to take any action to enforce the contract, the court may also allow reasonable attorney's fees to the other party when that party prevails in any action, whether as plaintiff or defendant, with respect to the contract. *This subsection applies to any contract entered into on or after October 1, 1988.* ~~This act shall take effect October 1, 1988, and shall apply to contracts entered into on said date or thereafter.~~

Section 5. Subsections (3), (5), and (7) of section 768.79, Florida Statutes, are amended to read:

768.79 Offer of judgment and demand for judgment.—

(3) The offer shall be served upon the party to whom it is made, but it shall not be filed unless it is accepted or unless filing is necessary to enforce the provisions of this section. *In any case involving multiple party plaintiffs or multiple party defendants, an offer shall specify its applicability to each party and may specify any conditions thereof. Each individual party may thereafter accept or reject the offer as the offer applies to such party.*

(5) An offer may be withdrawn in writing which is served before the date a written acceptance is filed. Once withdrawn, an offer is void. *A subsequent offer to a party shall have the effect of voiding any previous offer to that party.*

(7)(a) *Prior to awarding costs and fees pursuant to this section the court shall determine whether the offer was reasonable under the circumstances known at the time the offer was made.* If a party is entitled to costs and fees pursuant to the provisions of this section, the court may, in its discretion, determine that an offer was not made in good faith. In such case, the court may disallow an award of costs and attorney's fees.

(b) When determining the reasonableness of an award of attorney's fees pursuant to this section, the court shall consider, along with all other relevant criteria, the following additional factors:

1. The then's apparent merit or lack's of merit in the claim.

2. The number and nature of offers made by the parties.

3. The closeness of questions of fact and law at issue.

4. Whether the person making the offer had unreasonable refused to furnish information necessary to evaluate the reasonableness of such offer.

5. Whether the suit was in the nature of a test case presenting questions of far-reaching's importance affecting nonparties.

6. The amount of the additional delay cost and expense that the person making the offer reasonable would be expected to incur if the litigation should be prolonged.

Section 6. Section 57.071, Florida Statutes, is amended to read:

57.071 Costs; what taxable.—

(1) If costs are awarded to any party the following shall also be allowed:

(a)~~(1)~~ The reasonable premiums or expenses paid on all bonds or other security furnished by such party.

(b)~~(2)~~ The expense of the court reporter for per diem, transcribing proceedings and depositions, including opening statements and arguments by counsel.

(c)~~(3)~~ Any sales or use tax due on legal services provided to such party, notwithstanding any other provision of law to the contrary.

(2) Expert witness fees shall not be awarded as taxable costs unless:

(a) The party retaining the expert witness files a written notice with the court and with each opposing party within 30 days after the entry of an order setting the trial date, which notice shall specify the expertise and experience of the expert, the rate of compensation of the expert witness, the subject matters or issues on which the expert is expected to render an opinion, and an estimate of the overall fees of the expert witness, including the fee for trial testimony. If the rate of compensation is hourly, the estimated overall fee may be stated in terms of estimated hours; and

(b) The party retaining the expert witness furnishes each opposing party with a written report signed by the expert witness which summarizes the expert witness's opinions and the factual basis of the opinions, including documentary evidence and the authorities relied upon in reaching the opinions. Such report shall be filed at least 10 days prior to discovery cut-off, 45 days prior to the trial, or as otherwise determined by the court.

Section 7. *Expedited trials.—Upon the joint stipulation of the parties to any civil case, the court may conduct an expedited trial as provided in this section. Where two or more plaintiffs or defendants have a unity of interest, such as a husband and wife, they shall be considered one party for the purpose of this section. Unless otherwise ordered by the court or agreed to by the parties with approval of the court, an expedited trial shall be conducted as follows:*

(1) All discovery in the trial shall be completed within 60 days.

(2) All interrogatories and requests for production must be served within 10 days and all responses must be served within 20 days after receipt.

(3) The court shall determine the number of depositions required.

(4) The case may be tried to a jury.

(5) The case must be tried within 30 days after the 60-day discovery cut-off.

(6) The trial must be limited to 1 day.

(7) The jury selection must be limited to 1 hour.

(8) The plaintiff will have 3 hours to present its case, including its opening, all of its testimony and evidence, and its closing.

(9) The defendant will have 3 hours to present its case, including its opening, all of its testimony and evidence, and its closing.

(10) The jury will be given "plain language" jury instructions at the beginning of the trial as well as a "plain language" jury verdict form. The jury instructions and verdict form must be agreed to by the parties.

(11) The parties will be permitted to introduce a written report of any expert and the expert's curriculum vitae instead of calling the expert to testify live at trial.

(12) At trial the parties may use excerpts from depositions, including video depositions, regardless of where the deponent lives or whether the deponent is available to testify.

(13) The Florida Evidence Code and the Florida Rules of Civil Procedure will apply.

(14) There will be no continuances of the trial absent extraordinary circumstances.

Section 8. Section 768.77, Florida Statutes, is amended to read:

768.77 Itemized verdict.—

~~(1)~~ In any action to which this part applies in which the trier of fact determines that liability exists on the part of the defendant, the trier of fact shall, as a part of the verdict, itemize the amounts to be awarded to the claimant into the following categories of damages:

(1)~~(a)~~ Amounts intended to compensate the claimant for economic losses;

(2)~~(b)~~ Amounts intended to compensate the claimant for noneconomic losses; and

(3)~~(c)~~ Amounts awarded to the claimant for punitive damages, if applicable.

~~(2) Each category of damages, other than punitive damages, shall be further itemized into amounts intended to compensate for losses which have been incurred prior to the verdict and into amounts intended to compensate for losses to be incurred in the future. Future damages itemized under paragraph (1)(a) shall be computed before and after reduction to present value. Damages itemized under paragraph (1)(b) or paragraph (1)(c) shall not be reduced to present value. In itemizing amounts intended to compensate for future losses, the trier of fact shall set forth the period of years over which such amounts are intended to provide compensation.~~

Section 9. Paragraph (a) of subsection (1) of section 768.78, Florida Statutes, is amended to read:

768.78 Alternative methods of payment of damage awards.—

(1)(a) In any action to which this part applies in which the *court determines that* ~~trier of fact makes~~ an award to compensate the claimant *includes* ~~for~~ future economic losses which exceed $250,000, payment of amounts intended to compensate the claimant for these losses shall be made by one of the following means, unless an alternative method of payment of damages is provided in this section:

1. The defendant may make a lump-sum payment for all damages so assessed, with future economic losses and expenses reduced to present value; or

2. Subject to the provisions of this subsection, the court shall, at the request of either party, unless the court determines that manifest injustice would result to any party, enter a judgment ordering future economic damages, as itemized pursuant to s. 768.77(1)~~(a)~~, in excess of $250,000 to be paid in whole or in part by periodic payments rather than by a lump-sum payment.

Section 10. Section 47.025, Florida Statutes, is created to read:

47.025 Actions against contractors.—Any venue provision in a contract for improvement to real property which requires a legal action against a resident contractor, subcontractor, or sub-subcontractor, as defined in part I of chapter 713, to be brought outside this state is void as a matter of public policy if enforcement would be unreasonable and unjust. To the extent that the venue provision in the contract is void under this section, any legal action arising out of that contract shall be brought only in this state in the county where the defendant resides, where the cause of action accrued, or where the property in litigation is located, unless the parties agree to the contrary.

Section 11. *Through the state's uniform case reporting system, the clerk of court shall report to the Office of the State Courts Administrator information from each settlement or jury verdict and final judgment in negligence cases as defined in section 768.81(4), Florida Statutes, as the President of the Senate and the Speaker of the House of Representatives deem necessary from time to time. The information shall include, but need not be limited to: the name of each plaintiff and defendant; the verdict; the percentage of fault of each; the amount of economic damages and noneconomic damages awarded to each plaintiff, identifying those damages that are to be paid jointly and severally and by which defendants; and the amount of any punitive damages to be paid by each defendant.*

Section 12. Subsection (22) of section 90.803, Florida Statutes, is amended to read:

90.803 Hearsay exceptions; availability of declarant immaterial.—The provision of s. 90.802 to the contrary notwithstanding, the following are not inadmissible as evidence, even though the declarant is available as a witness:

(22) FORMER TESTIMONY.—Former testimony given by the declarant *which testimony was given as a witness at another hearing of the same or a different proceeding, or in a deposition taken in compliance with law in the course of the same or another proceeding, if the party against whom the testimony is now offered, or, in a civil action or proceeding, a predecessor in interest, or a person with a similar interest, had an opportunity and similar motive to develop the testimony by direct, cross, or redirect examination, provided, however, the court finds that the testimony is not inadmissible pursuant to s. 90.402 or s. 90.403* ~~at a civil trial, when used in a retrial of said trial involving identical parties and the same facts~~.

Section 13. Subsection (2) of section 95.031, Florida Statutes, is amended to read:

95.031 Computation of time.—Except as provided in subsection (2) and in s. 95.051 and elsewhere in these statutes, the time within which an action shall be begun under any statute of limitations runs from the time the cause of action accrues.

(2)*(a) An action* ~~Actions~~ for ~~products liability and~~ fraud under s. 95.11(3) must be begun within the period prescribed in this chapter, with the period running from the time the facts giving rise to the cause of action were discovered or should have been discovered with the exercise of due diligence, instead of running from any date prescribed elsewhere in s. 95.11(3), but in any event an action for fraud under s. 95.11(3) must be begun within 12 years after the date of the commission of the alleged fraud, regardless of the date the fraud was or should have been discovered.

(b) An action for products liability under s. 95.11(3) must be begun within the period prescribed in this chapter, with the period running from the date that the facts giving rise to the cause of action were discovered, or should have been discovered with the exercise of due diligence, rather than running from any other date prescribed elsewhere in s. 95.11(3), but in no event may an action for products liability under s. 95.11(3) be commenced unless the complaint is served and filed within 12 years after the date of delivery of the product to its first purchaser or lessee who was not engaged in the business of selling or leasing the product or of using the product as a component in the manufacture of another product, regardless of the date that the defect in the product was or should have been discovered. However, the 12-year limitation on filing an action for products liability does not apply if the manufacturer knew of a defect in the product and concealed or attempted to conceal this defect. In addition, the 12-year limitation does not apply if the claimant was exposed to or used the product within the 12-year period, but an injury caused by such exposure or use did not manifest itself until after the 12-year period.

Section 14. *Any action for products liability which would not have been barred under section 95.031(2), Florida Statutes, prior to the amendments to that section made by this act may be commenced before July 1, 2003, and, if it is not commenced by that date and is barred by the amendments to section 95.031(2), Florida Statutes, made by this act, it shall be barred.*

Section 15. Section 768.1256, Florida Statutes, is created to read:

768.1256 Government rules defense.—In a product liability action brought against a manufacturer or seller for harm allegedly caused by a product, there is a rebuttable presumption that the product is not defective or unreasonably dangerous and the manufacturer or seller is not liable if, at the time the specific unit of the product was sold or delivered to the initial purchaser or user, the aspect of the product that allegedly caused the harm was in compliance with product design, construction, or safety standards relevant to the event causing the death or injury promulgated by a federal or state statute or rule, such standards are designed to prevent the type of harm that allegedly occurred, and compliance with such standards is required as a condition for selling or otherwise distributing the product.

Section 16. Section 768.096, Florida Statutes, is created to read:

768.096 Employer presumption against negligent hiring.—

(1) In a civil action for the death of, or injury or damage to, a third person caused by the intentional tort of an employee, such employee's employer shall be presumed not to have been negligent in hiring such employee if, before hiring the employee, the employer conducted a background investigation of the prospective employee and the investigation

did not reveal any information that reasonably demonstrated the unsuitability of the prospective employee for the particular work to be performed or for the employment in general. A background investigation under this section must include:

(a) Obtaining a criminal background investigation on the prospective employee pursuant to subsection (2);

(b) Making a reasonable effort to contact references and former employers of the prospective employee concerning the suitability of the prospective employee for employment;

(c) Requiring the prospective employee to complete a job application form that includes questions concerning whether he or she has ever been convicted of a crime, including details concerning the type of crime; the date of conviction and the penalty imposed; and whether the prospective employee has ever been a defendant in a civil action for intentional tort, including the nature of the intentional tort and the disposition of the action;

(d) Obtaining, with written authorization from the prospective employee, a check of the driver's license record of the prospective employee if such a check is relevant to the work the employee will be performing and if the record can reasonably be obtained; and

(e) Interviewing the prospective employee.

(2) To satisfy the criminal-background-investigation requirement of this section, an employer must request and obtain from the Department of Law Enforcement a check of the information as reported and reflected in the Florida Crime Information Center system as of the date of the request.

(3) The election by an employer not to conduct the investigation specified in subsection (1) does not raise any presumption that the employer failed to use reasonable care in hiring an employee.

Section 17. Section 768.095, Florida Statutes, is amended to read:

768.095 Employer immunity from liability; disclosure of information regarding former *or current* employees.—An employer who discloses information about a former *or current employee* ~~employee's job performance~~ to a prospective employer of the former *or current* employee upon request of the prospective employer or of the former *or current* employee is ~~presumed to be acting in good faith and, unless lack of good faith is shown by clear and convincing evidence, is~~ immune from civil liability for such disclosure or its consequences *unless it is shown by clear and convincing evidence*. ~~For purposes of this section, the presumption of good faith is rebutted upon a showing~~ that the information disclosed by the former *or current* employer was knowingly false ~~or deliberately misleading, was rendered with malicious purpose,~~ or violated any civil right of the former *or current* employee protected under chapter 760.

Section 18. Section 768.0705, Florida Statutes, is created to read:

768.0705 Limitation on premises liability.—

(1) A person or organization owning or controlling an interest in a business premises is not liable for civil damages sustained by invitees, guests, or other members of the public which are caused by criminal acts that occur on the premises and which are committed by third parties who are not employees or agents of such person or organization, if the person or organization owning or controlling the interest in a business premises maintains a reasonably safe premises in light of the foreseeability of the occurrence of the particular criminal act.

(2) If at least six provisions contained in the following nine paragraphs of this subsection are substantially met, there shall be a presumption that a person or organization owning or controlling an interest in a business premises, other than a convenience store, has fulfilled any duty to provide adequate security for invitees, guests, and other members of the public against criminal acts that occur in common areas, in parking areas, or on portions of the premises not occupied by buildings or structures and that are committed by third parties who are not employees or agents of the person or organization owning or controlling the interest in a business premises.

(a) Signs shall be prominently posted in the parking area and other public-access points on the premises indicating the hours of normal business operations and the general security measures provided.

(b) The parking area, public walkways, and public building entrances and exits shall be illuminated at an intensity of at least 2 footcandles per square foot at 18 inches above the surface of the ground, pavement, or walkway or, if zoning requirements do not permit such levels of illumination, to the highest intensity permitted.

(c) Crime prevention training, with a curriculum approved by the local law enforcement agency or the Department of Legal Affairs, shall be provided to all nonmanagement on-site employees. To meet the requirements of this paragraph, persons employed at the business premises before October 1, 1998, must receive training by October 1, 1999, and persons employed at the business premises on or after October 1, 1998, must receive training within 120 days after hiring. No person shall be liable for ordinary negligence due to implementing the approved curriculum so long as the training was actually provided. Under no circumstances shall the state or the local law enforcement agency be held liable for the contents of the approved curriculum.

(d) Security cameras shall be installed and maintained, and shall be monitored or recorded, covering public entrances and exits to buildings and at least half the parking lot. Cameras shall operate during business hours and for at least 30 minutes after closing.

(e) An emergency call box, or an alarm system linked to a law enforcement agency, a private security agency, or a security guard or other agent on the premises, shall be maintained and available within 150 feet of any location in the parking lot or other public place on the premises.

(f) A licensed security guard or law enforcement officer is on duty at the time of the criminal occurrence and is either monitoring surveillance cameras or patrolling the premises with such frequency that the parking area and common areas are observed by the guard at not more than 15-minute intervals.

(g) Perimeter fencing shall be installed and maintained which surrounds parking areas and structures and directs pedestrian entry onto the premises.

(h) Landscaping shall be maintained which does not substantially obstruct the view of security personnel or cameras, and landscaping adjacent to areas frequented by the public shall be maintained in a manner that provides no hiding place sufficient to conceal an adult person.

(i) A public address system shall be installed and maintained which is capable of reaching portions of the premises regularly frequented by the public.

(3) The owner or operator of a convenience business that substantially implements the applicable security measures listed in ss. 812.173 and 812.174 shall gain a presumption against liability in connection with criminal acts that occur on the premises and that are committed by third parties who are not employees or agents of the owner or operator of the convenience business.

(4) Failure to implement a sufficient number of the measures listed in subsection (2) or ss. 812.173 and 812.174 shall not create a presumption of liability and no inference may be drawn from such failure or from the substance of measures listed within this section.

Section 19. Section 768.075, Florida Statutes, is amended to read:

768.075 Immunity from liability for injury to trespassers on real property*; definitions; duty to trespassers.*—

(1) A person or organization owning or controlling an interest in real property, or an agent of such person or organization, shall not be held liable for any civil damages for death of or injury or damage to a trespasser upon the property ~~resulting from or arising by reason of the trespasser's commission of the offense of trespass as described in s. 810.08 or s. 810.09~~, when such trespasser was under the influence of alcoholic beverages with a blood-alcohol level of *0.08* ~~0.10~~ percent or higher, when such trespasser was under the influence of any chemical substance set forth in s. 877.111, when such trespasser was illegally under the influence of any substance controlled under chapter 893, or if the trespasser is affected by any of the aforesaid substances to the extent that her or his normal faculties are impaired. For the purposes of this section, voluntary intoxication or impediment of faculties by use of alcohol or any of the aforementioned substances shall not excuse a party

bringing an action or on whose behalf an action is brought from proving the elements of trespass. However, the person or organization owning or controlling the interest in real property shall not be immune from liability if gross negligence or *intentional* ~~willful and wanton~~ misconduct on the part of such person or organization or agent thereof is a proximate cause of the death of or injury or damage to the trespasser.

(2) A person or organization owning or controlling an interest in real property, or an agent of such person or organization, shall not be held liable for any civil damages for death of or injury or damage to any discovered or undiscovered trespasser, except as provided in paragraphs (3)(a), (b), and (c), and regardless of whether the trespasser was intoxicated or otherwise impaired.

(3)(a) As used in this subsection, the term:

1. "Implied invitation" means that the visitor entering the premises has an objectively reasonable belief that he or she has been invited or is otherwise welcome on that portion of the real property where injury occurs.

2. "Discovered trespasser" means a person who enters real property without invitation, either express or implied, and whose actual physical presence was detected, within 24 hours preceding the accident, by the person or organization owning or controlling an interest in real property or to whose actual physical presence the person or organization owning or controlling an interest in real property was alerted by a reliable source within 24 hours preceding the accident. The status of a person who enters real property shall not be elevated to that of an invitee, unless the person or organization owning or controlling an interest in real property has issued an express invitation to enter the property or has manifested a clear intent to hold the property open to use by persons pursuing purposes such as those pursued by the person whose status is at issue.

3. "Undiscovered trespasser" means a person who enters property without invitation, either express or implied, and whose actual physical presence was not detected, within 24 hours preceding the accident, by the person or organization owning or controlling an interest in real property.

(b) To avoid liability to undiscovered trespassers, a person or organization owning or controlling an interest in real property must refrain from intentional misconduct, but has no duty to warn of dangerous conditions. To avoid liability to discovered trespassers, a person or organization owning or controlling an interest in real property must refrain from gross negligence or intentional misconduct, and must warn the trespasser of dangerous conditions that are known to the person or organization owning or controlling an interest in real property but that are not readily observable by others.

(c) This subsection shall not be interpreted or construed to alter the common law as it pertains to the "attractive nuisance doctrine."

(4) A person or organization owning or controlling an interest in real property, or an agent of such person or organization, shall not be held liable for negligence that results in the death of, injury to, or damage to a person who is attempting to commit a felony or who is engaged in the commission of a felony on the property.

Section 20. Section 768.36, Florida Statutes, is created to read:

768.36 Alcohol or drug defense.—

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

(a) "Alcoholic beverage" means distilled spirits and any beverage that contains 0.5 percent or more alcohol by volume as determined in accordance with s. 561.01(4)(b).

(b) "Drug" means any chemical substance set forth in s. 877.111 or any substance controlled under chapter 893. The term does not include any drug or medication obtained by the plaintiff pursuant to a prescription, as defined in s. 893.02, which was taken in accordance with the prescription, or any medication that is authorized pursuant to state or federal law for general distribution and use without a prescription in treating human diseases, ailments, or injuries and that was taken in the recommended dosage.

(2) In any civil action, a plaintiff may not recover any damages for loss or injury to his or her person or property if the trier of fact finds that, at the time the plaintiff was injured, the plaintiff was under the influence of any alcoholic beverage or drug to the extent that the plaintiff's normal faculties were impaired or the plaintiff had a blood or breath alcohol level of 0.08 percent or higher, and that as a result of the influence of such alcoholic beverage or drug the plaintiff was more than 50 percent at fault for his or her own harm.

Section 21. Section 768.725, Florida Statutes, is created to read:

768.725 Punitive damages; burden of proof.—In all civil actions the plaintiff must establish at trial by clear and convincing evidence its entitlement to an award of punitive damages. The "greater weight of the evidence" burden of proof shall apply to the determination regarding the amount of damages.

Section 22. Section 768.72, Florida Statutes, is amended to read:

768.72 Pleading in civil actions; claim for punitive damages.—

(1) In any civil action, no claim for punitive damages shall be permitted unless there is a reasonable showing by evidence in the record or proffered by the claimant which would provide a reasonable basis for recovery of such damages. The claimant may move to amend her or his complaint to assert a claim for punitive damages as allowed by the rules of civil procedure. The rules of civil procedure shall be liberally construed so as to allow the claimant discovery of evidence which appears reasonably calculated to lead to admissible evidence on the issue of punitive damages. No discovery of financial worth shall proceed until after the pleading concerning punitive damages is permitted.

(2) A defendant may be held liable for punitive damages only if the trier of fact, based on clear and convincing evidence, finds that the defendant was personally guilty of intentional misconduct or gross negligence. As used in this section, the term:

(a) "Intentional misconduct" means that the defendant had actual knowledge of the wrongfulness of the conduct and the high probability that injury or damage to the claimant would result and, despite that knowledge, intentionally pursued that course of conduct, resulting in injury or damage.

(b) "Gross negligence" means that the defendant's conduct was so reckless or wanting in care that it constituted a conscious disregard or indifference to the life, safety, or rights of persons exposed to such conduct.

(3) In the case of an employer, principal, corporation, or other legal entity, punitive damages may be imposed for the conduct of an employee or agent, only if the conduct of the employee or agent meets the criteria specified in subsection (2) and:

(a) The employer, principal, corporation, or other legal entity actively and knowingly participated in such conduct;

(b) The officers, directors, or managers of the employer, principal, corporation, or other legal entity knowingly condoned, ratified, or consented to such conduct; or

(c) The employer, principal, corporation, or other legal entity engaged in conduct that constituted gross negligence and that contributed to the loss, damages, or injury suffered by the claimant.

(4) The provisions of this section are remedial in nature and shall be applied to all civil actions pending on October 1, 1998, in which the trial or retrial of the action has not commenced.

Section 23. Section 768.73, Florida Statutes, is amended to read:

768.73 Punitive damages; limitation.—

(1)(a) In any civil action *in which the judgment for compensatory damages is for $50,000 or less, judgment for punitive damages awarded to a claimant may not exceed $250,000, except as provided in paragraph (b). In any civil action in which the judgment for compensatory damages exceeds $50,000, the judgment for punitive damages awarded to a claimant may not exceed three times the amount of compensatory damages or $250,000, whichever is higher, except as provided in paragraph (b)* ~~based on negligence, strict liability, products liability, misconduct in commercial transactions, professional liability, or breach of warranty, and involving willful, wanton, or gross misconduct, the judgment for the total~~

~~amount of punitive damages awarded to a claimant may not exceed three times the amount of compensatory damages awarded to each person entitled thereto by the trier of fact, except as provided in paragraph (b). However, this subsection does not apply to any class action~~.

(b) *No award for punitive damages may exceed the limitations* ~~If any award for punitive damages exceeds the limitation~~ specified in paragraph (a), ~~the award is presumed to be excessive and the defendant is entitled to remittitur of the amount in excess of the limitation~~ unless the claimant demonstrates to the court by clear and convincing evidence that the *defendant engaged in intentional misconduct and that the* award is not excessive in light of the facts and circumstances which were presented to the trier of fact.

(c) This subsection is not intended to prohibit an appropriate court from exercising its jurisdiction under s. 768.74 in determining the reasonableness of an award of punitive damages that is less than three times the amount of compensatory damages.

(2)(a) Except as provided in paragraph (b), punitive damages shall not be awarded against a defendant in a civil action if that defendant establishes, before trial, that punitive damages have previously been awarded against that defendant in any state or federal court in any action alleging harm from the same act or single course of conduct for which the claimant seeks compensatory damages. For purposes of a civil action, the term "the same act or single course of conduct" includes acts resulting in the same manufacturing defects, acts resulting in the same defects in design, or failure to warn of the same hazards, with respect to similar units of a product.

(b) In subsequent civil actions involving the same act or single course of conduct for which punitive damages have already been awarded, if the court determines by clear and convincing evidence that the amount of prior punitive damages awarded was insufficient to punish that defendant's behavior, the court may award subsequent punitive damages. In awarding subsequent punitive damages, the court shall make specific findings of fact in the record to support its conclusion. In addition, the court may consider whether the defendant's act or course of conduct has ceased. Any subsequent punitive damage awards shall be reduced by the amount of any earlier punitive damage awards rendered in state or federal court.

(3) The claimant attorney's fees, if payable from the judgment, are, to the extent that the fees are based on the punitive damages, calculated based on the entire judgment for punitive damages. This subsection does not limit the payment of attorney's fees based upon an award of damages other than punitive damages.

(4)~~(2)~~ The jury may neither be instructed nor informed as to the provisions of this section.

(5) The provisions of this section are remedial in nature and shall be applied to all civil actions pending on October 1, 1998, in which the trial or retrial of the action has not commenced.

Section 24. Section 768.735, Florida Statutes, is created to read:

768.735 Punitive damages; exceptions; limitation.—

(1) Sections 768.72(2)-(4), 768.725, and 768.73 do not apply to any civil action based upon child abuse, abuse of the elderly, or abuse of the developmentally disabled, or arising under chapter 400. Such actions shall be governed by applicable statutes and controlling judicial precedent.

(2)(a) In any civil action based upon child abuse, abuse of the elderly, or abuse of the developmentally disabled, or arising under chapter 400, and involving the award of punitive damages, the judgment for the total amount of punitive damages awarded to a claimant may not exceed three times the amount of compensatory damages awarded to each person entitled thereto by the trier of fact, except as provided in paragraph (b). However, this subsection does not apply to any class action.

(b) If any award for punitive damages exceeds the limitation specified in paragraph (a), the award is presumed to be excessive and the defendant is entitled to remittitur of the amount in excess of the limitation unless the claimant demonstrates to the court by clear and convincing evidence that the award is not excessive in light of the facts and circumstances that were presented to the trier of fact.

(c) This subsection is not intended to prohibit an appropriate court from exercising its jurisdiction under s. 768.74 in determining the reasonableness of an award of punitive damages that is less than three times the amount of compensatory damages.

(d) The jury may not be instructed or informed as to the provisions of this section.

Section 25. Section 768.736, Florida Statutes, is created to read:

768.736 Punitive damages; exceptions for intoxication.—Sections 768.725 and 768.73 shall not apply to any defendant who, at the time of the act or omission for which punitive damages are sought, was under the influence of any alcoholic beverage or drug to the extent that the defendant's normal faculties were impaired, or who had a blood or breath alcohol level of 0.08 percent or higher.

Section 26. Subsection (3) of section 768.81, Florida Statutes, is amended, and subsection (5) of that section is repealed, to read:

768.81 Comparative fault.—

(3) APPORTIONMENT OF DAMAGES.—In cases to which this section applies, the court shall enter judgment against each party liable on the basis of such party's percentage of fault and not on the basis of the doctrine of joint and several liability; provided that with respect to any party whose percentage of fault equals or exceeds that of a particular claimant *and whose fault exceeds 20 percent*, the court shall enter judgment with respect to economic damages against that party on the basis of the doctrine of joint and several liability. *However, the doctrine of joint and several liability shall not apply to that portion of economic damages in excess of $300,000. A party against whom the court enters judgment with respect to economic damages on the basis of the doctrine of joint and several liability shall also be liable, on the basis of such party's percentage of fault, for the portion of the economic damages in excess of $300,000. Nothing in this subsection shall be construed to entitle a claimant to recover more than the total amount awarded to that claimant for economic damages.*

(a) In order to allocate any or all fault to a nonparty, a defendant must affirmatively plead the fault of a nonparty and, absent a showing of good cause, identify the nonparty, if known, or describe the nonparty as specifically as practicable, either by motion or in the initial responsive pleading when defenses are first presented, subject to amendment any time before trial in accordance with the Florida Rules of Civil Procedure.

(b) In order to allocate any or all fault to a nonparty and include the named or unnamed nonparty on the verdict form for purposes of apportioning damages, a defendant must prove at trial, by a preponderance of the evidence, any or all fault of the nonparty in causing the plaintiff's injuries.

~~(5) APPLICABILITY OF JOINT AND SEVERAL LIABILITY.—Notwithstanding the provisions of this section, the doctrine of joint and several liability applies to all actions in which the total amount of damages does not exceed $25,000.~~

Section 27. Paragraph (b) of subsection (9) of section 324.021, Florida Statutes, is amended, and paragraph (c) is added to that subsection, to read:

324.021 Definitions; minimum insurance required.—The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

(9) OWNER; OWNER/LESSOR.—

(b) Owner/lessor.—Notwithstanding any other provision of the Florida Statutes or existing case law:~~,~~

1. The lessor, under an agreement to lease a motor vehicle for 1 year or longer which requires the lessee to obtain insurance acceptable to the lessor which contains limits not less than $100,000/$300,000 bodily injury liability and $50,000 property damage liability or not less than $500,000 combined property damage liability and bodily injury liability, shall not be deemed the owner of said motor vehicle for the purpose of determining financial responsibility for the operation of said motor vehicle or for the acts of the operator in connection therewith; further, this

subparagraph ~~paragraph~~ shall be applicable so long as the insurance meeting these requirements is in effect. The insurance meeting such requirements may be obtained by the lessor or lessee, provided, if such insurance is obtained by the lessor, the combined coverage for bodily injury liability and property damage liability shall contain limits of not less than $1 million and may be provided by a lessor's blanket policy.

2. The lessor, under an agreement to rent or lease a motor vehicle for a period of less than 1 year, shall be deemed the owner of the motor vehicle for the purpose of determining liability for the operation of the vehicle or the acts of the operator in connection therewith only up to $100,000 per person and up to $300,000 per incident for bodily injury and up to $50,000 for property damage. If the lessee or the operator of the motor vehicle is uninsured or has any insurance with limits less than $500,000 combined property damage and bodily injury liability, the lessor shall be liable for up to an additional $500,000 in economic damages only arising out of the use of the motor vehicle. The additional specified liability of the lessor for economic damages shall be reduced by amounts actually recovered from the lessee, from the operator, and from any insurance or self insurance covering the lessee or operator. Nothing in this subparagraph shall be construed to affect the liability of the lessor for its own negligence.

3. The owner who is a natural person and loans a motor vehicle to any permissive user other than a relative residing in the same household as defined in s. 627.732(4) shall be liable for the operation of the vehicle or the acts of the operator in connection therewith only up to $100,000 per person and up to $300,000 per incident for bodily injury and up to $50,000 for property damage. If the permissive user of the motor vehicle is uninsured or has any insurance with limits less than $500,000 combined property damage and bodily injury liability, the owner shall be liable for up to an additional $500,000 in economic damages only arising out of the use of the motor vehicle. The additional specified liability of the owner for economic damages shall be reduced by amounts actually recovered from the permissive user and from any insurance or self-insurance covering the permissive user. Nothing in this subparagraph shall be construed to affect the liability of the owner for his or her own negligence.

(c) Application.—The limits on liability in subparagraphs (b)2. and (b)3. do not apply to an owner of motor vehicles that are used for commercial activity in the owner's ordinary course of business, other than a rental company that rents or leases motor vehicles. For purposes of this paragraph, the term "rental company" includes only an entity that is engaged in the business of renting or leasing motor vehicles to the general public and that rents or leases a majority of its motor vehicles to persons with no direct or indirect affiliation with the rental company. The term also includes a motor vehicle dealer that provides temporary replacement vehicles to its customers for up to 10 days.

Section 28. Subsections (6), (7), and (8) are added to section 400.023, Florida Statutes, to read:

400.023 Civil enforcement.—

(6) To recover attorney's fees under this section, the following conditions precedent must be met:

(a) Within 120 days after the filing of a responsive pleading or defensive motion to a complaint brought under this section and before trial, the parties or their designated representatives shall meet in mediation to discuss the issues of liability and damages in accordance with this paragraph for the purpose of an early resolution of the matter.

1. Within 60 days after the filing of the responsive pleading or defensive motion, the parties shall:

a. Agree on a mediator. If the parties cannot agree on a mediator, the defendant shall immediately notify the court, which shall appoint a mediator within 10 days after such notice.

b. Set a date for mediation.

c. Prepare an order for the court that identifies the mediator, the scheduled date of the mediation, and other terms of the mediation. Absent any disagreement between the parties, the court may issue the order for the mediation submitted by the parties without a hearing.

2. The mediation must be concluded within 120 days after the filing of a responsive pleading or defensive motion. The date may be extended only by agreement of all parties subject to mediation under this subsection.

3. The mediation shall be conducted in the following manner:

a. Each party shall ensure that all persons necessary for complete settlement authority are present at the mediation.

b. Each party shall mediate in good faith.

4. All aspects of the mediation which are not specifically established by this subsection must be conducted according to the rules of practice and procedure adopted by the Supreme Court of this state.

(b) If the parties do not settle the case pursuant to mediation, the last offer of the defendant made at mediation shall be recorded by the mediator in a written report that states the amount of the offer, the date the offer was made in writing, and the date the offer was rejected. If the matter subsequently proceeds to trial under this section and the plaintiff prevails but is awarded an amount in damages, exclusive of attorney's fees, which is equal to or less than the last offer made by the defendant at mediation, the plaintiff is not entitled to recover any attorney's fees.

(c) This subsection applies only to claims for liability and damages and does not apply to actions for injunctive relief.

(d) This subsection applies to all causes of action that accrue on or after October 1, 1998.

(7) Discovery of financial information for the purpose of determining the value of punitive damages may not be had unless the plaintiff shows the court by proffer or evidence in the record that a reasonable basis exists to support a claim for punitive damages.

(8) In addition to any other standards for punitive damages, any award of punitive damages must be reasonable in light of the actual harm suffered by the resident and the egregiousness of the conduct that caused the actual harm to the resident.

Section 29. *The Legislature declares as a matter of public policy that the state has a substantial interest in protecting the privacy, well-being, and tranquility of the public against intrusive elements of advertising by attorneys. The Legislature further declares as a matter of public policy that the state's substantial interest includes ensuring that advertising by attorneys presents the public with complete and accurate information necessary to make informed decisions about employing the legal services of an attorney and also ensuring that advertising does not negatively reflect upon the legal profession, the legal system, or the administration of justice. The Legislature finds that research conducted by The Florida Bar, and recognized by the United States Supreme Court in the case of The Florida Bar v. Went For It, Inc., 515 U.S. 618 (1995), shows that people of the State of Florida view elements of attorney advertising and solicitation as being intrusive on privacy and contributing to negative images of the legal profession. The Legislature also finds that The Florida Bar's research shows that electronic advertising by attorneys does not provide the public with useful and factual information with which to make informed decisions about hiring an attorney. The Legislature further finds that television advertising diminishes the public's respect for the fairness and integrity of the legal system. In light of these findings, it is the request of the Legislature that the Florida Supreme Court, through The Florida Bar, regulate attorney advertising in a limited but necessary manner that will directly and materially advance the state's public policy interests as declared by the Legislature. The Legislature further requests The Florida Bar to form a task force to address the adoption of rules prohibiting advertising by members of its voluntary sections and to consider creating additional voluntary components the members of which would be prohibited from advertising.*

Section 30. *Because the Legislature finds that comprehensive litigation reform is of the utmost importance, the Legislature also requests that the Florida Supreme Court consider adopting rules to effectuate the legislative expression of public policy as set forth in this act.*

Section 31. *(1) The Department of Insurance shall, after issuing a request for proposals, contract with a national independent actuarial firm to conduct an actuarial analysis, consistent with generally accepted actuarial practices, of the expected reduction in liability judgments, settlements, and related costs resulting from the provisions of this act. The analysis shall be based on credible loss cost data derived from settlement or adjudication of liability claims, other than liability claims insured under private passenger automobile insurance or personal lines residential property insurance, accruing after the effective date of this act. The*

analysis shall include an estimate of the percentage decrease in such judgments, settlements, and costs by type of coverage affected by this act, including the time period when such savings or reductions are expected.

(2) The report shall be completed and submitted to the department by March 1, 2001.

(3) After March 1, 2001, the department shall review the filed rates of insurers and underwriting profits and losses for Florida liability insurance businesses, and shall require any prospective rate modifications that the department deems to be necessary, consistent with the applicable rating law, to cause the rates of any specific insurer to comply with the applicable rating law. The department shall require each liability insurer's first rate filing after March 1, 2001, other than rate filings for private passenger automobile insurance or personal lines residential property insurance, to include specific data on the impact of this act on the insurer's liability judgments, settlements, and costs for the purpose of enabling the department and the Legislature to accurately monitor and evaluate the effects of this act.

(4) The report under subsection (1) shall be admissible in any proceedings relating to a liability insurance rate filing if the actuary who prepared the report is made available by the department to testify regarding the report's preparation and validity. Each party shall otherwise bear its own cost of any such proceeding.

(5) The provisions of this section do not limit the authority of the department to order an insurer to refund excessive profits, as provided in sections 627.066 and 627.215, Florida Statutes.

Section 32. *If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.*

Section 33. This act shall take effect October 1, 1998.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to civil actions; creating s. 40.50, F.S.; providing for instructions to juries after the jury is sworn in; providing for the taking of notes under certain circumstances; providing for notebooks; providing for written questions; providing for final instructions; amending s. 44.102, F.S.; requiring that the court require mediation in certain actions for monetary damages; creating s. 44.1051, F.S.; providing for voluntary trial resolution; providing for the appointment of a trial resolution judge; providing for compensation; providing for fees; providing for the tolling of applicable statutes of limitation; providing for powers of trial resolution judges; providing for hearings and evidence; providing for appeal; providing for application; amending s. 57.105, F.S.; revising conditions for award of attorney's fees for presenting unsupported claims or defenses; authorizing damage awards against a party for unreasonable delay of litigation; authorizing the court to impose additional sanctions; amending s. 768.79, F.S.; providing for the applicability of offers of judgment and demand of judgment in cases involving multiple plaintiffs; providing that subsequent offers shall void previous offers; providing that prior to awarding costs and fees the court shall determine whether the offer was reasonable under the circumstances known at the time the offer was made; amending s. 57.071, F.S.; providing criteria under which expert witness fees may be awarded as taxable costs; providing for expedited trials; amending s. 768.77, F.S.; deleting a requirement to itemize future damages on verdict forms; amending s. 768.78, F.S.; conforming provisions relating to alternative methods of payment of damage awards to changes made by the act; correcting a cross-reference; creating s. 47.025, F.S.; providing that certain venue provisions in a contract for improvement to real property are void; specifying appropriate venue for actions against resident contractors, subcontractors, and sub-subcontractors; requiring the clerk of court to report certain information on negligence cases to the Office of the State Court Administrator; amending s. 90.803, F.S.; revising the hearsay exception for former testimony; amending s. 95.031, F.S.; imposing a 12-year statute of repose on actions for product liability, with certain exceptions; specifying the date by which certain actions must be brought or be otherwise barred by the statute of repose; creating s. 768.1256, F.S.; providing a government rules defense with respect to certain product liability actions; providing for a rebuttable presumption; creating s. 768.096, F.S.; providing an employer with a presumption against negligent hiring under specified conditions in an action for civil damages resulting from an intentional tort committed by an employee; amending s. 768.095, F.S.; revising the conditions under which an employer is immune from civil liability for disclosing information regarding an employee to a prospective employer; creating s. 768.0705, F.S.; providing limitations on premises liability for a person or organization owning or controlling an interest in a business premises; providing for a presumption against liability; providing conditions for the presumption; amending s. 768.075, F.S.; delineating the duty owed to trespassers by a person or organization owning or controlling an interest in real property; providing definitions; providing for the avoidance of liability to discovered and undiscovered trespassers under described circumstances; providing immunity from certain liability arising out of the attempt to commit or the commission of a felony; creating s. 768.36, F.S.; prohibiting a plaintiff from recovering damages if the plaintiff was more than a specified percentage at fault due to the influence of an alcoholic beverage or drugs; creating s. 768.725, F.S.; providing for evidentiary standards for an award of punitive damages; amending s. 768.72, F.S.; revising provisions with respect to claims for punitive damages in civil actions; requiring clear and convincing evidence of gross negligence or intentional misconduct to support the recovery of such damages; providing definitions; providing criteria for the imposition of punitive damages with respect to employers, principals, corporations, or other legal entities for the conduct of an employee or agent; providing for the application of the section; amending s. 768.73, F.S.; revising provisions with respect to limitations on punitive damages; providing monetary limitations; providing an exception with respect to intentional misconduct; providing for the effect of certain previous punitive damages awards; specifying the basis for calculating attorney's fees on judgments for punitive damages; providing for the application of the section; creating s. 768.735, F.S.; providing that ss. 768.72(2)-(4), 768.725, and 768.73, F.S., relating to punitive damages, are inapplicable to specified causes of action; limiting the amount of punitive damages that may be awarded to a claimant in certain civil actions involving abuse or arising under ch. 400, F.S.; creating s. 768.736, F.S.; providing that ss. 768.725 and 768.73, F.S., relating to punitive damages, do not apply to intoxicated defendants; amending s. 768.81, F.S.; providing for the apportionment of damages on the basis of joint and several liability when a party's fault exceeds a certain percentage; limiting the applicability of joint and several liability based on the amount of damages; providing for the allocation of fault to a nonparty; requiring that such fault must be proved by a preponderance of the evidence; repealing s. 768.81(5), F.S., relating to the applicability of joint and several liability to actions in which the total amount of damages does not exceed a specified amount; amending s. 324.021, F.S.; providing that the lessor of a motor vehicle under certain rental agreements shall be deemed the owner of the vehicle for the purpose of determining liability for the operation of the vehicle within certain limits; providing for the liability of the owner of a motor vehicle who loans the vehicle to certain users; providing for application; amending s. 400.023, F.S., relating to actions brought on behalf of nursing home residents; requiring mediation as a condition for recovery of attorney's fees; providing for application; providing a standard for any award of punitive damages; providing that the state has a substantial interest in protecting the public against intrusive advertising by attorneys; providing legislative findings; requesting that the Supreme Court regulate attorney advertising and form a task force; requesting that the Supreme Court adopt rules to effectuate the legislative expression of public policy; requiring the Department of Insurance to contract with an actuarial firm to conduct an actuarial analysis of expected reductions in judgments and related costs resulting from litigation reforms; specifying the basis and due date for the actuarial report; providing for review of rate filings by certain types of insurers after March 1, 2001; providing that provisions do not limit the refund of excessive profits by certain insurers; providing for severability; providing an effective date.

MOTION

On motion by Senator Bankhead, by two-thirds vote debate on the Conference Committee Report on **CS for SB 874** was limited to one half hour per side, including questions and answers, for a total of one hour.

POINT OF ORDER

Senator Dudley raised a point of order that pursuant to Rule 2.19 the Conference Committee Report contained a substance foreign to either the Senate or House bill and was therefore out of order.

The President referred the point to Senator Bankhead, Chairman of the Committee on Rules and Calendar.

RULING ON POINT OF ORDER

Recommendation of Senator Bankhead, Chairman of the Committee on Rules and Calendar, on the point of order: Senator Dudley's point of order is that there is substance in the Conference Report that is "foreign to the bills before the conferees"; specifically in Section 26 on page 33 that contains a threshold percentage and a cap on damages.

These are both sub-issues and components of the larger issue of comparative fault. Had neither house's bill had a reference to comparative fault, Senator Dudley's point would have been well taken.

However, the purpose of this part of Rule 2.19 is basically *Notice*. Members of the public and members of the Legislature must be informed of the substance of the legislation being considered for passage. Conference committees are given great power, and in fact take on many of the powers of the entire Legislature, and this power would be unlimited if a conference committee were allowed to consider and include in their report "substance foreign to the bills before the conferees."

The position established in the conference report on the above two sub-issues is well within the parameters of the two bills. CS for SB 874 (1st Engrossed) had a percentage threshold in Section 20, and the House amendment to CS for SB 874 had a cap in Section 11, all roughly comparable to those adopted by the Conference Report.

Accordingly, I recommend to you that Senator Dudley's point is not well taken.

Ruling by the President

The President ruled the point of order not well taken.

On motion by Senator McKay the Conference Committee Report was adopted and **CS for SB 874** passed as recommended and was certified to the House together with the Conference Committee Report. The vote on passage was:

Yeas—24

Madam President	Cowin	Horne	Myers
Bankhead	Crist	Kirkpatrick	Ostalkiewicz
Bronson	Diaz-Balart	Latvala	Scott
Brown-Waite	Grant	Laurent	Sullivan
Burt	Gutman	Lee	Thomas
Casas	Harris	McKay	Williams

Nays—16

Campbell	Dyer	Holzendorf	Meadows
Childers	Forman	Jones	Rossin
Clary	Geller	Klein	Silver
Dudley	Hargrett	Kurth	Turner

RECESS

The President declared the Senate in recess at 11:55 a.m.

CALL TO ORDER

The Senate was called to order by the President at 11:59 a.m. A quorum present.

RECONSIDERATION OF BILL

On motion by Senator Bronson, the Senate reconsidered the vote by which—

CS for HB 3673—A bill to be entitled An act relating to aquaculture; amending s. 253.72, F.S.; establishing wild harvest setbacks from shellfish leases; amending s. 370.027, F.S.; providing an exception to rulemaking authority of the Marine Fisheries Commission with respect to specified marine life; providing that marine aquaculture producers shall be regulated by the Department of Agriculture and Consumer Services; amending s. 370.06, F.S.; revising provisions relating to issuance and renewal of saltwater products licenses and special activity licenses; authorizing issuance of special activity licenses for the use of special gear or equipment, the importation and possession of sturgeon, and the harvest of certain shellfish; authorizing permit consolidation procedures; amending s. 370.081, F.S.; revising provisions relating to the importation of nonindigenous marine plants and animals; amending s. 370.10, F.S.; authorizing the harvesting or possession of saltwater species for experimental, scientific, education, and exhibition purposes; amending s. 370.16, F.S.; establishing wild harvest setbacks from shellfish leases; amending s. 370.26, F.S.; relating to aquaculture definitions; defining the term "marine product facility" and revising definition of the term "marine aquaculture product"; deleting requirements of an Aquaculture Section in the Department of Environmental Protection; providing duties of the Department of Agriculture and Consumer Services; authorizing delegation of regulatory authority for certain aquaculture facilities; amending s. 372.0225, F.S.; revising responsibilities of the Division of Fisheries of the Game and Fresh Water Fish Commission relating to freshwater organisms; amending s. 372.65, F.S.; authorizing exemption for freshwater fish dealer's license; amending s. 372.6672, F.S.; removing obsolete language relating to state-sanctioned sales of alligator hides; amending s. 372.6673, F.S.; providing for a portion of the fees assessed for alligator egg collection permits to be transferred to the General Inspection Trust Fund to be used for certain purposes; amending s. 372.6674, F.S.; providing for a portion of the fees assessed for alligator hide validation tags to be transferred to the General Inspection Trust Fund to be used for certain purposes; amending s. 373.046, F.S.; clarifying jurisdiction over aquaculture activities; amending s. 373.406, F.S.; providing exemption for management and storage of surface water; amending s. 403.0885, F.S.; providing exemptions from the state National Pollutant Discharge Elimination System program; amending s. 403.814, F.S.; revising and clarifying provisions relating to aquaculture general permits; amending s. 597.002, F.S.; clarifying jurisdiction over aquaculture activities; amending s. 597.003, F.S.; expanding the powers and duties of the Department of Agriculture and Consumer Services relating to regulation of aquaculture; amending s. 597.004, F.S.; revising provisions relating to aquaculture certificate of registration; providing for shellfish and nonshellfish certification; providing for rules, waiver of liability, compliance, and reports; amending s. 597.005, F.S.; providing for a list of prioritized research needs; providing an effective date.

—as amended passed April 29.

Senator Bronson moved the following amendment which was adopted by two-thirds vote:

Amendment 2 (with title amendment)—On page 3, line 16, insert:

Section 1. Paragraph (a) of subsection (2) of section 370.0605, Florida Statutes, is amended to read:

370.0605 Saltwater fishing license required; fees.—

(2) Saltwater fishing license fees are as follows:

(a)1. For a resident of the state, ~~$10 for a 10-day license and~~ $12 for a 1-year license.

2. For a resident of the state, $60 for 5 consecutive years from the date of purchase.

3. For a nonresident of the state, $5 for a 3-day license, $15 for a 7-day license, and $30 for a 1-year license.

4. For purposes of this section, "resident" has the same meaning as that found in s. 372.001.

Section 2. Paragraphs (b) and (f) of subsection (4) of section 372.57, Florida Statutes, are amended, paragraph (g) is added to said subsection, and subsection (7), paragraphs (c) and (d) of subsection (8), and subsections (9), (11), and (14) of that section are amended, to read:

372.57 Licenses and permits; exemptions; fees.—No person, except as provided herein, shall take game, freshwater fish, or fur-bearing animals within this state without having first obtained a license, permit, or authorization and paid the fees hereinafter set forth, unless such license is issued without fee as provided in s. 372.561. Such license, permit, or authorization shall authorize the person to whom it is issued

to take game, freshwater fish, or fur-bearing animals in accordance with law and commission rules. Such license, permit, or authorization is not transferable. Each license or permit must bear on its face in indelible ink the name of the person to whom it is issued and other information requested by the commission. Such license, permit, or authorization issued by the commission or any agent must be in the personal possession of the person to whom issued while taking game, freshwater fish, or fur-bearing animals. The failure of such person to exhibit such license, permit, or authorization to the commission or its wildlife officers, when such person is found taking game, freshwater fish, or fur-bearing animals, is a violation of law. A positive form of identification is required when using an authorization, a lifetime license, a 5-year license, or when otherwise required by the license or permit. The lifetime licenses and 5-year licenses provided herein shall be embossed with the name, date of birth, the date of issuance, and other pertinent information as deemed necessary by the commission. A certified copy of the applicant's birth certificate shall accompany all applications for a lifetime license for residents 12 years of age and younger.

(4) In addition to any license required by this chapter, the following permits and fees for certain hunting, fishing, and recreational uses, and the activities authorized thereby, are:

(b)*1.* Management area permits to hunt, fish, or otherwise use for outdoor recreational purposes, land owned, leased, or managed by the commission or the State of Florida for the use and benefit of the commission, up to $25 annually. Permits, and fees thereof, for short-term use of land which is owned, leased, or managed by the commission may be established by rule of the commission for any activity on such lands. Such permits and fees may be in lieu of or in addition to the annual management area permit. Other than for hunting or fishing, the provisions of this paragraph shall not apply on any lands not owned by the commission, unless the commission shall have obtained the written consent of the owner or primary custodian of such lands.

2. A recreational user permit fee to hunt, fish, or otherwise use for outdoor recreational purposes, land leased by the commission from private nongovernmental owners, except for those lands located directly north of the Apalachicola National Forest, east of the Ochlockonee River until the point the river meets the dam forming Lake Talquin, and south of the closest federal highway. The fee for this permit shall be based upon economic compensation desired by the landowner, game population levels, desired hunter density, and administrative costs. The permit fee shall be set by commission rule on a per-acre basis. On property currently in the private landowner payment program, the prior year's landowner payment shall be used to augment the landowner lease fee so as to decrease the permit fee for the users of that property. The spouse and dependent children of a permittee are exempt from the permit fee when engaged in outdoor recreational activities other than hunting in the company of the permittee. Notwithstanding any other provision of this chapter, there are no other exclusions, exceptions, or exemptions from this permit fee. The landowner lease fee, less an administrative permit fee of up to $25 per permit, shall be remitted to the landowner as provided in the lease agreement for each area.

(f) A special use permit for limited entry hunting or fishing, where such hunting or fishing is authorized by commission rule, shall be up to $100 per day but shall not exceed $250 per week. *Notwithstanding any other provision of this chapter, there are no exclusions, exceptions, or exemptions from this fee.* In addition to the fee, the commission may charge each applicant for a special use permit a nonrefundable application fee of up to $10.

(g) The fee for a permanent hunting and fishing license for a resident 64 years of age or older is $12.

(7) A resident lifetime sportsman's license authorizes the holder to engage in the following noncommercial activities:

(a) To take or attempt to take or possess freshwater fish, marine fish, and game, consistent with state and federal regulations and rules of the commission and the Department of Environmental Protection in effect at the time of taking.

(b) All activities authorized by a management area permit, a muzzle-loading gun permit, a turkey permit, an archery permit, a Florida waterfowl permit, a snook permit, and a crawfish permit.

~~(c) All activities for which an additional license, permit, or fee may be required to take or attempt to take or possess freshwater fish, marine fish, and game, imposed subsequent to the date of purchase of the resident lifetime sportsman's license.~~

(8) The fee for a resident lifetime sportsman's license is:

(c) *13* ~~13-63~~ years of age or older $1,000

~~(d) 64 years of age or older . . . . . $12~~

(9) A resident lifetime hunting license authorizes the holder to engage in the following noncommercial activities:

(a) To take or attempt to take or possess game consistent with state and federal regulations and rules of the commission in effect at the time of taking.

(b) All activities authorized by a management area permit, excluding fishing, a muzzle-loading gun permit, a turkey permit, an archery permit, and a Florida waterfowl permit.

~~(c) All activities for which an additional license, permit, or fee may be required to take or attempt to take or possess game, imposed subsequent to the date of purchase of the resident lifetime hunting license.~~

(11) A resident lifetime freshwater fishing license authorizes the holder to engage in the following noncommercial activities:

(a) To take or attempt to take or possess freshwater fish consistent with state and federal regulations and rules of the commission in effect at the time of taking.

(b) All activities authorized by a management area permit, excluding hunting.

~~(c) All activities for which an additional license, permit, or fee may be required to take or attempt to take or possess freshwater fish, imposed subsequent to the date of purchase of the resident lifetime freshwater fishing license.~~

(14) The following 5-year licenses are authorized:

(a) A 5-year freshwater fishing license for a resident to take or attempt to take or possess freshwater fish in this state for 5 consecutive years is $60 and authorizes the holder to engage in ~~the following~~ noncommercial activities~~:~~

~~1.~~ to take or attempt to take or possess freshwater fish consistent with state and federal regulations and rules of the commission in effect at the time of taking.

~~2. All activities authorized by a management area permit, excluding hunting.~~

~~3. All activities for which an additional license, permit, or fee is required to take or attempt to take or possess freshwater fish, imposed subsequent to the date of purchase of the 5-year resident freshwater fishing license until the date of expiration.~~

(b) A 5-year hunting license for a resident to take or attempt to take or possess game in this state for 5 consecutive years is *$55* ~~$270~~ and authorizes the holder to engage in ~~the following~~ noncommercial activities~~:~~

~~1.~~ to take or attempt to take or possess game consistent with state and federal regulations and rules of the commission in effect at the time of taking.

~~2. All activities authorized by a management area permit, excluding fishing, a muzzle-loading gun permit, a turkey permit, an archery permit, and a Florida waterfowl permit.~~

~~3. All activities for which an additional license, permit, or fee may be required to take or attempt to take or possess game, imposed subsequent to the date of purchase of the 5-year resident hunting license until the date of expiration.~~

Section 3. Paragraph (d) is added to subsection (2) of section 372.672, Florida Statutes, to read:

372.672 Florida Panther Research and Management Trust Fund.—

(2) Money from the fund shall be spent only for the following purposes:

(d) To fund and administer education programs authorized in s. 372.674.

Section 4. Paragraphs (b), (d), and (e) of subsection (6) and subsection (7) of section 372.674, Florida Statutes, are amended to read:

372.674 Environmental education.—

(6) The advisory council shall:

(b) Develop a recommended priority list for projects to be funded through the *Florida Panther Research and Management Trust Fund and the* Save the Manatee Trust Fund and review and evaluate projects implemented through the fund.

(d) Cooperate with the Department of Education in evaluating annual project proposals for projects to be funded through the *Florida Panther Research and Management Trust Fund and the* Save the Manatee Trust Fund to develop and distribute model instructional materials for use in environmental education to integrate environmental education into the general curriculum of public school districts, community colleges, and universities.

(e) Cooperate with the Department of Environmental Protection in evaluating annual proposals for projects to be funded through the *Florida Panther Research and Management Trust Fund and the* Save the Manatee Trust Fund that can promote an understanding about environmental protection programs and activities administered by the department.

(7) The Game and Fresh Water Fish Commission shall review the recommended list of projects to be funded from the *Florida Panther Research and Management Trust Fund and the* Save the Manatee Trust Fund by August of each year and make a final determination of projects to receive grants from available appropriations by the Legislature. The commission shall act upon the recommended list within 45 days after receipt of the list.

Section 5. Subsections (5), (6), (7), and (8) of section 372.921, Florida Statutes, are renumbered as subsections (6), (7), (8), and (9), respectively, and a new subsection (5) is added to said section to read:

372.921 Exhibition of wildlife.—

(5) In instances where wildlife is seized or taken into custody by the commission, said owner or possessor of such wildlife shall be responsible for payment of all expenses relative to the capture, transport, boarding, veterinary care, or other costs associated with or incurred due to seizure or custody of wildlife. Such expenses shall be paid by said owner or possessor upon any conviction or finding of guilt of a criminal or noncriminal violation, regardless of adjudication or plea entered, of any provision of chapter 372 or chapter 828, or rule of the commission or if such violation is disposed of under s. 921.187. Failure to pay such expense may be grounds for revocation or denial of permits to such individual to possess wildlife.

Section 6. Subsections (4), (5), and (6) of section 372.922, Florida Statutes, are renumbered as subsections (5), (6), and (7), respectively, and a new subsection (4) is added to said section to read:

372.922 Personal possession of wildlife.—

(4) In instances where wildlife is seized or taken into custody by the commission, said owner or possessor of such wildlife shall be responsible for payment of all expenses relative to the capture, transport, boarding, veterinary care, or other costs associated with or incurred due to seizure or custody of wildlife. Such expenses shall be paid by said owner or possessor upon any conviction or finding of guilt of a criminal or noncriminal violation, regardless of adjudication or plea entered, of any provision of chapter 372 or chapter 828, or rule of the commission or if such violation is disposed of under s. 921.187. Failure to pay such expense may be grounds for revocation or denial of permits to such individual to possess wildlife.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, delete line 2 and insert: An act relating to conservation of plants and animals; amending s. 370.0605, F.S.; deleting the $10 for 10 days saltwater fishing license; amending s. 372.57, F.S.; providing for a recreational user permit fee to hunt, fish, or otherwise use for outdoor recreational purposes, land leased by Game and Fresh Water Fish Commission from private nongovernmental owners; providing for the sale of specified lands by the Board of Trustees of the Internal Improvement Trust Fund; clarifying provisions with respect to special use permits; increasing to age 64 or older the age to obtain a permanent hunting or fishing license for a certain fee; revising provisions with respect to a lifetime sportsman's license and a lifetime freshwater fishing license; revising provisions with respect to 5-year licenses; reducing a 5-year hunting license fee; amending s. 372.672, F.S.; providing an additional use for funds in the Florida Panther Research and Management Trust Fund; amending s. 372.674, F.S.; providing reference to the Florida Panther Research and Management Trust Fund with respect to environmental education; amending ss. 372.921, 372.922, F.S.; providing for payment of expenses relative to wildlife seized or taken by the Game and Freshwater Fish Commission; amending s.

On motion by Senator Bronson, **CS for HB 3673** as amended was read by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Diaz-Balart	Horne	Myers
Bronson	Dudley	Jones	Ostalkiewicz
Brown-Waite	Dyer	Kirkpatrick	Rossin
Burt	Forman	Klein	Scott
Campbell	Geller	Kurth	Silver
Casas	Grant	Latvala	Sullivan
Childers	Gutman	Laurent	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

SPECIAL ORDER CALENDAR, continued

CS for SB 1748—A bill to be entitled An act relating to funds distributed to local governments; amending s. 236.081, F.S.; amending the prerequisites to excluding from the computation of district required local effort the assessed value of property that is the subject of litigation; creating s. 218.66, F.S.; providing for a special distribution of funds from the Local Government Half-cent Sales Tax Clearing Trust Fund to a county or municipality under certain conditions; providing an effective date.

—was read the second time by title. On motion by Senator Thomas, by two-thirds vote **CS for SB 1748** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Diaz-Balart	Horne	Myers
Bronson	Dudley	Jones	Ostalkiewicz
Brown-Waite	Dyer	Kirkpatrick	Rossin
Burt	Forman	Klein	Scott
Campbell	Geller	Kurth	Silver
Casas	Grant	Latvala	Sullivan
Childers	Gutman	Laurent	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

On motion by Senator Gutman, the rules were waived and the Senate reverted to—

CONSIDERATION OF BILLS ON THIRD READING

CS for SB 772—A bill to be entitled An act relating to criminal justice; amending s. 806.13, F.S.; authorizing the aggregation of the value of damage to separate properties in determining the grade of the offense for criminal mischief in which the damage occurred during one scheme or course of conduct; creating s. 810.14, F.S.; prohibiting a person from secretly observing or committing other acts against another person with lewd, lascivious, or indecent intent when the other person is in a location that provides a reasonable expectation of privacy; providing that a person may be convicted and sentenced separately for the voyeurism offense and for any other criminal offense; providing for criminal penalties; providing an effective date.

—as amended April 29 was read the third time by title.

An amendment was considered and adopted to conform **CS for SB 772** to **CS for HB 3709**.

Pending further consideration of **CS for SB 772** as amended, on motion by Senator Gutman, by two-thirds vote **CS for HB 3709** was withdrawn from the Committees on Criminal Justice; and Ways and Means.

On motion by Senator Gutman, by two-thirds vote—

CS for HB 3709—A bill to be entitled An act relating to voyeurism; creating s. 810.14, F.S., relating to the offense of voyeurism; prohibiting a person, with lewd, lascivious, or indecent intent, from secretly observing, photographing, filming, videotaping, or recording another person located in a dwelling, structure, or conveyance providing a reasonable expectation of privacy; providing for conviction and sentencing of the offense separately from other offenses; providing penalties; providing third degree felony penalties upon conviction of a second or subsequent offense of voyeurism; providing an effective date.

—a companion measure, was substituted for **CS for SB 772** as amended and read the second time by title.

Senators Gutman and Kirkpatrick offered the following amendment which was moved by Senator Gutman and adopted:

Amendment 1 (with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Subsections (1), (2), and (3) of section 806.13, Florida Statutes, are reenacted and subsection (4) of that section is amended, to read:

806.13 Criminal mischief; penalties; penalty for minor.—

(1)(a) A person commits the offense of criminal mischief if he or she willfully and maliciously injures or damages by any means any real or personal property belonging to another, including, but not limited to, the placement of graffiti thereon or other acts of vandalism thereto.

(b)1. If the damage to such property is $200 or less, it is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

2. If the damage to such property is greater than $200 but less than $1,000, it is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

3. If the damage is $1,000 or greater, or if there is interruption or impairment of a business operation or public communication, transportation, supply of water, gas or power, or other public service which costs $1,000 or more in labor and supplies to restore, it is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) Any person who willfully and maliciously defaces, injures, or damages by any means any church, synagogue, mosque, or other place of worship, or any religious article contained therein, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the damage to the property is greater than $200.

(3) Whoever, without the consent of the owner thereof, willfully destroys or substantially damages any public telephone, or telephone cables, wires, fixtures, antennas, amplifiers, or any other apparatus, equipment, or appliances, which destruction or damage renders a public telephone inoperative or which opens the body of a public telephone, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084; provided, however, that a conspicuous notice of the provisions of this subsection and the penalties provided is posted on or near the destroyed or damaged instrument and visible to the public at the time of the commission of the offense.

(4)*(a) The amounts of value of damage to property owned by separate persons, if the property was damaged during one scheme or course or conduct, may be aggregated in determining the grade of the offense under this section.*

(b) Any person who violates this section may, in addition to any other criminal penalty, be required to pay for the damages caused by such offense.

Section 2. Section 810.14, Florida Statutes, is created to read:

810.14 Voyeurism prohibited; penalties.—

(1) A person commits the offense of voyeurism when he or she, with lewd, lascivious, or indecent intent, secretly observes, photographs, films, videotapes, or records another person when such other person is located in a dwelling, structure, or conveyance and such location provides a reasonable expectation of privacy.

(2) A person who violates this section commits a misdemeanor of the first degree for the first violation, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) A person who violates this section and who has been previously convicted or adjudicated delinquent two or more times of any violation of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) For purposes of this section, a person has been previously convicted or adjudicated delinquent of a violation of this section if the violation resulted in a conviction sentenced separately, or an adjudication of delinquency entered separately, prior to the current offense.

Section 3. This act shall take effect July 1, 1998.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to criminal justice; amending s. 806.13, F.S.; authorizing the aggregation of the value of damage to separate properties in determining the grade of the offense for criminal mischief in which the damage occurred during one scheme or course of conduct; creating s. 810.14, F.S.; prohibiting a person from secretly observing or committing other acts against another person with lewd, lascivious, or indecent intent when the other person is in a location that provides a reasonable expectation of privacy; providing for criminal penalties; defining a previous conviction or adjudication of delinquency; providing an effective date.

On motion by Senator Gutman, by two-thirds vote **CS for HB 3709** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Diaz-Balart	Horne	Myers
Bronson	Dudley	Jones	Ostalkiewicz
Brown-Waite	Dyer	Kirkpatrick	Rossin
Burt	Forman	Klein	Scott
Campbell	Geller	Kurth	Silver
Casas	Grant	Latvala	Sullivan
Childers	Gutman	Laurent	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

On motion by Senator Latvala, the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 244, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 244—A bill to be entitled An act relating to drycleaning solvent cleanup; creating s. 199.1055, F.S.; providing for a contaminated site rehabilitation tax credit against the intangible personal property tax; authorizing the Department of Revenue to adopt rules; amending s. 220.02, F.S.; providing for an additional cross-reference; creating s. 220.1845, F.S.; providing for a contaminated site rehabilitation tax credit against the corporate income tax; authorizing the Department of Revenue to adopt rules; creating s. 376.30781, F.S.; providing for a partial tax credit for the rehabilitation of drycleaning-solvent-contaminated sites and brownfield sites; providing for the Department of Environmental Protection to allocate such partial credits; providing procedures for application for tax credits; providing for a nonrefundable review fee; providing verification requirements; authorizing the Department of Environmental Protection to adopt rules; providing for revocation or modification of eligibility for tax credit under certain conditions; amending s. 213.053, F.S.; providing for information-sharing; reducing appropriation provisions for fiscal year 1998-1999 for brownfield redevelopment activities; amending s. 376.30, F.S.; providing legislative intent regarding drycleaning solvents; amending s. 376.301, F.S.; providing definitions; amending s. 376.303, F.S.; providing for late fees for registration renewals; amending s. 376.3078, F.S.; providing legislative intent regarding voluntary cleanup; providing that certain deductibles must be deposited into the Water Quality Assurance Trust Fund; clarifying circumstances under which drycleaning restoration fund may not be used; providing additional criteria for determining eligibility for rehabilitation; specifying when certain deductibles must be paid; amending the date after which no restoration funds may be used for drycleaning site rehabilitation; clarifying who may apply jointly for participation in the program; providing certain liability immunity for certain adjacent landowners; providing for contamination cleanup criteria that incorporate risk-based corrective action principles to be adopted by rule; requiring certain third-party liability insurance coverage for each operating facility; eliminating a tax credit for small spills at drycleaning facilities; allowing certain group coverage policies; specifying the circumstances under which work may proceed on the next site rehabilitation task without prior approval; requiring the Department of Environmental Protection to give priority consideration to the processing and approval of permits for voluntary cleanup projects; providing the conditions under which further rehabilitation may be required; providing for continuing application of certain immunity for real property owners; requiring the Department of Environmental Protection to attempt to negotiate certain agreements with the U.S. Environmental Protection Agency; amending s. 376.308, F.S.; protecting certain immunity for real property owners; amending s. 376.313, F.S.; correcting a statutory cross-reference; amending s. 376.70, F.S.; clarifying certain registration provisions; requiring certain facilities to pay the gross receipts tax; providing for the payment of taxes and the determination of eligibility in the program; amending s. 376.75, F.S.; providing that the tax on perchloroethylene is not subject to sales tax; amending ss. 287.0595, 316.302, F.S.; correcting statutory cross-references; amending s. 213.053, F.S.; authorizing the Department of Revenue to release certain information to certain persons; providing an effective date.

House Amendment 1—On page 5, line 9; page 14, line 28; page 15, line 1; and on page 18, line 5 remove from the bill: *"$5"* and insert in lieu thereof: *$2*

On motion by Senator Latvala, the Senate concurred in the House amendment.

CS for SB 244 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Diaz-Balart	Horne	Myers
Bronson	Dudley	Jones	Ostalkiewicz
Brown-Waite	Dyer	Kirkpatrick	Rossin
Burt	Forman	Klein	Scott
Campbell	Geller	Kurth	Silver
Casas	Grant	Latvala	Sullivan
Childers	Gutman	Laurent	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for CS for SB 484, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for CS for SB 484—A bill to be entitled An act relating to public assistance; amending s. 409.908, F.S.; requiring the agency to establish a reimbursement methodology for long-term-care services for Medicaid-eligible nursing home residents; specifying requirements for the methodology; providing legislative intent; prescribing guidelines for Medicaid payment of Medicare deductibles and coinsurance; eliminating a prohibition on specified contracts; repealing redundant provisions; amending s. 409.912, F.S.; authorizing the agency to include disease-management initiatives in providing and monitoring Medicaid services; authorizing the agency to competitively negotiate home health services; authorizing the agency to seek necessary federal waivers that relate to the competitive negotiation of such services; directing the Agency for Health Care Administration to establish an outpatient specialty services pilot project; providing definitions; providing criteria for participation; requiring an evaluation and a report to the Governor and Legislature; modifying the licensure requirements for a provider of services under a pilot project; amending s. 409.9122, F.S.; requiring the Agency for Health Care Administration to reimburse county health departments for school–based services; requiring Medicaid managed–care contractors to attempt to enter agreements with school districts and county health departments for specified services; specifying the departments that are required to make certain information available to Medicaid recipients; extending the period during which a Medicaid recipient may disenroll from a managed care plan or MediPass provider; deleting authorization for the agency to request a federal waiver from the requirement that a Medicaid managed care plan include a specified ratio of enrollees; amending requirements for the mandatory assignment of Medicaid recipients; amending s. 409.910, F.S.; providing for the distribution of amounts recovered in certain tort suits involving intervention by the Agency for Health Care Administration; requiring that certain third-party benefits received by a Medicaid recipient be remitted within a specified period; amending s. 414.28, F.S.; revising the order under which a claim may be made against the estate of a recipient of public assistance; amending s. 198.30, F.S.; requiring that each circuit judge provide a report of decedents to the Agency for Health Care Administration; amending s. 154.504, F.S.; providing certain restrictions on the use of copayments by public health facilities; creating ss. 381.0022, 402.115, F.S.; authorizing the Department of Health and the Department of Children and Family Services to share certain confidential information; amending s. 414.028, F.S.; providing for a representative of a county health department or Healthy Start Coalition to serve on the local WAGES coalition; amending s. 766.101, F.S.; redefining the term "medical review committee" to include a committee of the Department of Health; amending s. 383.011, F.S.; providing that the Department of Health is the designated state agency for receiving federal funds for the Child Care Food Program; requiring the department to adopt rules for administering the program; amending s. 383.04, F.S.; revising the requirements for the prophylactic to be used for the eyes of infants; repealing s. 383.05, F.S., relating to the free distribution of such prophylactic; amending s. 409.903, F.S.; providing Medicaid eligibility standards for certain persons; conforming references; providing an appropriation to be matched by federal Medicaid funds; providing an effective date.

House Amendment 1 (with title amendment)—Remove from the bill: Everything after the enacting clause and insert in lieu thereof:

Section 1. *The Legislature finds that the provisions of this act which amend sections 154.301 through 154.316, Florida Statutes, fulfill the important state interest of promoting the legislative intent of the Florida Health Care Responsibility Act, as that intent is expressed in section 154.302, Florida Statutes.*

Section 2. Section 154.301, Florida Statutes, is amended to read:

154.301 Short title.—Sections 154.301-154.316 may be cited as "The Florida Health Care Responsibility Act ~~of 1988~~."

Section 3. Section 154.302, Florida Statutes, is amended to read:

154.302 Legislative intent.—The Legislature finds that certain hospitals provide a disproportionate share of charity care for persons who are indigent, ~~and~~ not able to pay their medical bills, and ~~who are~~ not eligible for government-funded programs. The burden of absorbing the cost of this uncompensated charity care is borne by the hospital, the private pay patients, and, many times, by the taxpayers in the county when the hospital is subsidized by tax revenues. The Legislature further finds that it is inequitable for hospitals and taxpayers of one county to be expected to subsidize the care of out-of-county indigent persons. Finally, the Legislature declares that the state and the counties must share the responsibility of assuring that adequate and affordable health care is available to all Floridians. Therefore, it is the intent of the Legislature to place the ultimate financial obligation for the out-of-county hospital care of qualified indigent patients on the county in which the indigent patient resides.

Section 4. Section 154.304, Florida Statutes, is amended to read:

154.304 Definitions.—*As used in this part, the term* ~~For the purpose of this act~~:

(1) "Agency" means the Agency for Health Care Administration.

~~(1) "Board" means the Health Care Board as established in chapter 408.~~

(2) "Certification determination procedures" means the process used by the county of residence or the *agency* ~~department~~ to determine a person's county of residence.

(3) "Certified resident" means a United States citizen or lawfully admitted alien who has been certified as a resident of the county by a person designated by the county governing body to provide certification determination procedures for the county in which the patient resides; by the *agency* ~~department~~ if such county does not make a determination of residency within 60 days *after* ~~of~~ receiving a certified letter from the treating hospital; or by the *agency* ~~department~~ if the hospital appeals the decision of the county making such determination.

(4) "Charity care obligation" means the minimum amount of uncompensated charity care as reported to the agency ~~for Health Care Administration~~, based on the hospital's most recent audited actual experience, which must be provided by a participating hospital or a regional referral hospital before the hospital is eligible to be reimbursed by a county under ~~the provisions of~~ this *part* ~~act~~. That amount shall be the ratio of uncompensated charity care days compared to total acute care inpatient days, which shall be equal to or greater than 2 percent.

(5) "Department" means the Department of Health.

(6) "Eligibility determination procedures" means the process used by a county or the *agency* ~~department~~ to evaluate a person's financial eligibility, eligibility for state-funded or federally funded programs, and the availability of insurance, in order to document a person as a qualified indigent for the purpose of this *part* ~~act~~.

(7) "Hospital~~,~~" ~~for the purposes of this act,~~ means an establishment as defined in s. 395.002 and licensed by the *agency* ~~department~~ which qualifies as either a participating hospital or as a regional referral hospital pursuant to this section; except that, hospitals operated by the department shall not be considered participating hospitals for purposes of this *part* ~~act~~.

(8) "Participating hospital" means a hospital which is eligible to receive reimbursement under the provisions of this *part* ~~act~~ because it has been certified by the *agency* ~~board~~ as having met its charity care obligation and has either:

(a) A formal signed agreement with a county or counties to treat such county's indigent patients; or

(b) Demonstrated to the *agency* ~~board~~ that at least 2.5 percent of its uncompensated charity care, as reported to the *agency* ~~board~~, is generated by out-of-county residents.

(9) "Qualified indigent person" or "qualified indigent patient" means a person who has been determined pursuant to s. 154.308 to have an average family income, for the 12 months preceding the determination, which is below 100 percent of the federal nonfarm poverty level; who is not eligible to participate in any other government program *that* ~~which~~ provides hospital care; who has no private insurance or has inadequate private insurance; and who does not reside in a public institution as defined under the medical assistance program for the needy under Title XIX of the Social Security Act, as amended.

(10) "Regional referral hospital" means any hospital *that* ~~which~~ is eligible to receive reimbursement under the provision of this *part* ~~act~~ because it has met its charity care obligation and it meets the definition of teaching hospital as defined in s. 408.07.

Section 5. Section 154.306, Florida Statutes, is amended to read:

154.306 Financial responsibility for certified residents who are qualified indigent patients treated at an out-of-county participating hospital or regional referral hospital.—Ultimate financial responsibility for treatment received at a participating hospital or a regional referral hospital by a qualified indigent patient who is a certified resident of a county in the State of Florida, but is not a resident of the county in which the participating hospital or regional referral hospital is located, *is* ~~shall be~~ the obligation of the county of which the qualified indigent patient is a resident. Each county *shall* ~~is directed to~~ reimburse participating hospitals or regional referral hospitals as provided for in this *part* ~~act~~, and shall provide or arrange for indigent eligibility determination procedures and resident certification determination procedures as provided for in rules developed to implement this *part* ~~act~~. The *agency* ~~department~~, or any county determining eligibility of a qualified indigent, shall provide to the county of residence, upon request, a copy of any documents, forms, or other information, as determined by rule, which may be used in making an eligibility determination.

(1) A county's financial obligation for each certified resident who qualifies as an indigent patient under this *part* ~~act~~, and who has received treatment at an out-of-county hospital, shall not exceed 45 days per county fiscal year at a rate of payment equivalent to 100 percent of the per diem reimbursement rate currently in effect for the out-of-county hospital under the medical assistance program for the needy under Title XIX of the Social Security Act, as amended, except that those counties that are at their 10-mill cap on October 1, 1991, shall reimburse hospitals for such services at not less than 80 percent of the hospital Medicaid per diem. However, nothing in this section shall preclude a hospital *that* ~~which~~ has a formal signed agreement with a county to treat such county's indigents from negotiating a higher or lower per diem rate with the county. ~~In addition,~~ No county shall be required ~~by this act~~ to pay more than the equivalent of $4 per capita in the county's fiscal year. The *agency* ~~department~~ shall calculate and certify to each county by March 1 of each year, the maximum amount the county may be required to pay ~~under this act~~ by multiplying the most recent official state population estimate for the total population of the county by $4 per capita. Each county shall certify to the *agency* ~~department~~ within 60 days *after* ~~of~~ the end of the county's fiscal year, or upon reaching the $4 per capita threshold, should that occur before the end of the fiscal year, the amount of reimbursement it paid to all out- of-county hospitals under this *part* ~~act~~. *The maximum amount a county may be required to pay to out-of-county hospitals for care provided to qualified indigent residents may be reduced by up to one-half, provided that the amount not paid has or is being spent for in-county hospital care provided to qualified indigent residents.*

(2) No county shall be required to pay for any elective or nonemergency admissions or services at an out-of-county hospital for a qualified indigent who is a certified resident of the county *if* ~~when~~ the county provides funding for such services and the services are available at a local hospital in the county where the indigent resides; or the out-of-county hospital has not obtained prior written authorization and approval for such hospital admission or service, provided that the resident county has established a procedure to authorize and approve such admissions.

(3) The county where the indigent resides shall, in all instances, be liable for the cost of treatment provided to a qualified indigent patient at an out-of-county hospital for any emergency medical condition which will deteriorate from failure to provide such treatment *if* ~~and when~~ such condition is determined and documented by the attending physician to be of an emergency nature; provided that the patient has been certified to be a resident of such county pursuant to s. 154.309.

(4) No county shall be liable for payment for treatment of a qualified indigent who is a certified resident and has received services at an out-of-county participating hospital or regional referral hospital, until such time as that hospital has documented to the *agency* ~~board~~ and the *agency* ~~board~~ has determined that it has met its charity care obligation based on the most recent audited actual experience.

Section 6. Section 154.308, Florida Statutes, is amended to read:

154.308 Determination of patient's eligibility; spend-down program.—

(1) The *agency* ~~department~~, pursuant to s. 154.3105, shall adopt rules which provide statewide eligibility determination procedures, forms, and criteria which shall be used by all counties for determining whether a person financially qualifies as indigent for the purposes of this *part* ~~act~~.

(a) The criteria used to determine eligibility *must* ~~shall~~ be uniform statewide and ~~shall~~ include, at a minimum, which assets, if any, may be included in the determination, which verification of income shall be required, which categories of persons shall be eligible, and any other criteria which may be determined as necessary.

(b) The methodology *for determining* ~~by which to determine~~ financial eligibility *must* ~~shall also~~ be uniform statewide such that any county or the state could determine whether a person *is* ~~would be~~ a qualified indigent ~~under this act~~.

(2) Determination of financial eligibility as a qualified indigent may occur either prior to a person's admission to a participating ~~hospital~~ or a regional referral hospital or subsequent to such admission.

(3) Determination of whether a hospital patient not already determined eligible meets or does not meet eligibility standards to financially qualify as indigent ~~for the purpose of this act~~ shall be made within 60 days following notification by the hospital requesting a determination of indigency, by certified letter, to the county known or believed to be the county of residence or to the *agency* ~~department~~. If, for any reason, the county or *agency* ~~department~~ is unable to determine a patient's eligibility within the allotted timeframe, the hospital shall be notified in writing of the reason or reasons.

(4) A patient determined eligible as a qualified indigent ~~for the purpose of this act~~ subsequent to his or her admission to a participating hospital or a regional referral hospital shall be considered to have been qualified upon admission. Such determination shall be made by a person designated by the governing board of the county to make such a determination or by the *agency* ~~department~~.

(5) Notwithstanding any other provision *of this part* ~~within this act~~, any county may establish thresholds of financial eligibility ~~to qualify indigents under this act~~ which are less restrictive than 100 percent of the federal poverty line. However, *a* ~~no~~ county may *not* establish eligibility thresholds which are more restrictive than 100 percent of the federal poverty line.

(6) Notwithstanding any other provision of this *part* ~~act~~, there is hereby established a spend-down program for persons who would otherwise qualify as qualified indigent persons, but whose average family income, for the 12 months preceding the determination, is between 100 percent and 150 percent of the federal poverty level. The *agency* ~~department~~ shall adopt, by rule, procedures for the spend-down program. The rule shall require that in order to qualify ~~for the spend-down program~~, a person must have incurred bills for hospital care which would otherwise have qualified for payment under this part. This subsection does not apply to persons who are residents of counties that are at their 10-mill cap on October 1, 1991.

Section 7. Section 154.309, Florida Statutes, is amended to read:

154.309 Certification of county of residence.—

(1) The *agency* ~~department~~, pursuant to s. 154.3105, shall adopt rules for certification determination procedures which provide criteria to be used for determining a qualified indigent's county of residence. Such criteria *must* ~~shall~~ include, at a minimum, how and to what extent residency shall be verified and how a hospital shall be notified of a patient's certification or the inability to certify a patient.

(2) In all instances, the county known or thought to be the county of residence shall be given first opportunity to certify a resident. If the county known or thought to be the county of residence fails to, or is unable to, make such determination within 60 days following written notification by a hospital, the *agency* ~~department~~ shall determine residency utilizing the same criteria required by rule as the county, and the *agency*'s ~~department's~~ determination of residency shall be binding on the county of residence. The county determined as the residence of any qualified indigent ~~under this act~~ shall be liable to reimburse the treating hospital pursuant to s. 154.306. If, for any reason, a county or the *agency* ~~department~~ is unable to determine an indigent's residency, the hospital shall be notified in writing of such reason or reasons.

Section 8. Section 154.31, Florida Statutes, is amended to read:

154.31 Obligation of participating hospital or regional referral hospital.—As a condition of *participation* ~~accepting the procedures of this act~~, each participating hospital or regional referral hospital in Florida shall be obligated to admit for emergency treatment all Florida residents, without regard to county of residence, who meet the eligibility standards established pursuant to s. 154.308 and who meet the medical standards for admission to such institutions. If the *agency* ~~department~~ determines that a participating hospital or a regional referral hospital has failed to meet the requirements of this section, the *agency* ~~department~~ may impose an administrative fine, not to exceed $5,000 per incident, and suspend the hospital from eligibility for reimbursement under ~~the provisions of~~ this *part* ~~act~~.

Section 9. Section 154.3105, Florida Statutes, is amended to read:

154.3105 Rules.—Rules governing the Health Care Responsibility Act ~~of 1988~~ shall be developed by the *agency* ~~department~~ based on recommendations of a work group consisting of equal representation by the *agency* ~~department~~, the hospital industry, and the counties. County representatives to this work group shall be appointed by the Florida Association of Counties. Hospital representatives to this work group shall be appointed by the associations representing those hospitals which best represent the positions of the hospitals most likely to be eligible for reimbursement. Rules governing ~~the various aspects of~~ this *part* ~~act~~ shall be adopted by the *agency*. ~~department. Such rules shall address, at a minimum:~~

~~(1) Eligibility determination procedures and criteria.~~

~~(2) Certification determination procedures and methods of notification to hospitals.~~

Section 10. Section 154.312, Florida Statutes, is amended to read:

154.312 Procedure for settlement of disputes.—All disputes among counties, ~~the board,~~ the *agency* ~~department~~, a participating hospital, or a regional referral hospital shall be resolved ~~by order as provided in chapter 120. Hearings held under this provision shall be conducted in the same manner~~ as provided in ss. 120.569 and 120.57, except that the presiding officer's order shall be final agency action. Cases filed under chapter 120 may combine all disputes between parties. Notwithstanding any other provisions of this part, *if* ~~when~~ a county alleges that a residency determination or eligibility determination made by the *agency* ~~department~~ is incorrect, the burden of proof shall be on the county to demonstrate that such determination is, in light of the total record, not supported by the evidence.

Section 11. Section 154.314, Florida Statutes, is amended to read:

154.314 Certification of the State of Florida.—

(1) In the event payment for the costs of services rendered by a participating hospital or a regional referral hospital is not received from the responsible county within 90 days of receipt of a statement for services rendered to a qualified indigent who is a certified resident of the

county, or if the payment is disputed and said payment is not received from the county determined to be responsible within 60 days of the date of exhaustion of all administrative and legal remedies ~~as provided in chapter 120~~, the hospital shall certify to the Comptroller the amount owed by the county.

(2) The Comptroller shall have *no* ~~not~~ longer than 45 days from the date of receiving the hospital's certified notice to forward the amount delinquent to the appropriate hospital from any funds due to the county under any revenue-sharing or tax-sharing fund established by the state, except as otherwise provided by the State Constitution. The Comptroller shall provide the Governor and the *fiscal* ~~appropriations and finance and tax~~ committees in the House of Representatives and the Senate with a quarterly accounting of the amounts certified by hospitals as owed by counties and the amount paid to hospitals out of any revenue or tax sharing funds due to the county.

Section 12. Section 154.316, Florida Statutes, is amended to read:

154.316 Hospital's responsibility to notify of admission of indigent patients.—

(1) Any hospital admitting or treating any out-of-county patient who may qualify as indigent under this *part* ~~act~~ shall, within *30* ~~10~~ days after admitting or treating such patient, notify the county known~~,~~ or thought to be~~,~~ the county of residency of such admission, or such hospital forfeits its right to reimbursement.

(2) It shall be the responsibility of any participating hospital or regional referral hospital to initiate any eligibility or certification determination procedures with any appropriate state or county agency which can determine financial eligibility or certify an indigent as a resident under this *part* ~~act~~.

Section 13. Subsection (1) of section 154.504, Florida Statutes, is amended to read:

154.504 Eligibility and benefits.—

(1) Any county or counties may apply for a primary care for children and families challenge grant to provide primary health care services to children and families with incomes of up to 150 percent of the federal poverty level. Participants shall pay no monthly premium for participation, but shall be required to pay a copayment at the time a service is provided. Copayments may be paid from sources other than the participant, including, but not limited to, the child's or parent's employer, or other private sources. *As used in s. 766.1115, the term "copayment" may not be considered and may not be used as compensation for services to health care providers, and all funds generated from copayments shall be used by the governmental contractor.*

Section 14. Section 198.30, Florida Statutes, is amended to read:

198.30 Circuit judge to furnish department with names of decedents, etc.—Each circuit judge of this state shall, on or before the 10th day of every month, notify the department of the names of all decedents; the names and addresses of the respective personal representatives, administrators, or curators appointed; the amount of the bonds, if any, required by the court; and the probable value of the estates, in all estates of decedents whose wills have been probated or propounded for probate before the circuit judge or upon which letters testamentary or upon whose estates letters of administration or curatorship have been sought or granted, during the preceding month; and such report shall contain any other information which the circuit judge may have concerning the estates of such decedents. *In addition, a copy of this report shall be provided to the Agency for Health Care Administration.* A circuit judge shall also furnish forthwith such further information, from the records and files of the circuit court in regard to such estates, as the department may from time to time require.

Section 15. Section 240.4075, Florida Statutes, is amended to read:

240.4075 Nursing Student Loan Forgiveness Program.—

(1) To encourage qualified personnel to seek employment in areas of this state in which critical nursing shortages exist, there is established the Nursing Student Loan Forgiveness Program. The primary function of the program is to increase employment and retention of registered nurses and licensed practical nurses in nursing homes and hospitals in the state and in state-operated medical and health care facilities, birth centers, federally sponsored community health centers and teaching hospitals by making repayments toward loans received by students from federal or state programs or commercial lending institutions for the support of postsecondary study in accredited or approved nursing programs.

(2) To be eligible, a candidate must have graduated from an accredited or approved nursing program and have received a Florida license as a licensed practical nurse or a registered nurse or a Florida certificate as an advanced registered nurse practitioner.

(3) Only loans to pay the costs of tuition, books, and living expenses shall be covered, at an amount not to exceed $4,000 for each year of education towards the degree obtained.

(4) Receipt of funds pursuant to this program shall be contingent upon continued proof of employment in the designated facilities in this state. Loan principal payments shall be made by the Department of *Education* ~~Health~~ directly to the federal or state programs or commercial lending institutions holding the loan as follows:

(a) Twenty-five percent of the loan principal and accrued interest shall be retired after the first year of nursing;

(b) Fifty percent of the loan principal and accrued interest shall be retired after the second year of nursing;

(c) Seventy-five percent of the loan principal and accrued interest shall be retired after the third year of nursing; and

(d) The remaining loan principal and accrued interest shall be retired after the fourth year of nursing.

In no case may payment for any nurse exceed $4,000 in any 12-month period.

(5) There is created the Nursing Student Loan Forgiveness Trust Fund to be administered by the Department of *Education* ~~Health~~ pursuant to this section and s. 240.4076 and department rules. The Comptroller shall authorize expenditures from the trust fund upon receipt of vouchers approved by the Department of *Education* ~~Health~~. All moneys collected from the private health care industry and other private sources for the purposes of this section shall be deposited into the Nursing Student Loan Forgiveness Trust Fund. Any balance in the trust fund at the end of any fiscal year shall remain therein and shall be available for carrying out the purposes of this section and s. 240.4076.

(6) In addition to licensing fees imposed under chapter 464, there is hereby levied and imposed an additional fee of $5, which fee shall be paid upon licensure or renewal of nursing licensure. Revenues collected from the fee imposed in this subsection shall be deposited in the Nursing Student Loan Forgiveness Trust Fund of the Department of *Education* ~~Health~~ and will be used solely for the purpose of carrying out the provisions of this section and s. 240.4076. Up to 50 percent of the revenues appropriated to implement this subsection may be used for the nursing scholarship program established pursuant to s. 240.4076.

(7)(a) Funds contained in the Nursing Student Loan Forgiveness Trust Fund which are to be used for loan forgiveness for those nurses employed by hospitals, birth centers, and nursing homes must be matched on a dollar-for-dollar basis by contributions from the employing institutions, except that this provision shall not apply to state-operated medical and health care facilities, county health departments, federally sponsored community health centers, or teaching hospitals as defined in s. 408.07.

(b) All Nursing Student Loan Forgiveness Trust Fund moneys shall be invested pursuant to s. 18.125. Interest income accruing to that portion of the trust fund not matched shall increase the total funds available for loan forgiveness and scholarships. Pledged contributions shall not be eligible for matching prior to the actual collection of the total private contribution for the year.

(8) The Department of *Education* ~~Health~~ may solicit technical assistance relating to the conduct of this program from the Department of *Health* ~~Education~~.

(9) The Department of *Education* ~~Health~~ is authorized to recover from the Nursing Student Loan Forgiveness Trust Fund its costs for administering the Nursing Student Loan Forgiveness Program.

(10) The Department of *Education* ~~Health~~ may adopt rules necessary to administer this program.

(11) This section shall be implemented only as specifically funded.

Section 16. Section 240.4076, Florida Statutes, is amended to read:

240.4076 Nursing scholarship program.—

(1) There is established within the Department of *Education* ~~Health~~ a scholarship program for the purpose of attracting capable and promising students to the nursing profession.

(2) A scholarship applicant shall be enrolled as a full-time or part-time student in the upper division of an approved nursing program leading to the award of a baccalaureate or any advanced registered nurse practitioner degree or be enrolled as a full-time or part-time student in an approved program leading to the award of an associate degree in nursing or a diploma in nursing.

(3) A scholarship may be awarded for no more than 2 years, in an amount not to exceed $8,000 per year. However, registered nurses pursuing an advanced registered nurse practitioner degree may receive up to $12,000 per year. Beginning July 1, 1998, these amounts shall be adjusted by the amount of increase or decrease in the consumer price index for urban consumers published by the United States Department of Commerce.

(4) Credit for repayment of a scholarship shall be as follows:

(a) For each full year of scholarship assistance, the recipient agrees to work for 12 months at a health care facility in a medically underserved area as approved by the Department of *Education* ~~Health~~. Scholarship recipients who attend school on a part-time basis shall have their employment service obligation prorated in proportion to the amount of scholarship payments received.

(b) Eligible health care facilities include state-operated medical or health care facilities, county health departments, federally sponsored community health centers, or teaching hospitals as defined in s. 408.07. The recipient shall be encouraged to complete the service obligation at a single employment site. If continuous employment at the same site is not feasible, the recipient may apply to the department for a transfer to another approved health care facility.

(c) Any recipient who does not complete an appropriate program of studies or who does not become licensed shall repay to the Department of *Education* ~~Health~~, on a schedule to be determined by the department, the entire amount of the scholarship plus 18 percent interest accruing from the date of the scholarship payment. Moneys repaid shall be deposited into the Nursing Student Loan Forgiveness Trust Fund established in s. 240.4075. However, the department may provide additional time for repayment if the department finds that circumstances beyond the control of the recipient caused or contributed to the default.

(d) Any recipient who does not accept employment as a nurse at an approved health care facility or who does not complete 12 months of approved employment for each year of scholarship assistance received shall repay to the Department of *Education* ~~Health~~ an amount equal to two times the entire amount of the scholarship plus interest accruing from the date of the scholarship payment at the maximum allowable interest rate permitted by law. Repayment shall be made within 1 year of notice that the recipient is considered to be in default. However, the department may provide additional time for repayment if the department finds that circumstances beyond the control of the recipient caused or contributed to the default.

(5) Scholarship payments shall be transmitted to the recipient upon receipt of documentation that the recipient is enrolled in an approved nursing program. The Department of *Education* ~~Health~~ shall develop a formula to prorate payments to scholarship recipients so as not to exceed the maximum amount per academic year.

(6) The Department of *Education* ~~Health~~ shall adopt rules, including rules to address extraordinary circumstances that may cause a recipient to default on either the school enrollment or employment contractual agreement, to implement this section and may solicit technical assistance relating to the conduct of this program from the Department of *Health* ~~Education~~.

(7) The Department of *Education* ~~Health~~ is authorized to recover from the Nursing Student Loan Forgiveness Trust Fund its costs for administering the nursing scholarship program.

Section 17. *All statutory powers, duties and functions, records, rules, personnel, property, and unexpended balances of appropriations, allocations, or other funds, of the Department of Health relating to the Nursing Student Loan Forgiveness Program and the Nursing Student Loan Forgiveness Trust Fund, as created in section 240.4075, Florida Statutes, and the nursing scholarship program, as created in section 240.4076, Florida Statutes, are transferred by a type two transfer, as provided for in section 20.06(2), Florida Statutes, from the Department of Health to the Department of Education. Such transfer shall take effect July 1, 1998. Any rules adopted by or for the Department of Health for the administration and operation of the Nursing Student Loan Forgiveness Program, the Nursing Student Loan Forgiveness Trust Fund, and the nursing scholarship program are included in such transfer.*

Section 18. Section 381.0022, Florida Statutes, is created to read:

381.0022 Sharing confidential or exempt information.—Notwithstanding any other provision of law to the contrary, the Department of Health and the Department of Children and Family Services may share confidential information or information exempt from disclosure under chapter 119 on any individual who is or has been the subject of a program within the jurisdiction of each agency. Information so exchanged remains confidential or exempt as provided by law.

Section 19. Section 402.115, Florida Statutes, is created to read:

402.115 Sharing confidential or exempt information.—Notwithstanding any other provision of law to the contrary, the Department of Health and the Department of Children and Family Services may share confidential information or information exempt from disclosure under chapter 119 on any individual who is or has been the subject of a program within the jurisdiction of each agency. Information so exchanged remains confidential or exempt as provided by law.

Section 20. Subsection (6) of section 381.004, Florida Statutes, is amended to read:

381.004 Testing for human immunodeficiency virus.—

(6) PENALTIES.—

(a) Any violation of this section by a facility or licensed health care provider shall be a ground for disciplinary action contained in the facility's or professional's respective licensing chapter.

(b) Any person who violates the confidentiality provisions of this section and s. 951.27 commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(c) Any person who obtains information that identifies an individual who has a sexually transmissible disease including human immunodeficiency virus or acquired immunodeficiency syndrome, who knew or should have known the nature of the information and maliciously, or for monetary gain, disseminates this information or otherwise makes this information known to any other person, except by providing it either to a physician or nurse employed by the department or to a law enforcement agency, commits a felony of the third degree, punishable as provided in ss. 775.082 or 775.083.

Section 21. Section 384.34, Florida Statutes, is amended to read:

384.34 Penalties.—

(1) Any person who violates the provisions of s. 384.24(1) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) Any person who violates the provisions of s. 384.26 or s. 384.29 commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) Any person who maliciously disseminates any false information or report concerning the existence of any sexually transmissible disease *commits a felony of the third* ~~is guilty of a misdemeanor of the second~~ degree, punishable as provided in *ss.* ~~s.~~ 775.082, ~~or s.~~ 775.083, *and 775.084*.

(4) Any person who violates the provisions of the department's rules pertaining to sexually transmissible diseases may be punished by a fine not to exceed $500 for each violation. Any penalties enforced under this subsection shall be in addition to other penalties provided by this act.

(5) Any person who violates the provisions of s. 384.24(2) commits a felony of the third degree, punishable as provided in ss. 775.082, 775.083, 775.084, and 775.0877(7). *Any person who commits multiple violations of the provisions of s. 384.24(2) commits a felony of the first degree, punishable as provided in ss. 775.082, 775.083, 775.084, and 775.0877(7).*

(6) Any person who obtains information that identifies an individual who has a sexually transmissible disease, who knew or should have known the nature of the information and maliciously, or for monetary gain, disseminates this information or otherwise makes this information known to any other person, except by providing it either to a physician or nurse employed by the Department of Health or to a law enforcement agency, commits a felony of the third degree, punishable as provided in ss. 775.082, 775.083, or 775.084.

Section 22. Paragraph (e) is added to subsection (1) of section 414.028, Florida Statutes, to read:

414.028 Local WAGES coalitions.—The WAGES Program State Board of Directors shall create and charter local WAGES coalitions to plan and coordinate the delivery of services under the WAGES Program at the local level. The boundaries of the service area for a local WAGES coalition shall conform to the boundaries of the service area for the regional workforce development board established under the Enterprise Florida workforce development board. The local delivery of services under the WAGES Program shall be coordinated, to the maximum extent possible, with the local services and activities of the local service providers designated by the regional workforce development boards.

(1)

(e) A representative of a county health department or a representative of a Healthy Start Coalition shall serve as an ex officio, nonvoting member of the coalition.

Section 23. Paragraph (a) of subsection (1) of section 766.101, Florida Statutes, is amended to read:

766.101 Medical review committee, immunity from liability.—

(1) As used in this section:

(a) The term "medical review committee" or "committee" means:

1.a. A committee of a hospital or ambulatory surgical center licensed under chapter 395 or a health maintenance organization certificated under part I of chapter 641,

b. A committee of a state or local professional society of health care providers,

c. A committee of a medical staff of a licensed hospital or nursing home, provided the medical staff operates pursuant to written bylaws that have been approved by the governing board of the hospital or nursing home,

d. A committee of the Department of Corrections or the Correctional Medical Authority as created under s. 945.602, or employees, agents, or consultants of either the department or the authority or both,

e. A committee of a professional service corporation formed under chapter 621 or a corporation organized under chapter 607 or chapter 617, which is formed and operated for the practice of medicine as defined in s. 458.305(3), and which has at least 25 health care providers who routinely provide health care services directly to patients,

f. A committee of a mental health treatment facility licensed under chapter 394 or a community mental health center as defined in s. 394.907, provided the quality assurance program operates pursuant to the guidelines which have been approved by the governing board of the agency,

g. A committee of a substance abuse treatment and education prevention program licensed under chapter 397 provided the quality assurance program operates pursuant to the guidelines which have been approved by the governing board of the agency,

h. A peer review or utilization review committee organized under chapter 440, or

i. A committee of *the Department of Health,* a county health department, healthy start coalition, or certified rural health network, when reviewing quality of care, or employees of these entities when reviewing mortality records,

which committee is formed to evaluate and improve the quality of health care rendered by providers of health service or to determine that health services rendered were professionally indicated or were performed in compliance with the applicable standard of care or that the cost of health care rendered was considered reasonable by the providers of professional health services in the area; or

2. A committee of an insurer, self-insurer, or joint underwriting association of medical malpractice insurance, or other persons conducting review under s. 766.106.

Section 24. Paragraph (i) is added to subsection (1) of section 383.011, Florida Statutes, and subsection (2) of that section is amended, to read:

383.011 Administration of maternal and child health programs.—

(1) The Department of Health is designated as the state agency for:

(i) Receiving federal funds for children eligible for assistance through the child portion of the federal Child and Adult Care Food Program, which is referred to as the Child Care Food Program, and for establishing and administering this program. The purpose of the Child Care Food Program is to provide nutritious meals and snacks for children in nonresidential day care. To ensure the quality and integrity of the program, the department shall develop standards and procedures that govern sponsoring organizations, day care homes, child care centers, and centers that operate outside school hours. Standards and procedures must address the following: participation criteria for sponsoring organizations, which may include administrative budgets, staffing requirements, requirements for experience in operating similar programs, operating hours and availability, bonding requirements, geographic coverage, and a required minimum number of homes or centers; procedures for investigating complaints and allegations of noncompliance; application and renewal requirements; audit requirements; meal pattern requirements; requirements for managing funds; participant eligibility for free and reduced-price meals; food storage and preparation; food service companies; reimbursements; use of commodities; administrative reviews and monitoring; training requirements; recordkeeping requirements; and criteria pertaining to imposing sanctions and penalties, including the denial, termination, and appeal of program eligibility.

(2) The Department of Health *shall follow federal requirements and* may adopt any rules necessary for the implementation of the maternal and child health care program, ~~or~~ the WIC program, *and the Child Care Food Program. With respect to the Child Care Food Program, the department shall adopt rules that interpret and implement relevant federal regulations, including 7 C.F.R., part 226. The rules must address at least those program requirements and procedures identified in paragraph (1)(i).*

Section 25. Section 383.04, Florida Statutes, is amended to read:

383.04 Prophylactic required for eyes of infants.—Every physician, midwife, or other person in attendance at the birth of a child in the state is required to instill or have instilled into the eyes of the baby within 1 hour after birth *an effective prophylactic recommended by the Committee on Infectious Diseases of the American Academy of Pediatrics* ~~a 1-percent fresh solution of silver nitrate (with date of manufacture marked on container), two drops of the solution to be dropped into each eye after the eyelids have been opened, or some equally effective prophylactic approved by the Department of Health,~~ for the prevention of *neonatal* ~~blindness from~~ ophthalmia ~~neonatorum~~. This section *does* ~~shall~~ not apply to cases where the parents ~~shall~~ file with the physician, midwife, or other person in attendance at the birth of a child written objections on account of religious beliefs contrary to the use of drugs. In such case the physician, midwife, or other person in attendance shall maintain a record that such measures were or were not employed and attach thereto any written objection.

Section 26. *Section 383.05, Florida Statutes, is repealed.*

Section 27. Section 409.903, Florida Statutes, is amended to read:

409.903 Mandatory payments for eligible persons.—The *agency* ~~department~~ shall make payments for medical assistance and related services on behalf of the following persons who the *agency* ~~department~~ determines to be eligible, subject to the income, assets, and categorical eligibility tests set forth in federal and state law. Payment on behalf of these Medicaid eligible persons is subject to the availability of moneys and any limitations established by the General Appropriations Act or chapter 216.

(1) *Low-income families with children are eligible for Medicaid provided they meet the following requirements:* ~~Persons who receive payments from or are determined eligible to participate in the WAGES Program, and certain persons who would be eligible but do not meet certain technical requirements. This group includes, but is not limited to:~~

(a) *The family includes a dependent child who is living with a caretaker relative.* ~~Low-income, single-parent families and their children.~~

(b) *The family's income does not exceed the gross income test limit.* ~~Low-income, two-parent families in which at least one parent is disabled or otherwise incapacitated.~~

(c) *The family's countable income and resources do not exceed the applicable aid-to-families-with-dependent-children (AFDC) income and resource standards under the AFDC state plan in effect in July 1996, except as amended in the Medicaid state plan to conform as closely as possible to the requirements of the WAGES Program as created in s. 414.015, to the extent permitted by federal law.* ~~Certain unemployed two-parent families and their children.~~

(2) A person who receives payments from, who is determined eligible for, or who was eligible for but lost cash benefits from the federal program known as the Supplemental Security Income program (SSI). This category includes a low-income person age 65 or over and a low-income person under age 65 considered to be permanently and totally disabled.

(3) A child under age 21 living in a low-income, two-parent family, and a child under age 7 living with a nonrelative, if the income and assets of the family or child, as applicable, do not exceed the resource limits under the WAGES Program.

(4) A child who is eligible under Title IV-E of the Social Security Act for subsidized board payments, foster care, or adoption subsidies, and a child for whom the state has assumed temporary or permanent responsibility and who does not qualify for Title IV-E assistance but is in foster care, shelter or emergency shelter care, or subsidized adoption.

(5) A pregnant woman for the duration of her pregnancy and for the post partum period as defined in federal law and rule, or a child under age 1, if either is living in a family that has an income which is at or below 150 percent of the most current federal poverty level, or, effective January 1, 1992, that has an income which is at or below 185 percent of the most current federal poverty level. Such a person is not subject to an assets test. Further, a pregnant woman who applies for eligibility for the Medicaid program through a qualified Medicaid provider must be offered the opportunity, subject to federal rules, to be made presumptively eligible for the Medicaid program.

(6) A child born after September 30, 1983, living in a family that has an income which is at or below 100 percent of the current federal poverty level, who has attained the age of 6, but has not attained the age of 19. In determining the eligibility of such a child, an assets test is not required.

(7) A child living in a family that has an income which is at or below 133 percent of the current federal poverty level, who has attained the age of 1, but has not attained the age of 6. In determining the eligibility of such a child, an assets test is not required.

(8) A person who is age 65 or over or is determined by the *agency* ~~department~~ to be disabled, whose income is at or below 100 percent of the most current federal poverty level and whose assets do not exceed limitations established by the *agency* ~~department~~. However, the *agency* ~~department~~ may only pay for premiums, coinsurance, and deductibles, as required by federal law, unless additional coverage is provided for any or all members of this group by s. 409.904(1).

Section 28. Subsections (2) and (13) of section 409.908, Florida Statutes, are amended to read:

409.908 Reimbursement of Medicaid providers.—Subject to specific appropriations, the agency shall reimburse Medicaid providers, in accordance with state and federal law, according to methodologies set forth in the rules of the agency and in policy manuals and handbooks incorporated by reference therein. These methodologies may include fee schedules, reimbursement methods based on cost reporting, negotiated fees, competitive bidding pursuant to s. 287.057, and other mechanisms the agency considers efficient and effective for purchasing services or goods on behalf of recipients. Payment for Medicaid compensable services made on behalf of Medicaid eligible persons is subject to the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. Further, nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act, provided the adjustment is consistent with legislative intent.

(2)(a)1. Reimbursement to nursing homes licensed under part II of chapter 400 and state-owned-and-operated intermediate care facilities for the developmentally disabled licensed under chapter 393 must be made prospectively.

2. Unless otherwise limited or directed in the General Appropriations Act, reimbursement to hospitals licensed under part I of chapter 395 for the provision of swing-bed nursing home services must be made on the basis of the average statewide nursing home payment, and reimbursement to a hospital licensed under part I of chapter 395 for the provision of skilled nursing services must be made on the basis of the average nursing home payment for those services in the county in which the hospital is located. When a hospital is located in a county that does not have any community nursing homes, reimbursement must be determined by averaging the nursing home payments, in counties that surround the county in which the hospital is located. Reimbursement to hospitals, including Medicaid payment of Medicare copayments, for skilled nursing services shall be limited to 30 days, unless a prior authorization has been obtained from the agency. Medicaid reimbursement may be extended by the agency beyond 30 days, and approval must be based upon verification by the patient's physician that the patient requires short-term rehabilitative and recuperative services only, in which case an extension of no more than 15 days may be approved. Reimbursement to a hospital licensed under part I of chapter 395 for the temporary provision of skilled nursing services to nursing home residents who have been displaced as the result of a natural disaster or other emergency may not exceed the average county nursing home payment for those services in the county in which the hospital is located and is limited to the period of time which the agency considers necessary for continued placement of the nursing home residents in the hospital.

(b) Subject to any limitations or directions provided for in the General Appropriations Act, the agency shall establish and implement a Florida Title XIX Long-Term Care Reimbursement Plan (Medicaid) for nursing home care in order to provide care and services in conformance with the applicable state and federal laws, rules, regulations, and quality and safety standards and to ensure that individuals eligible for medical assistance have reasonable geographic access to such care. *Effective no earlier than the rate-setting period beginning April 1, 1999, the agency shall establish a case-mix reimbursement methodology for the rate of payment for long-term-care services for nursing home residents. The agency shall compute a per diem rate for Medicaid residents, adjusted for case mix, which is based on a resident classification system that accounts for the relative resource utilization by different types of residents and which is based on level-of-care data and other appropriate data. The case-mix methodology developed by the agency shall take into account the medical, behavioral, and cognitive deficits of residents. In developing the reimbursement methodology, the agency shall evaluate and modify other aspects of the reimbursement plan as necessary to improve the overall effectiveness of the plan with respect to the costs of patient care, operating costs, and property costs. In the event adequate data are not available, the agency is authorized to adjust the patient's care component or the per diem rate to more adequately cover the cost of services provided in the*

patient's care component. The agency shall work with the Department of Elderly Affairs, the Florida Health Care Association, and the Florida Association of Homes for the Aging in developing the methodology. It is the intent of the Legislature that the reimbursement plan achieve the goal of providing access to health care for nursing home residents who require large amounts of care while encouraging diversion services as an alternative to nursing home care for residents who can be served within the community. The agency shall base the establishment of any maximum rate of payment, whether overall or component, on the available moneys as provided for in the General Appropriations Act. The agency may base the maximum rate of payment on the results of scientifically valid analysis and conclusions derived from objective statistical data pertinent to the particular maximum rate of payment.

(13) *Medicare premiums for persons eligible for both Medicare and Medicaid coverage shall be paid at the rates established by Title XVIII of the Social Security Act. For Medicare services rendered to Medicaid-eligible persons, Medicaid shall pay Medicare deductibles and coinsurance as follows:*

(a) Medicaid shall make no payment toward deductibles and coinsurance for any service that is not covered by Medicaid.

(b) Medicaid's financial obligation for deductibles and coinsurance payments shall be based on Medicare allowable fees, not on a provider's billed charges.

(c) Medicaid will pay no portion of Medicare deductibles and coinsurance when payment that Medicare has made for the service equals or exceeds what Medicaid would have paid if it had been the sole payor. The combined payment of Medicare and Medicaid shall not exceed the amount Medicaid would have paid had it been the sole payor.

(d) The following provisions are exceptions to paragraphs (a)-(c):

1. Medicaid payments for Nursing Home Medicare Part A coinsurance shall be the lesser of the Medicare coinsurance amount or the Medicaid nursing home per diem rate.

2. Medicaid shall pay all deductibles and coinsurance for Nursing Home Medicare Part B services.

3. Medicaid shall pay all deductibles and coinsurance for Medicare-eligible recipients receiving freestanding end stage renal dialysis center services.

4. Medicaid shall pay all deductibles and coinsurance for hospital outpatient Medicare Part B services.

5. Medicaid payments for general hospital inpatient services shall be limited to the Medicare deductible per spell of illness. Medicaid shall make no payment toward coinsurance for Medicare general hospital inpatient services.

6. Medicaid shall pay all deductibles and coinsurance for Medicare emergency transportation services provided by ambulances licensed pursuant to chapter 401. ~~Premiums, deductibles, and coinsurance for Medicare services rendered to Medicaid eligible persons shall be reimbursed in accordance with fees established by Title XVIII of the Social Security Act.~~

Section 29. Paragraph (c) of subsection (4) of section 409.912, Florida Statutes, is repealed, paragraph (b) of subsection (3) and subsection (13) of that section are amended, and subsections (34) and (35) are added to that section, to read:

409.912 Cost-effective purchasing of health care.—The agency shall purchase goods and services for Medicaid recipients in the most cost-effective manner consistent with the delivery of quality medical care. The agency shall maximize the use of prepaid per capita and prepaid aggregate fixed-sum basis services when appropriate and other alternative service delivery and reimbursement methodologies, including competitive bidding pursuant to s. 287.057, designed to facilitate the cost-effective purchase of a case-managed continuum of care. The agency shall also require providers to minimize the exposure of recipients to the need for acute inpatient, custodial, and other institutional care and the inappropriate or unnecessary use of high-cost services.

(3) The agency may contract with:

(b) An entity that is providing comprehensive inpatient and outpatient mental health care services to certain Medicaid recipients in Hillsborough, Highlands, Hardee, Manatee, and Polk Counties, through a capitated, prepaid arrangement pursuant to the federal waiver provided for by s. 409.905(5). Such an entity must become licensed under chapter 624, *chapter 636,* or chapter 641 by December 31, 1998, and is exempt from the provisions of part I of chapter 641 until then. However, if the entity assumes risk, the Department of Insurance shall develop appropriate regulatory requirements by rule under the insurance code before the entity becomes operational.

(13) The agency shall identify health care utilization and price patterns within the Medicaid program *which* ~~that~~ are not cost-effective or medically appropriate and assess the effectiveness of new or alternate methods of providing and monitoring service, and may implement such methods as it considers appropriate. *Such methods may include disease-management initiatives, an integrated and systematic approach for managing the health care needs of recipients who are at risk of or diagnosed with a specific disease by using best practices, prevention strategies, clinical-practice improvement, clinical interventions and protocols, outcomes research, information technology, and other tools and resources to reduce overall costs and improve measurable outcomes.*

(34) The agency may provide for cost-effective purchasing of home health services through competitive negotiation pursuant to s. 287.057. The agency may request appropriate waivers from the federal Health Care Financing Administration in order to competitively bid home health services.

(35) The Agency for Health Care Administration is directed to issue a request for proposal or intent to negotiate to implement on a demonstration basis an outpatient specialty services pilot project in a rural and urban county in the state. As used in this subsection, the term "outpatient specialty services" means clinical laboratory, diagnostic imaging, and specified home medical services to include durable medical equipment, prosthetics and orthotics, and infusion therapy.

(a) The entity that is awarded the contract to provide Medicaid managed care outpatient specialty services must, at a minimum, meet the following criteria:

1. The entity must be licensed by the Department of Insurance under part II of chapter 641.

2. The entity must be experienced in providing outpatient specialty services.

3. The entity must demonstrate to the satisfaction of the agency that it provides high-quality services to its patients.

4. The entity must demonstrate that it has in place a complaints and grievance process to assist Medicaid recipients enrolled in the pilot managed care program to resolve complaints and grievances.

(b) The pilot managed care program shall operate for a period of 3 years. The objective of the pilot program shall be to determine the cost-effectiveness and effects on utilization, access, and quality of providing outpatient specialty services to Medicaid recipients on a prepaid, capitated basis.

(c) The agency shall conduct a quality-assurance review of the prepaid health clinic each year that the demonstration program is in effect. The prepaid health clinic is responsible for all expenses incurred by the agency in conducting a quality assurance review.

(d) The entity that is awarded the contract to provide outpatient specialty services to Medicaid recipients shall report data required by the agency in a format specified by the agency, for the purpose of conducting the evaluation required in paragraph (e).

(e) The agency shall conduct an evaluation of the pilot managed care program and report its findings to the Governor and the Legislature by no later than January 1, 2001.

(f) Nothing in this subsection is intended to conflict with the provision of the 1997-1998 General Appropriations Act which authorizes competitive bidding for Medicaid home health, clinical laboratory, or x-ray services.

Section 30. Effective January 1, 1999, paragraph (d) of subsection (3) of section 409.912, Florida Statutes, is amended to read:

409.912 Cost-effective purchasing of health care.—The agency shall purchase goods and services for Medicaid recipients in the most cost-effective manner consistent with the delivery of quality medical care. The agency shall maximize the use of prepaid per capita and prepaid aggregate fixed-sum basis services when appropriate and other alternative service delivery and reimbursement methodologies, including competitive bidding pursuant to s. 287.057, designed to facilitate the cost-effective purchase of a case-managed continuum of care. The agency shall also require providers to minimize the exposure of recipients to the need for acute inpatient, custodial, and other institutional care and the inappropriate or unnecessary use of high-cost services.

(3) The agency may contract with:

(d) No more than four provider service networks for demonstration projects to test Medicaid direct contracting. ~~However, no such demonstration project shall be established with a federally qualified health center nor shall any provider service network under contract with the agency pursuant to this paragraph include a federally qualified health center in its provider network.~~ One demonstration project must be located in Orange County. The demonstration projects may be reimbursed on a fee-for-service or prepaid basis. A provider service network which is reimbursed by the agency on a prepaid basis shall be exempt from parts I and III of chapter 641, but must meet appropriate financial reserve, quality assurance, and patient rights requirements as established by the agency. The agency shall award contracts on a competitive bid basis and shall select bidders based upon price and quality of care. Medicaid recipients assigned to a demonstration project shall be chosen equally from those who would otherwise have been assigned to prepaid plans and MediPass. The agency is authorized to seek federal Medicaid waivers as necessary to implement the provisions of this section. A demonstration project awarded pursuant to this paragraph shall be for 2 years from the date of implementation.

Section 31. Paragraphs (a), (c), (f), (i), and (k) of subsection (2) of section 409.9122, Florida Statutes, are amended to read:

409.9122 Mandatory Medicaid managed care enrollment; programs and procedures.—

(2)(a) The agency shall enroll in a managed care plan or MediPass all Medicaid recipients, except those Medicaid recipients who are: in an institution; enrolled in the Medicaid medically needy program; or eligible for both Medicaid and Medicare. However, to the extent permitted by federal law, the agency may enroll in a managed care plan or MediPass a Medicaid recipient who is exempt from mandatory managed care enrollment, provided that:

1. The recipient's decision to enroll in a managed care plan or MediPass is voluntary;

2. If the recipient chooses to enroll in a managed care plan, the agency has determined that the managed care plan provides specific programs and services which address the special health needs of the recipient; and

3. The agency receives any necessary waivers from the federal Health Care Financing Administration.

The agency shall develop rules to establish policies by which exceptions to the mandatory managed care enrollment requirement may be made on a case-by-case basis. The rules shall include the specific criteria to be applied when making a determination as to whether to exempt a recipient from mandatory enrollment in a managed care plan or MediPass. School districts participating in the certified school match program pursuant to ss. 236.0812 and 409.908(21) shall be reimbursed by Medicaid, subject to the limitations of s. 236.0812(1) and (2), for a Medicaid-eligible child participating in the services as authorized in s. 236.0812, as provided for in s. 409.9071, regardless of whether the child is enrolled in MediPass or a managed care plan. Managed care plans shall make a good faith effort to execute agreements with school districts ~~and county health departments~~ regarding the coordinated provision of services authorized under s. 236.0812. *County health departments delivering school–based services pursuant to ss. 381.0056 and 381.0057 shall be reimbursed by Medicaid for the federal share for a Medicaid–eligible child who receives Medicaid-covered services in a school setting, regardless of whether the child is enrolled in MediPass or a managed care plan. Managed care plans shall make a good faith effort to execute agreements with county health departments regarding the coordinated provision of services to a Medicaid-eligible child.* To ensure continuity of care for Medicaid patients, the agency, *the Department of Health,* and the Department of Education shall develop procedures for ensuring that a student's managed care plan or MediPass provider receives information relating to services provided in accordance with ss. 236.0812, *381.0056, 381.0057,* and 409.9071.

(c) Medicaid recipients shall have a choice of managed care plans or MediPass. The Agency for Health Care Administration, the Department of Health ~~and Rehabilitative Services~~, *the Department of Children and Family Services,* and the Department of Elderly Affairs shall cooperate to ensure that each Medicaid recipient receives clear and easily understandable information that meets the following requirements:

1. Explains the concept of managed care, including MediPass.

2. Provides information on the comparative performance of managed care plans and MediPass in the areas of quality, credentialing, preventive health programs, network size and availability, and patient satisfaction.

3. Explains where additional information on each managed care plan and MediPass in the recipient's area can be obtained.

4. Explains that recipients have the right to choose their own managed care plans or MediPass. However, if a recipient does not choose a managed care plan or MediPass, the agency will assign the recipient to a managed care plan or MediPass according to the criteria specified in this section.

5. Explains the recipient's right to complain, file a grievance, or change managed care plans or MediPass providers if the recipient is not satisfied with the managed care plan or MediPass.

(f) When a Medicaid recipient does not choose a managed care plan or MediPass provider, the agency shall assign the Medicaid recipient to a managed care plan or MediPass provider. *Medicaid recipients who are subject to mandatory assignment but who fail to make a choice shall be assigned to managed care plans or provider service networks until an equal enrollment of 50 percent in MediPass and provider service networks and 50 percent in managed care plans is achieved. Once equal enrollment is achieved, the assignments shall be divided in order to maintain an equal enrollment in MediPass and managed care plans for the 1998-99 fiscal year.* ~~In the first period that assignment begins, the assignments shall be divided equally between the MediPass program and managed care plans.~~ Thereafter, assignment of Medicaid recipients who fail to make a choice shall be based proportionally on the preferences of recipients who have made a choice in the previous period. Such proportions shall be revised at least quarterly to reflect an update of the preferences of Medicaid recipients. When making assignments, the agency shall take into account the following criteria:

1. A managed care plan has sufficient network capacity to meet the need of members.

2. The managed care plan or MediPass has previously enrolled the recipient as a member, or one of the managed care plan's primary care providers or MediPass providers has previously provided health care to the recipient.

3. The agency has knowledge that the member has previously expressed a preference for a particular managed care plan or MediPass provider as indicated by Medicaid fee-for-service claims data, but has failed to make a choice.

4. The managed care plan's or MediPass primary care providers are geographically accessible to the recipient's residence.

(i) After a recipient has made a selection or has been enrolled in a managed care plan or MediPass, the recipient shall have *90* ~~60~~ days in which to voluntarily disenroll and select another managed care plan or MediPass provider. After *90* ~~60~~ days, no further changes may be made except for cause. Cause shall include, but not be limited to, poor quality of care, lack of access to necessary specialty services, an unreasonable delay or denial of service, or fraudulent enrollment. The agency shall develop criteria for good cause disenrollment for chronically ill and disabled populations who are assigned to managed care plans if more appropriate care is available through the MediPass program. The agency

must make a determination as to whether cause exists. However, the agency may require a recipient to use the managed care plan's or MediPass grievance process prior to the agency's determination of cause, except in cases in which immediate risk of permanent damage to the recipient's health is alleged. The grievance process, when utilized, must be completed in time to permit the recipient to disenroll no later than the first day of the second month after the month the disenrollment request was made. If the managed care plan or MediPass, as a result of the grievance process, approves an enrollee's request to disenroll, the agency is not required to make a determination in the case. The agency must make a determination and take final action on a recipient's request so that disenrollment occurs no later than the first day of the second month after the month the request was made. If the agency fails to act within the specified timeframe, the recipient's request to disenroll is deemed to be approved as of the date agency action was required. Recipients who disagree with the agency's finding that cause does not exist for disenrollment shall be advised of their right to pursue a Medicaid fair hearing to dispute the agency's finding.

~~(k) In order to provide increased access to managed care, the agency may request from the Health Care Financing Administration a waiver of the regulation requiring health maintenance organizations to have one commercial enrollee for each three Medicaid enrollees.~~

Section 32. Paragraph (f) of subsection (12) and subsection (18) of section 409.910, Florida Statutes, are amended to read:

409.910 Responsibility for payments on behalf of Medicaid-eligible persons when other parties are liable.—

(12) The department may, as a matter of right, in order to enforce its rights under this section, institute, intervene in, or join any legal or administrative proceeding in its own name in one or more of the following capacities: individually, as subrogee of the recipient, as assignee of the recipient, or as lienholder of the collateral.

(f) Notwithstanding any provision in this section to the contrary, in the event of an action in tort against a third party in which the recipient or his or her legal representative is a party *which results in a* ~~and in which the amount of any~~ judgment, award, or settlement from *a third party*, ~~third-party benefits, excluding medical coverage as defined in subparagraph 4., after reasonable costs and expenses of litigation, is an amount equal to or less than 200 percent of the amount of medical assistance provided by Medicaid less any medical coverage paid or payable to the department, then distribution of~~ the amount recovered shall be *distributed* as follows:

1. After attorney's fees and taxable costs as defined by the Florida Rules of Civil Procedure, one-half of the remaining recovery shall be paid to the department up to the total amount of medical assistance provided by Medicaid.

2. The remaining amount of the recovery shall be paid to the recipient.

3. For purposes of calculating the department's recovery of medical assistance benefits paid, the fee for services of an attorney retained by the recipient or his or her legal representative shall be calculated at 25 percent of the judgment, award, or settlement.

4. Notwithstanding any provision of this section to the contrary, the department shall be entitled to all medical coverage benefits up to the total amount of medical assistance provided by Medicaid.

~~1. Any fee for services of an attorney retained by the recipient or his or her legal representative shall not exceed an amount equal to 25 percent of the recovery, after reasonable costs and expenses of litigation, from the judgment, award, or settlement.~~

~~2. After attorney's fees, two-thirds of the remaining recovery shall be designated for past medical care and paid to the department for medical assistance provided by Medicaid.~~

~~3. The remaining amount from the recovery shall be paid to the recipient.~~

~~4.~~ For purposes of this paragraph, "medical coverage" means any benefits under health insurance, a health maintenance organization, a preferred provider arrangement, or a prepaid health clinic, and the portion of benefits designated for medical payments under coverage for workers' compensation, personal injury protection, and casualty.

(18) A recipient or his or her legal representative or any person representing, or acting as agent for, a recipient or the recipient's legal representative, who has notice, excluding notice charged solely by reason of the recording of the lien pursuant to paragraph (6)(d), or who has actual knowledge of the department's rights to third-party benefits under this section, who receives any third-party benefit or proceeds therefrom for a covered illness or injury, is required either to pay the department, *within 60 days after receipt of settlement proceeds,* the full amount of the third-party benefits, but not in excess of the total medical assistance provided by Medicaid, or to place the full amount of the third-party benefits in a trust account for the benefit of the department pending judicial or administrative determination of the department's right thereto. Proof that any such person had notice or knowledge that the recipient had received medical assistance from Medicaid, and that third-party benefits or proceeds therefrom were in any way related to a covered illness or injury for which Medicaid had provided medical assistance, and that any such person knowingly obtained possession or control of, or used, third-party benefits or proceeds and failed either to pay the department the full amount required by this section or to hold the full amount of third-party benefits or proceeds in trust pending judicial or administrative determination, unless adequately explained, gives rise to an inference that such person knowingly failed to credit the state or its agent for payments received from social security, insurance, or other sources, pursuant to s. 414.39(4)(b), and acted with the intent set forth in s. 812.014(1).

(a) The department is authorized to investigate and to request appropriate officers or agencies of the state to investigate suspected criminal violations or fraudulent activity related to third-party benefits, including, without limitation, ss. 409.325 and 812.014. Such requests may be directed, without limitation, to the Medicaid Fraud Control Unit of the Office of the Attorney General, or to any state attorney. Pursuant to s. 409.913, the Attorney General has primary responsibility to investigate and control Medicaid fraud.

(b) In carrying out duties and responsibilities related to Medicaid fraud control, the department may subpoena witnesses or materials within or outside the state and, through any duly designated employee, administer oaths and affirmations and collect evidence for possible use in either civil or criminal judicial proceedings.

(c) All information obtained and documents prepared pursuant to an investigation of a Medicaid recipient, the recipient's legal representative, or any other person relating to an allegation of recipient fraud or theft is confidential and exempt from s. 119.07(1):

1. Until such time as the department takes final agency action;

2. Until such time as the Attorney General refers the case for criminal prosecution;

3. Until such time as an indictment or criminal information is filed by a state attorney in a criminal case; or

4. At all times if otherwise protected by law.

Section 33. Subsection (1) of section 414.28, Florida Statutes, is amended to read:

414.28 Public assistance payments to constitute debt of recipient.—

(1) CLAIMS.—The acceptance of public assistance creates a debt of the person accepting assistance, which debt is enforceable only after the death of the recipient. The debt thereby created is enforceable only by claim filed against the estate of the recipient after his or her death or by suit to set aside a fraudulent conveyance, as defined in subsection (3). After the death of the recipient and within the time prescribed by law, the department may file a claim against the estate of the recipient for the total amount of public assistance paid to or for the benefit of such recipient, reimbursement for which has not been made. Claims so filed shall take priority as *class 3* ~~class 7~~ claims as provided by s. 733.707(1)(g).

Section 34. Subsection (1) of section 627.912, Florida Statutes, is amended, and subsection (5) is added to said section, to read:

627.912 Professional liability claims and actions; reports by insurers.—

(1) Each self-insurer authorized under s. 627.357 and each insurer or joint underwriting association providing professional liability insurance to a practitioner of medicine licensed under chapter 458, to a practitioner of osteopathic medicine licensed under chapter 459, to a podiatrist licensed under chapter 461, to a dentist licensed under chapter 466, to a hospital licensed under chapter 395, to a crisis stabilization unit licensed under part IV of chapter 394, to a health maintenance organization certificated under part I of chapter 641, to clinics included in chapter 390, to an ambulatory surgical center as defined in s. 395.002, or to a member of The Florida Bar shall report in duplicate to the Department of Insurance any claim or action for damages for personal injuries claimed to have been caused by error, omission, or negligence in the performance of such insured's professional services or based on a claimed performance of professional services without consent, if the claim resulted in:

(a) A final judgment in any amount.

(b) A settlement in any amount.

~~(c) A final disposition not resulting in payment on behalf of the insured.~~

Reports shall be filed with the department and, if the insured party is licensed under chapter 458, chapter 459, chapter 461, or chapter 466, with the Agency for Health Care Administration, no later than 30 days following the occurrence of any event listed in paragraph (a) *or*~~,~~ paragraph (b)~~, or paragraph (c)~~. The Agency for Health Care Administration shall review each report and determine whether any of the incidents that resulted in the claim potentially involved conduct by the licensee that is subject to disciplinary action, in which case the provisions of s. 455.225 shall apply. The Agency for Health Care Administration, as part of the annual report required by s. 455.2285, shall publish annual statistics, without identifying licensees, on the reports it receives, including final action taken on such reports by the agency or the appropriate regulatory board.

(5) Any self-insurance program established under s. 240.213 shall report in duplicate to the Department of Insurance any claim or action for damages for personal injuries claimed to have been caused by error, omission, or negligence in the performance of professional services provided by the Board of Regents through an employee or agent of the Board of Regents, including practitioners of medicine licensed under chapter 458, practitioners of osteopathic medicine licensed under chapter 459, podiatrists licensed under chapter 461, and dentists licensed under chapter 466, or based on a claimed performance of professional services without consent if the claim resulted in a final judgment in any amount, or a settlement in any amount. The reports required by this subsection shall contain the information required by subsection (3) and the name, address, and specialty of the employee or agent of the Board of Regents whose performance or professional services is alleged in the claim or action to have caused personal injury.

Section 35. *Upon completion, the Marion County Health Department building to be constructed in Belleview, Florida, shall be known as the "Carl S. Lytle, M.D., Memorial Health Facility."*

Section 36. *The amount of $2 million is appropriated from tobacco settlement revenues to the Grants and Donations Trust Fund of the Agency for Health Care Administration to be matched at an appropriate level with federal Medicaid funds available under Title XIX of the Social Security Act to provide prosthetic and orthotic devices for Medicaid recipients when such devices are prescribed by licensed practitioners participating in the Medicaid program.*

Section 37. Except as otherwise provided herein, this act shall take effect July 1 of the year in which enacted.

And the title is amended as follows:

On page , remove from the title of the bill: the entire title and insert in lieu thereof: An act relating to health care; providing an important state interest; amending ss. 154.301, 154.302, 154.304, 154.306, 154.308, 154.309, 154.31, 154.3105, 154.312, 154.314, and 154.316, F.S., relating to health care responsibility for indigents; revising short title; revising definitions; limiting the maximum amount a county may be required to pay an out-of-county hospital; providing hospitals additional time to notify counties of admission or treatment of out-of-county patients; revising language and conforming references; providing penalties; amending s. 154.504, F.S.; limiting applicability of copayments under the Primary Care for Children and Families Challenge Grant Program; amending s. 198.30, F.S.; requiring certain reports of estates of decedents to be provided to the Agency for Health Care Administration; amending ss. 240.4075 and 240.4076, F.S., relating the Nursing Student Loan Forgiveness Program, the Nursing Student Loan Forgiveness Trust Fund, and the nursing scholarship program; transferring powers, duties, and functions with respect thereto from the Department of Health to the Department of Education; creating ss. 381.0022 and 402.115, F.S.; authorizing the Department of Health and the Department of Children and Family Services to share confidential and exempt information; amending s. 381.004, F.S., relating to HIV testing; providing a penalty and increasing existing penalties; amending s. 384.34, F.S., relating to sexually transmissible diseases; providing a penalty and increasing existing penalties; amending s. 414.028, F.S.; providing for a representative of a county health department or Healthy Start Coalition to serve on the local WAGES coalition; amending s. 766.101, F.S.; redefining the term "medical review committee" to include a committee of the Department of Health; amending s. 383.011, F.S.; providing that the Department of Health is the designated state agency for receiving federal funds for the Child Care Food Program; requiring the department to adopt rules for administering the program; amending s. 383.04, F.S.; revising the requirements for the prophylactic to be used for the eyes of infants; repealing s. 383.05, F.S., relating to the free distribution of such prophylactic; amending s. 409.903, F.S.; providing Medicaid eligibility standards for certain persons; conforming references; amending s. 409.908, F.S.; requiring the agency to establish a reimbursement methodology for long-term-care services for Medicaid-eligible nursing home residents; specifying requirements for the methodology; providing legislative intent; prescribing guidelines for Medicaid payment of Medicare deductibles and coinsurance; eliminating a prohibition on specified contracts; repealing redundant provisions; amending s. 409.912, F.S.; authorizing the agency to include disease-management initiatives in providing and monitoring Medicaid services; authorizing the agency to competitively negotiate home health services; authorizing the agency to seek necessary federal waivers that relate to the competitive negotiation of such services; directing the Agency for Health Care Administration to establish an outpatient specialty services pilot project; providing definitions; providing criteria for participation; requiring an evaluation and a report to the Governor and Legislature; modifying the licensure requirements for a provider of services under a pilot project; amending s. 409.9122, F.S.; requiring the Agency for Health Care Administration to reimburse county health departments for school-based services; requiring Medicaid managed–care contractors to attempt to enter agreements with school districts and county health departments for specified services; specifying the departments that are required to make certain information available to Medicaid recipients; extending the period during which a Medicaid recipient may disenroll from a managed care plan or MediPass provider; deleting authorization for the agency to request a federal waiver from the requirement that a Medicaid managed care plan include a specified ratio of enrollees; amending requirements for the mandatory assignment of Medicaid recipients; amending s. 409.910, F.S.; providing for the distribution of amounts recovered in certain tort suits involving intervention by the Agency for Health Care Administration; requiring that certain third-party benefits received by a Medicaid recipient be remitted within a specified period; amending s. 414.28, F.S.; revising the order under which a claim may be made against the estate of a recipient of public assistance; amending s. 627.912, F.S.; revising reporting requirements by certain insurers; requiring certain self-insurers to report certain information to the Department of Insurance; naming the Carl S. Lytle, M.D., Memorial Health Facility in Marion County; providing an appropriation to be matched by federal Medicaid funds; providing effective dates.

On motion by Senator Bankhead, the Senate concurred in the House amendment.

CS for CS for SB 484 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—39

Madam President	Brown-Waite	Casas	Cowin
Bankhead	Burt	Childers	Crist
Bronson	Campbell	Clary	Diaz-Balart

Dudley	Harris	Laurent	Scott
Dyer	Horne	Lee	Silver
Forman	Jones	McKay	Sullivan
Geller	Kirkpatrick	Meadows	Thomas
Grant	Klein	Myers	Turner
Gutman	Kurth	Ostalkiewicz	Williams
Hargrett	Latvala	Rossin	

Nays—1

Holzendorf

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 812, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 812—A bill to be entitled An act relating to clean air; creating ss. 252.934, 252.935, 252.936, 252.937, 252.938, 252.939, 252.940, 252.941, 252.942, 252.944, 252.945, 252.946, F.S.; providing for the Florida Accidental Release Prevention and Risk Management Planning Act; providing a short title and purpose; defining terms; directing the Department of Community Affairs to seek delegation from the U.S. Environmental Protection Agency to implement the Accidental Release Prevention Program under the federal Clean Air Act or specified sources; providing for funding and fees; providing enforcement authority; providing penalties; authorizing the department to conduct inspections and audits; providing for tort liability; providing for a start-up loan; providing procedures for the release of information; directing legislative committees to review the Florida Accidental Release Prevention and Risk Management Planning Act; amending s. 252.85, F.S.; deleting certain standard industrial classification codes from certain annual reporting requirements; allowing the Department of Community Affairs to consider certain factors in assessing late fees; providing an effective date.

House Amendment 1—On page 17, lines 27-30 remove from the bill: all of said lines and insert in lieu thereof: *Environmental Protection Agency records.*

On motion by Senator Dyer, the Senate concurred in the House amendment.

CS for SB 812 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—37

Madam President	Diaz-Balart	Horne	Rossin
Bankhead	Dudley	Jones	Scott
Bronson	Dyer	Kirkpatrick	Silver
Brown-Waite	Forman	Kurth	Sullivan
Burt	Geller	Latvala	Thomas
Campbell	Grant	Laurent	Turner
Childers	Gutman	Lee	Williams
Clary	Hargrett	Meadows	
Cowin	Harris	Myers	
Crist	Holzendorf	Ostalkiewicz	

Nays—None

Vote after roll call:

Yea—Klein

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 1014, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 1014—A bill to be entitled An act relating to road designations; designating the Gratigny Parkway in Dade County as the "Marlins Expressway"; directing the Department of Transportation to erect suitable markers; designating a portion of State Road 267 in Gadsden County as the "Pat Thomas Parkway"; directing the Department of Transportation to erect suitable markers; designating a portion of State Road 528 in Brevard County as the "Kennedy Space Center Highway"; directing the Department of Transportation to erect suitable markers; designating a portion of the Polk County Highway as the "James Henry Mills Medal of Honor Parkway"; directing the Department of Transportation to erect suitable markers; designating a portion of N.W. 167th Street in Miami Lakes as "Zuly Reyes Road"; directing the Department of Transportation to erect suitable markers; designating State Road 50 within Hernando County as the "Deputy Lonnie Coburn Memorial Highway"; directing the Department of Transportation to erect suitable markers; co-designating the MacArthur Causeway Bridge in Miami-Dade County as the "Trooper Robert G. Smith Bridge"; directing the Department of Transportation to erect suitable markers; designating the Florida Turnpike as the "Ronald Reagan Turnpike"; directing the Department of Transportation to erect suitable markers; designating a portion of State Road 71 South in Jackson County as the "Pete Peterson Parkway"; directing the Department of Transportation to erect suitable markers; designating that portion of State Road 71 extending through Port St. Joe (known as 5th Street) as "Cecil G. Costin, Sr. Boulevard"; directing the Department of Transportation to erect suitable markers; designating a portion of Coral Way in Miami as the "Ofelia Perez-Roura Memorial Way" directing the Department of Transportation to erect suitable markers; providing an effective date.

House Amendment 1 (with title amendment)—On page 8, line 31, after the period insert:

Section 12. *Richard G. Skinner, Jr., M.D., building designated; markers.—*

(1) The Jacksonville Children's Medical Services Building is designated as the "Richard G. Skinner, Jr., M.D., Children's Medical Services Building."

(2) The Department of Health is directed to erect suitable markers designating the Richard G. Skinner, Jr., M.D., Children's Medical Services Building as described in subsection (1).

Section 13. *Don Sutton Memorial Highway designated; markers.—*

(1) That portion of U.S. Highway 29 from Neal Road to Pine Barren Road in Escambia County is hereby designated as the "Don Sutton Memorial Highway."

(2) The Department of Transportation is directed to erect suitable markers designating the "Don Sutton Memorial Highway" as described in subsection (1).

Section 14. *The Deerfield Beach High School Outpatient Family Health Center as identified in the Conference Report on HB 4201 is hereby renamed the "Amadeo Trinchitella Health Clinic."*

Section 15. *The new wing at Florida Atlantic University at St. Lucie West as identified in Specific Appropriation 209A of the Conference Report on HB 4201 is designated as the "I.A. 'MAC' Mascioli Education Wing."*

And the title is amended as follows:

On page 2, line 12, after the semicolon insert: designating the Jacksonville Children's Medical Services Building as the "Richard G. Skinner, Jr., M.D., Children's Medical Services Building"; designating a portion of U.S. Highway 29 in Escambia County as the "Don Sutton Memorial Highway;" providing for the erection of markers; renaming the Deerfield Beach High School Outpatient Family Health Center as the "Amadeo Trinchitella Health Clinic"; naming the new wing at Florida Atlantic University as the I.A. "MAC" Mascioli Education Wing;

House Amendment 2 (with title amendment)—On page 8, line 31, after the period insert in lieu thereof:

Section 12. *(1) That portion of SW 1st Street between 9th and 10th Avenue in Miami is hereby designated as "Lincoln-Marti Boulevard."*

(2) The Department of Transportation is directed to erect suitable markers designating the "Lincoln-Marti Boulevard" as described in subsection (1).

And the title is amended as follows:

On page 2, line 12, after the semicolon insert: designating a portion of SW 1st Street in Miami as the "Lincoln-Marti Boulevard"; directing the Department of Transportation to erect suitable markers;

Senator Gutman moved the following amendment which was adopted:

Senate Amendment 1 to House Amendment 1—In title, on page 2, between lines 17 and 18, insert: An act relating to road and building designations; designating the Gratigny Parkway in Dade County as the "Marlins Expressway"; directing the Department of Transportation to erect suitable markers; designating a portion of State Road 267 in Gadsden County as the "Pat Thomas Parkway"; directing the Department of Transportation to erect suitable markers; designating a portion of State Road 528 in Brevard County as the "Kennedy Space Center Highway"; directing the Department of Transportation to erect suitable markers; designating a portion of the Polk County Highway as the "James Henry Mills Medal of Honor Parkway"; directing the Department of Transportation to erect suitable markers; designating a portion of N.W. 167th Street in Miami Lakes as "Zuly Reyes Road"; directing the Department of Transportation to erect suitable markers; designating State Road 50 within Hernando County as the "Deputy Lonnie Coburn Memorial Highway"; directing the Department of Transportation to erect suitable markers; co-designating the MacArthur Causeway Bridge in Miami-Dade County as the "Trooper Robert G. Smith Bridge"; directing the Department of Transportation to erect suitable markers; designating the Florida Turnpike as the "Ronald Reagan Turnpike"; directing the Department of Transportation to erect suitable markers; designating a portion of State Road 71 South in Jackson County as the "Pete Peterson Parkway"; directing the Department of Transportation to erect suitable markers; designating that portion of State Road 71 extending through Port St. Joe (known as 5th Street) as "Cecil G. Costin, Sr. Boulevard"; directing the Department of Transportation to erect suitable markers; designating a portion of Coral Way in Miami as the "Ofelia Perez-Roura Memorial Way" directing the Department of Transportation to erect suitable markers;

On motion by Senator Gutman, the Senate concurred in **House Amendment 1** as amended and requested the House to concur in the Senate amendment to the House amendment; and concurred in **House Amendment 2**.

CS for SB 1014 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Diaz-Balart	Horne	Myers
Bronson	Dudley	Jones	Ostalkiewicz
Brown-Waite	Dyer	Kirkpatrick	Rossin
Burt	Forman	Klein	Scott
Campbell	Geller	Kurth	Silver
Casas	Grant	Latvala	Sullivan
Childers	Gutman	Laurent	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 1054, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 1054—A bill to be entitled An act relating to rulemaking authority of the Department of Business and Professional Regulation (RAB); amending s. 718.104, F.S.; requiring notification; amending s. 718.112, F.S.; providing requirements relating to association meetings; amending s. 718.117, F.S.; requiring notification; amending s. 718.301, F.S.; providing rulemaking authority for requirements relating to the transition of a condominium; amending s. 718.403, F.S.; requiring filing of recording information; amending s. 718.502, F.S.; providing certain requirements prior to the closure on any contract for sale or lease of over 5 years; providing rulemaking authority for requirements relating to filing and review programs and timetables; amending s. 718.503, F.S.; providing requirements relating to the closure of a transaction for the purchase of a condominium unit; creating s. 718.621, F.S.; providing rulemaking authority for requirements relating to condominium conversion; providing an effective date.

House Amendment 1—On page 7, lines 1-2, remove from the bill: all of said lines and insert in lieu thereof:

(6) The division has authority to adopt rules pursuant to the Administrative Procedure Act to ensure the efficient and effective transition from developer control of a condominium to the establishment of a unit owner-controlled association.

House Amendment 2—On page 12, line 28, remove from the bill: *as necessary* and insert in lieu thereof: *pursuant to the Administrative Procedure Act*

On motion by Senator Dudley, the Senate concurred in the House amendments.

CS for SB 1054 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Diaz-Balart	Horne	Myers
Bronson	Dudley	Jones	Ostalkiewicz
Brown-Waite	Dyer	Kirkpatrick	Rossin
Burt	Forman	Klein	Scott
Campbell	Geller	Kurth	Silver
Casas	Grant	Latvala	Sullivan
Childers	Gutman	Laurent	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

INTRODUCTION OF FORMER SENATOR

The President recognized former Senator Rick Dantzler who was present in the chamber.

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 1092, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 1092—A bill to be entitled An act relating to workers' compensation; amending s. 440.15, F.S.; revising eligibility requirements for supplemental payments; providing a method for calculating workers' compensation benefits based on the aggregate amount of those benefits and other specified benefits payable to the employee; providing that certain supplemental payments are not workers' compensation benefits; providing an effective date.

House Amendment 1 (with title amendment)—Remove from the bill: Everything after the enacting clause and insert in lieu thereof:

Section 1. Paragraph (f) of subsection (1) and subsection (13) of section 440.15, Florida Statutes, are amended, and subsection (14) is added to said section, to read:

440.15 Compensation for disability.—Compensation for disability shall be paid to the employee, subject to the limits provided in s. 440.12(2), as follows:

(1) PERMANENT TOTAL DISABILITY.—

(f)1. If permanent total disability results from injuries that occurred subsequent to June 30, 1955, and for which the liability of the employer for compensation has not been discharged under s. 440.20(12), the injured employee shall receive additional weekly compensation benefits equal to 5 percent of her or his weekly compensation rate, as established pursuant to the law in effect on the date of her or his injury, multiplied by the number of calendar years since the date of injury. The weekly compensation payable and the additional benefits payable under this paragraph, when combined, may not exceed the maximum weekly compensation rate in effect at the time of payment as determined pursuant to s. 440.12(2). Entitlement to these supplemental payments shall cease at age 62 if the employee is eligible for social security benefits under 42 U.S.C. *s.* ~~ss.~~ 402 *or s.* ~~and~~ 423, whether or not the employee has applied for such benefits. These supplemental benefits shall be paid by the division out of the Workers' Compensation Administration Trust Fund when the injury occurred subsequent to June 30, 1955, and before July 1, 1984. These supplemental benefits shall be paid by the employer when the injury occurred on or after July 1, 1984. Supplemental benefits are not payable for any period prior to October 1, 1974.

2.a. The division shall provide by rule for the periodic reporting to the division of all earnings of any nature and social security income by the injured employee entitled to or claiming additional compensation under subparagraph 1. Neither the division nor the employer or carrier shall make any payment of those additional benefits provided by subparagraph 1. for any period during which the employee willfully fails or refuses to report upon request by the division in the manner prescribed by such rules.

b. The division shall provide by rule for the periodic reporting to the employer or carrier of all earnings of any nature and social security income by the injured employee entitled to or claiming benefits for permanent total disability. The employer or carrier is not required to make any payment of benefits for permanent total disability for any period during which the employee willfully fails or refuses to report upon request by the employer or carrier in the manner prescribed by such rules or if any employee who is receiving permanent total disability benefits refuses to apply for or cooperate with the employer or carrier in applying for social security benefits.

3. When an injured employee receives a full or partial lump-sum advance of the employee's permanent total disability compensation benefits, the employee's benefits under this paragraph shall be computed on the employee's weekly compensation rate as reduced by the lump-sum advance.

(13) REPAYMENT.—

(a) If an employee has received a sum as an indemnity benefit under any classification or category of benefit under this chapter to which she or he is not entitled, the employee is liable to repay that sum to the employer or the carrier or to have that sum deducted from future benefits, regardless of the classification of benefits, payable to the employee under this chapter; however, a partial payment of the total repayment may not exceed 20 percent of the amount of the biweekly payment.

(b)1. With respect to workers' compensation benefits payable before July 1, 1998, to the extent liability for repayment under this subsection is based on the combination of workers' compensation benefits and other benefits exceeding 100 percent of the employee's average weekly wage at the time of the injury, the employee is not required to repay the difference to the employer or carrier unless otherwise required by a contract that was in force at the time of the injury. However, an employer or carrier is not required to refund to the employee amounts actually recouped under this subsection prior to July 1, 1998.

2. As used in this paragraph, "other benefits" means social security benefits under 42 U.S.C. s. 402 or s. 423 and employer-funded benefits, including, but not limited to, nondisability retirement or nondisability pension benefits as described in subsection (14).

3. Nothing in this paragraph limits the applicability of subsection (10).

(14) COORDINATION OF BENEFITS.—Unless otherwise specifically provided by contract, workers' compensation benefits that are otherwise payable under this chapter must be reduced to the extent the combination of workers' compensation benefits and social security benefits under 42 U.S.C. s. 402 or s. 423, and employer-funded benefits other than nondisability retirement or nondisability pension benefits, provided to the employee and his or her dependents exceeds 100 percent of the employee's average weekly wage at the time of injury. A benefit shall be considered employer funded when the employer has contributed more than 50 percent of the cost of the benefit. "Workers' compensation benefits" excludes supplemental payments for permanent total disability pursuant to paragraph (1)(f).

Section 2. Section 440.49, Florida Statutes, is amended to read:

440.49 Limitation of liability for subsequent injury through Special Disability Trust Fund.—

(1) LEGISLATIVE INTENT.—Whereas it is often difficult for workers with disabilities to achieve employment or to become reemployed following an injury, and it is the desire of the Legislature to facilitate the return of these workers to the workplace, it is the purpose of this section to encourage the employment, reemployment, and accommodation of the physically disabled by reducing an employer's insurance premium for reemploying an injured worker, to decrease litigation between carriers on apportionment issues, and to protect employers from excess liability for compensation and medical expense when an injury to a physically disabled worker merges with, aggravates, or accelerates her or his preexisting permanent physical impairment to cause either a greater disability or permanent impairment, or an increase in expenditures for temporary compensation or medical benefits than would have resulted from the injury alone. The division *or the administrator* shall inform all employers of the existence and function of the fund and shall interpret eligibility requirements liberally. However, this subsection shall not be construed to create or provide any benefits for injured employees or their dependents not otherwise provided by this chapter. The entitlement of an injured employee or her or his dependents to compensation under this chapter shall be determined without regard to this subsection, the provisions of which shall be considered only in determining whether an employer or carrier who has paid compensation under this chapter is entitled to reimbursement from the Special Disability Trust Fund.

(2) DEFINITIONS.—As used in this section, the term:

(a) "Permanent physical impairment" means and is limited to the conditions listed in paragraph (6)(a).

(b) "Preferred worker" means a worker who, because of a permanent impairment resulting from a compensable injury or occupational disease, is unable to return to the worker's regular employment.

(c) "Merger" describes or means that:

1. If the permanent physical impairment had not existed, the subsequent accident or occupational disease would not have occurred;

2. The permanent disability or permanent impairment resulting from the subsequent accident or occupational disease is materially and substantially greater than that which would have resulted had the permanent physical impairment not existed, and the employer has been required to pay, and has paid, permanent total disability or permanent impairment benefits for that materially and substantially greater disability;

3. The preexisting permanent physical impairment is aggravated or accelerated as a result of the subsequent injury or occupational disease, or the preexisting impairment has contributed, medically and circumstantially, to the need for temporary compensation, medical, or attendant care and the employer has been required to pay, and has paid, temporary compensation, medical, or attendant care benefits for the aggravated preexisting permanent impairment; or

4. Death would not have been accelerated if the permanent physical impairment had not existed.

(d) "Excess permanent compensation" means that compensation for permanent impairment, or permanent total disability or death benefits, for which the employer or carrier is otherwise entitled to reimbursement from the Special Disability Trust Fund.

(e) "Administrator" means the entity selected by the commission to review, allow, deny, compromise, controvert, and litigate claims of the Special Disability Trust Fund.

(f) "Corporation" means the Special Disability Trust Fund Financing Corporation, as created under subsection (14).

(g) "Commission" means the Special Disability Trust Fund Privatization Commission, as created under subsection (13).

(3) DEDUCTIBLE.—Reimbursement may not be obtained for the first $10,000 of benefits paid which otherwise qualify for reimbursement under this section. This deductible does not apply to claims by employers for reimbursement under subparagraph (b)3.

(4) PERMANENT IMPAIRMENT OR PERMANENT TOTAL DISABILITY, TEMPORARY BENEFITS, MEDICAL BENEFITS, OR ATTENDANT CARE AFTER OTHER PHYSICAL IMPAIRMENT.—

(a) Permanent impairment.—If an employee who has a preexisting permanent physical impairment incurs a subsequent permanent impairment from injury or occupational disease arising out of, and in the course of, her or his employment which merges with the preexisting permanent physical impairment to cause a permanent impairment, the employer shall, in the first instance, pay all benefits provided by this chapter; but, subject to the limitations specified in subsection (6), such employer shall be reimbursed from the Special Disability Trust Fund created by subsection (8) for 50 percent of all impairment benefits which the employer has been required to provide pursuant to s. 440.15(3)(a) as a result of the subsequent accident or occupational disease.

(b) Permanent total disability.—If an employee who has a preexisting permanent physical impairment incurs a subsequent permanent impairment from injury or occupational disease arising out of, and in the course of, her or his employment which merges with the preexisting permanent physical impairment to cause permanent total disability, the employer shall, in the first instance, pay all benefits provided by this chapter; but, subject to the limitations specified in subsection (6), such employer shall be reimbursed from the Special Disability Trust Fund created by subsection (8) for 50 percent of all compensation for permanent total disability.

(c) Temporary compensation and medical benefits; aggravation or acceleration of preexisting condition or circumstantial causation.—If an employee who has a preexisting permanent physical impairment experiences an aggravation or acceleration of the preexisting permanent physical impairment as a result of an injury or occupational disease arising out of and in the course of her or his employment, or suffers an injury as a result of a merger as defined in subparagraph (1)(b)2., the employer shall provide all benefits provided by this chapter, but, subject to the limitations specified in subsection (7), the employer shall be reimbursed by the Special Disability Trust Fund created by subsection (8) for 50 percent of its payments for temporary, medical, and attendant care benefits.

(5) WHEN DEATH RESULTS.—If death results from the subsequent permanent impairment contemplated in paragraph (c) within 1 year after the subsequent injury, or within 5 years after the subsequent injury when disability has been continuous since the subsequent injury, and it is determined that the death resulted from a merger, the employer shall, in the first instance, pay the funeral expenses and the death benefits prescribed by this chapter; but, subject to the limitations specified in subsection (6), she or he shall be reimbursed from the Special Disability Trust Fund created by subsection (8) for the last 50 percent of all compensation allowable and paid for such death and for 50 percent of the amount paid as funeral expenses.

(6) EMPLOYER KNOWLEDGE, EFFECT ON REIMBURSEMENT.—

(a) Reimbursement is not allowed under this section unless it is established that the employer knew of the preexisting permanent physical impairment prior to the occurrence of the subsequent injury or occupational disease, and that the permanent physical impairment is one of the following:

1. Epilepsy.

2. Diabetes.

3. Cardiac disease.

4. Amputation of foot, leg, arm, or hand.

5. Total loss of sight of one or both eyes or a partial loss of corrected vision of more than 75 percent bilaterally.

6. Residual disability from poliomyelitis.

7. Cerebral palsy.

8. Multiple sclerosis.

9. Parkinson's disease.

10. Meniscectomy.

11. Patellectomy.

12. Ruptured cruciate ligament.

13. Hemophilia.

14. Chronic osteomyelitis.

15. Surgical or spontaneous fusion of a major weight-bearing joint.

16. Hyperinsulinism.

17. Muscular dystrophy.

18. Thrombophlebitis.

19. Herniated intervertebral disk.

20. Surgical removal of an intervertebral disk or spinal fusion.

21. One or more back injuries or a disease process of the back resulting in disability over a total of 120 or more days, if substantiated by a doctor's opinion that there was a preexisting impairment to the claimant's back.

22. Total deafness.

23. Mental retardation, provided the employee's intelligence quotient is such that she or he falls within the lowest 2 percentile of the general population. However, it shall not be necessary for the employer to know the employee's actual intelligence quotient or actual relative ranking in relation to the intelligence quotient of the general population.

24. Any permanent physical condition which, prior to the industrial accident or occupational disease, constitutes a 20-percent impairment of a member or of the body as a whole.

25. Obesity, provided the employee is 30 percent or more over the average weight designated for her or his height and age in the Table of Average Weight of Americans by Height and Age prepared by the Society of Actuaries using data from the 1979 Build and Blood Pressure Study.

26. Any permanent physical impairment as defined in s. 440.15(3) which is a result of a prior industrial accident with the same employer or the employer's parent company, subsidiary, sister company, or affiliate located within the geographical boundaries of this state.

(b) The Special Disability Trust Fund is not liable for any costs, interest, penalties, or attorneys' fees.

(c) An employer's or carrier's right to apportionment or deduction pursuant to ss. 440.02(1), 440.15(5)(b), and 440.151(1)(c) does not preclude reimbursement from such fund, except when the merger comes within the definition of subparagraph (2)(b)2. and such apportionment or deduction relieves the employer or carrier from providing the materially and substantially greater permanent disability benefits otherwise contemplated in those paragraphs.

(7) REIMBURSEMENT OF EMPLOYER.—

(a) The right to reimbursement as provided in this section is barred unless written notice of claim of the right to such reimbursement is filed by the employer or carrier entitled to such reimbursement with the division *or administrator* at Tallahassee within 2 years after the date the employee last reached maximum medical improvement, or within 2 years after the date of the first payment of compensation for permanent total disability, wage loss, or death, whichever is later. The notice of

claim must contain such information as the division by rule requires *or as established by the administrator*; and the employer or carrier claiming reimbursement shall furnish such evidence in support of the claim as the division *or administrator* reasonably may require.

(b) For notice of claims on the Special Disability Trust Fund filed on or after July 1, 1978, the Special Disability Trust Fund shall, within 120 days after receipt of notice that a carrier has paid, been required to pay, or accepted liability for excess compensation, serve notice of the acceptance of the claim for reimbursement.

(c) A proof of claim must be filed on each notice of claim on file as of June 30, 1997, within 1 year after July 1, 1997, or the right to reimbursement of the claim shall be barred. A notice of claim on file on or before June 30, 1997, may be withdrawn and refiled if, at the time refiled, the notice of claim remains within the limitation period specified in paragraph (a). Such refiling shall not toll, extend, or otherwise alter in any way the limitation period applicable to the withdrawn and subsequently refiled notice of claim. Each proof of claim filed shall be accompanied by a proof-of-claim fee as provided in paragraph (9)(d). The Special Disability Trust Fund shall, within 120 days after receipt of the proof of claim, serve notice of the acceptance of the claim for reimbursement. This paragraph shall apply to all claims notwithstanding the provisions of subsection (12).

(d) Each notice of claim filed or refiled on or after July 1, 1997, must be accompanied by a notification fee as provided in paragraph (9)(d). A proof of claim must be filed within 1 year after the date the notice of claim is filed or refiled, accompanied by a proof-of-claim fee as provided in paragraph (9)(d), or the claim shall be barred. The notification fee shall be waived if both the notice of claim and proof of claim are submitted together as a single filing. The Special Disability Trust Fund shall, within 180 days after receipt of the proof of claim, serve notice of the acceptance of the claim for reimbursement. This paragraph shall apply to all claims notwithstanding the provisions of subsection (12).

(e) For dates of accident on or after January 1, 1994, the Special Disability Trust Fund shall, within 120 days of receipt of notice that a carrier has been required to pay, and has paid over $10,000 in benefits, serve notice of the acceptance of the claim for reimbursement. Failure of the Special Disability Trust Fund to serve notice of acceptance shall give rise to the right to request a hearing on the claim for reimbursement. If the Special Disability Trust Fund through its representative denies or controverts the claim, the right to such reimbursement shall be barred unless an application for a hearing thereon is filed with the division *or administrator* at Tallahassee within 60 days after notice to the employer or carrier of such denial or controversion. When such application for a hearing is timely filed, the claim shall be heard and determined in accordance with the procedure prescribed in s. 440.25, to the extent that such procedure is applicable, and in accordance with the workers' compensation rules of procedure. In such proceeding on a claim for reimbursement, the Special Disability Trust Fund shall be made the party respondent, and no findings of fact made with respect to the claim of the injured employee or the dependents for compensation, including any finding made or order entered pursuant to s. 440.20(12), shall be res judicata. The Special Disability Trust Fund may not be joined or made a party to any controversy or dispute between an employee and the dependents and the employer or between two or more employers or carriers without the written consent of the fund.

(f) When it has been determined that an employer or carrier is entitled to reimbursement in any amount, the employer or carrier shall be reimbursed annually from the Special Disability Trust Fund for the compensation and medical benefits paid by the employer or carrier for which the employer or carrier is entitled to reimbursement, upon filing request therefor and submitting evidence of such payment in accordance with rules prescribed by the division, which rules may include parameters for annual audits. The Special Disability Trust Fund shall pay the approved reimbursement requests on a first-in, first-out basis reflecting the order in which the reimbursement requests were received.

(8) PREFERRED WORKER PROGRAM.—The division *or administrator* shall issue identity cards to preferred workers upon request by qualified employees and shall reimburse an employer, from the Special Disability Trust Fund, for the cost of workers' compensation premium related to the preferred workers payroll for up to 3 years of continuous employment upon satisfactory evidence of placement and issuance of payroll and classification records and upon the employee's certification of employment.

(9) SPECIAL DISABILITY TRUST FUND.—

(a) There is established in the State Treasury a special fund to be known as the "Special Disability Trust Fund," which shall be available only for the purposes stated in this section; and the assets thereof may not at any time be appropriated or diverted to any other use or purpose. The Treasurer shall be the custodian of such fund, and all moneys and securities in such fund shall be held in trust by such Treasurer and shall not be the money or property of the state. The Treasurer is authorized to disburse moneys from such fund only when approved by the division *or corporation* and upon the order of the Comptroller. The Treasurer shall deposit any moneys paid into such fund into such depository banks as the division *or corporation* may designate and is authorized to invest any portion of the fund which, in the opinion of the division, is not needed for current requirements, in the same manner and subject to all the provisions of the law with respect to the deposits of state funds by such Treasurer. All interest earned by such portion of the fund as may be invested by the Treasurer shall be collected by her or him and placed to the credit of such fund.

(b)1. The Special Disability Trust Fund shall be maintained by annual assessments upon the insurance companies writing compensation insurance in the state, the commercial self-insurers under ss. 624.462 and 624.4621, the assessable mutuals under s. 628.601, and the self-insurers under this chapter, which assessments shall become due and be paid quarterly at the same time and in addition to the assessments provided in s. 440.51. The division shall estimate annually in advance the amount necessary for the administration of this subsection and the maintenance of this fund and shall make such assessment in the manner hereinafter provided.

2. The annual assessment shall be calculated to produce during the ensuing fiscal year an amount which, when combined with that part of the balance in the fund on June 30 of the current fiscal year which is in excess of $100,000, is equal to the average of:

a. The sum of disbursements from the fund during the immediate past 3 calendar years, and

b. Two times the disbursements of the most recent calendar year.

Such amount shall be prorated among the insurance companies writing compensation insurance in the state and the self-insurers.

3. The net premiums written by the companies for workers' compensation in this state and the net premium written applicable to the self-insurers in this state are the basis for computing the amount to be assessed as a percentage of net premiums. Such payments shall be made by each insurance company and self-insurer to the division for the Special Disability Trust Fund in accordance with such regulations as the division prescribes.

4. The Treasurer is authorized to receive and credit to such Special Disability Trust Fund any sum or sums that may at any time be contributed to the state by the United States under any Act of Congress, or otherwise, to which the state may be or become entitled by reason of any payments made out of such fund.

(c) Notwithstanding the Special Disability Trust Fund assessment rate calculated pursuant to this section, the rate assessed shall not exceed 4.52 percent.

(d) The Special Disability Trust Fund shall be supplemented by a $250 notification fee on each notice of claim filed or refiled after July 1, 1997, and a $500 fee on each proof of claim filed in accordance with subsection (7). Revenues from the fee shall be deposited into the Special Disability Trust Fund and are exempt from the deduction required by s. 215.20. The fees provided in this paragraph shall not be imposed upon any insurer which is in receivership with the Department of Insurance.

(e) The Department of Labor and Employment Security *or administrator* shall report annually on the status of the Special Disability Trust Fund. The report shall update *the estimated undiscounted and discounted fund liability, as determined by an independent actuary* ~~the projected change in fund liability~~, change in the total number of notices of claim on file with the fund in addition to the number of newly filed notices of claim, change in the number of proofs of claim processed by the fund, ~~and~~ the fee revenues refunded and revenues applied to pay down the liability of the fund, *the average time required to reimburse accepted*

claims, and the average administrative costs per claim. The department *or administrator* shall submit its ~~initial~~ report to the Governor, the President of the Senate, and the Speaker of the House of Representatives ~~by March 1, 1998, for the period ending February 1, 1998, with additional reports submitted~~ by December 1 *of each year*~~, 1998, and December 1, 1999~~.

(10) DIVISION ADMINISTRATION OF FUND; CLAIMS; ADVISORY COMMITTEE; EXPENSES.—The division *or administrator* shall administer the Special Disability Trust Fund with authority to allow, deny, compromise, controvert, and litigate claims made against it and to designate an attorney to represent it in proceedings involving claims against the fund, including negotiation and consummation of settlements, hearings before judges of compensation claims, and judicial review. The division *or administrator* or the attorney designated by it shall be given notice of all hearings and proceedings involving the rights or obligations of such fund and shall have authority to make expenditures for such medical examinations, expert witness fees, depositions, transcripts of testimony, and the like as may be necessary to the proper defense of any claim. The division shall appoint an advisory committee composed of representatives of management, compensation insurance carriers, and self-insurers to aid it in formulating policies with respect to conservation of the fund, who shall serve without compensation for such terms as specified by it, but be reimbursed for travel expenses as provided in s. 112.061. All expenditures made in connection with conservation of the fund, including the salary of the attorney designated to represent it and necessary travel expenses, shall be allowed and paid from the Special Disability Trust Fund as provided in this section upon the presentation of itemized vouchers therefor approved by the division.

(11) EFFECTIVE DATES.—This section does not apply to any case in which the accident causing the subsequent injury or death or the disablement or death from a subsequent occupational disease occurred prior to July 1, 1955, or on or after January 1, 1998. In no event shall the Special Disability Trust Fund be liable for, or reimburse employers or carriers for, any case in which the accident causing the subsequent injury or death or the disablement or death from a subsequent occupational disease occurred on or after January 1, 1998. The Special Disability Trust Fund shall continue to reimburse employers or carriers for subsequent injuries occurring prior to January 1, 1998, and the division shall continue to assess for and *the division or administrator shall* fund reimbursements as provided in subsection (9) for this purpose.

(12) REIMBURSEMENT FROM THE SPECIAL DISABILITY TRUST FUND.—The applicable law for the purposes of determining entitlement to reimbursement from the Special Disability Trust Fund is the law in effect on the date the accident occurred.

(13)(a) The Special Disability Trust Fund Privatization Commission is created to evaluate and determine the feasibility of privatizing the Special Disability Trust Fund. The commission shall determine the liabilities of the fund and the costs to presently administer the Special Disability Trust Fund. The commission may develop and issue a request for proposal to transfer the liabilities of the Special Disability Trust Fund to an qualified entity. The commission is authorized to select and contract with an qualified entity, only if the commission determines that such an arrangement would substantially reduce the costs and be more effective than the current administration of the Special Disability Trust Fund. The commission may adopt rules necessary for the performance of its assigned duties and responsibilities.

(b) Consistent with the closing of the fund provided in subsection (11), the Special Disability Trust Fund Privatization Commission is authorized to contract with an administrator to review, allow, deny, compromise, controvert, and litigate claims of the Special Disability Trust Fund under this section. The Commission, in consultation with the division, is authorized to contract with an qualified entity to assume the reimbursement obligations of the Special Disability Trust Fund for claims which have previously have accepted for reimbursement by the Special Disability Trust Fund and claims which are determined to be reimbursable by the Special Disability Trust Fund. The qualified entity and the administrator shall not be affiliates of the other, and shall not establish or maintain a financial or contractual agreement with each other for purposes of this section. On or before July 1, 1999, the commission, in consultation with the division, may develop and issue a request for proposal for the transfer and assumption of liabilities, and administration of certain functions related to claims of the Special Disability Trust Fund. The administrator shall have experience in workers' compensation claims management of sufficient scope and size to undertake the duties and responsibilities of this section and shall demonstrate the ability to meet the criteria established by the commission, which shall include the ability to substantially reduce the overall costs of reviewing and reimbursing claims, and to settle and extinguish the liabilities of the Special Disability Trust Fund in a more cost efficient and more timely manner than presently provided by the division. In the event liabilities on the Special Disabilities Trust Fund are transferred to and assumed by an qualified entity, such insurer shall provide the state with financial assurance as to the satisfaction of any such liabilities or claims and the state and the Special Disability Trust Fund shall have no further liability with respect to those liabilities and claims. The financial assurances may include, but are not limited to, cash reserves, reinsurance, guarantees, or letters of credit.

(c) The commission shall be composed of three members, one member selected by the Governor; one selected by the Insurance Commissioner; and one selected by the Comptroller.

(d) The commission is authorized to appoint and employ such officers, agents, and employees as the commission deems advisable to operate and manage the affairs of the commission, which officers, agents, and employees may be employees of the division or the State Board of Administration. The commission shall contract with consultants deemed necessary to determine the liabilities of the Special Disability Trust Fund, as of December 31, 1998, and the feasibility of privatizing the Special Disability Trust Fund.

(14) Florida Special Disability Trust Fund Financing Corporation.—

(a) The Legislature finds that:

1. The liabilities of the Special Disability Trust Fund are substantial and that the extinguishment of these liabilities in a cost effective and timely manner are of paramount importance to the state. In connection therewith, in the event that the commission determines that it is more cost effective and in the best interest of the Special Disabilities Trust Fund and the state to finance the liabilities of the Special Disabilities Trust Fund through the issuance of bonds, notes or other evidence of indebtedness, it shall request the assistance of the corporation to issue such bonds, notes or other evidences of indebtedness.

2. The Legislature finds that the creation of a public benefits corporation and the issuance of bonds or other forms of indebtedness under this section is consistent with the underlying public purpose of reducing and ultimately eliminating the liabilities of the Special Disability Trust Fund. The purpose of the corporation and the subsequent bond issuance is to fund and pay the liabilities of the Special Disability Trust Fund, ensure the existence of a sufficient funding source for reimbursements to employers and carriers, and reduce the overall costs of the program provided by the state by employers and carriers.

(b) In the event the commission determines that it is more cost effective and in the best interest of the Special Disability Trust Fund, the state, insurers, and employers to finance the liabilities of the Special Disability Trust Fund through the issuance of bonds, notes, or other evidences of indebtedness, there is created a public benefits corporation to be known as the Special Disability Trust Fund Financing Corporation.

1. The corporation shall operate under a three-member board of directors consisting of the Governor or a designee, the Treasurer or a designee, and the Comptroller or a designee.

2. The corporation has all of the powers of corporations under chapter 607 and under chapter 617.

3. The corporation may issue bonds, notes, or other evidences of indebtedness and engage in such other financial transactions as are necessary to provide sufficient funds to achieve the purposes of this section.

4. The corporation may invest in any of the investments authorized under s. 215.47.

5. There shall be no liability on the part of, and no cause of action shall arise against, any board members or employees of the corporation or the state for any actions taken by them in the performance of their duties under this paragraph.

6. The corporation may appoint and employ such officers, agents, and employees as the corporation deems advisable to operate and manage the

affairs of the corporation, which officers, agents, and employees may be employees of the division or the State Board of Administration. The administrative costs and fees incurred by the corporation, and employee salaries, shall be paid from bond revenues. The corporation and the division shall have the power to contract with each other for expenses incurred in connection with the transfer, assumption, and settlement of liabilities of the Special Disability Trust Fund.

7. In addition to bonding, the corporation may also borrow from, or enter into other financing arrangements with, any market sources at interest rates not exceeding prevailing interest rates.

(c)1. The proceeds of revenue bonds issued by this corporation may be used to pay obligations of the Special Disability Trust Fund made pursuant to this section; to finance or replace previously existing borrowings or financial arrangements; to pay interest on bonds; to fund reserves for the bonds; to pay expenses incident to the issuance or sale of any bonds issued under this subsection, or for such other purposes related to the financial obligations of the Special Disability Trust Fund as the corporation may determine. The corporation may pledge all or a portion of the revenues collected under subsection (9) to secure such revenue bonds, and may execute such agreements between the corporation and the division, necessary or desirable in connection with the issuance of any revenue bonds.

2. The corporation may contract with the State Board of Administration to serve as trustee with respect to debt obligations issued by the corporation as provided by this section and to hold, administer, and invest proceeds of such debt obligations and other funds of the corporation. The State Board of Administration may perform such services and may contract with others to provide all or a part of such services and to recover the costs and expenses of providing such services. The investment of proceeds of debt obligations or other funds of the corporation and contracts of funds held in trust by the State Board of Administration, whether directly or indirectly related to the investments or contracts, are exempt from the provisions of chapter 287.

(d)1. Revenue bonds may not be issued under this subsection until validated under chapter 75. In any suit, action, or proceeding involving the validity or enforceability of any bond issued under this subsection, or the security therefor, any such bond reciting in substance that it has been issued by the corporation in connection with any purpose of this section shall be conclusively deemed to have been carried out in accordance with the mandates herein. In actions under chapter 75 to validate any bonds issued by the corporation, the notice required by s. 75.06 shall be published only in Leon County and in two newspapers of general circulation in the state, and the complaint and order of the court shall be served only on the State Attorney of the Second Judicial Circuit. The validation of at least the first obligations incurred pursuant to this subsection shall be appealed to the Supreme Court, to be handled on an expedited basis.

2. The state hereby covenants with holders of bonds of the corporation that the state will not repeal or abrogate the power of the division to levy the assessments and to collect the proceeds of the revenues pledged to the payment of such bonds as long as any such bonds remain outstanding unless adequate provision has been made for the payment of such bonds pursuant to the documents authorizing the issuance of such bonds.

3. The corporation and its corporate existence shall continue until terminated by law; however, no such law shall take effect as long as the corporation has bonds outstanding unless adequate provision has been made for the payment of such bonds pursuant to the documents authorizing the issuance of such bonds. Upon termination of the existence of the corporation, all of its rights and properties in excess of its obligations shall pass to and be vested in the state.

(e)1. The funds, credit, property, or taxing power of the state or political subdivisions of the state shall not be pledged for the payment of such bonds. The bonds of the corporation are not a debt of the state or of any political subdivision, and neither the state nor any political subdivision is liable on such bonds. The corporation does not have the power to pledge the credit, the revenues, or the taxing power of the state or of any political subdivision. The credit, revenues, or taxing power of the state or of any political subdivision shall not be deemed to be pledged to the payment of any bonds of the corporation. However, bonds issued under this subsection are declared to be for an essential public and governmental purpose.

2. The property, revenues, and other assets of the corporation; the transactions and operations of the corporation and the income from such transactions and operations; and all bonds issued under this paragraph and the interest on such bonds, which is exempt from income taxes of the United States, are exempt from taxation by the state and any political subdivision, including, but not limited to, the intangibles tax under chapter 199, the income tax under chapter 220, and the premium tax under the Florida Insurance Code. This exemption does not apply to any tax imposed by chapter 220 on interest income or profits on debt obligations owned by corporations other than the Special Disability Trust Fund Financing Corporation. The corporation is not subject to the reporting requirements mandated by the Florida Insurance Code.

(f) All bonds of the corporation shall be and constitute legal investments without limitation for all public bodies of this state; for all banks, trust companies, savings banks, savings associations, savings and loan associations, and investment companies; for all administrators, executors, trustees, and other fiduciaries; for all insurance companies and associations and other persons carrying on an insurance business; and for all other persons who are now or may hereafter be authorized to invest in bonds or other obligations of the state and shall be and constitute eligible securities to be deposited as collateral for the security of any state, county, municipal, or other public funds. This paragraph shall be considered as additional and supplemental authority and shall not be limited without specific reference to this paragraph.

(g) In the event the commission selects an qualified entity to assume all or some of the liabilities of the Special Disability Trust Fund, all or any portion of the monetary assets and claims liabilities held in and accruing to the Special Disability Trust Fund may, with the agreement of the corporation or the administrator, be transferred to and fully assumed by the corporation or the qualified entity. As provided in an agreement with the corporation or the qualified entity, subsequent assessments under subsection (9) shall be collected by the division, deposited into the Special Disability Trust Fund, and used exclusively for the debt service of the bonds issued by the corporation, the payment of outstanding liabilities of the Special Disability Trust Fund not assumed by the corporation or the qualified entity, and expenses of the corporation.

(h) The administrator is prohibited from reviewing, auditing, litigating, reimbursing, or settling any pending or future claim or liability of its affiliates or subsidiaries. The administrator is required to subcontract the responsibility of reviewing, auditing, litigating, reimbursing, or settling such a claim or liability.

(i) The Auditor General is authorized to examine and audit the records and accounts of the corporation.

Section 3. *There is hereby appropriated $200,000 from the Special Disability Trust Fund to the Special Disability Trust Fund Privatization Commission to implement this act.*

Section 4. This act shall take effect July 1 of the year in which enacted.

And the title is amended as follows:

On page 1, lines 3-11 remove from the title of the bill: all of said lines and insert in lieu thereof: amending s. 440.15, F.S.; providing an exception to certain benefit repayment requirements for employees; providing a definition; providing application; providing a method for determining workers' compensation benefits when in combination with certain other benefits; providing for the exclusion of certain supplemental payments; amending s. 440.49, F.S., creating the Special Disability Trust Fund Privatization Commission; providing purpose; providing for members; providing duties; providing for adoption of rules; creating the Special Disability Trust Fund Financing Corporation; providing purposes; providing for a board of directors; providing powers and duties of the corporation; authorizing the Division of Workers' Compensation to enter into service contracts for certain purposes; authorizing the corporation to issue evidences of indebtedness; authorizing the corporation to validate bond obligations; exempting the corporation from certain taxes and assessments; providing application; providing for reversion of the assets to the State upon dissolution of the corporation; providing for the State Board of Administration to be a trustee of the corporation's securities; authorizing the commission to issue a request for proposal for administration of the claims of the fund; authorizing the transfer and assumption of the liabilities of the Special Disability Trust Fund to an qualified entity if it is determined by the commission that such an arrangement would be more cost effective than the current administration by the division; authorizing the Auditor General to examine and audit the

records of the corporation; providing an appropriation; providing an effective date.

On motion by Senator Latvala, the Senate refused to concur in the House amendment to **CS for SB 1092** and the House was requested to recede.

RECONSIDERATION OF BILL

On motion by Senator Latvala, the Senate reconsidered the vote by which the motion to refuse to concur in the House amendment was adopted.

On motion by Senator Latvala, further consideration of **CS for SB 1092** as amended was deferred.

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 1144, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 1144—A bill to be entitled An act relating to the rulemaking authority of the Department of Management Services and other agencies (RAB); creating s. 110.224, F.S.; requiring a review and performance planning system; requiring the department to adopt rules to implement a review and performance planning system to assess employee performance; amending s. 110.1095, F.S.; directing the department to provide technical assistance; requiring annual review of state training programs; requiring agencies to develop and implement training programs; directing the department to adopt rules for training programs; amending s. 110.207, F.S.; prohibiting positions from being filled before they have been classified; amending s. 110.227, F.S.; directing the department to adopt a grievance procedure for career service employees; requiring a grievance process to be available for career service employees; defining the term "grievance"; authorizing the adoption of rules for the grievance process; amending s. 216.262, F.S.; providing rulemaking authority; detailing use and value of perquisites; amending s. 946.515, F.S.; making a determination not to use corporation products or services; providing an effective date.

House Amendment 1 (with title amendment)—On page 11, lines 19, through page 13, line 2 remove from the bill: all said lines

And the title is amended as follows:

On page 1, lines 25 through 27, remove from the title of the bill: all said lines and insert in lieu thereof: and value of perquisites; providing an

On motion by Senator Gutman, the Senate concurred in the House amendment.

CS for SB 1144 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—39

Madam President	Crist	Holzendorf	Meadows
Bankhead	Diaz-Balart	Horne	Myers
Bronson	Dudley	Jones	Ostalkiewicz
Brown-Waite	Dyer	Kirkpatrick	Rossin
Burt	Forman	Klein	Scott
Campbell	Geller	Kurth	Silver
Casas	Grant	Latvala	Sullivan
Childers	Gutman	Laurent	Turner
Clary	Hargrett	Lee	Williams
Cowin	Harris	McKay	

Nays—None

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for CS for SB 1406, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for CS for SB 1406—A bill to be entitled An act relating to workers' compensation; amending s. 440.02, F.S.; defining the terms "corporate officer," "partner," and "sole proprietor," as used in ch. 440, F.S.; amending s. 440.05, F.S.; authorizing the Division of Workers' Compensation of the Department of Labor and Employment Security to approve and revoke certificates of exemption; specifying requirements for notices of election to be exempt; providing for renewal of exemption certificates; requiring notice on election forms that providing false information is a felony; revising fees for exemptions and specifying use of fees by the division; amending s. 440.09, F.S.; conforming references to judges of compensation claims and administrative law judges; amending s. 440.10, F.S.; revising documentation establishing conclusive presumption of independent contractor status and ineligibility for workers' compensation benefits; amending s. 440.103, F.S.; revising the documentation that must be filed by an employer that obtains a building permit; specifying requirements for certificates of coverage; amending s. 440.104, F.S.; revising the cause of action and remedies available to losers of competitive bidding against persons who violate certain provisions; increasing recoverable damages; amending s. 440.105, F.S.; providing penalties; providing a time limitation for bringing an action under s. 440.105(4), F.S.; amending s. 440.107, F.S.; providing legislative findings related to noncompliance with workers' compensation coverage requirements; authorizing the division to enter and inspect places of business for investigating compliance; requiring employers to maintain records required by the division by rule; authorizing the division to require sworn reports from employers, to administer oaths, and to issue subpoenas to enforce compliance; providing penalties for refusal to obey a subpoena; amending s. 440.45, F.S.; revising term of office, qualifications, and method of nomination for the Chief Judge of the Office of the Judges of Compensation Claims; providing for expiration of term of office for members of the statewide nominating commission for judges of compensation claims; providing for new appointments to the nominating commission and staggered terms; revising the procedures for nominating commission regarding performance of sitting judges and regarding nominations of applicants; providing for expiration of the term of office and reappointment of the Chief Judge of Compensation Claims; amending s. 627.413, F.S.; specifying notice requirements for minimum premium policies; requiring the division to notify certain persons of certain requirements of this act; providing an appropriation; providing an effective date.

House Amendment 1 (with title amendment)—Remove from the bill: Everything after the enacting clause and insert in lieu thereof:

Section 1. Section 440.02, Florida Statutes, is amended to read:

440.02 Definitions.—When used in this chapter, unless the context clearly requires otherwise, the following terms shall have the following meanings:

(1) "Accident" means only an unexpected or unusual event or result that happens suddenly. A mental or nervous injury due to stress, fright, or excitement only, or disability or death due to the accidental acceleration or aggravation of a venereal disease or of a disease due to the habitual use of alcohol or controlled substances or narcotic drugs, or a disease that manifests itself in the fear of or dislike for an individual because of the individual's race, color, religion, sex, national origin, age, or handicap is not an injury by accident arising out of the employment. If a preexisting disease or anomaly is accelerated or aggravated by an accident arising out of and in the course of employment, only acceleration of death or acceleration or aggravation of the preexisting condition reasonably attributable to the accident is compensable, with respect to death or permanent impairment.

(2) "Adoption" or "adopted" means legal adoption prior to the time of the injury.

(3) "Carrier" means any person or fund authorized under s. 440.38 to insure under this chapter and includes a self-insurer, and a commercial self-insurance fund authorized under s. 624.462.

(4) "Casual" as used in this section shall be taken to refer only to employments when the work contemplated is to be completed in not exceeding 10 working days, without regard to the number of persons employed, and when the total labor cost of such work is less than $100.

(5) "Child" includes a posthumous child, a child legally adopted prior to the injury of the employee, and a stepchild or acknowledged child born out of wedlock dependent upon the deceased, but does not include married children unless wholly dependent on the employee. "Grandchild" means a child as above defined of a child as above defined. "Brother" and "sister" include stepbrothers and stepsisters, half brothers and half sisters, and brothers and sisters by adoption, but does not include married brothers or married sisters unless wholly dependent on the employee. "Child," "grandchild," "brother," and "sister" include only persons who at the time of the death of the deceased employees are under 18 years of age, or under 22 years of age if a full-time student in an accredited educational institution.

(6) "Compensation" means the money allowance payable to an employee or to his or her dependents as provided for in this chapter.

(7) "Construction industry" means for-profit activities involving the carrying out of any building, clearing, filling, excavation, or substantial improvement in the size or use of any structure or the appearance of any land. When appropriate to the context, "construction" refers to the act of construction or the result of construction. However, "construction" shall not mean a landowner's act of construction or the result of a construction upon his or her own premises, provided such premises are not intended to be sold or resold.

(8) "Corporate officer" or "officer of a corporation" means any person who fills an office provided for in the corporate charter or articles of incorporation filed with the Division of Corporations of the Department of State or as permitted or required by chapter 607.

(9)~~(8)~~ "Date of maximum medical improvement" means the date after which further recovery from, or lasting improvement to, an injury or disease can no longer reasonably be anticipated, based upon reasonable medical probability.

(10)~~(9)~~ "Death" as a basis for a right to compensation means only death resulting from an injury.

(11)~~(10)~~ "Department" means the Department of Labor and Employment Security.

(12)~~(11)~~ "Disability" means incapacity because of the injury to earn in the same or any other employment the wages which the employee was receiving at the time of the injury.

(13)~~(12)~~ "Division" means the Division of Workers' Compensation of the Department of Labor and Employment Security.

(14)~~(13)~~(a) "Employee" means any person engaged in any employment under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed, and includes, but is not limited to, aliens and minors.

(b) "Employee" includes any person who is an officer of a corporation and who performs services for remuneration for such corporation within this state, whether or not such services are continuous.

1. Any officer of a corporation may elect to be exempt from this chapter by filing written notice of the election with the division as provided in s. 440.05.

2. As to officers of a corporation who are actively engaged in the construction industry, no more than three officers may elect to be exempt from this chapter by filing written notice of the election with the division as provided in s. 440.05.

3. An officer of a corporation who elects to be exempt from this chapter by filing a written notice of the election with the division as provided in s. 440.05 is not an employee.

Services are presumed to have been rendered to the corporation if the officer is compensated by other than dividends upon shares of stock of the corporation which the officer owns.

(c) "Employee" includes a sole proprietor or a partner who devotes full time to the proprietorship or partnership and, except as provided in this paragraph, elects to be included in the definition of employee by filing notice thereof as provided in s. 440.05. Partners or sole proprietors actively engaged in the construction industry are considered employees unless they elect to be excluded from the definition of employee by filing written notice of the election with the division as provided in s. 440.05. However, no more than three partners in a partnership that is actively engaged in the construction industry may elect to be excluded. A sole proprietor or partner who is actively engaged in the construction industry and who elects to be exempt from this chapter by filing a written notice of the election with the division as provided in s. 440.05 is not an employee. For purposes of this chapter, an independent contractor is an employee unless he or she meets all of the conditions set forth in subparagraph (d)1.

(d) "Employee" does not include:

1. An independent contractor, if:

a. The independent contractor maintains a separate business with his or her own work facility, truck, equipment, materials, or similar accommodations;

b. The independent contractor holds or has applied for a federal employer identification number, unless the independent contractor is a sole proprietor who is not required to obtain a federal employer identification number under state or federal requirements;

c. The independent contractor performs or agrees to perform specific services or work for specific amounts of money and controls the means of performing the services or work;

d. The independent contractor incurs the principal expenses related to the service or work that he or she performs or agrees to perform;

e. The independent contractor is responsible for the satisfactory completion of work or services that he or she performs or agrees to perform and is or could be held liable for a failure to complete the work or services;

f. The independent contractor receives compensation for work or services performed for a commission or on a per-job or competitive-bid basis and not on any other basis;

g. The independent contractor may realize a profit or suffer a loss in connection with performing work or services;

h. The independent contractor has continuing or recurring business liabilities or obligations; and

i. The success or failure of the independent contractor's business depends on the relationship of business receipts to expenditures.

However, the determination as to whether an individual included in the Standard Industrial Classification Manual of 1987, Industry Numbers 0711, 0721, 0722, 0751, 0761, 0762, 0781, 0782, 0783, 0811, 0831, 0851, 2411, 2421, 2435, 2436, 2448, or 2449, or a newspaper delivery person, is an independent contractor is governed not by the criteria in this paragraph but by common-law principles, giving due consideration to the business activity of the individual.

2. A real estate salesperson or agent, if that person agrees, in writing, to perform for remuneration solely by way of commission.

3. Bands, orchestras, and musical and theatrical performers, including disk jockeys, performing in licensed premises as defined in chapter 562, if a written contract evidencing an independent contractor relationship is entered into before the commencement of such entertainment.

4. An owner-operator of a motor vehicle who transports property under a written contract with a motor carrier which evidences a relationship by which the owner-operator assumes the responsibility of an employer for the performance of the contract, if the owner-operator is required to furnish the necessary motor vehicle equipment and all costs incidental to the performance of the contract, including, but not limited to, fuel, taxes, licenses, repairs, and hired help; and the owner-operator is paid a commission for transportation service and is not paid by the hour or on some other time-measured basis.

5. A person whose employment is both casual and not in the course of the trade, business, profession, or occupation of the employer.

6. A volunteer, except a volunteer worker for the state or a county, municipality, or other governmental entity. A person who does not receive monetary remuneration for services is presumed to be a volunteer unless there is substantial evidence that a valuable consideration was intended by both employer and employee. For purposes of this chapter, the term "volunteer" includes, but is not limited to:

a. Persons who serve in private nonprofit agencies and who receive no compensation other than expenses in an amount less than or equivalent to the standard mileage and per diem expenses provided to salaried employees in the same agency or, if such agency does not have salaried employees who receive mileage and per diem, then such volunteers who receive no compensation other than expenses in an amount less than or equivalent to the customary mileage and per diem paid to salaried workers in the community as determined by the division; and

b. Volunteers participating in federal programs established under Pub. L. No. 93-113.

7. Any officer of a corporation who elects to be exempt from this chapter.

8. A sole proprietor or officer of a corporation who actively engages in the construction industry, and a partner in a partnership that is actively engaged in the construction industry, who elects to be exempt from the provisions of this chapter. Such sole proprietor, officer, or partner is not an employee for any reason until the notice of revocation of election filed pursuant to s. 440.05 is effective.

9. An exercise rider who does not work for a single horse farm or breeder, and who is compensated for riding on a case-by-case basis, provided a written contract is entered into prior to the commencement of such activity which evidences that an employee/employer relationship does not exist.

10. A taxicab, limousine, or other passenger vehicle-for-hire driver who operates said vehicles pursuant to a written agreement with a company which provides any dispatch, marketing, insurance, communications, or other services under which the driver and any fees or charges paid by the driver to the company for such services are not conditioned upon, or expressed as a proportion of, fare revenues.

(15)~~(14)~~ "Employer" means the state and all political subdivisions thereof, all public and quasi-public corporations therein, every person carrying on any employment, and the legal representative of a deceased person or the receiver or trustees of any person. If the employer is a corporation, parties in actual control of the corporation, including, but not limited to, the president, officers who exercise broad corporate powers, directors, and all shareholders who directly or indirectly own a controlling interest in the corporation, are considered the employer for the purposes of ss. 440.105 and 440.106.

(16)~~(15)~~(a) "Employment," subject to the other provisions of this chapter, means any service performed by an employee for the person employing him or her.

(b) "Employment" includes:

1. Employment by the state and all political subdivisions thereof and all public and quasi-public corporations therein, including officers elected at the polls.

2. All private employments in which four or more employees are employed by the same employer or, with respect to the construction industry, all private employment in which one or more employees are employed by the same employer.

3. Volunteer firefighters responding to or assisting with fire or medical emergencies whether or not the firefighters are on duty.

(c) "Employment" does not include service performed by or as:

1. Domestic servants in private homes.

2. Agricultural labor performed on a farm in the employ of a bona fide farmer, or association of farmers, who employs 5 or fewer regular employees and who employs fewer than 12 other employees at one time for seasonal agricultural labor that is completed in less than 30 days, provided such seasonal employment does not exceed 45 days in the same calendar year. The term "farm" includes stock, dairy, poultry, fruit, fur-bearing animals, fish, and truck farms, ranches, nurseries, and orchards. The term "agricultural labor" includes field foremen, timekeepers, checkers, and other farm labor supervisory personnel.

3. Professional athletes, such as professional boxers, wrestlers, baseball, football, basketball, hockey, polo, tennis, jai alai, and similar players, and motorsports teams competing in a motor racing event as defined in s. 549.08.

4. Labor under a sentence of a court to perform community services as provided in s. 316.193.

(17)~~(16)~~ "Misconduct" includes, but is not limited to, the following, which shall not be construed in pari materia with each other:

(a) Conduct evincing such willful or wanton disregard of an employer's interests as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of the employee; or

(b) Carelessness or negligence of such a degree or recurrence as to manifest culpability, wrongful intent, or evil design, or to show an intentional and substantial disregard of an employer's interests or of the employee's duties and obligations to the employer.

(18)~~(17)~~ "Injury" means personal injury or death by accident arising out of and in the course of employment, and such diseases or infection as naturally or unavoidably result from such injury. Damage to dentures, eyeglasses, prosthetic devices, and artificial limbs may be included in this definition only when the damage is shown to be part of, or in conjunction with, an accident. This damage must specifically occur as the result of an accident in the normal course of employment.

(19)~~(18)~~ "Parent" includes stepparents and parents by adoption, parents-in-law, and any persons who for more than 3 years prior to the death of the deceased employee stood in the place of a parent to him or her and were dependent on the injured employee.

(20) "Partner" means any person who is a member of a partnership that is formed by two or more persons to carry on as coowners of a business with the understanding that there will be a proportional sharing of the profits and losses between them. For the purposes of this chapter, a partner is a person who participates fully in the management of the partnership and who is personally liable for its debts.

(21)~~(19)~~ "Permanent impairment" means any anatomic or functional abnormality or loss determined as a percentage of the body as a whole, existing after the date of maximum medical improvement, which results from the injury.

(22)~~(20)~~ "Person" means individual, partnership, association, or corporation, including any public service corporation.

(23)~~(21)~~ "Self-insurer" means:

(a) Any employer who has secured payment of compensation pursuant to s. 440.38(1)(b) or (6) as an individual self-insurer;

(b) Any employer who has secured payment of compensation through a group self-insurance fund under s. 624.4621;

(c) Any group self-insurance fund established under s. 624.4621;

(d) A public utility as defined in s. 364.02 or s. 366.02 that has assumed by contract the liabilities of contractors or subcontractors pursuant to s. 440.571; or

(e) Any local government self-insurance fund established under s. 624.4622.

(24) "Sole proprietor" means a natural person who owns a form of business in which that person owns all the assets of the business and is solely liable for all the debts of the business.

(25)~~(22)~~ "Spouse" includes only a spouse substantially dependent for financial support upon the decedent and living with the decedent at the

time of the decedent's injury and death, or substantially dependent upon the decedent for financial support and living apart at that time for justifiable cause.

(26)~~(23)~~ "Time of injury" means the time of the occurrence of the accident resulting in the injury.

(27)~~(24)~~ "Wages" means the money rate at which the service rendered is recompensed under the contract of hiring in force at the time of the injury and includes only the wages earned and reported for federal income tax purposes on the job where the employee is injured and any other concurrent employment where he or she is also subject to workers' compensation coverage and benefits, together with the reasonable value of housing furnished to the employee by the employer which is the permanent year-round residence of the employee, and gratuities to the extent reported to the employer in writing as taxable income received in the course of employment from others than the employer and employer contributions for health insurance for the employee or the employee's dependents. However, housing furnished to migrant workers shall be included in wages unless provided after the time of injury. In employment in which an employee receives consideration for housing, the reasonable value of such housing compensation shall be the actual cost to the employer or based upon the Fair Market Rent Survey promulgated pursuant to s. 8 of the Housing and Urban Development Act of 1974, whichever is less. However, if employer contributions for housing or health insurance are continued after the time of the injury, the contributions are not "wages" for the purpose of calculating an employee's average weekly wage.

(28)~~(25)~~ "Weekly compensation rate" means and refers to the amount of compensation payable for a period of 7 consecutive days, including any Saturdays, Sundays, holidays, and other nonworking days which fall within such period of 7 consecutive days. When Saturdays, Sundays, holidays, or other nonworking days immediately follow the first 7 days of disability or occur at the end of a period of disability as the last day or days of such period, such nonworking days constitute a part of the period of disability with respect to which compensation is payable.

(29)~~(26)~~ "Construction design professional" means an architect, professional engineer, landscape architect, or surveyor and mapper, or any corporation, professional or general, that has a certificate to practice in the construction design field from the Department of Business and Professional Regulation.

(30)~~(27)~~ "Individual self-insurer" means any employer who has secured payment of compensation pursuant to s. 440.38(1)(b) as an individual self-insurer.

(31)~~(28)~~ "Domestic individual self-insurer" means an individual self-insurer:

(a) Which is a corporation formed under the laws of this state;

(b) Who is an individual who is a resident of this state or whose primary place of business is located in this state; or

(c) Which is a partnership whose principals are residents of this state or whose primary place of business is located in this state.

(32)~~(29)~~ "Foreign individual self-insurer" means an individual self-insurer:

(a) Which is a corporation formed under the laws of any state, district, territory, or commonwealth of the United States other than this state;

(b) Who is an individual who is not a resident of this state and whose primary place of business is not located in this state; or

(c) Which is a partnership whose principals are not residents of this state and whose primary place of business is not located in this state.

(33)~~(30)~~ "Insolvent member" means an individual self-insurer which is a member of the Florida Self-Insurers Guaranty Association, Incorporated, or which was a member and has withdrawn pursuant to s. 440.385(1)(b), and which has been found insolvent, as defined in paragraph *(34)(a)* ~~(31)(a)~~, paragraph *(34)(b)* ~~(31)(b)~~, or paragraph *(34)(c)* ~~(31)(c)~~, by a court of competent jurisdiction in this or any other state, or meets the definition of paragraph *(34)(d)* ~~(31)(d)~~.

(34)~~(31)~~ "Insolvency" or "insolvent" means:

(a) With respect to an individual self-insurer:

1. That all assets of the individual self-insurer, if made immediately available, would not be sufficient to meet all the individual self-insurer's liabilities;

2. That the individual self-insurer is unable to pay its debts as they become due in the usual course of business;

3. That the individual self-insurer has substantially ceased or suspended the payment of compensation to its employees as required in this chapter; or

4. That the individual self-insurer has sought protection under the United States Bankruptcy Code or has been brought under the jurisdiction of a court of bankruptcy as a debtor pursuant to the United States Bankruptcy Code.

(b) With respect to an employee claiming insolvency pursuant to s. 440.25(5), a person is insolvent who:

1. Has ceased to pay his or her debts in the ordinary course of business and cannot pay his or her debts as they become due; or

2. Has been adjudicated insolvent pursuant to the federal bankruptcy law.

(35)~~(32)~~ "Arising out of" pertains to occupational causation. An accidental injury or death arises out of employment if work performed in the course and scope of employment is the major contributing cause of the injury or death.

(36)~~(33)~~ "Soft-tissue injury" means an injury that produces damage to the soft tissues, rather than to the skeletal tissues or soft organs.

(37)~~(34)~~ "Catastrophic injury" means a permanent impairment constituted by:

(a) Spinal cord injury involving severe paralysis of an arm, a leg, or the trunk;

(b) Amputation of an arm, a hand, a foot, or a leg involving the effective loss of use of that appendage;

(c) Severe brain or closed-head injury as evidenced by:

1. Severe sensory or motor disturbances;

2. Severe communication disturbances;

3. Severe complex integrated disturbances of cerebral function;

4. Severe episodic neurological disorders; or

5. Other severe brain and closed-head injury conditions at least as severe in nature as any condition provided in subparagraphs 1.-4.;

(d) Second-degree or third-degree burns of 25 percent or more of the total body surface or third-degree burns of 5 percent or more to the face and hands;

(e) Total or industrial blindness; or

(f) Any other injury that would otherwise qualify under this chapter of a nature and severity that would qualify an employee to receive disability income benefits under Title II or supplemental security income benefits under Title XVI of the federal Social Security Act as the Social Security Act existed on July 1, 1992, without regard to any time limitations provided under that act.

(38)~~(35)~~ "Insurer" means a group self-insurers' fund authorized by s. 624.4621, an individual self-insurer authorized by s. 440.38, a commercial self-insurance fund authorized by s. 624.462, an assessable mutual insurer authorized by s. 628.6011, and an insurer licensed to write workers' compensation and employer's liability insurance in this state. The term "carrier," as used in this chapter, means an insurer as defined in this subsection.

(39)~~(36)~~ "Statement," for the purposes of ss. 440.105 and 440.106, includes, but is not limited to, any notice, representation, statement, proof of injury, bill for services, diagnosis, prescription, hospital or doctor record, X ray, test result, or other evidence of loss, injury, or expense.

Section 2. Section 440.05, Florida Statutes, is amended to read:

440.05 Election of exemption; revocation of election; notice; certification.—

(1) Each corporate officer who elects not to accept the provisions of this chapter or who, after electing such exemption, revokes that exemption shall mail to the division in Tallahassee notice to such effect in accordance with a form to be prescribed by the division.

(2) Each sole proprietor or partner who elects to be included in the definition of "employee" or who, after such election, revokes that election must mail to the division in Tallahassee notice to such effect, in accordance with a form to be prescribed by the division.

(3) Each sole proprietor, partner, or officer of a corporation who is actively engaged in the construction industry and who elects an exemption from this chapter or who, after electing such exemption, revokes that exemption, must mail a written notice to such effect to the division on a form prescribed by the division. The notice of election to be exempt from the provisions of this chapter must be notarized and under oath. The *notice of* election *to be exempt which is submitted to the division by the sole proprietor, partner, or officer of a corporation* must list the name, federal tax identification number, social security number, ~~and~~ all certified or registered licenses issued pursuant to chapter 489 held by the person seeking the exemption, *a copy of relevant documentation as to employment status filed with the IRS as specified by the division, a copy of the relevant occupational license in the primary jurisdiction of the business, and, for corporate officers and partners, the registration number of the corporation or partnership filed with the Division of Corporations of the Department of State.* The *notice of election to be exempt* ~~form~~ must identify each sole proprietorship, partnership, or corporation that employs the person electing the exemption and must list the social security number or federal tax identification number of each such employer *and the additional documentation required by this section*. In addition, the *notice of* election *to be exempt* ~~form~~ must provide that the sole proprietor, partner, or officer electing an exemption is not entitled to benefits under this chapter, must provide that the election does not exceed exemption limits for officers and partnerships provided in s. 440.02, and must certify that any employees of the sole proprietor, partner, or officer electing an exemption are covered by workers' compensation insurance. Upon receipt of the notice of the election to be exempt, *receipt of all application fees,* and a determination *by the division* that the notice meets the requirements of this subsection, the division shall issue a certification of the election to the sole proprietor, partner, or officer, *unless the division determines that the information contained in the notice is invalid. The division shall revoke a certificate of election to be exempt from coverage upon a determination by the division that the person does not meet the requirements for exemption or that the information contained in the notice of election to be exempt is invalid.* The certificate of election must list the names of the sole proprietorship, partnership, or corporation listed in the request for exemption. A new certificate of election must be obtained each time the person is employed by a new sole proprietorship, partnership, or corporation that is not listed on the certificate of election. A copy of the certificate of election must be sent to each workers' compensation carrier identified in the request for exemption. ~~The certification of the election is valid until the sole proprietor, partner, or officer revokes her or his election.~~ Upon filing a notice of revocation of election, a sole proprietor, partner, or officer who is a subcontractor must notify her or his contractor. *Upon revocation of a certificate of election of exemption by the division, the division shall notify the workers' compensation carriers identified in the request for exemption.*

(4) The notice of election to be exempt from the provisions of this chapter must contain a notice that clearly states in substance the following: "Any person who, knowingly and with intent to injure, defraud, or deceive the division or any employer or employee, insurance company, or purposes program, files a notice of election to be exempt containing any false or misleading information is guilty of a felony of the third degree." Each person filing a notice of election to be exempt shall personally sign the notice and attest that he or she has reviewed, understands, and acknowledges the foregoing notice.

(5)~~(4)~~ A notice given under subsection (1), subsection (2), or subsection (3) *shall become effective when issued by the division or 30 days after an application for an exemption is received by the division, whichever occurs first* ~~is not effective until 30 days after the date it is mailed to the division in Tallahassee~~. However, if an accident or occupational disease occurs less than 30 days after the effective date of the insurance policy under which the payment of compensation is secured or the date the employer qualified as a self-insurer, such notice is effective as of 12:01 a.m. of the day following the date it is mailed to the division in Tallahassee.

(6) A construction industry certificate of election to be exempt which is issued in accordance with this section shall be valid for 2 years after the effective date stated thereon. Both the effective date and the expiration date must be listed on the face of the certificate by the division. The construction industry certificate must expire at midnight, 2 years from its issue date, as noted on the face of the exemption certificate. Any person who has received from the division a construction industry certificate of election to be exempt which is in effect on December 31, 1998, shall file a new notice of election to be exempt by the last day in his or her birth month following December 1, 1998. A construction industry certificate of election to be exempt may be revoked before its expiration by the sole proprietor, partner, or officer for whom it was issued or by the division for the reasons stated in this section. At least 60 days prior to the expiration date of a construction industry certificate of exemption issued after December 1, 1998, the division shall send notice of the expiration date and an application for renewal to the certificateholder at the address on the certificate.

(7)~~(5)~~ Any contractor responsible for compensation under s. 440.10 may register in writing with the workers' compensation carrier for any subcontractor and shall thereafter be entitled to receive written notice from the carrier of any cancellation or nonrenewal of the policy.

(8)(a)~~(6)~~ The division may assess a fee, not to exceed $50, with each request for *a nonconstruction* election ~~or renewal of election~~ under this section.

(b) The division must assess a fee of $50, with each request for a construction industry certificate of election to be exempt or renewal of election to be exempt under this section.

(c) The funds collected by the division shall be used to administer this section, ~~and~~ to audit the businesses that pay the fee for compliance with any requirements of this chapter, *and to enforce compliance with the provisions of this chapter.*

Section 3. Subsection (4) of section 440.09, Florida Statutes, is amended to read:

440.09 Coverage.—

(4) An employee shall not be entitled to compensation or benefits under this chapter if any *judge of compensation claims,* administrative *law judge* ~~hearing officer~~, court, or jury convened in this state determines that the employee has knowingly or intentionally engaged in any of the acts described in s. 440.105 for the purpose of securing workers' compensation benefits.

Section 4. Paragraph (g) of subsection (1) of section 440.10, Florida Statutes, is amended to read:

440.10 Liability for compensation.—

(1)

(g) For purposes of this section, a person is conclusively presumed to be an independent contractor if:

1. The independent contractor provides the general contractor with an affidavit stating that he or she meets all the requirements of s. 440.02*(14)*~~(13)~~(d); and

2. The independent contractor provides the general contractor with a valid certificate of workers' compensation insurance or a valid certificate of exemption issued by the division.

A sole proprietor, ~~independent contractor,~~ partner, or officer of a corporation who elects exemption from this chapter by filing a certificate of election under s. 440.05 may not recover benefits or compensation under

this chapter. *An independent contractor who provides the general contractor with both an affidavit stating that he or she meets the requirements of s. 440.02(14)(d) and a certificate of exemption is not an employee under s. 440.02(14)(c) and may not recover benefits under this chapter. For purposes of determining the appropriate premium for workers' compensation coverage, carriers may not consider any person who meets the requirements of this paragraph to be an employee.*

Section 5. Section 440.103, Florida Statutes, is amended to read:

440.103 Building permits*; identification of minimum premium policy*.—Except as otherwise provided in this chapter, every employer shall, as a condition to receiving a building permit, show proof that it has secured compensation for its employees under this chapter as provided in ss. 440.10 and 440.38. Such proof of compensation must be evidenced by a certificate of coverage issued by the carrier, a valid exemption certificate approved by the division, or a copy of the employer's authority to self-insure *and shall be presented each time the employer applies for a building permit. As provided in s. 627.413(5),* each certificate of coverage must show, on its face, whether or not coverage is secured under the minimum premium provisions of *rules adopted by rating organizations licensed by the Department of Insurance* ~~the National Council of Compensation Insurers rules~~. The words "minimum premium policy" or *equivalent* ~~similar~~ language *shall* ~~may~~ be typed, printed, stamped, or legibly handwritten.

Section 6. Subsections (1), (2), and (3) of section 440.104, Florida Statutes, are amended to read:

440.104 Competitive bidder; civil actions.—

(1) Any person engaged in the construction industry, as provided in s. 440.02(7), who loses a competitive bid for a contract *shall have a cause of* ~~may bring an~~ action for damages against *the* ~~another~~ person ~~who is~~ awarded the contract for which the bid was made, if the person making the losing bid establishes that the winning bidder *knew or should have known that he or she was in violation* ~~knowingly violated the provisions~~ of s. 440.10, s. 440.105, or s. 440.38 while performing the work under the contract.

(2) To recover in an action brought under this section, a party must establish a violation of *s. 440.10,* s. 440.105, or s. 440.38 by a preponderance of the evidence.

(3) Upon establishing that the *winning bidder knew or should have known of the* violation ~~occurred~~, the person shall recover as liquidated damages *30* ~~10~~ percent of the total amount bid on the contract by the person bringing the action, or *$15,000* ~~$5,000~~, whichever is greater.

Section 7. Subsections (4), (5), (6), and (7) of section 440.105, Florida Statutes, are amended, and subsection (9) is added to said said, to read:

440.105 Prohibited activities; penalties*; limitations*.—

(4) Whoever violates any provision of this subsection commits *insurance fraud* ~~a felony of the third degree~~, punishable as provided in *paragraph (f)* ~~s. 775.082, s. 775.083, or s. 775.084~~.

(a) It shall be unlawful for any employer to knowingly:

1. Present or cause to be presented any false, fraudulent, or misleading oral or written statement to any person as evidence of compliance with s. 440.38.

2. Make a deduction from the pay of any employee entitled to the benefits of this chapter for the purpose of requiring the employee to pay any portion of premium paid by the employer to a carrier or to contribute to a benefit fund or department maintained by such employer for the purpose of providing compensation or medical services and supplies as required by this chapter.

3. Fail to secure payment of compensation if required to do so by this chapter.

(b) It shall be unlawful for any person:

1. To knowingly make, or cause to be made, any false, fraudulent, or misleading oral or written statement for the purpose of obtaining or denying any benefit or payment under this chapter.

2. To present or cause to be presented any written or oral statement as part of, or in support of, a claim for payment *or* ~~of~~ other benefit pursuant to any provision of this chapter, knowing that such statement contains any false, incomplete, or misleading information concerning any fact or thing material to such claim.

3. To prepare or cause to be prepared any written or oral statement that is intended to be presented to any employer, insurance company, or self-insured program in connection with, or in support of, any claim for payment or other benefit pursuant to any provision of this chapter, knowing that such statement contains any false, incomplete, or misleading information concerning any fact or thing material to such claim.

4. To knowingly assist, conspire with, or urge any person to engage in activity prohibited by this section.

5. To knowingly make any false, fraudulent, or misleading oral or written statement, or to knowingly omit or conceal material information, required by s. 440.185 or s. 440.381, for the purpose of obtaining workers' compensation coverage or for the purpose of avoiding, delaying, or diminishing the amount of payment of any workers' compensation premiums.

6. To knowingly misrepresent or conceal payroll, classification of workers, or information regarding an employer's loss history which would be material to the computation and application of an experience rating modification factor for the purpose of avoiding or diminishing the amount of payment of any workers' compensation premiums.

7. To knowingly present or cause to be presented any false, fraudulent, or misleading oral or written statement to any person as evidence of compliance with s. 440.38*, as evidence of eligibility for a certificate of exemption under s. 440.05*.

(c) It shall be unlawful for any physician licensed under chapter 458, osteopathic physician licensed under chapter 459, chiropractic physician licensed under chapter 460, podiatric physician licensed under chapter 461, optometric physician licensed under chapter 463, or any other practitioner licensed under the laws of this state to knowingly and willfully assist, conspire with, or urge any person to fraudulently violate any of the provisions of this chapter.

(d) It shall be unlawful for any person or governmental entity licensed under chapter 395 to maintain or operate a hospital in such a manner so that such person or governmental entity knowingly and willfully allows the use of the facilities of such hospital by any person, in a scheme or conspiracy to fraudulently violate any of the provisions of this chapter.

(e) It shall be unlawful for any attorney or other person, in his or her individual capacity or in his or her capacity as a public or private employee, or any firm, corporation, partnership, or association, to knowingly assist, conspire with, or urge any person to fraudulently violate any of the provisions of this chapter.

(f) *If the amount of any claim or workers' compensation insurance premium involved in any violation of this subsection:*

1. Is less than $20,000, the offender commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. Is $20,000 or more, but less than $100,000, the offender commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. Is $100,000 or more, the offender commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5) It shall be unlawful for any attorney or other person, in his or her individual capacity or in his or her capacity as a public or private employee or for any firm, corporation, partnership, or association, to unlawfully solicit any business in and about city or county hospitals, courts, or any public institution or public place; in and about private hospitals or sanitariums; in and about any private institution; or upon private property of any character whatsoever for the purpose of making workers' compensation claims. *Whoever violates any provision of this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.085.*

(6)~~(5)~~ This section shall not be construed to preclude the applicability of any other provision of criminal law that applies or may apply to any transaction.

(7)~~(6)~~ For the purpose of the section, the term "statement" includes, but is not limited to, any notice, representation, statement, proof of injury, bill for services, diagnosis, prescription, hospital or doctor records, X ray, test result, or other evidence of loss, injury, or expense.

(8)~~(7)~~ All claim forms as provided for in this chapter shall contain a notice that clearly states in substance the following: "Any person who, knowingly and with intent to injure, defraud, or deceive any employer or employee, insurance company, or self-insured program, files a statement of claim containing any false or misleading information *commits insurance fraud, punishable as provided in s. 817.234* ~~is guilty of a felony of the third degree~~." Each claimant shall personally sign the claim form and attest that he or she has reviewed, understands, and acknowledges the foregoing notice.

Section 8. Present subsections (1) through (7) of section 440.107, Florida Statutes, are redesignated as subsections (5) through (11), respectively, and new subsections (1), (2), (3), and (4) are added to that section to read:

440.107 Division powers to enforce employer compliance with coverage requirements.—

(1) The Legislature finds that the failure of an employer to comply with the workers' compensation coverage requirements under chapter 440 poses an immediate danger to public health, safety, and welfare. The Legislature authorizes the division to secure employer compliance with the workers' compensation coverage requirements and authorizes the division to conduct investigations for the purpose of ensuring employer compliance.

(2) The division and its authorized representatives may enter and inspect any place of business at any reasonable time for the limited purpose of investigating compliance with workers' compensation coverage requirements under this chapter. Each employer shall keep true and accurate business records that contain such information as the division prescribes by rule. The business records must contain information necessary for the division to determine compliance with workers' compensation coverage requirements and must be maintained within this state by the business, in such a manner as to be accessible within a reasonable time upon request by the division. The business records must be open to inspection and be available for copying by the division at any reasonable time and place and as often as necessary. The division may require from any employer any sworn or unsworn reports, pertaining to persons employed by that employer, deemed necessary for the effective administration of the workers' compensation coverage requirements.

(3) In discharging its duties, the division may administer oaths and affirmations, certify to official acts, issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed necessary by the division as evidence in order to ensure proper compliance with the coverage provisions of this chapter.

(4) If a person has refused to obey a subpoena to appear before the division or its authorized representative and produce evidence requested by the division or to give testimony about the matter that is under investigation, a court has jurisdiction to issue an order requiring compliance with the subpoena if the court has jurisdiction in the geographical area where the inquiry is being carried on or in the area where the person who has refused the subpoena is found, resides, or transacts business. Failure to obey such a court order may be punished by the court as contempt.

Section 9. Subsection (7) of section 440.185, Florida Statutes, is amended to read:

440.185 Notice of injury or death; reports; penalties for violations.—

(7) Every carrier shall file with the division within 21 days after the issuance of a policy or contract of insurance such policy information as the division may require, *including notice of whether the policy is a minimum premium policy*. Notice of cancellation or expiration of a policy as set out in s. 440.42(2) shall be mailed to the division in accordance with rules promulgated by the division under chapter 120.

Section 10. Subsections (2) and (3) of section 440.42, Florida Statutes, are renumbered as subsections (3) and (4), respectively, and new subsection (2) is added to said section, to read:

440.42 Insurance policies; liability.—

(2) A workers' compensation insurance policy may require the employer to release certain employment and wage information maintained by the state pursuant to federal and state unemployment compensation laws except to the extent prohibited or limited under federal law. By entering into a workers' compensation insurance policy with such a provision, the employer consents to the release of the information. The insurance carrier requiring such consent shall safeguard the information and maintain its confidentiality. The carrier shall limit use of the information to verifying compliance with the terms of the workers' compensation insurance policy. The department may charge a fee to cover the cost of disclosing the information.

Section 11. Section 440.45, Florida Statutes, is amended to read:

440.45 Office of the Judges of Compensation Claims.—

(1) There is hereby created the Office of the Judges of Compensation Claims within the Department of Labor and Employment Security. The Office of the Judges of Compensation Claims shall be headed by a Chief Judge ~~who shall serve at the pleasure of the Governor and Cabinet~~. The Chief Judge shall be appointed by the Governor *for a term of 4 years* ~~and confirmed by the Cabinet~~ from a list of *three* ~~two~~ names submitted by *the statewide nominating commission created under subsection (2)* ~~each of the District Court Judicial Nominating Commissions created by s. 2, Art. V of the State Constitution and s. 43.29~~. *The Chief Judge must possess the same qualifications for appointment as a judge of compensation claims, and the procedure for reappointment of the Chief Judge will be the same as for reappointment of a judge of compensation claims.* The office shall be a separate budget entity and the Chief Judge shall be its agency head for all purposes. The Department of Labor and Employment Security shall provide administrative support and service to the office to the extent requested by the Chief Judge but shall not direct, supervise, or control the Office of the Judges of Compensation Claims in any manner, including but not limited to personnel, purchasing, budgetary matters, or property transactions. The operating budget of the Office of the Judges of Compensation Claims shall be paid out of the Workers' Compensation Administration Trust Fund established in s. 440.50.

(2)(a) The Governor shall appoint full-time judges of compensation claims to conduct proceedings as required by this chapter or other law. No person may be *nominated to serve* ~~appointed~~ as a judge of compensation claims unless he or she has been a member of The Florida Bar in good standing ~~for the preceding 5 years~~ and is knowledgeable in the *practice of* law of workers' compensation. No judge of compensation claims shall engage in the private practice of law during a term of office.

(b) *Except as provided in paragraph (c),* the Governor shall ~~initially~~ appoint a judge of compensation claims from a list of three persons nominated by a statewide nominating commission. The statewide nominating commission shall be composed of the following:

1. Five ~~5~~ members, at least one of whom must be a member of a minority group as defined in s. 288.703(3), one of each who resides in each of the territorial jurisdictions of the district courts of appeal, appointed by the Board of Governors of The Florida Bar from among The Florida Bar members who are engaged in the practice of law. *On July 1, 1999, the term of office of each person appointed by the Board of Governors of The Florida Bar to the commission expires. The Board of Governors shall appoint members who reside in the odd-numbered district court of appeal jurisdictions to 4-year terms each, beginning July 1, 1999, and members who reside in the even-numbered district court of appeal jurisdictions to 2-year terms each, beginning July 1, 1999. Thereafter, each member shall be appointed for a 4-year term*;

2. Five ~~5~~ electors, at least one of whom must be a member of a minority group as defined in s. 288.703(3), one of each who resides in each of the territorial jurisdictions of the district courts of appeal, appointed by the Governor. *On July 1, 1999, the term of office of each person appointed by the Governor to the commission expires. The Governor shall appoint members who reside in the odd-numbered district court of appeal jurisdictions to 2-year terms each, beginning July 1, 1999, and members who reside in the even-numbered district court of appeal jurisdictions to*

4-year terms each, beginning July 1, 1999. Thereafter, each member shall be appointed for a 4-year term; and

3. Five ~~5~~ electors, at least one of whom must be a member of a minority group as defined in s. 288.703(3), one of each who resides in the territorial jurisdictions of the district courts of appeal, selected and appointed by a majority vote of the other 10 members of the commission. *On October 1, 1999, the term of office of each person appointed to the commission by its other members expires. A majority of the other members of the commission shall appoint members who reside in the odd-numbered district court of appeal jurisdictions to 2-year terms each, beginning October 1, 1999, and members who reside in the even-numbered district court of appeal jurisdictions to 4-year terms each, beginning October 1, 1999. Thereafter, each member shall be appointed for a 4-year term.*

A vacancy occurring on the commission shall be filled by the original appointing authority for the unexpired balance of the term. No attorney who appears before any judge of compensation claims more than four times a year is eligible to serve on the statewide nominating commission. The meetings and determinations of the nominating commission as to the judges of compensation claims shall be open to the ~~general~~ public.

(c) Each judge of compensation claims shall be appointed for a term of 4 years, but during the term of office may be removed by the Governor for cause. Prior to the expiration of a judge's term of office, the statewide nominating commission shall review the judge's conduct *and determine whether the judge's performance is satisfactory. If the judge's performance is deemed satisfactory,* the commission shall report its finding to the Governor no later than 6 months prior to the expiration of the judge's term of office. *The Governor shall review the commission's report and may reappoint the judge for an additional 4-year term. If the Governor does not reappoint the judge, the Governor shall inform the commission. The judge shall remain in office until the Governor has appointed a successor judge in accordance with paragraphs (a) and (b).* ~~The report of the commission shall include a list of three candidates for appointment. The candidates shall include the judge whose term is expiring, if that judge desires reappointment and the judge's performance is satisfactory upon review by the commission.~~ If a vacancy occurs during a judge's unexpired term, *the statewide nominating commission does not find the judge's performance is satisfactory, or the governor does not reappoint the judge,* ~~the commission shall issue a report to~~ the Governor *shall appoint a successor judge for a term of 4 years in accordance with paragraph (b)* ~~which includes a list of three candidates for appointment. The Governor shall review the commission's report, and may select one of the listed candidates. If no candidate is selected, the Governor shall so inform the commission, which shall within 2 months issue a report to the Governor which includes a list of three different candidates for appointment~~.

(3) The Chief Judge shall select from among the full time judges of the office two or more judges to rotate as docketing judges. Docketing judges shall review all claims for benefits for consistency with the requirements of this chapter and the rules of procedure, including but not limited to specificity requirements, and shall dismiss any claim that fails to comport with such rules and requirements. The docketing judge shall not dismiss any claim with prejudice without offering the parties an opportunity to appear and present argument. The Chief Judge may as he or she deems appropriate expand the duties of the docketing judges to include resolution without hearing of other types of procedural and substantive matters, including resolution of fee disputes.

(4) The Chief Judge shall have the discretion to require mediation and to designate qualified persons to act as mediators in any dispute pending before the judges of compensation claims and the division. The Chief Judge shall coordinate with the Director of the Division of Workers' Compensation to establish a mandatory mediation program to facilitate early and efficient resolution of disputes arising under this chapter and to establish training and continuing education for new and sitting judges.

(5) The Office of the Judges of Compensation Claims shall promulgate rules to effect the purposes of this section. Such rules shall include procedural rules applicable to workers' compensation claim resolution and uniform criteria for measuring the performance of the office, including but not limited to the number of cases assigned and disposed, the age of pending and disposed cases, timeliness of decisionmaking, extraordinary fee awards and other performance indicators. The workers' compensation rules of procedure approved by the Supreme Court shall apply until the rules promulgated by the Office of the Judges of Compensation Claims pursuant to this section become effective.

(6) Not later than December 1 of each year, the Office of the Judges of Compensation Claims and the Division of Workers' Compensation shall jointly issue a written report to the Governor, the House of Representatives, and the Senate summarizing the amount, cost, and outcome of all litigation resolved in the prior year, summarizing the disposition of applications and motions for mediation conferences and recommending changes or improvements to the dispute resolution elements of the Workers' Compensation Law and regulations.

Section 12. *On July 1, 1999, the term of office of the Chief Judge of Compensation Claims expires. The statewide nominating commission is directed to submit a list of three names to the Governor pursuant to section 440.45(1), Florida Statutes, by March 1, 1999.*

Section 13. *The revised process for nomination and appointment of judges of compensation claims, as provided in the amendments to section 440.45(2)(c), Florida Statutes, shall take effect on July 1, 1999.*

Section 14. *Any member of the statewide nominating commission whose term of office expires as a result of the amendment of section 440.45, Florida Statutes, by this act is eligible for reappointment.*

Section 15. Subsection (9) is added to section 626.989, Florida Statutes, to read:

626.989 Division of Insurance Fraud; definition; investigative, subpoena powers; protection from civil liability; reports to division; division investigator's power to execute warrants and make arrests.—

(9) In recognition of the complementary roles of investigating instances of workers' compensation fraud and enforcing compliance with the workers' compensation coverage requirements under chapter 440, the Division of Insurance Fraud of the Department of Insurance and the Division of Workers' Compensation of the Department of Labor and Employment Security are directed to prepare and submit a joint performance report to the President of the Senate and the Speaker of the House of Representatives by November 1 of each year for each of the next 2 years, and then every 3 years thereafter, describing the results obtained in achieving compliance with the workers' compensation coverage requirements and reducing the incidence of workers' compensation fraud.

Section 16. Subsection (5) is added to section 627.413, Florida Statutes, to read:

627.413 Contents of policies, in general; identification.—

(5) Any policy that is a minimum premium policy issued by an insurer pursuant to the minimum premium provisions of rules adopted by rating organizations licensed by the Department of Insurance, shall have typed, printed, stamped, or legibly handwritten on the certificate the words "minimum premium policy" or equivalent language. The department may impose an administrative fine pursuant to s. 624.4211 if the department finds any violation of this subsection.

Section 17. Paragraph (h) is added to subsection (2) of section 775.15, Florida Statutes, to read:

775.15 Time limitations.—

(2) Except as otherwise provided in this section, prosecutions for other offenses are subject to the following periods of limitation:

(h) A prosecution for a felony violation of s. 440.105 must be commenced within 5 years after the violation is committed.

Section 18. *Effective July 1, 1998, the Division of Workers' Compensation shall notify all persons holding a construction industry certificate of election of exemption of the requirements of section 440.05, Florida Statutes, as amended by this act.*

Section 19. *There is hereby appropriated to the Department of Labor and Employment Security from the Workers' Compensation Administration Trust Fund for the fiscal year 1998-1999, 15 positions and $1,100,000 to carry out the provisions of this act. This section shall take effect July 1, 1998.*

Section 20. Except as otherwise provided in this act, this act shall take effect January 1, 1999.

And the title is amended as follows:

On page 1, line 3 through page 2, line 31 remove from the title of the bill: all of said lines and insert in lieu thereof: amending s. 440.02, F.S.; defining the terms "corporate officer," "partner," and "sole proprietor," as used in ch. 440, F.S.; amending s. 440.05, F.S.; authorizing the Division of Workers' Compensation of the Department of Labor and Employment Security to approve and revoke certificates of exemption; specifying requirements for notices of election to be exempt; providing for renewal of exemption certificates; requiring notice on election forms that providing false information is a felony; revising fees for exemptions and specifying use of fees by the division; amending s. 440.09, F.S.; conforming references to judges of compensation claims and administrative law judges; amending s. 440.10, F.S.; relating to liability for compensation; revising provisions relating to when a person is conclusively presumed to be an independent contractor; providing circumstances in which carriers may not consider a person to be an employee; amending s. 440.103, F.S.; revising the documentation that must be filed by an employer that obtains a building permit; specifying requirements for certificates of coverage; amending s. 440.104, F.S.; revising the cause of action and remedies available to losers of competitive bidding against persons who violate certain provisions; increasing recoverable damages; amending s. 440.105, F.S.; providing penalties; providing a time limitation for bringing an action under s. 440.105(4), F.S.; amending s. 440.107, F.S.; providing legislative findings related to noncompliance with workers' compensation coverage requirements; authorizing the division to enter and inspect places of business for investigating compliance; requiring employers to maintain records required by the division by rule; authorizing the division to require sworn reports from employers, to administer oaths, and to issue subpoenas to enforce compliance; providing penalties for refusal to obey a subpoena; amending s. 440.185, F.S.; requiring carriers to notify the division whether certain policies are minimum premium policies; amending s. 440.42, F.S.; authorizing workers' compensation policies to require employers to release certain employment and wage information; amending s. 440.45, F.S.; revising term of office, qualifications, and method of nomination for the Chief Judge of the Office of the Judges of Compensation Claims; providing for expiration of term of office for members of the statewide nominating commission for judges of compensation claims; providing for new appointments to the nominating commission and staggered terms; revising the procedures for nominating commission regarding performance of sitting judges and regarding nominations of applicants; providing for expiration of the term of office and reappointment of the Chief Judge of Compensation Claims; amending s. 626.989, F.S.; requiring the Division of Insurance Fraud of the Department of Insurance and the Division of Workers' Compensation of the Department of Labor and Employment Security to periodically submit a joint performance report to the Legislature; amending s. 627.413, F.S.; specifying notice requirements for minimum premium policies; requiring the division to notify certain persons of certain requirements of this act; providing an appropriation; amending s. 775.15, F.S.; providing a statute of limitations for certain insurance fraud violations; providing an effective date.

On motion by Senator Clary, the Senate concurred in the House amendment.

CS for CS for SB 1406 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Diaz-Balart	Horne	Myers
Bronson	Dudley	Jones	Ostalkiewicz
Brown-Waite	Dyer	Kirkpatrick	Rossin
Burt	Forman	Klein	Scott
Campbell	Geller	Kurth	Silver
Casas	Grant	Latvala	Sullivan
Childers	Gutman	Laurent	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 1408, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 1408—A bill to be entitled An act relating to public records; creating s. 440.108, F.S.; providing an exemption from public records requirements for certain information obtained in administering the Workers' Compensation Law; providing for the applicability of confidentiality provisions; authorizing the furnishing of information under certain conditions; providing for future review and repeal; providing a finding of public necessity; providing a contingent effective date.

House Amendment 1 (with title amendment)—On page 3, lines 15-18 remove from the bill: all of said lines and insert in lieu thereof:

Section 3. Subsection (10) of section 440.185, Florida Statutes, is created to read:

440.185 Notice of injury or death; reports; penalties for violations.—

(10) Any information in a report of injury or illness filed pursuant to this section that would identify an ill or injured employee is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

This subsection is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and shall stand repealed on October 2, 2003, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 4. *The Legislature finds that it is a public necessity that any information in a report of injury or illness filed pursuant to section 440.185, Florida Statutes, that would identify an ill or injured employee, be held confidential and exempt because such information is of a sensitive, personal nature. Disclosure of such sensitive, personal information about an employee is an invasion of that employee's privacy. Further, the release of such information could lead to discrimination against the employee by coworkers, potential employers, and others. The harm caused to such an employee by the release of this information outweighs any public benefit derived from its release.*

Section 5. Sections 1 and 2 of this act shall take effect on the effective date of CS/CS/SB 1406, or similar legislation, relating to the powers of the Division of Workers' Compensation of the Department of Labor and Employment Security, and Sections 3 and 4 of this act shall take effect upon becoming law.

And the title is amended as follows:

On page 1, lines 11 and 12 remove from the title of the bill: all of said lines and insert in lieu thereof: necessity; amending s. 440.185; F.S., providing an exemption from public records requirements for information in a report of injury or illness filed pursuant to the Workers' Compensation Law; providing a finding of public necessity; providing effective dates.

Senator Brown-Waite moved the following amendment which was adopted:

Senate Amendment 1 (with title amendment) to House Amendment 1—On page 2, lines 13-18, delete those lines and insert:

Section 5. *Except as provided in sections 400.215(2)(c) and 435.10, Florida Statutes, Federal Bureau of Investigation criminal records, juvenile records, or abuse registry information that is obtained by the Agency for Health Care Administration in connection with background screening requirements that apply to an employee or a prospective employee of a nursing facility is confidential and exempt from the provisions of section 119.07(1), Florida Statutes, and section 24(a), Article I of the State Constitution. This section is subject to the Open Government Sunset Review Act of 1995 in accordance with section 119.15, Florida Statutes, and shall stand repealed on October 2, 2003, unless reviewed and saved from repeal through enactment by the Legislature.*

Section 6. *The Legislature finds that exempting Federal Bureau of Investigation criminal records, juvenile records, and abuse registry back-*

ground screening information related to employees and prospective employees of nursing facilities from public disclosure is a public necessity, in that the health and safety of the public necessitates having available applicants for positions as nursing facility personnel. Allowing such information concerning employees or applicants to be disseminated would have a chilling effect upon the willingness to apply for such positions on the part of any person about whom there is information of past misbehavior contained in juvenile records or criminal records or in the central abuse registry, even if the person were fully rehabilitated and would be a suitable employee. Juvenile records and central abuse registry information are otherwise already exempt.

Section 7. Sections 1 and 2 of this act shall take effect on the effective date of CS/CS/SB 1406, or similar legislation, relating to the powers of the Division of Workers' Compensation of the Department of Labor and Employment Security; this section and sections 3 and 4 of this act shall take effect upon becoming a law; and sections 5 and 6 of this act shall take effect on the same date that Committee Substitute for House Bills 3089 and 171 or similar legislation creating the Nursing Home Facility Personnel Screening Act takes effect, if such legislation is adopted in the same legislative session or an extension thereof.

And the title is amended as follows:

On page 3, line 1, after the semicolon (;) insert: providing an exemption from public records requirements for information obtained by the Agency for Health Care Administration or a nursing facility in connection with background screening of employees and prospective employees of the facility; providing for future review and repeal; providing a finding of public necessity;

On motion by Senator Clary, the Senate concurred in **House Amendment 1** as amended and requested the House to concur in the Senate amendment to the House amendment.

CS for SB 1408 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Diaz-Balart	Horne	Myers
Bronson	Dudley	Jones	Ostalkiewicz
Brown-Waite	Dyer	Kirkpatrick	Rossin
Burt	Forman	Klein	Scott
Campbell	Geller	Kurth	Silver
Casas	Grant	Latvala	Sullivan
Childers	Gutman	Laurent	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 1458, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 1458—A bill to be entitled An act relating to coastal redevelopment; amending s. 163.335, F.S.; providing legislative intent for the scope of activities included in community redevelopment; amending s. 163.340, F.S.; redefining the terms "blighted area," "community redevelopment," and "community redevelopment area"; amending s. 163.360, F.S.; requiring additional findings before approval of certain community redevelopment plans; creating s. 163.336, F.S.; providing legislative intent; providing for the geographical location of a pilot project; providing for pilot project administration; providing exemptions to certain coastal construction requirements; providing for the scheduled expiration of these provisions; providing an effective date.

House Amendment 1 (with title amendment)—On page 11, between lines 9 and 10 insert:

Section 5. *Effective July 1, 1998, there is hereby appropriated an additional $500,000 from the Grants and Donations Trust Fund for the purposes contained in Specific Appropriation 1258 of the Conference Report on HB 4201, 1998. Effective July 1, 1998, an additional $2,000,000 is appropriated from the Grants and Donations Trust Fund for the purposes contained in Specific Appropriation 1230 of the Conference Report on HB 4201, 1998. The $2,000,000 reflects the transfer of mitigation funds from the Florida Hurricane Catastrophe Fund pursuant to section 215.555(7)(c), Florida Statutes.*

And the title is amended as follows:

On page 1, line 17, after the semicolon insert: providing appropriations;

House Amendment 3 (with title amendment)—On page 11, between lines 9 and 10, insert:

Section 5. *Notwithstanding the provisions of section 376.11, Florida Statutes, there is hereby appropriated from the Coastal Protection Trust Fund to the Department of Environmental Protection for fiscal year 1998-1999 the additional sum of $1 million. These funds shall be used by the department to provide grants to increase the knowledge of factors that control harmful algal blooms, including red tide, and to gain knowledge to be used for the early detection of factors precipitating harmful algal blooms; for accurate prediction of the extent and seriousness of harmful algal blooms; and for undertaking successful efforts to control and mitigate the effects of harmful algal blooms. The program shall foster partnerships through contracts between the state and universities, nonprofit organizations, and citizens groups.*

And the title is amended as follows:

On page 1, line 17, after the semicolon insert: providing an appropriation;

On motion by Senator Latvala, the Senate concurred in the House amendments.

CS for SB 1458 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—37

Bankhead	Dudley	Jones	Ostalkiewicz
Bronson	Dyer	Kirkpatrick	Rossin
Brown-Waite	Forman	Klein	Scott
Burt	Geller	Kurth	Silver
Campbell	Grant	Latvala	Thomas
Casas	Gutman	Laurent	Turner
Childers	Hargrett	Lee	Williams
Clary	Harris	McKay	
Crist	Holzendorf	Meadows	
Diaz-Balart	Horne	Myers	

Nays—None

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed SB 1944, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 1944—A bill to be entitled An act relating to the Department of Agriculture and Consumer Services; creating s. 535.08, F.S.; providing a prohibition against the administration of medications to thoroughbred horses prior to sale; providing an exception and certain requirements; providing for testing; providing for a tolerance or test for medications and depressants; providing penalties; amending s. 535.11, F.S., relating to prohibition against administration of drugs to horses; providing a definition; creating s. 585.147, F.S.; requiring a permit for transporting or hauling certain animals or animal products; providing vehicle and container requirements; amending s. 500.09, F.S.; authorizing the department to perform certain laboratory services relating to food safety and establish fees therefor; amending s. 500.121, F.S.; adding new disciplinary procedures for food establishments operating without a permit or with a suspended or revoked permit; providing a penalty; amending s. 570.07, F.S.; authorizing an employees' benefit fund; amending s.

570.952, F.S.; revising membership of the Florida Agriculture Center and Horse Park Authority; amending s. 571.25, F.S.; changing the registration date for membership in the Florida Agricultural Promotional Campaign; amending s. 581.031, F.S.; providing duties of the department relating to a commercial citrus inventory; amending s. 500.11, F.S.; specifying conditions for animal products to be considered misbranded; amending ss. 570.50, 570.51, F.S.; deleting powers and duties of the Division of Food Safety of the Department of Agriculture and Consumer Services relating to certain animal and animal product inspection; amending and transferring ss. 585.89, 585.92, F.S., relating to prohibitions on purchase of beef and pork, specifications for bid invitations, penalties, and labeling requirements; conforming provisions; amending s. 828.22, F.S.; correcting a cross-reference; amending s. 877.05, F.S., relating to the killing of young veal for sale; conforming provisions; repealing s. 205.1951, F.S., relating to the issuance of a grant of inspection or a custom animal slaughtering or processing establishment permit; repealing ss. 585.70, 585.88, 585.90, 585.91, 585.93, 585.96, F.S., relating to animal and animal product inspection and labeling; repealing ss. 828.23(5) and (6), 828.24, 828.25, 828.26(2), F.S., relating to definitions of terms "packer" and "stockyard," prohibited acts, department administration, and penalties pertaining to slaughter of livestock; repealing s. 877.06, F.S., relating to labeling of beef not slaughtered according to state or United States standards; repealing s. 102, ch. 92-291, Laws of Florida, relating to review and repeal of ss. 500.12, 500.121, F.S.; providing an effective date.

House Amendment 1 (with title amendment)—On page 10, line 21, through page 14, line 2, remove from the bill: all of said lines

And the title is amended as follows:

On page 2, line 4 after "misbranded;" through line 30 through the semicolon, remove from the title of the bill: all of said lines

House Amendment 2 (with title amendment)—On page 14, between lines 2 and 3 of the bill, insert:

Section 18. *In the event it is determined that the Citrus Budwood Registration Program in the amount of $601,396 cannot be funded from the Citrus Inspection Trust Fund, then the Citrus Budwood Registration Program shall be funded from budget transfers within the operating budget of the Department of Agriculture and Consumer Services.*

And the title is amended as follows:

On page 3, line 1 after the semicolon, insert: providing for funding for the Citrus Budwood Registration Program;

House Amendment 3 (with title amendment)—On page 14, between lines 2 and 3, of the bill insert:

Section 18. Section 506.5131, Florida Statutes, is created to read:

506.5131 Return of shopping carts; assessment of fees; fines and costs.—

(1) The rightful owner of any shopping cart with a registered name or mark found on public property shall be immediately notified of its recovery.

(2) Notwithstanding any other provision of law or local ordinance, no fee, fine or costs may be assessed against the owner of a shopping cart found on public property, unless the shopping cart was removed from the premises or parking area of a retail establishment by the owner of the shopping cart, or an employee acting on the owner's behalf, and such fee, fine or cost has been approved by the Department of Agriculture and Consumer Services.

And the title is amended as follows:

On page 3, line 1, after the semicolon, insert: creating s. 506.5131, F.S.; providing for the return of shopping carts to their owner when found on public property; providing that fees, fines, and costs may not be assessed against the owner of a shopping cart in certain circumstances;

House Amendment 4 (with title amendment)—On page 14, between lines 2 and 3 of the bill insert:

Section 16. Section 604.50, Florida Statutes, is created to read:

604.50 Nonresidential farm buildings.—Notwithstanding any other law to the contrary, any nonresidential farm building located on a farm is exempt from the Florida Building Code, and any county or municipal building code. For purposes of this section "nonresidential farm building" means any building or structure located on a farm that is not used as a residential dwelling. Farm is as defined in s. 823.14.

And the title is amended as follows:

On page 3, line 1 after the semicolon (;) insert: creating s. 604.50, F.S., relating to nonresidential farm buildings; providing exemptions from building codes; providing definitions;

On motion by Senator Thomas, the Senate concurred in the House amendments.

SB 1944 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—38

Madam President	Crist	Jones	Ostalkiewicz
Bankhead	Diaz-Balart	Kirkpatrick	Rossin
Bronson	Dudley	Klein	Scott
Brown-Waite	Forman	Kurth	Silver
Burt	Geller	Latvala	Sullivan
Campbell	Grant	Laurent	Thomas
Casas	Gutman	Lee	Turner
Childers	Harris	McKay	Williams
Clary	Holzendorf	Meadows	
Cowin	Horne	Myers	

Nays—None

MOTION

On motion by Senator Bankhead, a deadline of 2:00 p.m. was set for filing amendments to the Local Bill Calendar to be considered this day.

RECESS

On motion by Senator Bankhead, the Senate recessed at 12:46 p.m. to reconvene at 1:30 p.m.

AFTERNOON SESSION

The Senate was called to order by the President at 1:37 p.m. A quorum present—40:

Madam President	Crist	Holzendorf	Meadows
Bankhead	Diaz-Balart	Horne	Myers
Bronson	Dudley	Jones	Ostalkiewicz
Brown-Waite	Dyer	Kirkpatrick	Rossin
Burt	Forman	Klein	Scott
Campbell	Geller	Kurth	Silver
Casas	Grant	Latvala	Sullivan
Childers	Gutman	Laurent	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

SPECIAL STAFF RECOGNITION

At the request of President Jennings, the staff of the President, the Secretary, the Sergeant at Arms, Senate Committees and the Majority and Minority Offices were present in the chamber and seated in the east gallery. The President, on behalf of the entire Senate, thanked the staff for their support and hard work in making the 1998 session a success.

On motion by Senator Silver, the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has returned as requested HB 3971.

John B. Phelps, Clerk

HB 3971—A bill to be entitled An act relating to health facilities authorities; amending s. 154.209, F.S.; providing that an accounts receivable program in which an authority participates on behalf of a health facility may include the financing of accounts receivable acquired by the facility from other not-for-profit health care corporations, regardless of affilliation or location; providing an effective date.

RECONSIDERATION OF BILL

On motion by Senator Silver, the Senate reconsidered the vote by which **HB 3971** as amended passed April 29.

On motion by Senator Silver, by two-thirds vote the Senate reconsidered the vote by which **HB 3971** was read the third time.

On motion by Senator Silver, the Senate reconsidered the vote by which **Amendment 1** was adopted. **Amendment 1** was withdrawn.

Senator Brown-Waite moved the following amendment which was adopted:

Amendment 3 (with title amendment)—On page 2, delete line 2 and insert: *health facilities, whether or not*

And the title is amended as follows:

On page 1, lines 8 and 9, delete those lines and insert: from other health facilities, regardless of affiliation or

On motion by Senator Silver, by two-thirds vote **HB 3971** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Madam President	Diaz-Balart	Jones	Ostalkiewicz
Bronson	Dudley	Kirkpatrick	Rossin
Brown-Waite	Dyer	Klein	Scott
Burt	Forman	Kurth	Silver
Campbell	Geller	Latvala	Sullivan
Casas	Grant	Laurent	Thomas
Childers	Hargrett	Lee	Turner
Clary	Harris	McKay	Williams
Cowin	Holzendorf	Meadows	
Crist	Horne	Myers	

Nays—None

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 2474, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 2474—A bill to be entitled An act relating to planning for educational facilities; amending s. 163.3177, F.S.; requiring that the future land use element of a local government's comprehensive plan include certain criteria relating to location of schools; specifying the date by which such plans must comply and providing effect of noncompliance; providing requirements with respect to the data and analyses on which a public school facilities element should be based; providing for goals, objectives, and policies; providing for a future conditions map; amending s. 163.3180, F.S.; revising requirements for imposition of a school concurrency requirement by a local government and for the local government comprehensive plan or plan amendment to implement such requirement; requiring a public schools facilities element; providing requirements for level of service standards; providing requirements for designation of service areas; providing requirements with respect to financial feasibility; specifying an availability standard; requiring that intergovernmental coordination requirements be satisfied and providing that certain municipalities are not required to be a signatory of the required interlocal agreement; providing duties of such municipalities to evaluate their status and enter into the interlocal agreement when required, and providing effect of failure to do so; providing requirements for an interlocal agreement; directing the state land planning agency to adopt by rule minimum criteria for review and determination of compliance of a public schools facilities element; amending s. 163.3191, F.S.; providing that the local planning agency's periodic report on the comprehensive plan shall assess the coordination of the plan with public schools; amending s. 235.185, F.S.; directing school boards to adopt annually 10-year and 20-year work programs in addition to the required 5-year district facilities work program; amending s. 235.19, F.S.; providing a directive to school boards with respect to school location; amending s. 235.193, F.S.; providing requirements for the 5-year district facilities work program with respect to enrollment and population projections; precluding the siting of new schools in certain jurisdictions; providing for interim use of certain criteria and guidelines by the state land planning agency in compliance review of a school concurrency system; providing an alternative concurrency system for counties subject to final order by the Administration Commission; providing an effective date.

House Amendment 1 (with title amendment)—Remove from the bill: Everything after the enacting clause and insert in lieu thereof:

Section 1. Paragraph (a) of subsection (6) of section 163.3177, Florida Statutes, is amended, and subsection (12) is added to said section, to read:

163.3177 Required and optional elements of comprehensive plan; studies and surveys.—

(6) In addition to the requirements of subsections (1)-(5), the comprehensive plan shall include the following elements:

(a) A future land use plan element designating proposed future general distribution, location, and extent of the uses of land for residential uses, commercial uses, industry, agriculture, recreation, conservation, education, public buildings and grounds, other public facilities, and other categories of the public and private uses of land. The future land use plan shall include standards to be followed in the control and distribution of population densities and building and structure intensities. The proposed distribution, location, and extent of the various categories of land use shall be shown on a land use map or map series which shall be supplemented by goals, policies, and measurable objectives. Each land use category shall be defined in terms of the types of uses included and specific standards for the density or intensity of use. The future land use plan shall be based upon surveys, studies, and data regarding the area, including the amount of land required to accommodate anticipated growth; the projected population of the area; the character of undeveloped land; the availability of public services; and the need for redevelopment, including the renewal of blighted areas and the elimination of nonconforming uses which are inconsistent with the character of the community. The future land use plan may designate areas for future planned development use involving combinations of types of uses for which special regulations may be necessary to ensure development in accord with the principles and standards of the comprehensive plan and this act. The future land use plan of a county may also designate areas for possible future municipal incorporation. The land use maps or map series shall generally identify and depict historic district boundaries and shall designate historically significant properties meriting protection. The future land use element must clearly identify the land use categories in which public schools are an allowable use. When delineating the land use categories in which public schools are an allowable use, a local government shall include in the categories sufficient land proximate to residential development to meet the projected needs for schools in coordination with public school boards and may establish differing criteria for schools of different type or size. Each local government shall include lands contiguous to existing school sites, to the maximum extent possible, within the land use categories in which public schools are an allowable use. All comprehensive plans must comply with this paragraph no later than October 1, *1999, or the deadline for the local government*

evaluation and appraisal report, whichever occurs first ~~1996~~. *The failure by a local government to comply with this requirement will result in the prohibition of the local government's ability to amend the local comprehensive plan as provided by s. 163.3187(6).* An amendment proposed by a local government for purposes of identifying the land use categories in which public schools are an allowable use is exempt from the limitation on the frequency of plan amendments contained in s. 163.3187. *The future land use element shall include criteria which encourage the location of schools proximate to urban residential areas to the extent possible and shall require that the local government seek to collocate public facilities, such as parks, libraries, and community centers, with schools to the extent possible.*

(12) A public school facilities element adopted to implement a school concurrency program shall meet the requirements of this subsection.

(a) A public school facilities element shall be based upon data and analyses that address, among other items, how level of service standards will be achieved and maintained. Such data and analyses must include, at a minimum, such items as: the 5-year school district facilities work program adopted pursuant to s. 235.185; the educational plant survey and an existing educational and ancillary plant map or map series; information on existing development and development anticipated for the next 5 years and the long-term planning period; an analysis of problems and opportunities for existing schools and schools anticipated in the future; an analysis of opportunities to collocate future schools with other public facilities such as parks, libraries, and community centers; an analysis of the need for supporting public facilities for existing and future schools; an analysis of opportunities to locate schools to serve as community focal points; projected future population and associated demographics, including development patterns year by year for the upcoming 5-year and long-term planning periods; and anticipated educational and ancillary plants with land area requirements.

(b) The element shall contain one or more goals which establish the long-term end toward which public school programs and activities are ultimately directed.

(c) The element shall contain one or more objectives for each goal, setting specific, measurable, intermediate ends that are achievable and mark progress toward the goal.

(d) The element shall contain one or more policies for each objective which establish the way in which programs and activities will be conducted to achieve an identified goal.

(e) The objectives and policies shall address items such as: the procedure for an annual update process; the procedure for school site selection; the procedure for school permitting; provision of supporting infrastructure; location of future school sites so they serve as community focal points; measures to ensure compatibility of school sites and surrounding land uses; coordination with adjacent local governments and the school district on emergency preparedness issues; and coordination with the future land use element.

(f) The element shall include one or more future conditions maps which depict the anticipated location of educational and ancillary plants. The maps will of necessity be general for the long-term planning period and more specific for the 5-year period.

Section 2. Subsection (1) of section 163.3180, Florida Statutes, is amended, and subsections (12) and (13) are added to said section, to read:

163.3180 Concurrency.—

(1)~~(a)~~ Roads, sanitary sewer, solid waste, drainage, potable water, parks and recreation, and mass transit, where applicable, are the only public facilities and services subject to the concurrency requirement on a statewide basis. Additional public facilities and services may not be made subject to concurrency on a statewide basis without appropriate study and approval by the Legislature; however, any local government may extend the concurrency requirement so that it applies to additional public facilities within its jurisdiction.

~~(b) If a local government elects to extend the concurrency requirement to public schools, it should first conduct a study to determine how the requirement would be met and shared by all affected parties. The local government shall provide an opportunity for full participation in this study by the school board. The state land planning agency may provide technical assistance to local governments that study and prepare for extension of the concurrency requirement to public schools. When establishing concurrency requirements for public schools, a local government shall comply with the following criteria for any proposed plan or plan amendment transmitted pursuant to s. 163.3184(3) after July 1, 1995:~~

~~1. Adopt level-of-service standards for public schools with the agreement of the school board. Public school level-of-service standards shall be adopted as part of the capital improvements element in the local government comprehensive plan, which shall contain a financially feasible public school capital facilities program established in conjunction with the school board that will provide educational facilities at an adequate level of service necessary to implement the adopted local government comprehensive plan.~~

~~2. Satisfy the requirement for intergovernmental coordination set forth in s. 163.3177(6)(h)1. and 2.~~

(12) School concurrency, if imposed by local option, shall be established on a districtwide basis and shall include all public schools in the district and all portions of the district, whether located in a municipality or an unincorporated area. The application of school concurrency to development shall be based upon the adopted comprehensive plan, as amended. All local governments within a county, except as provided in paragraph (f), shall adopt and transmit to the state land planning agency the necessary plan amendments, along with the interlocal agreement, for a compliance review pursuant to s. 163.3184(7) and (8). School concurrency shall not become effective in a county until all local governments, except as provided in paragraph (f), have adopted the necessary plan amendments, which together with the interlocal agreement, are determined to be in compliance with the requirements of this part. The minimum requirements for school concurrency are the following:

(a) Public school facilities element.—A local government shall adopt and transmit to the state land planning agency a plan or plan amendment which includes a public school facilities element which is consistent with the requirements of s. 163.3177(12) and which is determined to be in compliance as defined in s. 163.3184(1)(b). All local government public school facilities plan elements within a county must be consistent with each other as well as the requirements of this part.

(b) Level of service standards.—The Legislature recognizes that an essential requirement for a concurrency management system is the level of service at which a public facility is expected to operate.

1. Local governments and school boards imposing school concurrency shall exercise authority in conjunction with each other to establish jointly adequate level of service standards, as defined in rule 9J-5, Florida Administrative Code, necessary to implement the adopted local government comprehensive plan, based on data and analysis.

2. Public school level of service standards shall be included and adopted into the capital improvements element of the local comprehensive plan and shall apply districtwide to all schools of the same type. Types of schools may include elementary, middle, and high schools as well as special-purpose facilities such as magnet schools.

3. Local governments and school boards shall have the option to utilize tiered level of service standards to allow time to achieve an adequate and desirable level of service as circumstances warrant.

(c) Service areas.—The Legislature recognizes that an essential requirement for a concurrency system is a designation of the area within which the level of service will be measured when an application for a residential development permit is reviewed for school concurrency purposes. This delineation is also important for purposes of determining whether the local government has a financially feasible public school capital facilities program that will provide schools which will achieve and maintain the adopted level of service standards.

1. In order to balance competing interests, preserve the constitutional concept of uniformity, and avoid disruption of existing educational and growth management processes, local governments are encouraged to apply school concurrency to development on a districtwide basis so that a concurrency determination for a specific development will be based upon the availability of school capacity districtwide.

2. For local governments applying school concurrency on a less than districtwide basis, such as utilizing school attendance zones or larger school concurrency service areas, local governments and school boards shall have the burden to demonstrate that the utilization of school capacity is maximized to the greatest extent possible in the comprehensive plan and amendment, taking into account transportation costs and court-approved desegregation plans, as well as other factors. In addition, in order to achieve concurrency within the service area boundaries selected by local governments and school boards, the service area boundaries, together with the standards for establishing those boundaries, shall be identified, included, and adopted as part of the comprehensive plan. Any subsequent change to the service area boundaries for purposes of a school concurrency system shall be by plan amendment and shall be exempt from the limitation on the frequency of plan amendments in s. 163.3187(1).

3. Where school capacity is available on a districtwide basis but school concurrency is applied on a less than districtwide basis in the form of concurrency service areas, if the adopted level of service standard cannot be met in a particular service area as applied to an application for a development permit and if the needed capacity for the particular service area is available in one or more contiguous service areas, as adopted by the local government, then the development order shall be issued and mitigation measures shall not be exacted.

(d) Financial feasibility.—The Legislature recognizes that financial feasibility is an important issue because the premise of concurrency is that the public facilities will be provided in order to achieve and maintain the adopted level of service standard. This part and chapter 9J-5, Florida Administrative Code, contain specific standards to determine the financial feasibility of capital programs. These standards were adopted to make concurrency more predictable and local governments more accountable.

1. A comprehensive plan amendment seeking to impose school concurrency shall contain appropriate amendments to the capital improvements element of the comprehensive plan, consistent with the requirements of s. 163.3177(3) and rule 9J-5.016, Florida Administrative Code. The capital improvements element shall set forth a financially feasible public school capital facilities program, established in conjunction with the school board, that demonstrates that the adopted level of service standards will be achieved and maintained.

2. Such amendments shall demonstrate that the public school capital facilities program meets all of the financial feasibility standards of this part and chapter 9J-5, Florida Administrative Code, that apply to capital programs which provide the basis for mandatory concurrency on other public facilities and services.

3. When the financial feasibility of a public school capital facilities program is evaluated by the state land planning agency for purposes of a compliance determination, the evaluation shall be based upon the service areas selected by the local governments and school board.

(e) Availability standard.--Consistent with the public welfare, a local government may not deny a development permit authorizing residential development for failure to achieve and maintain the level of service standard for public school capacity in a local option school concurrency system where adequate school facilities will be in place or under actual construction within 3 years after permit issuance.

(f) Intergovernmental coordination.—

1. When establishing concurrency requirements for public schools, a local government shall satisfy the requirements for intergovernmental coordination set forth in s. 163.3177(6)(h)1. and 2., except that a municipality is not required to be a signatory to the interlocal agreement required by s. 163.3177(6)(h)2. as a prerequisite for imposition of school concurrency, and as a nonsignatory shall not participate in the adopted local school concurrency system, if the municipality meets all of the following criteria for having no significant impact on school attendance:

a. The municipality has issued development orders for fewer than 50 residential dwelling units during the preceding 5 years, or the municipality has generated fewer than 25 additional public school students during the preceding 5 years.

b. The municipality has not annexed new land during the preceding 5 years in land use categories which permit residential uses that will affect school attendance rates.

c. The municipality has no public schools located within its boundaries.

d. At least 80 percent of the developable land within the boundaries of the municipality has been built upon.

2. A municipality which qualifies as having no significant impact on school attendance pursuant to the criteria of subparagraph 1. must review and determine at the time of its evaluation and appraisal report pursuant to s. 163.3191 whether it continues to meet the criteria. If the municipality determines that it no longer meets the criteria, it must adopt appropriate school concurrency goals, objectives, and policies in its plan amendments based on the evaluation and appraisal report, and enter into the existing interlocal agreement required by s. 163.3177(6)(h)2., in order to fully participate in the school concurrency system. If such a municipality fails to do so, it will be subject to the enforcement provisions of s. 163.3191.

(g) Interlocal agreement for school concurrency.—When establishing concurrency requirements for public schools, a local government must enter into an interlocal agreement which satisfies the requirements in s. 163.3177(6)(h)1. and 2. and the requirements of this subsection. The interlocal agreement shall acknowledge both the school board's constitutional and statutory obligations to provide a uniform system of free public schools on a countywide basis, and the land use authority of local governments, including their authority to approve or deny comprehensive plan amendments and development orders. The interlocal agreement shall be submitted to the state land planning agency by the local government as a part of the compliance review, along with the other necessary amendments to the comprehensive plan required by this part. In addition to the requirements of s. 163.3177(6)(h), the interlocal agreement shall meet the following requirements:

1. Establish the mechanisms for coordinating the development, adoption, and amendment of each local government's public school facilities element with each other and the plans of the school board to ensure a uniform districtwide school concurrency system.

2. Establish a process by which each local government and the school board shall agree and base their plans on consistent projections of the amount, type, and distribution of population growth and coordinate and share information relating to existing and planned public school facilities projections and proposals for development and redevelopment, and infrastructure required to support public school facilities.

3. Establish a process for the development of siting criteria which encourages the location of public schools proximate to urban residential areas to the extent possible and seeks to collocate schools with other public facilities such as parks, libraries, and community centers to the extent possible.

4. Specify uniform, districtwide level of service standards for public schools of the same type and the process for modifying the adopted levels of service standards.

5. Establish a process for the preparation, amendment, and joint approval by each local government and the school board of a public school capital facilities program which is financially feasible, and a process and schedule for incorporation of the public school capital facilities program into the local government comprehensive plans on an annual basis.

6. Define the geographic application of school concurrency. If school concurrency is to be applied on a less than districtwide basis in the form of concurrency service areas, the agreement shall establish criteria and standards for the establishment and modification of school concurrency service areas. The agreement shall also establish a process and schedule for the mandatory incorporation of the school concurrency service areas and the criteria and standards for establishment of the service areas into the local government comprehensive plans. The agreement shall ensure maximum utilization of school capacity, taking into account transportation costs and court-approved desegregation plans, as well as other factors. The agreement shall also ensure the achievement and maintenance of the adopted level of service standards for the geographic area of application throughout the 5 years covered by the public school capital facilities plan and thereafter by adding a new fifth year during the annual update.

7. Establish a uniform districtwide procedure for implementing school concurrency which provides for:

a. The evaluation of development applications for compliance with school concurrency requirements;

b. An opportunity for the school board to review and comment on the effect of comprehensive plan amendments and rezonings on the public school facilities plan; and

c. The monitoring and evaluation of the school concurrency system.

8. Include provisions relating to termination, suspension, and amendment of the agreement. The agreement shall provide that if the agreement is terminated or suspended, the application of school concurrency shall be terminated or suspended.

(13) The state land planning agency shall, by October 1, 1998, adopt by rule minimum criteria for the review and determination of compliance of a public school facilities element adopted by a local government for purposes of imposition of school concurrency.

Section 3. Paragraph (i) is added to subsection (2) of section 163.3191, Florida Statutes, to read:

163.3191 Evaluation and appraisal of comprehensive plan.—

(2) The report shall present an assessment and evaluation of the success or failure of the comprehensive plan, or element or portion thereof, and shall contain appropriate statements (using words, maps, illustrations, or other forms) related to:

(i) The coordination of the comprehensive plan with existing public schools and those identified in the applicable 5-year school district facilities work program adopted pursuant to s. 235.185. The assessment shall address, where relevant, the success or failure of the coordination of the future land use map and associated planned residential development with public schools and their capacities, as well as the joint decisionmaking processes engaged in by the local government and the school board in regard to establishing appropriate population projections and the planning and siting of public school facilities. If the issues are not relevant, the local government shall demonstrate that they are not relevant.

Section 4. Subsection (5) is added to section 235.185, Florida Statutes, as created by chapter 97-384, Laws of Florida, to read:

235.185 School district facilities work program; definitions; preparation, adoption, and amendment*; long-term work programs*.—

(5) 10-YEAR AND 20-YEAR WORK PROGRAMS.—In addition to the adopted district facilities work program covering the 5-year work program, the district school board shall adopt annually a 10-year and a 20-year work program which include the information set forth in subsection (2), but based upon enrollment projections and facility needs for the 10-year and 20-year periods. It is recognized that the projections in the 10-year and 20-year timeframes are tentative and should be used only for general planning purposes.

Section 5. Subsection (1) of section 235.19, Florida Statutes, is amended to read:

235.19 Site planning and selection.—

(1) Before acquiring property for sites, each board shall determine the location of proposed educational centers or campuses for the board. In making this determination, the board shall consider existing and anticipated site needs and the most economical and practicable locations of sites. The board shall coordinate with the long-range or comprehensive plans of local, regional, and state governmental agencies to assure the compatibility of such plans with site planning. *Boards are encouraged to locate schools proximate to urban residential areas to the extent possible, and shall seek to collocate schools with other public facilities, such as parks, libraries, and community centers, to the extent possible.*

Section 6. Subsection (2) of section 235.193, Florida Statutes, is amended to read:

235.193 Coordination of planning with local governing bodies.—

(2) A school board and the local governing body must share and coordinate information related to existing and planned public school facilities; proposals for development, redevelopment, or additional development; and infrastructure required to support the public school facilities, concurrent with proposed development. *A school board shall use Department of Education enrollment projections when preparing the 5-year district facilities work program pursuant to s. 235.185, and a school board shall affirmatively demonstrate in the educational facilities report consideration of local governments' population projections to ensure that the 5-year work program not only reflects enrollment projections but also considers applicable municipal and county growth and development projections. A school board is precluded from siting a new school in a jurisdiction where the school board has failed to provide the annual educational facilities report for the prior year required pursuant to s. 235.194 unless the failure is corrected.*

Section 7. Section 235.2157, Florida Statutes, is created to read:

235.2157 Small school requirement.—

(1) Beginning July 1, 1999 all plans for new educational facilities to be constructed within a school district and reflected in the 5-year school district facilities work plan shall be plans for small schools in order to promote increased learning and more effective use of school facilities.

(2) As used in this section, "small school" means:

(a) An elementary school with a student population of not more than 500 students.

(b) A middle school with a student population of not more than 900 students.

(c) A high school with a student population of not more than 1,200 students.

(d) A school serving kindergarten through grade 8 with a student population of not more than 700 students.

(e) A school serving kindergarten through grade 12 with a student population of not more than 900 students.

(3) This section does not apply to plans for new educational facilities already under contract or in the planning stage on July 1, 1999.

(4) Small schools shall comply with all laws, rules, and court orders relating to racial balance.

(5) The commissioner may waive or expand the small schools size requirements of this section upon request of the school district if the school district demonstrates the impracticality of the small schools limitation.

(6) By March 1, 1999, the commissioner shall recommend to the Legislature a sliding scale for optimal school size, as provided under this section, based on land availability, land cost, and student population.

Section 8. *Until the minimum criteria for a public school facilities element adopted for purposes of imposition of school concurrency, as required by s. 163.3180(13), Florida Statutes, are in effect, the state land planning agency shall utilize the minimum criteria for a public school facilities element adopted for purposes of imposition of school concurrency contained in the Final Report and Consensus Text by the Department of Community Affairs Public School Construction Working Group, dated March 9, 1998, in any compliance review of any such element.*

Section 9. *Any county whose adopted public school facilities element is the subject of a final order entered by the Administration Commission prior to the effective date of this act may implement its public school facilities element in accordance with the general law concerning public school facilities concurrency in effect when the final order was entered and in accord with the final order consistent with any appellate court decision. The county shall comply with the requirements of the final order, consistent with any appellate decision, in implementing its public school facilities element and in adopting any necessary amendment to its comprehensive plan.*

Section 10. This act shall take effect July 1 of the year in which enacted.

And the title is amended as follows: remove from the title of the bill: the entire title and insert in lieu thereof: A bill to be entitled An act relating to planning for educational facilities; amending s. 163.3177, F.S.; requiring that the future land use element of a local government's comprehensive plan include certain criteria relating to location of schools; specifying the date by which such plans must comply and providing effect of noncompliance; providing requirements with respect to the data and analyses on which a public school facilities element to implement a school concurrency program should be based; providing for goals, objectives, and policies; providing for future conditions maps; amending s. 163.3180, F.S.; revising requirements for imposition of a school concurrency requirement by a local government and for the local government comprehensive plan or plan amendment to implement such requirement; requiring a public schools facilities element; providing requirements for level of service standards; providing requirements for designation of service areas; providing requirements with respect to financial feasibility; specifying an availability standard; requiring that intergovernmental coordination requirements be satisfied and providing that certain municipalities are not required to be a signatory of the required interlocal agreement; providing duties of such municipalities to evaluate their status and enter into the interlocal agreement when required, and providing effect of failure to do so; providing requirements with respect to the interlocal agreement; directing the state land planning agency to adopt by rule minimum criteria for review and determination of compliance of a public schools facilities element; amending s. 163.3191, F.S.; providing that the local planning agency's periodic report on the comprehensive plan shall assess the coordination of the plan with public schools; amending s. 235.185, F.S.; directing school boards to adopt annually 10-year and 20-year work programs in addition to the required 5-year district facilities work program; amending s. 235.19, F.S.; providing a directive to school boards with respect to school location; amending s. 235.193, F.S.; providing requirements for the 5-year district facilities work program with respect to enrollment and population projections; precluding the siting of new schools in certain jurisdictions; creating s. 235.2157, F.S.; defining "small school"; requiring that school districts plan construction of small schools only after July 1, 1998 and that this be reflected in the 5-year school district facilities work plan; providing for application; requiring small schools to comply with racial balance requirements; authorizing the commissioner to revise certain requirements under certain circumstances; requiring the commissioner to make certain recommendations to the Legislature; providing for interim use of certain criteria by the state land planning agency in compliance review of a public school facilities element; providing for implementation of an alternative public schools concurrency system by counties subject to a final order by the Administration Commission; providing an effective date.

WHEREAS, the Legislature recognizes the need to determine educational facility needs as Florida continues to grow, and the need to ensure that local school districts have adequate funds to finance needed educational facilities, and

WHEREAS, the Legislature recognizes that the state has an interest in school concurrency because public education is a state responsibility and because of the role of the state in the administration of statewide growth management policy, and

WHEREAS, the Legislature recognizes that state policy on school concurrency is incomplete, and

WHEREAS, it is the intent of the Legislature that local governments retain the authority to impose school concurrency on a local option basis within clearly defined parameters established by the state in statutes and rules, and

WHEREAS, it is the intent of the Legislature to increase predictability and minimize conflict and litigation in local governments which choose to impose school concurrency, and

WHEREAS, it is the intent of the Legislature that school concurrency, where implemented, should improve the state's educational system as well as advance the state's integrated planning and growth management system, NOW, THEREFORE,

Senators Lee and Dyer offered the following amendment which was moved by Senator Lee and adopted:

Senate Amendment 1 (with title amendment) to House Amendment 1—On page 1, line 18 through page 21, line 28, delete those lines and insert:

Section 1. Paragraph (c) of subsection (2) of section 20.18, Florida Statutes, is amended to read:

20.18 Department of Community Affairs.—There is created a Department of Community Affairs.

(2) The following units of the Department of Community Affairs are established:

(c) Division of *Community* ~~Resource~~ Planning ~~and Management~~.

Section 2. Subsection (31) is added to section 163.3164, Florida Statutes, to read:

163.3164 Definitions.—As used in this act:

(31) "Optional sector plan" means an optional process authorized by s. 163.3245 in which one or more local governments by agreement with the state land planning agency are allowed to address development-of-regional impact issues within certain designated geographic areas identified in the local comprehensive plan as a means of fostering innovative planning and development strategies in s. 163.3177(11)(a) and (b), furthering the purposes of chapter 163, part II, and chapter 380, part I, reducing overlapping data and analysis requirements, protecting regionally significant resources and facilities, and addressing extrajurisdictional impacts.

Section 3. Subsection (4) of section 163.3171, Florida Statutes, is amended to read:

163.3171 Areas of authority under this act.—

(4) The state land planning agency and a local government shall have the power to enter into agreements with each other and to agree together to enter into agreements with a landowner, developer, or governmental agency as may be necessary or desirable to effectuate the provisions and purposes of s. 163.3177(6)(h) and (11)(a), (b), and (c), *and s. 163.3245*.

Section 4. Effective July 1, 1998, paragraph (a) of section (6) of section 163.3177, Florida Statutes, is amended, and subsection (12) is added to said section, to read:

163.3177 Required and optional elements of comprehensive plan; studies and surveys.—

(6) In addition to the requirements of subsections (1)-(5), the comprehensive plan shall include the following elements:

(a) A future land use plan element designating proposed future general distribution, location, and extent of the uses of land for residential uses, commercial uses, industry, agriculture, recreation, conservation, education, public buildings and grounds, other public facilities, and other categories of the public and private uses of land. The future land use plan shall include standards to be followed in the control and distribution of population densities and building and structure intensities. The proposed distribution, location, and extent of the various categories of land use shall be shown on a land use map or map series which shall be supplemented by goals, policies, and measurable objectives. Each land use category shall be defined in terms of the types of uses included and specific standards for the density or intensity of use. The future land use plan shall be based upon surveys, studies, and data regarding the area, including the amount of land required to accommodate anticipated growth; the projected population of the area; the character of undeveloped land; the availability of public services; and the need for redevelopment, including the renewal of blighted areas and the elimination of nonconforming uses which are inconsistent with the character of the community. The future land use plan may designate areas for future planned development use involving combinations of types of uses for which special regulations may be necessary to ensure development in accord with the principles and standards of the comprehensive plan and this act. The future land use plan of a county may also designate areas for possible future municipal incorporation. The land use maps or map series shall generally identify and depict historic district boundaries and shall designate historically significant properties meriting protection. The future land use element must clearly identify the land use categories in which public schools are an allowable use. When delineating the land use categories in which public schools are an allowable use, a local government shall include in the categories sufficient land proximate to

residential development to meet the projected needs for schools in coordination with public school boards and may establish differing criteria for schools of different type or size. Each local government shall include lands contiguous to existing school sites, to the maximum extent possible, within the land use categories in which public schools are an allowable use. All comprehensive plans must comply with this paragraph no later than October 1, *1999, or the deadline for the local government evaluation and appraisal report, whichever occurs first* ~~1996~~. *The failure by a local government to comply with this requirement will result in the prohibition of the local government's ability to amend the local comprehensive plan as provided by s. 163.3187(6).* An amendment proposed by a local government for purposes of identifying the land use categories in which public schools are an allowable use is exempt from the limitation on the frequency of plan amendments contained in s. 163.3187. *The future land use element shall include criteria which encourage the location of schools proximate to urban residential areas to the extent possible and shall require that the local government seek to collocate public facilities, such as parks, libraries, and community centers, with schools to the extent possible.*

(12) A public school facilities element adopted to implement a school concurrency program shall meet the requirements of this subsection.

(a) A public school facilities element shall be based upon data and analyses that address, among other items, how level of service standards will be achieved and maintained. Such data and analyses must include, at a minimum, such items as: the 5-year school district facilities work program adopted pursuant to s. 235.185; the educational plant survey and an existing educational and ancillary plant map or map series; information on existing development and development anticipated for the next 5 years and the long-term planning period; an analysis of problems and opportunities for existing schools and schools anticipated in the future; an analysis of opportunities to collocate future schools with other public facilities such as parks, libraries, and community centers; an analysis of the need for supporting public facilities for existing and future schools; an analysis of opportunities to locate schools to serve as community focal points; projected future population and associated demographics, including development patterns year by year for the upcoming 5-year and long-term planning periods; and anticipated educational and ancillary plants with land area requirements.

(b) The element shall contain one or more goals which establish the long-term end toward which public school programs and activities are ultimately directed.

(c) The element shall contain one or more objectives for each goal, setting specific, measurable, intermediate ends that are achievable and mark progress toward the goal.

(d) The element shall contain one or more policies for each objective which establish the way in which programs and activities will be conducted to achieve an identified goal.

(e) The objectives and policies shall address items such as: the procedure for an annual update process; the procedure for school site selection; the procedure for school permitting; provision of supporting infrastructure; location of future school sites so they serve as community focal points; measures to ensure compatibility of school sites and surrounding land uses; coordination with adjacent local governments and the school district on emergency preparedness issues; and coordination with the future land use element.

(f) The element shall include one or more future conditions maps which depict the anticipated location of educational and ancillary plants. The maps will of necessity be general for the long-term planning period and more specific for the 5-year period.

Section 5. Effective July 1, 1998, subsections (1) and (6) of section 163.3180, Florida Statutes, are amended, and subsections (12) and (13) are added to said section, to read:

163.3180 Concurrency.—

(1)~~(a)~~ Roads, sanitary sewer, solid waste, drainage, potable water, parks and recreation, and mass transit, where applicable, are the only public facilities and services subject to the concurrency requirement on a statewide basis. Additional public facilities and services may not be made subject to concurrency on a statewide basis without appropriate study and approval by the Legislature; however, any local government may extend the concurrency requirement so that it applies to additional public facilities within its jurisdiction.

~~(b) If a local government elects to extend the concurrency requirement to public schools, it should first conduct a study to determine how the requirement would be met and shared by all affected parties. The local government shall provide an opportunity for full participation in this study by the school board. The state land planning agency may provide technical assistance to local governments that study and prepare for extension of the concurrency requirement to public schools. When establishing concurrency requirements for public schools, a local government shall comply with the following criteria for any proposed plan or plan amendment transmitted pursuant to s. 163.3184(3) after July 1, 1995:~~

~~1. Adopt level-of-service standards for public schools with the agreement of the school board. Public school level-of-service standards shall be adopted as part of the capital improvements element in the local government comprehensive plan, which shall contain a financially feasible public school capital facilities program established in conjunction with the school board that will provide educational facilities at an adequate level of service necessary to implement the adopted local government comprehensive plan.~~

~~2. Satisfy the requirement for intergovernmental coordination set forth in s. 163.3177(6)(h)1. and 2.~~

(6) The Legislature finds that a de minimis impact is consistent with this part. A de minimis impact is an impact that would not affect more than 1 percent of the maximum volume at the adopted level of service of the affected transportation facility as determined by the local government. No impact will be de minimis if *the sum of existing roadway volumes and the projected volumes from approved projects on a transportation facility* ~~it~~ would exceed 110 percent of the *maximum volume at the adopted level of service of the affected* ~~sum of existing volumes and the projected volumes from approved projects on a~~ transportation facility; provided however, that an impact of a single family home on an existing lot will constitute a de minimis impact on all roadways regardless of the level of the deficiency of the roadway. Local governments are encouraged to adopt methodologies to encourage de minimis impacts on transportation facilities within an existing urban service area. Further, no impact will be de minimis if it would exceed the adopted level of service standard of any affected designated hurricane evacuation routes.

(12) School concurrency, if imposed by local option, shall be established on a districtwide basis and shall include all public schools in the district and all portions of the district, whether located in a municipality or an unincorporated area. The application of school concurrency to development shall be based upon the adopted comprehensive plan, as amended. All local governments within a county, except as provided in paragraph (f), shall adopt and transmit to the state land planning agency the necessary plan amendments, along with the interlocal agreement, for a compliance review pursuant to s. 163.3184(7) and (8). School concurrency shall not become effective in a county until all local governments, except as provided in paragraph (f), have adopted the necessary plan amendments, which together with the interlocal agreement, are determined to be in compliance with the requirements of this part. The minimum requirements for school concurrency are the following:

(a) Public school facilities element.—A local government shall adopt and transmit to the state land planning agency a plan or plan amendment which includes a public school facilities element which is consistent with the requirements of s. 163.3177(12) and which is determined to be in compliance as defined in s. 163.3184(1)(b). All local government public school facilities plan elements within a county must be consistent with each other as well as the requirements of this part.

(b) Level of service standards.—The Legislature recognizes that an essential requirement for a concurrency management system is the level of service at which a public facility is expected to operate.

1. Local governments and school boards imposing school concurrency shall exercise authority in conjunction with each other to establish jointly adequate level of service standards, as defined in rule 9J-5, Florida Administrative Code, necessary to implement the adopted local government comprehensive plan, based on data and analysis.

2. Public school level of service standards shall be included and adopted into the capital improvements element of the local comprehensive

plan and shall apply districtwide to all schools of the same type. Types of schools may include elementary, middle, and high schools as well as special-purpose facilities such as magnet schools.

3. Local governments and school boards shall have the option to utilize tiered level of service standards to allow time to achieve an adequate and desirable level of service as circumstances warrant.

(c) Service areas.—The Legislature recognizes that an essential requirement for a concurrency system is a designation of the area within which the level of service will be measured when an application for a residential development permit is reviewed for school concurrency purposes. This delineation is also important for purposes of determining whether the local government has a financially feasible public school capital facilities program that will provide schools which will achieve and maintain the adopted level of service standards.

1. In order to balance competing interests, preserve the constitutional concept of uniformity, and avoid disruption of existing educational and growth management processes, local governments are encouraged to apply school concurrency to development on a districtwide basis so that a concurrency determination for a specific development will be based upon the availability of school capacity districtwide.

2. For local governments applying school concurrency on a less than districtwide basis, such as utilizing school attendance zones or larger school concurrency service areas, local governments and school boards shall have the burden to demonstrate that the utilization of school capacity is maximized to the greatest extent possible in the comprehensive plan and amendment, taking into account transportation costs and court-approved desegregation plans, as well as other factors. In addition, in order to achieve concurrency within the service area boundaries selected by local governments and school boards, the service area boundaries, together with the standards for establishing those boundaries, shall be identified, included, and adopted as part of the comprehensive plan. Any subsequent change to the service area boundaries for purposes of a school concurrency system shall be by plan amendment and shall be exempt from the limitation on the frequency of plan amendments in s. 163.3187(1).

3. Where school capacity is available on a districtwide basis but school concurrency is applied on a less than districtwide basis in the form of concurrency service areas, if the adopted level of service standard cannot be met in a particular service area as applied to an application for a development permit and if the needed capacity for the particular service area is available in one or more contiguous service areas, as adopted by the local government, then the development order shall be issued and mitigation measures shall not be exacted.

(d) Financial feasibility.—The Legislature recognizes that financial feasibility is an important issue because the premise of concurrency is that the public facilities will be provided in order to achieve and maintain the adopted level of service standard. This part and chapter 9J-5, Florida Administrative Code, contain specific standards to determine the financial feasibility of capital programs. These standards were adopted to make concurrency more predictable and local governments more accountable.

1. A comprehensive plan amendment seeking to impose school concurrency shall contain appropriate amendments to the capital improvements element of the comprehensive plan, consistent with the requirements of s. 163.3177(3) and rule 9J-5.016, Florida Administrative Code. The capital improvements element shall set forth a financially feasible public school capital facilities program, established in conjunction with the school board, that demonstrates that the adopted level of service standards will be achieved and maintained.

2. Such amendments shall demonstrate that the public school capital facilities program meets all of the financial feasibility standards of this part and chapter 9J-5, Florida Administrative Code, that apply to capital programs which provide the basis for mandatory concurrency on other public facilities and services.

3. When the financial feasibility of a public school capital facilities program is evaluated by the state land planning agency for purposes of a compliance determination, the evaluation shall be based upon the service areas selected by the local governments and school board.

(e) Availability standard.--Consistent with the public welfare, a local government may not deny a development permit authorizing residential development for failure to achieve and maintain the level of service standard for public school capacity in a local option school concurrency system where adequate school facilities will be in place or under actual construction within 3 years after permit issuance.

(f) Intergovernmental coordination.—

1. When establishing concurrency requirements for public schools, a local government shall satisfy the requirements for intergovernmental coordination set forth in s. 163.3177(6)(h)1. and 2., except that a municipality is not required to be a signatory to the interlocal agreement required by s. 163.3177(6)(h)2. as a prerequisite for imposition of school concurrency, and as a nonsignatory shall not participate in the adopted local school concurrency system, if the municipality meets all of the following criteria for having no significant impact on school attendance:

a. The municipality has issued development orders for fewer than 50 residential dwelling units during the preceding 5 years, or the municipality has generated fewer than 25 additional public school students during the preceding 5 years.

b. The municipality has not annexed new land during the preceding 5 years in land use categories which permit residential uses that will affect school attendance rates.

c. The municipality has no public schools located within its boundaries.

d. At least 80 percent of the developable land within the boundaries of the municipality has been built upon.

2. A municipality which qualifies as having no significant impact on school attendance pursuant to the criteria of subparagraph 1. must review and determine at the time of its evaluation and appraisal report pursuant to s. 163.3191 whether it continues to meet the criteria. If the municipality determines that it no longer meets the criteria, it must adopt appropriate school concurrency goals, objectives, and policies in its plan amendments based on the evaluation and appraisal report, and enter into the existing interlocal agreement required by s. 163.3177(6)(h)2., in order to fully participate in the school concurrency system. If such a municipality fails to do so, it will be subject to the enforcement provisions of s. 163.3191.

(g) Interlocal agreement for school concurrency.—When establishing concurrency requirements for public schools, a local government must enter into an interlocal agreement which satisfies the requirements in s. 163.3177(6)(h)1. and 2. and the requirements of this subsection. The interlocal agreement shall acknowledge both the school board's constitutional and statutory obligations to provide a uniform system of free public schools on a countywide basis, and the land use authority of local governments, including their authority to approve or deny comprehensive plan amendments and development orders. The interlocal agreement shall be submitted to the state land planning agency by the local government as a part of the compliance review, along with the other necessary amendments to the comprehensive plan required by this part. In addition to the requirements of s. 163.3177(6)(h), the interlocal agreement shall meet the following requirements:

1. Establish the mechanisms for coordinating the development, adoption, and amendment of each local government's public school facilities element with each other and the plans of the school board to ensure a uniform districtwide school concurrency system.

2. Establish a process by which each local government and the school board shall agree and base their plans on consistent projections of the amount, type, and distribution of population growth and coordinate and share information relating to existing and planned public school facilities projections and proposals for development and redevelopment, and infrastructure required to support public school facilities.

3. Establish a process for the development of siting criteria which encourages the location of public schools proximate to urban residential areas to the extent possible and seeks to collocate schools with other public facilities such as parks, libraries, and community centers to the extent possible.

4. Specify uniform, districtwide level of service standards for public schools of the same type and the process for modifying the adopted levels of service standards.

5. Establish a process for the preparation, amendment, and joint approval by each local government and the school board of a public school capital facilities program which is financially feasible, and a process and schedule for incorporation of the public school capital facilities program into the local government comprehensive plans on an annual basis.

6. Define the geographic application of school concurrency. If school concurrency is to be applied on a less than districtwide basis in the form of concurrency service areas, the agreement shall establish criteria and standards for the establishment and modification of school concurrency service areas. The agreement shall also establish a process and schedule for the mandatory incorporation of the school concurrency service areas and the criteria and standards for establishment of the service areas into the local government comprehensive plans. The agreement shall ensure maximum utilization of school capacity, taking into account transportation costs and court-approved desegregation plans, as well as other factors. The agreement shall also ensure the achievement and maintenance of the adopted level of service standards for the geographic area of application throughout the 5 years covered by the public school capital facilities plan and thereafter by adding a new fifth year during the annual update.

7. Establish a uniform districtwide procedure for implementing school concurrency which provides for:

a. The evaluation of development applications for compliance with school concurrency requirements;

b. An opportunity for the school board to review and comment on the effect of comprehensive plan amendments and rezonings on the public school facilities plan; and

c. The monitoring and evaluation of the school concurrency system.

8. Include provisions relating to termination, suspension, and amendment of the agreement. The agreement shall provide that if the agreement is terminated or suspended, the application of school concurrency shall be terminated or suspended.

(13) The state land planning agency shall, by October 1, 1998, adopt by rule minimum criteria for the review and determination of compliance of a public school facilities element adopted by a local government for purposes of imposition of school concurrency.

Section 6. Effective July 1, 1998, paragraph (i) is added to subsection (2) of section 163.3191, Florida Statutes, to read:

163.3191 Evaluation and appraisal of comprehensive plan.—

(2) The report shall present an assessment and evaluation of the success or failure of the comprehensive plan, or element or portion thereof, and shall contain appropriate statements (using words, maps, illustrations, or other forms) related to:

(i) The coordination of the comprehensive plan with existing public schools and those identified in the applicable 5-year school district facilities work program adopted pursuant to s. 235.185. The assessment shall address, where relevant, the success or failure of the coordination of the future land use map and associated planned residential development with public schools and their capacities, as well as the joint decisionmaking processes engaged in by the local government and the school board in regard to establishing appropriate population projections and the planning and siting of public school facilities. If the issues are not relevant, the local government shall demonstrate that they are not relevant.

Section 7. Effective July 1, 1998, subsection (5) is added to section 235.185, Florida Statutes, as created by chapter 97-384, Laws of Florida, to read:

235.185 School district facilities work program; definitions; preparation, adoption, and amendment*; long-term work programs*.—

(5) 10-YEAR AND 20-YEAR WORK PROGRAMS.—In addition to the adopted district facilities work program covering the 5-year work program, the district school board shall adopt annually a 10-year and a 20-year work program which include the information set forth in subsection (2), but based upon enrollment projections and facility needs for the 10-year and 20-year periods. It is recognized that the projections in the 10-year and 20-year timeframes are tentative and should be used only for general planning purposes.

Section 8. Effective July 1, 1998, subsection (1) of section 235.19, Florida Statutes, is amended to read:

235.19 Site planning and selection.—

(1) Before acquiring property for sites, each board shall determine the location of proposed educational centers or campuses for the board. In making this determination, the board shall consider existing and anticipated site needs and the most economical and practicable locations of sites. The board shall coordinate with the long-range or comprehensive plans of local, regional, and state governmental agencies to assure the compatibility of such plans with site planning. *Boards are encouraged to locate schools proximate to urban residential areas to the extent possible, and shall seek to collocate schools with other public facilities, such as parks, libraries, and community centers, to the extent possible.*

Section 9. Effective July 1, 1998, subsection (2) of section 235.193, Florida Statutes, is amended to read:

235.193 Coordination of planning with local governing bodies.—

(2) A school board and the local governing body must share and coordinate information related to existing and planned public school facilities; proposals for development, redevelopment, or additional development; and infrastructure required to support the public school facilities, concurrent with proposed development. *A school board shall use Department of Education enrollment projections when preparing the 5-year district facilities work program pursuant to s. 235.185, and a school board shall affirmatively demonstrate in the educational facilities report consideration of local governments' population projections to ensure that the 5-year work program not only reflects enrollment projections but also considers applicable municipal and county growth and development projections. A school board is precluded from siting a new school in a jurisdiction where the school board has failed to provide the annual educational facilities report for the prior year required pursuant to s. 235.194 unless the failure is corrected.*

Section 10. *Until the minimum criteria for a public school facilities element adopted for purposes of imposition of school concurrency, as required by s. 163.3180(13), Florida Statutes, are in effect, the state land planning agency shall utilize the minimum criteria for a public school facilities element adopted for purposes of imposition of school concurrency contained in the Final Report and Consensus Text by the Department of Community Affairs Public School Construction Working Group, dated March 9, 1998, in any compliance review of any such element.*

Section 11. *Any county whose adopted public school facilities element is the subject of a final order entered by the Administration Commission prior to the effective date of this act may implement its public school facilities element in accordance with the general law concerning public school facilities concurrency in effect when the final order was entered and in accord with the final order consistent with any appellate court decision. The county shall comply with the requirements of the final order, consistent with any appellate decision, in implementing its public school facilities element and in adopting any necessary amendment to its comprehensive plan.*

Section 12. Paragraph (b) of subsection (1) and subsections (2), (4), and (6) of section 163.3184, Florida Statutes, are amended to read:

163.3184 Process for adoption of comprehensive plan or plan amendment.—

(1) DEFINITIONS.—As used in this section:

(b) "In compliance" means consistent with the requirements of ss. 163.3177, 163.3178, *163.3180,* ~~and~~ 163.3191, *and 163.3245,* with the state comprehensive plan, with the appropriate strategic regional policy plan, and with chapter 9J-5, Florida Administrative Code, where such rule is not inconsistent with chapter 163, part II and with the principles for guiding development in designated areas of critical state concern.

(2) COORDINATION.—Each comprehensive plan or plan amendment proposed to be adopted pursuant to this part shall be transmitted, adopted, and reviewed in the manner prescribed in this section. The state land planning agency shall have responsibility for plan review, coordination, and the preparation and transmission of comments, pursuant to this section, to the local governing body responsible for the comprehensive plan. *The state land planning agency shall maintain a single file concerning any proposed or adopted plan amendment submitted by a local government for any review under this section. Copies of all correspondence, papers, notes, memoranda, and other documents received or generated by the state land planning agency must be placed in the appropriate file. Paper copies of all electronic mail correspondence must be placed in the file. The file and its contents must be available for public inspection and copying as provided in chapter 119.*

(4) INTERGOVERNMENTAL REVIEW.—If review of a proposed comprehensive plan amendment is requested or otherwise initiated pursuant to subsection (6), the state land planning agency within 5 working days of determining that such a review will be conducted shall transmit a copy of the proposed plan amendment to various government agencies, as appropriate, for response or comment, including, but not limited to, the department, the Department of Transportation, the water management district, and the regional planning council, and, in the case of municipal plans, to the county land planning agency. These governmental agencies shall provide comments to the state land planning agency within 30 days after receipt of the proposed plan amendment. The appropriate regional planning council shall also provide its written comments to the state land planning agency within 30 days after receipt of the proposed plan amendment and shall specify any objections, recommendations for modifications, and comments of any other regional agencies to which the regional planning council may have referred the proposed plan amendment. *Written comments submitted by the public within 30 days after notice of transmittal by the local government of the proposed plan amendment will be considered as if submitted by governmental agencies. All written agency and public comments must be made part of the file maintained under subsection (2).*

(6) STATE LAND PLANNING AGENCY REVIEW.—

(a) The state land planning agency shall review a proposed plan amendment upon request of a regional planning council, affected person, or local government transmitting the plan amendment if the request is received within 30 days after transmittal of the proposed plan amendment pursuant to subsection (3). The agency shall issue a report of its objections, recommendations, and comments regarding the proposed plan amendment. A regional planning council or affected person requesting a review shall do so by submitting a written request to the agency with a notice of the request to the local government and any other person who has requested notice.

(b) The state land planning agency may review any proposed plan amendment regardless of whether a request for review has been made, if the agency gives notice to the local government, and any other person who has requested notice, of its intention to conduct such a review within 30 days of transmittal of the proposed plan amendment pursuant to subsection (3).

(c) The state land planning agency, upon receipt of comments from the various government agencies, *as well as written public comments,* pursuant to subsection (4), shall have 30 days to review comments from the various government agencies along with a local government's comprehensive plan or plan amendment. During that period, the state land planning agency shall transmit in writing its comments to the local government along with any objections and any recommendations for modifications. When a federal, state, or regional agency has implemented a permitting program, the state land planning agency shall not require a local government to duplicate or exceed that permitting program in its comprehensive plan or to implement such a permitting program in its land development regulations. Nothing contained herein shall prohibit the state land planning agency in conducting its review of local plans or plan amendments from making objections, recommendations, and comments or making compliance determinations regarding densities and intensities consistent with the provisions of this part. *In preparing its comments, the state land planning agency shall only base its considerations on written, and not oral, comments, from any source.*

(d) The state land planning agency review shall identify all written communications with the agency regarding the proposed plan amendment. If the state land planning agency does not issue such a review, it shall identify in writing to the local government all written communications received 30 days after transmittal. The written identification must include a list of all documents received or generated by the agency, which list must be of sufficient specificity to enable the documents to be identified and copies requested, if desired, and the name of the person to be contacted to request copies of any identified document. The list of documents must be made a part of the public records of the state land planning agency.

Section 13. Effective October 1, 1998, subsection (6) of section 163.3187, Florida Statutes, is amended to read:

163.3187 Amendment of adopted comprehensive plan.—

(6)*(a)* No local government may amend its comprehensive plan after the date established by *the state land planning agency* ~~rule~~ for *adoption* ~~submittal~~ of its evaluation and appraisal report unless it has submitted its report or addendum to the state land planning agency as prescribed by s. 163.3191, except for *plan amendments described in paragraph (1)(b).*~~:~~

~~(a) Plan amendments to implement recommendations in the report or addendum.~~

(b) *A local government may amend its comprehensive plan after it has submitted its adopted evaluation and appraisal report and for a period of 1 year after the initial determination of sufficiency regardless of whether the report has been determined to be insufficient* ~~Plan amendments described in paragraph (1)(b)~~.

(c) *A local government may not amend its comprehensive plan, except for plan amendments described in paragraph (1)(b), if the 1-year period after the initial sufficiency determination of the report has expired and the report has not been determined to be sufficient* ~~Plan amendments described in s. 163.3184(16)(d) to implement the terms of compliance agreements entered into before the date established for submittal of the report or addendum~~.

(d) When the *state land planning* agency has determined that the report ~~or addendum~~ has sufficiently addressed all pertinent provisions of s. 163.3191, the local government may *amend its comprehensive plan without the limitations imposed by paragraph (a) or paragraph (c)* ~~proceed with plan amendments in addition to those necessary to implement recommendations in the report or addendum~~.

(e) Any plan amendment which a local government attempts to adopt in violation of paragraph (a) or paragraph (c) is invalid, but such invalidity may be overcome if the local government readopts the amendment and transmits the amendment to the state land planning agency pursuant to s. 163.3184(7) after the report is determined to be sufficient.

Section 14. Effective October 1, 1998, section 163.3191, Florida Statutes, as amended by this act, is amended to read:

(Substantial rewording of section. See s. 163.3191, F.S., for present text.)

163.3191 Evaluation and appraisal of comprehensive plan.—

(1) The planning program shall be a continuous and ongoing process. Each local government shall adopt an evaluation and appraisal report once every 7 years assessing the progress in implementing the local government's comprehensive plan. Furthermore, it is the intent of this section that:

(a) Adopted comprehensive plans be reviewed through such evaluation process to respond to changes in state, regional, and local policies on planning and growth management and changing conditions and trends, to ensure effective intergovernmental coordination, and to identify major issues regarding the community's achievement of its goals.

(b) After completion of the initial evaluation and appraisal report and any supporting plan amendments, each subsequent evaluation and appraisal report must evaluate the comprehensive plan in effect at the time of the initiation of the evaluation and appraisal report process.

(c) Local governments identify the major issues, if applicable, with input from state agencies, regional agencies, adjacent local governments, and the public in the evaluation and appraisal report process. It is also the intent of this section to establish minimum requirements for informa-

tion to ensure predictability, certainty, and integrity in the growth management process. The report is intended to serve as a summary audit of the actions that a local government has undertaken and identify changes that it may need to make. The report should be based on the local government's analysis of major issues to further the community's goals consistent with statewide minimum standards. The report is not intended to require a comprehensive rewrite of the elements within the local plan, unless a local government chooses to do so.

(2) The report shall present an evaluation and assessment of the comprehensive plan and shall contain appropriate statements to update the comprehensive plan, including, but not limited to, words, maps, illustrations, or other media, related to:

(a) Population growth and changes in land area, including annexation, since the adoption of the original plan or the most recent update amendments.

(b) The extent of vacant and developable land.

(c) The financial feasibility of implementing the comprehensive plan and of providing needed infrastructure to achieve and maintain adopted level of service standards and sustain concurrency management systems through the capital improvements element, as well as the ability to address infrastructure backlogs and meet the demands of growth on public services and facilities.

(d) The location of existing development in relation to the location of development as anticipated in the original plan, or in the plan as amended by the most recent evaluation and appraisal report update amendments, such as within areas designated for urban growth.

(e) An identification of the major issues for the jurisdiction and, where pertinent, the potential social, economic, and environmental impacts.

(f) Relevant changes to the state comprehensive plan, the requirements of part II of chapter 163, the minimum criteria contained in Chapter 9J-5, Florida Administrative Code, and the appropriate strategic regional policy plan since the adoption of the original plan or the most recent evaluation and appraisal report update amendments.

(g) An assessment of whether the plan objectives within each element, as they relate to major issues, have been achieved. The report shall include, as appropriate, an identification as to whether unforeseen or unanticipated changes in circumstances have resulted in problems or opportunities with respect to major issues identified in each element and the social, economic, and environmental impacts of the issue.

(h) A brief assessment of successes and shortcomings related to each element of the plan.

(i) The identification of any actions or corrective measures, including whether plan amendments are anticipated to address the major issues identified and analyzed in the report. Such identification shall include, as appropriate, new population projections, new revised planning timeframes, a revised future conditions map or map series, an updated capital improvements element, and any new and revised goals, objectives, and policies for major issues identified within each element. This paragraph shall not require the submittal of the plan amendments with the evaluation and appraisal report.

(j) A summary of the public participation program and activities undertaken by the local government in preparing the report.

(k) The coordination of the comprehensive plan with existing public schools and those identified in the applicable 5-year school district facilities work program adopted pursuant to s. 235.185. The assessment shall address, where relevant, the success or failure of the coordination of the future land use map and associated planned residential development with public schools and their capacities, as well as the joint decisionmaking processes engaged in by the local government and the school board in regard to establishing appropriate population projections and the planning and siting of public school facilities. If the issues are not relevant, the local government shall demonstrate that they are not relevant.

(3) Voluntary scoping meetings may be conducted by each local government or several local governments within the same county that agree to meet together. Joint meetings among all local governments in a county are encouraged. All scoping meetings shall be completed at least 1 year prior to the established adoption date of the report. The purpose of the meetings shall be to distribute data and resources available to assist in the preparation of the report, to provide input on major issues in each community that should be addressed in the report, and to advise on the extent of the effort for the components of subsection (2). If scoping meetings are held, the local government shall invite each state and regional reviewing agency, as well as adjacent and other affected local governments. A preliminary list of new data and major issues that have emerged since the adoption of the original plan, or the most recent evaluation and appraisal report-based update amendments, should be developed by state and regional entities and involved local governments for distribution at the scoping meeting. For purposes of this subsection, a "scoping meeting" is a meeting conducted to determine the scope of review of the evaluation and appraisal report by parties to which the report relates.

(4) The local planning agency shall prepare the evaluation and appraisal report and shall make recommendations to the governing body regarding adoption of the proposed report. The local planning agency shall prepare the report in conformity with its public participation procedures adopted as required by s. 163.3181. During the preparation of the proposed report and prior to making any recommendation to the governing body, the local planning agency shall hold at least one public hearing, with public notice, on the proposed report. At a minimum, the format and content of the proposed report shall include a table of contents, numbered pages, element headings, section headings within elements, a list of included tables, maps, and figures, a title and sources for all included tables, a preparation date, and the name of the preparer. Where applicable, maps shall include major natural and artificial geographic features, city, county, and state lines, and a legend indicating a north arrow, map scale, and the date.

(5) Ninety days prior to the scheduled adoption date, the local government may provide a proposed evaluation and appraisal report to the state land planning agency and distribute copies to state and regional commenting agencies as prescribed by rule, adjacent jurisdictions, and interested citizens for review. All review comments, including comments by the state land planning agency, shall be transmitted to the local government and state land planning agency within 30 days after receipt of the proposed report.

(6) The governing body, after considering the review comments and recommended changes, if any, shall adopt the evaluation and appraisal report by resolution or ordinance at a public hearing with public notice. The governing body shall adopt the report in conformity with its public participation procedures adopted as required by s. 163.3181. The local government shall submit to the state land planning agency three copies of the report, a transmittal letter indicating the dates of public hearings, and a copy of the adoption resolution or ordinance. The local government shall provide a copy of the report to the reviewing agencies which provided comments for the proposed report, or to all the reviewing agencies if a proposed report was not provided pursuant to subsection (5), including the adjacent local governments. Within 60 days after receipt, the state land planning agency shall review the adopted report and make a preliminary sufficiency determination that shall be forwarded by the agency to the local government for its consideration. The state land planning agency shall issue a final sufficiency determination within 90 days after receipt of the adopted evaluation and appraisal report.

(7) The intent of the evaluation and appraisal process is the preparation of a plan update that clearly and concisely achieves the purpose of this section. Toward this end, the sufficiency review of the state land planning agency shall concentrate on whether the evaluation and appraisal report sufficiently fulfills the components of subsection (2). If the state land planning agency determines that the report is insufficient, the governing body shall adopt a revision of the report and submit the revised report for review pursuant to subsection (6).

(8) The state land planning agency may delegate the review of evaluation and appraisal reports, including all state land planning agency duties under subsections (4)-(7), to the appropriate regional planning council. When the review has been delegated to a regional planning council, any local government in the region may elect to have its report reviewed by the regional planning council rather than the state land planning agency. The state land planning agency shall by agreement provide for uniform and adequate review of reports and shall retain oversight for any delegation of review to a regional planning council.

(9) The state land planning agency may establish a phased schedule for adoption of reports. The schedule shall provide each local government at least 7 years from plan adoption or last established adoption date for a report and shall allot approximately one-seventh of the reports to any 1 year. In order to allow the municipalities to use data and analyses gathered by the counties, the state land planning agency shall schedule municipal report adoption dates between 1 year and 18 months later than the report adoption date for the county in which those municipalities are located. A local government may adopt its report no earlier than 90 days prior to the established adoption date. Small municipalities which were scheduled by Chapter 9J-33, Florida Administrative Code, to adopt their evaluation and appraisal report after February 2, 1999, shall be rescheduled to adopt their report together with the other municipalities in their county as provided in this subsection.

(10) The governing body shall amend its comprehensive plan based on the recommendations in the report and shall update the comprehensive plan based on the components of subsection (2), pursuant to the provisions of ss. 163.3184, 163.3187, and 163.3189. Amendments to update a comprehensive plan based on the evaluation and appraisal report shall be adopted within 18 months after the report is determined to be sufficient by the state land planning agency, except the state land planning agency may grant an extension for adoption of a portion of such amendments. The state land planning agency may grant a 6-month extension for the adoption of such amendments if the request is justified by good and sufficient cause as determined by the agency. An additional extension may also be granted if the request will result in greater coordination between transportation and land use, for the purposes of improving Florida's transportation system, as determined by the agency in coordination with the Metropolitan Planning Organization program. The comprehensive plan as amended shall be in compliance as defined in s. 163.3184(1)(b).

(11) The Administration Commission may impose the sanctions provided by s. 163.3184(11) against any local government that fails to adopt and submit a report, or that fails to implement its report through timely and sufficient amendments to its local plan, except for reasons of excusable delay or valid planning reasons agreed to by the state land planning agency or found present by the Administration Commission. Sanctions for untimely or insufficient plan amendments shall be prospective only and shall begin after a final order has been issued by the Administration Commission and a reasonable period of time has been allowed for the local government to comply with an adverse determination by the Administration Commission through adoption of plan amendments that are in compliance. The state land planning agency may initiate, and an affected person may intervene in, such a proceeding by filing a petition with the Division of Administrative Hearings, which shall appoint an administrative law judge and conduct a hearing pursuant to ss. 120.569 and 120.57(1) and shall submit a recommended order to the Administration Commission. The affected local government shall be a party to any such proceeding. The commission may implement this subsection by rule.

(12) The state land planning agency shall not adopt rules to implement this section, other than procedural rules.

(13) Within 1 year after the effective date of this act, the state land planning agency shall prepare and submit a report to the Governor, the Administration Commission, the Speaker of the House of Representatives, the President of the Senate, and the respective community affairs committees of the Senate and the House of Representatives on the coordination efforts of local, regional, and state agencies to improve technical assistance for evaluation and appraisal reports and update plan amendments. Technical assistance shall include, but not be limited to, distribution of sample evaluation and appraisal report templates, distribution of data in formats usable by local governments, onsite visits with local governments, and participation in and assistance with the voluntary scoping meetings as described in subsection (3).

(14) The state land planning agency shall regularly review the evaluation and appraisal report process and submit a report to the Governor, the Administration Commission, the Speaker of the House of Representatives, the President of the Senate, and the respective community affairs committees of the Senate and the House of Representatives. The first report shall be submitted by December 31, 2004, and subsequent reports shall be submitted every 5 years thereafter. At least 9 months before the due date of each report, the Secretary of Community Affairs shall appoint a technical committee of at least 15 members to assist in the preparation of the report. The membership of the technical committee shall consist of representatives of local governments, regional planning councils, the private sector, and environmental organizations. The report shall assess the effectiveness of the evaluation and appraisal report process.

(15) An evaluation and appraisal report due for adoption before October 1, 1998, shall be evaluated for sufficiency pursuant to the provisions of this section. A local government which has an established adoption date for its evaluation and appraisal report after September 30, 1998, and before February 2, 1999, may choose to have its report evaluated for sufficiency pursuant to the provisions of this section if the choice is made in writing to the state land planning agency on or before the date the report is submitted.

Section 15. Section 163.3245, Florida Statutes, is created to read:

163.3245 Optional sector plans.—

(1) In recognition of the benefits of conceptual long-range planning for the buildout of an area, and detailed planning for specific areas, as a demonstration project the requirements of s. 380.06 may be addressed as identified by this section for up to five local governments or combinations of local governments which adopt into the comprehensive plan an optional sector plan in accordance with this section. This section is intended to further the intent of s. 163.3177(11), which supports innovative and flexible planning and development strategies, and the purposes of chapter 163, part II, and chapter 380, part I, and to avoid duplication of effort in terms of the level of data and analysis required for a development of regional impact, while ensuring the adequate mitigation of impacts to applicable regional resources and facilities, including those within the jurisdiction of other local governments, as would otherwise be provided. Optional sector plans are intended for substantial geographic areas including at least 5,000 acres of one or more local governmental jurisdictions and are to emphasize urban form and protection of regionally significant resources and facilities. The state land planning agency may approve optional sector plans of less than 5,000 acres based on local circumstances if it is determined that the plan would further the purposes of chapter 163, part II, and chapter 380, part I. Preparation of an optional sector plan is authorized by agreement between the state land planning agency and the applicable local governments under s. 163.3171(4). An optional sector plan may be adopted through one or more comprehensive plan amendments under s. 163.3184. However, an optional sector plan may not be authorized in an area of critical state concern.

(2) The state land planning agency may enter into an agreement to authorize preparation of an optional sector plan upon the request of one or more local governments based on consideration of problems and opportunities presented by existing development trends; the effectiveness of current comprehensive plan provisions; the potential to further the state comprehensive plan, applicable strategic regional policy plans, chapter 163, part II, and chapter 380, part I; and those factors identified by s. 163.3177(10)(i). The applicable regional planning council shall conduct a scoping meeting with affected local governments and those agencies identified in s. 163.3184(4) before execution of the agreement authorized by this section. The purpose of this meeting is to assist the state land planning agency and the local government in the identification of the relevant planning issues to be addressed and the data and resources available to assist in the preparation of subsequent plan amendments. The regional planning council shall make written recommendations to the state land planning agency and affected local governments, including whether a sustainable sector plan would be appropriate. The agreement must define the geographic area to be subject to the sector plan, the planning issues that will be emphasized, requirements for intergovernmental coordination to address extrajurisdictional impacts, supporting application materials including data and analysis, and procedures for public participation. An agreement may address previously adopted sector plans that are consistent with the standards in this section. Before executing an agreement under this subsection, the local government shall hold a duly noticed public workshop to review and explain to the public the optional sector planning process and the terms and conditions of the proposed agreement. The local government shall hold a duly noticed public hearing to execute the agreement. All meetings between the department and the local government must be open to the public.

(3) Optional sector planning encompasses two levels: adoption under s. 163.3184 of a conceptual long-term buildout overlay to the comprehensive plan, having no immediate effect on the issuance of development orders or the applicability of s. 380.06, and adoption under s. 163.3184

of detailed specific area plans that implement the conceptual long-term buildout overlay and authorize issuance of development orders, and within which s. 380.06 is waived. Until such time as a detailed specific area plan is adopted, the underlying future land use designations apply.

(a) In addition to the other requirements of this chapter, a conceptual long-term buildout overlay must include:

1. A long-range conceptual framework map that at a minimum identifies anticipated areas of urban, agricultural, rural, and conservation land use.

2. Identification of regionally significant public facilities consistent with Rule 9J-2, Florida Administrative Code, irrespective of local governmental jurisdiction necessary to support buildout of the anticipated future land uses.

3. Identification of regionally significant natural resources consistent with Rule 9J-2, Florida Administrative Code.

4. Principles and guidelines that address the urban form and interrelationships of anticipated future land uses and a discussion, at the applicant's option, of the extent, if any, to which the plan will address restoring key ecosystems, achieving a more clean, healthy environment, limiting urban sprawl, protecting wildlife and natural areas, advancing the efficient use of land and other resources, and creating quality communities and jobs.

5. Identification of general procedures to ensure intergovernmental coordination to address extrajurisdictional impacts from the long-range conceptual framework map.

(b) In addition to the other requirements of this chapter, including those in subsection (a), the detailed specific area plans must include:

1. An area of adequate size to accommodate a level of development which achieves a functional relationship between a full range of land uses within the area and to encompass at least 1,000 acres. The state land planning agency may approve detailed specific area plans of less than 1,000 acres based on local circumstances if it is determined that the plan furthers the purposes of chapter 163, part II, and chapter 380, part I.

2. Detailed identification and analysis of the distribution, extent, and location of future land uses.

3. Detailed identification of regionally significant public facilities, including public facilities outside the jurisdiction of the host local government, anticipated impacts of future land uses on those facilities, and required improvements consistent with Rule 9J-2, Florida Administrative Code.

4. Public facilities necessary for the short term, including developer contributions in a financially feasible 5-year capital improvement schedule of the affected local government.

5. Detailed analysis and identification of specific measures to assure the protection of regionally significant natural resources and other important resources both within and outside the host jurisdiction, including those regionally significant resources identified in Rule 9J-2, Florida Administrative Code.

6. Principles and guidelines that address the urban form and interrelationships of anticipated future land uses and a discussion, at the applicant's option, of the extent, if any, to which the plan will address restoring key ecosystems, achieving a more clean, healthy environment, limiting urban sprawl, protecting wildlife and natural areas, advancing the efficient use of land and other resources, and creating quality communities and jobs.

7. Identification of specific procedures to ensure intergovernmental coordination to address extrajurisdictional impacts of the detailed specific area plan.

(c) This subsection may not be construed to prevent preparation and approval of the optional sector plan and detailed specific area plan concurrently or in the same submission.

(4) The host local government shall submit a monitoring report to the state land planning agency and applicable regional planning council on an annual basis after adoption of a detailed specific area plan. The annual monitoring report must provide summarized information on development orders issued, development that has occurred, public facility improvements made, and public facility improvements anticipated over the upcoming 5 years.

(5) When a plan amendment adopting a detailed specific area plan has become effective under ss. 163.3184 and 163.3189(2), the provisions of s. 380.06 do not apply to development within the geographic area of the detailed specific area plan. However, any development-of-regional-impact development order that is vested from the detailed specific area plan may be enforced under s. 380.11.

(a) The local government adopting the detailed specific area plan is primarily responsible for monitoring and enforcing the detailed specific area plan. Local governments shall not issue any permits or approvals or provide any extensions of services to development that are not consistent with the detailed sector area plan.

(b) If the state land planning agency has reason to believe that a violation of any detailed specific area plan, or of any agreement entered into under this section, has occurred or is about to occur, it may institute an administrative or judicial proceeding to prevent, abate, or control the conditions or activity creating the violation, using the procedures in s. 380.11.

(c) In instituting an administrative or judicial proceeding involving an optional sector plan or detailed specific area plan, including a proceeding pursuant to s. 163.3245(5)(b), the complaining party shall comply with the requirements of subsections (4), (5), (6), and (7) of s. 163.3215.

(6) Beginning December 1, 1999, and each year thereafter, the department shall provide a status report to the Legislative Committee on Intergovernmental Relations regarding each optional sector plan authorized under this section.

(7) This section may not be construed to abrogate the rights of any person under this chapter.

Section 16. Subsection (6) is added to section 171.044, Florida Statutes, to read:

171.044 Voluntary annexation.—

(6) Upon publishing or posting the ordinance notice required under subsection (2), the governing body of the municipality must provide a copy of the notice, via certified mail, to the board of the county commissioners of the county wherein the municipality is located. The notice provision provided in this subsection shall not be the basis of any cause of action challenging the annexation.

Section 17. Section 186.003, Florida Statutes, is amended to read:

186.003 Definitions.—As used in ss. 186.001-186.031 and 186.801-186.911, the term:

(1) "Executive Office of the Governor" means the Office of Planning and Budgeting of the Executive Office of the Governor.

(2) "Goal" means the long-term end toward which programs and activities are ultimately directed.

(3) "Objective" means a specific, measurable, intermediate end that is achievable and marks progress toward a goal.

(4) "Policy" means the way in which programs and activities are conducted to achieve an identified goal.

(5) "Regional planning agency" means the regional planning council created pursuant to ss. 186.501-186.515 to exercise responsibilities under ss. 186.001-186.031 and 186.801-186.911 in a particular region of the state.

(6) "State agency" means each executive department, the Game and Fresh Water Fish Commission, the Parole Commission, and the Department of Military Affairs.

(7) "State agency strategic plan" means the statement of priority directions that an agency will take to carry out its mission within the

context of the state comprehensive plan and within the context of any other statutory mandates and authorizations given to the agency, pursuant to ss. 186.021-186.022.

(8) "State comprehensive plan" means the *state planning document required in Article III, s. 19 of the State Constitution and published as ss. 187.101 and 187.201.* ~~goals and policies contained within the state comprehensive plan initially prepared by the Executive Office of the Governor and adopted pursuant to s. 186.008.~~

Section 18. Subsections (4) and (8) of section 186.007, Florida Statutes, are amended and subsection (9) is added to that section to read:

186.007 State comprehensive plan; preparation; revision.—

(4)(a) The Executive Office of the Governor shall prepare statewide goals, objectives, and policies related to the opportunities, problems, and needs associated with growth and development in this state, which goals, objectives, and policies shall constitute the growth management portion of the state comprehensive plan. In preparing the growth management goals, objectives, and policies, the Executive Office of the Governor initially shall emphasize the management of land use, water resources, and transportation system development.

(b) The purpose of the growth management portion of the state comprehensive plan is to establish clear, concise, and direct goals, objectives, and policies related to land development, water resources, transportation, and related topics. In doing so, the plan should, where possible, draw upon the work that agencies have invested in ~~the state land development plan,~~ the Florida Transportation Plan, the Florida water plan, and similar planning documents.

(8) The revision of the state comprehensive plan is a continuing process. Each section of the plan shall be reviewed and analyzed biennially by the Executive Office of the Governor in conjunction with the planning officers of other state agencies significantly affected by the provisions of the particular section under review. In conducting this review and analysis, the Executive Office of the Governor shall review and consider, with the assistance of the state land planning agency *and regional planning councils*, the evaluation and appraisal reports submitted pursuant to s. 163.3191 *and the evaluation and appraisal reports prepared pursuant to s. 186.511*. Any necessary revisions of the state comprehensive plan shall be proposed by the Governor in a written report and be accompanied by an explanation of the need for such changes. If the Governor determines that changes are unnecessary, the written report must explain why changes are unnecessary. The proposed revisions and accompanying explanations may be submitted in the report required by s. 186.031. Any proposed revisions to the plan shall be submitted to the Legislature as provided in s. 186.008(2) at least 30 days prior to the regular legislative session occurring in each even-numbered year.

(9) The Governor shall appoint a committee to review and make recommendations as to appropriate revisions to the state comprehensive plan that should be considered for the Governor's recommendations to the Administration Commission for October 1, 1999, pursuant to s. 186.008(1). The committee must consist of persons from the public and private sectors representing the broad range of interests covered by the state comprehensive plan, including state, regional, and local government representatives. In reviewing the goals and policies contained in chapter 187, the committee must identify portions that have become outdated or have not been implemented, and, based upon best available data, the state's progress toward achieving the goals and policies. In reviewing the goals and policies relating to growth and development, the committee shall consider the extent to which the plan adequately addresses the guidelines set forth in s. 186.009, and recommend revisions as appropriate. In addition, the committee shall consider and make recommendations on the purpose and function of the state land development plan, as set forth in s. 380.031(17), including whether said plan should be retained and, if so, its future application. The committee may also make recommendations as to data and information needed in the continuing process to evaluate and update the state comprehensive plan. All meetings of the committee must be open to the public for input on the state planning process and amendments to the state comprehensive plan. The Executive Office of the Governor is hereby appropriated $50,000 in nonrecurring general revenue for costs associated with the committee, including travel and per diem reimbursement for the committee members.

Section 19. Section 186.008, Florida Statutes, is amended to read:

186.008 State comprehensive plan; revision; implementation.—

(1) On or before October 1 of every odd-numbered year ~~beginning in 1995~~, the Executive Office of the Governor shall prepare, and the Governor shall recommend to the Administration Commission, any proposed revisions to the state comprehensive plan deemed necessary. The Governor shall transmit his or her recommendations and explanation as required by s. 186.007(8). Copies shall also be provided to each state agency, to each regional planning agency, to any other unit of government that requests a copy, and to any member of the public who requests a copy.

(2) On or before December 15 of every odd-numbered year ~~beginning in 1995~~, the Administration Commission shall review the proposed revisions to the state comprehensive plan prepared by the Governor. The commission shall adopt a resolution, after public notice and a reasonable opportunity for public comment, and transmit the proposed revisions to the state comprehensive plan to the Legislature, together with any amendments approved by the commission and any dissenting reports. The commission shall identify those portions of the plan that are not based on existing law.

(3) All amendments, revisions, or updates to the plan shall be adopted by the Legislature as a general law.

(4) The state comprehensive plan shall be implemented and enforced by all state agencies consistent with their lawful responsibilities whether it is put in force by law or by administrative rule. The Governor, as chief planning officer of the state, shall oversee the implementation process.

(5) All state agency budgets and programs shall be consistent with the adopted state comprehensive plan and shall support and further its goals and policies.

(6) The Florida Public Service Commission, in approving the plans of utilities subject to its regulation, shall take into consideration the compatibility of the plan of each utility and all related utility plans taken together with the adopted state comprehensive plan.

Section 20. Subsections (2) and (3) of section 186.009, Florida Statutes, are amended to read:

186.009 Growth management portion of the state comprehensive plan.—

(2) The growth management portion of the state comprehensive plan shall:

(a) Provide strategic guidance for state, regional, and local actions necessary to implement the state comprehensive plan with regard to the physical growth and development of the state.

(b) Identify metropolitan and urban growth centers.

(c) Identify areas of state and regional environmental significance and establish strategies to protect them.

(d) Set forth and integrate state policy for Florida's future growth as it relates to land development, air quality, transportation, and water resources.

(e) Provide guidelines for determining where urban growth is appropriate and should be encouraged.

(f) Provide guidelines for state transportation corridors, public transportation corridors, new interchanges on limited access facilities, and new airports of regional or state significance.

(g) Promote land acquisition programs to provide for natural resource protection, open space needs, urban recreational opportunities, and water access.

(h) Set forth policies to establish state and regional solutions to the need for affordable housing.

(i) Provide coordinated state planning of road, rail, and waterborne transportation facilities designed to take the needs of agriculture into

consideration and to provide for the transportation of agricultural products and supplies.

(j) Establish priorities regarding coastal planning and resource management.

(k) Provide a statewide policy to enhance the multiuse waterfront development of existing deepwater ports, ensuring that priority is given to water-dependent land uses.

(l) Set forth other goals, objectives, and policies related to the state's natural and built environment that are necessary to effectuate those portions of the state comprehensive plan which are related to physical growth and development.

(m) Set forth recommendations on when and to what degree local government comprehensive plans must be consistent with the proposed growth management portion of the state comprehensive plan.

(n) Set forth recommendations on how to integrate the Florida water plan required by s. 373.036, ~~the state land development plan required by s. 380.031(17),~~ and transportation plans required by chapter 339.

(o) Set forth recommendations concerning what degree of consistency is appropriate for the strategic regional policy plans.

The growth management portion of the state comprehensive plan shall not include a land use map.

(3)~~(a) On or before October 15, 1993, the Executive Office of the Governor shall prepare, and the Governor shall recommend to the Administration Commission, the proposed growth management portion of the state comprehensive plan. Copies shall also be provided to each state agency, to each regional planning agency, to any other unit of government that requests a copy, and to any member of the public who requests a copy.~~

~~(b) On or before December 1, 1993, the Administration Commission shall review the proposed growth management portion of the state comprehensive plan prepared by the Governor. The commission shall adopt a resolution, after public notice and a reasonable opportunity for public comment, and transmit the proposed growth management portion of the state comprehensive plan to the Legislature, together with any amendments approved by the commission and any dissenting reports. The commission shall identify those portions of the plan that are not based on existing law.~~

~~(c)~~ The growth management portion of the state comprehensive plan, and all amendments, revisions, or updates to the plan, shall have legal effect only upon adoption by the Legislature as general law. The Legislature shall indicate, in adopting the growth management portion of the state comprehensive plan, which plans, activities, and permits must be consistent with the growth management portion of the state comprehensive plan.

~~(d) The Executive Office of the Governor shall evaluate and the Governor shall propose any necessary revisions to the adopted growth management portion of the state comprehensive plan in conjunction with the process for evaluating and proposing revisions to the state comprehensive plan.~~

Section 21. Subsection (2) of section 186.507, Florida Statutes, is amended to read:

186.507 Strategic regional policy plans.—

(2) The Executive Office of the Governor *may* ~~shall~~ adopt by rule minimum criteria to be addressed in each strategic regional policy plan and a uniform format for each plan. Such criteria must emphasize the requirement that each regional planning council, when preparing and adopting a strategic regional policy plan, *must* focus on regional rather than local resources and facilities.

Section 22. Section 186.508, Florida Statutes, is amended to read:

186.508 Strategic regional policy plan adoption; consistency with state comprehensive plan.—

(1) Each regional planning council shall submit to the Executive Office of the Governor its proposed strategic regional policy plan on a schedule *established* ~~adopted by rule~~ by the Executive Office of the Governor to coordinate implementation of the strategic regional policy plans with the evaluation and appraisal reports required by s. 163.3191. The Executive Office of the Governor, or its designee, shall review the proposed strategic regional policy plan *to ensure* ~~for~~ consistency with the adopted state comprehensive plan and shall, within 60 days, *provide any recommended revisions.* ~~return the proposed strategic regional policy plan to the council, together with any revisions recommended by the Governor.~~ The Governor's recommended revisions shall be included in the plans in a comment section. However, nothing herein shall preclude a regional planning council from adopting or rejecting any or all of the revisions as a part of its plan prior to the effective date of the plan. The rules adopting the strategic regional policy plan shall not be subject to rule challenge under s. 120.56(2) or to drawout proceedings under s. 120.54(3)(c)2., but, once adopted, shall be subject to an invalidity challenge under s. 120.56(3) by substantially affected persons, including the Executive Office of the Governor. The rules shall be adopted by the regional planning councils ~~within 90 days after receipt of the revisions recommended by the Executive Office of the Governor~~, and shall become effective upon filing with the Department of State, notwithstanding the provisions of s. 120.54(3)(e)6.

(2) If a local government within the jurisdiction of a regional planning council challenges a portion of the council's regional policy plan pursuant to s. 120.56, the applicable portion of that local government's comprehensive plan shall not be required to be consistent with the challenged portion of the regional policy plan until 12 months after the challenge has been resolved by an administrative law judge.

(3) All amendments to the adopted regional policy plan shall be subject to all challenges pursuant to chapter 120.

Section 23. Section 186.511, Florida Statutes, is amended to read:

186.511 Evaluation of strategic regional policy plan; changes in plan.—The regional planning process shall be a continuous and ongoing process. Each regional planning council shall prepare an evaluation and appraisal report on its strategic regional policy plan at least once every 5 years; assess the successes or failures of the plan; address changes to the state comprehensive plan; and prepare and adopt by rule amendments, revisions, or updates to the plan as needed. Each regional planning council shall involve the appropriate local health councils in its region if the regional planning council elects to address regional health issues. The evaluation and appraisal report shall be prepared and submitted for review on a schedule established ~~by rule~~ by the Executive Office of the Governor. The schedule shall facilitate and be coordinated with, to the maximum extent feasible, the evaluation and revision of local comprehensive plans pursuant to s. 163.3191 for the local governments within each comprehensive planning district.

Section 24. Paragraph (f) of subsection (2) and subsections (3), (8), (9), (10), and (12) of section 288.975, Florida Statutes, are amended to read:

288.975 Military base reuse plans.—

(2) As used in this section, the term:

(f) "Regional policy plan" means a ~~comprehensive regional policy plan that has been adopted by rule by a regional planning council until the council's rule adopting its strategic regional policy plan in accordance with the requirements of chapter 93-206, Laws of Florida, becomes effective, at which time "regional policy plan" shall mean a~~ strategic regional policy plan that has been adopted by rule by a regional planning council pursuant to s. 186.508.

(3) No later than 6 months ~~after May 31, 1994, or 6 months~~ after the designation of a military base for closure by the Federal Government, ~~whichever is later,~~ each host local government shall notify the secretary of the Department of Community Affairs and the director of the Office of Tourism, Trade, and Economic Development in writing, by hand delivery or return receipt requested, as to whether it intends to use the optional provisions provided in this act. If a host local government does not opt to use the provisions of this act, land use planning and regulation pertaining to base reuse activities within those host local governments shall be subject to all applicable statutory requirements, including those contained within chapters 163 and 380.

(8) At the request of a host local government, the Office of Tourism, Trade, and Economic Development shall coordinate a presubmission workshop concerning a military base reuse plan within the boundaries of the host jurisdiction. Agencies that shall participate in the workshop shall include any affected local governments; the Department of Environmental Protection; the Office of Tourism, Trade, and Economic Development; the Department of Community Affairs; the Department of Transportation; the Department of Health ~~and Rehabilitative Services~~; *the Department of Children and Family Services;* the Department of Agriculture and Consumer Services; the Department of State; the Game and Fresh Water Fish Commission; and any applicable water management districts and regional planning councils. The purposes of the workshop shall be to assist the host local government to understand issues of concern to the above listed entities pertaining to the military base site and to identify opportunities for better coordination of planning and review efforts with the information and analyses generated by the federal environmental impact statement process and the federal community base reuse planning process.

(9) If a host local government elects to use the optional provisions of this act, it shall, no later than 12 months after notifying the agencies of its intent pursuant to subsection (3) either:

(a) Send a copy of the proposed military base reuse plan for review to any affected local governments; the Department of Environmental Protection; the Office of Tourism, Trade, and Economic Development; the Department of Community Affairs; the Department of Transportation; the Department of Health ~~and Rehabilitative Services~~; *the Department of Children and Family Services;* the Department of Agriculture and Consumer Services; the Department of State; the Florida Game and Fresh Water Fish Commission; and any applicable water management districts and regional planning councils, or

(b) Petition the secretary of the Department of Community Affairs for an extension of the deadline for submitting a proposed reuse plan. Such an extension request must be justified by changes or delays in the closure process by the federal Department of Defense or for reasons otherwise deemed to promote the orderly and beneficial planning of the subject military base reuse. The secretary of the Department of Community Affairs may grant *extensions* ~~up to a 1-year extension~~ to the required submission date of the reuse plan.

(10)~~(a)~~ Within 60 days after receipt of a proposed military base reuse plan, these entities shall review and provide comments to the host local government. The commencement of this review period shall be advertised in newspapers of general circulation within the host local government and any affected local government to allow for public comment. No later than *180* ~~60~~ days after receipt and consideration of all comments, and the holding of at least two public hearings, the host local government shall adopt the military base reuse plan. The host local government shall comply with the notice requirements set forth in s. 163.3184(15) to ensure full public participation in this planning process.

~~(b) Notwithstanding paragraph (a), a host local government may waive the requirement that the military base reuse plan be adopted within 60 days after receipt and consideration of all comments and the second public hearing. The waiver may extend the time period in which to adopt the military reuse plan to 180 days after the 60th day following the receipt and consideration of all comments and the second public hearing, or the date upon which this act becomes a law, whichever is later.~~

~~(c) The host local government may exercise the waiver after the 60th day following the receipt and consideration of all comments and the second public hearing. However, the host local government must exercise this waiver no later than 180 days after the 60th day following the receipt and consideration of all comments and the second public hearing, or the date upon which this act becomes a law, whichever is later.~~

~~(d) Any action by a host local government to adopt a military base reuse plan after the expiration of the 60-day period is deemed an exercise of the waiver pursuant to paragraph (b), without further action by the host local government.~~

(12) Following receipt of a petition, the petitioning party or parties and the host local government shall seek resolution of the issues in dispute. The issues in dispute shall be resolved as follows:

(a) The petitioning parties and host local government shall have 45 days to resolve the issues in dispute. Other affected parties that submitted comments on the proposed military base reuse plan may be given the opportunity to formally participate in decisions and agreements made in these and subsequent proceedings by mutual consent of the petitioning party and the host local government. A third-party mediator may be used to help resolve the issues in dispute.

(b) If resolution of the dispute cannot be achieved within 45 days, the petitioning parties and host local government may extend such dispute resolution for up to 45 days. If resolution of the dispute cannot be achieved with the above timeframes, the issues in dispute shall be submitted to the state land planning agency. If the issues stem from multiple petitions, the mediation shall be consolidated into a single proceeding. The state land planning agency shall have 45 days to hold informal hearings, if necessary, identify the issues in dispute, prepare a record of the proceedings, and provide recommended solutions to the parties. If the parties fail to implement the recommended solutions within 45 days, the state land planning agency shall submit the matter to the Administration Commission for final action. The report to the Administration Commission shall list each issue in dispute, describe the nature and basis for each dispute, identify the recommended solutions provided to the parties, and make recommendations for actions the Administration Commission should take to resolve the disputed issues.

(c) *If* ~~In the event~~ the state land planning agency is a party to the dispute, the *issues in* dispute shall be *submitted to* ~~resolved by~~ a party jointly selected by the state land planning agency and the host local government. The selected party shall comply with the responsibilities placed upon the state land planning agency in this section.

(d) Within 45 days after receiving the report from the state land planning agency, the Administration Commission shall take action to resolve the issues in dispute. In deciding upon a proper resolution, the Administration Commission shall consider the nature of the issues in dispute, *any requests for a formal administrative hearing pursuant to chapter 120,* the compliance of the parties with this section, the extent of the conflict between the parties, the comparative hardships and the public interest involved. If the Administration Commission incorporates in its final order a term or condition that requires any local government to amend its local government comprehensive plan, the local government shall amend its plan within 60 days after the issuance of the order. Such amendment or amendments shall be exempt from the limitation of the frequency of plan amendments contained in s. 163.3187(2), and a public hearing on such amendment or amendments pursuant to s. 163.3184(15)(b)1. shall not be required. The final order of the Administration Commission is subject to appeal pursuant to s. 120.68. If the order of the Administration Commission is appealed, the time for the local government to amend its plan shall be tolled during the pendency of any local, state, or federal administrative or judicial proceeding relating to the military base reuse plan.

Section 25. Section 288.980, Florida Statutes, is amended to read:

288.980 *Military* base ~~closure,~~ retention~~, realignment, or defense-related readjustment and diversification~~; legislative intent; grants program.—

(1) It is the intent of this state to provide the necessary means to assist communities with military installations that would be adversely affected by federal base realignment or closure actions. It is further the intent to encourage communities to ~~establish local or regional community base realignment or closure commissions to~~ initiate a coordinated program of response and plan of action in advance of future actions of the federal Base Realignment and Closure Commission. It is critical that closure-vulnerable communities develop such a program to preserve affected military installations. The Legislature, therefore, declares that providing such assistance to support the defense-related initiatives within this section is a public purpose for which public money may be used.

(2)(a) The Office of Tourism, Trade, and Economic Development is authorized to award grants from *any* funds *available to it to support activities* ~~specifically appropriated for this purpose to applicants' eligible projects. Eligible projects shall be limited to:~~

~~1. Activities~~ related to the retention of military installations potentially affected by federal base closure or realignment.

~~2. Activities related to preventing the potential realignment or closure of a military installation officially identified by the Federal Government for potential realignment or closure.~~

(b) The term "activities" as used in this section means studies, presentations, analyses, plans, and modeling. Travel and costs incidental thereto, and staff salaries, are not considered an "activity" for which grant funds may be awarded.

(c) The amount of any grant provided to an applicant ~~in any one year~~ may not exceed $250,000. The Office of Tourism, Trade, and Economic Development shall require that an applicant:

1. Represent a *local government* ~~community~~ with a military installation or military installations that could be adversely affected by federal base realignment or closure.

2. Agree to match at least *50* ~~25~~ percent of any grant awarded ~~by the department in cash or in-kind services. Such match must be directly related to the activities for which the grant is being sought~~.

3. Prepare a coordinated program or plan of action delineating how the eligible project will be administered and accomplished.

4. Provide documentation describing the potential for realignment or closure of a military installation located in the applicant's community and the adverse impacts such realignment or closure will have on the applicant's community.

(d) In making grant awards ~~for eligible projects,~~ the office shall consider, at a minimum, the following factors:

1. The relative value of the particular military installation in terms of its importance to the local and state economy relative to other military installations vulnerable to closure.

2. The potential job displacement within the local community should the military installation be closed.

3. The potential adverse impact on industries and technologies which service the military installation.

~~(e) For purposes of base closure and realignment, "applicant" means one or more counties, or a base closure or realignment commission created by one or more counties, to oversee the potential or actual realignment or closure of a military installation within the jurisdiction of such local government.~~

(3) The Florida Economic Reinvestment Initiative is established to respond to the need for this state and defense-dependent communities in this state to develop alternative economic diversification strategies to lessen reliance on national defense dollars in the wake of base closures and reduced federal defense expenditures and the need to formulate specific base reuse plans and identify any specific infrastructure needed to facilitate reuse. The initiative shall consist of the following three distinct grant programs to be administered by the *Office of Tourism, Trade, and Economic Development* ~~Department of Commerce~~:

(a) The Florida Defense Planning Grant Program, through which funds shall be used to analyze the extent to which the state is dependent on defense dollars and defense infrastructure and prepare alternative economic development strategies. The state shall work in conjunction with defense-dependent communities in developing strategies and approaches that will help communities make the transition from a defense economy to a nondefense economy. Grant awards may not exceed $100,000 per applicant and shall be available on a competitive basis.

(b) The Florida Defense Implementation Grant Program, through which funds shall be made available to defense-dependent communities to implement the diversification strategies developed pursuant to paragraph (a). Eligible applicants include defense-dependent counties and cities, and local economic development councils located within such communities. Grant awards may not exceed $100,000 per applicant and shall be available on a competitive basis. Awards shall be matched on a one-to-one basis.

(c) The Florida Military Installation Reuse Planning and Marketing Grant Program, through which funds shall be used to help counties, cities, and local economic development councils develop and implement plans for the reuse of closed or realigned military installations, including any necessary infrastructure improvements needed to facilitate reuse and related marketing activities. Grant awards are limited to not more than $100,000 per eligible applicant and made available through a competitive process. Awards shall be matched on a one-to-one basis.

Applications for grants under this subsection must include a coordinated program of work or plan of action delineating how the eligible project will be administered and accomplished, which must include a plan for ensuring close cooperation between civilian and military authorities in the conduct of the funded activities and a plan for public involvement.

(4)(a) The Defense-Related Business Adjustment Program is hereby created. The *Director of the Office of Tourism, Trade, and Economic Development* ~~Secretary of Commerce~~ shall coordinate the development of the Defense-Related Business Adjustment Program. Funds shall be available to assist defense-related companies in the creation of increased commercial technology development through investments in technology. Such technology must have a direct impact on critical state needs for the purpose of generating investment-grade technologies and encouraging the partnership of the private sector and government defense-related business adjustment. The following areas shall receive precedence in consideration for funding commercial technology development: law enforcement or corrections, environmental protection, transportation, education, and health care. Travel and costs incidental thereto, and staff salaries, are not considered an "activity" for which grant funds may be awarded.

(b) The *office* ~~department~~ shall require that an applicant:

1. Be a defense-related business that could be adversely affected by federal base realignment or closure or reduced defense expenditures.

2. Agree to match at least 50 percent of any funds awarded by the department in cash or in-kind services. Such match shall be directly related to activities for which the funds are being sought.

3. Prepare a coordinated program or plan delineating how the funds will be administered.

4. Provide documentation describing how defense-related realignment or closure will adversely impact defense-related companies.

(5) The *director* ~~Secretary of Commerce~~ may award nonfederal matching funds specifically appropriated for construction, maintenance, and analysis of a Florida defense workforce database. Such funds will be used to create a registry of worker skills that can be used to match the worker needs of companies that are relocating to this state or to assist workers in relocating to other areas within this state where similar or related employment is available.

(6) The Office of Tourism, Trade, and Economic Development shall establish guidelines to implement and carry out the purpose and intent of this section.

Section 26. Paragraph (d) is added to subsection (5) of section 380.06, Florida Statutes, and subsections (12) and (14) of that section are amended to read:

380.06 Developments of regional impact.—

(5) AUTHORIZATION TO DEVELOP.—

(a)1. A developer who is required to undergo development-of-regional-impact review may undertake a development of regional impact if the development has been approved under the requirements of this section.

2. If the land on which the development is proposed is within an area of critical state concern, the development must also be approved under the requirements of s. 380.05.

(b) State or regional agencies may inquire whether a proposed project is undergoing or will be required to undergo development-of-regional-impact review. If a project is undergoing or will be required to undergo development-of-regional-impact review, any state or regional permit necessary for the construction or operation of the project that is valid for 5 years or less shall take effect, and the period of time for which the permit is valid shall begin to run, upon expiration of the time allowed for an administrative appeal of the development or upon final action

following an administrative appeal or judicial review, whichever is later. However, if the application for development approval is not filed within 18 months after the issuance of the permit, the time of validity of the permit shall be considered to be from the date of issuance of the permit. If a project is required to obtain a binding letter under subsection (4), any state or regional agency permit necessary for the construction or operation of the project that is valid for 5 years or less shall take effect, and the period of time for which the permit is valid shall begin to run, only after the developer obtains a binding letter stating that the project is not required to undergo development-of-regional-impact review or after the developer obtains a development order pursuant to this section.

(c) Prior to the issuance of a final development order, the developer may elect to be bound by the rules adopted pursuant to chapters 373 and 403 in effect when such development order is issued. The rules adopted pursuant to chapters 373 and 403 in effect at the time such development order is issued shall be applicable to all applications for permits pursuant to those chapters and which are necessary for and consistent with the development authorized in such development order, except that a later adopted rule shall be applicable to an application if:

1. The later adopted rule is determined by the rule-adopting agency to be essential to the public health, safety, or welfare;

2. The later adopted rule is adopted pursuant to s. 403.061(27);

3. The later adopted rule is being adopted pursuant to a subsequently enacted statutorily mandated program;

4. The later adopted rule is mandated in order for the state to maintain delegation of a federal program; or

5. The later adopted rule is required by state or federal law.

(d) The provision of day care service facilities in developments approved pursuant to this section is permissible but is not required.

Further, in order for any developer to apply for permits pursuant to this provision, the application must be filed within 5 years from the issuance of the final development order and the permit shall not be effective for more than 8 years from the issuance of the final development order. Nothing in this paragraph shall be construed to alter or change any permitting agency's authority to approve permits or to determine applicable criteria for longer periods of time.

(12) REGIONAL REPORTS.—

(a) Within 50 days after receipt of the notice of public hearing required in paragraph (11)(c), the regional planning agency, if one has been designated for the area including the local government, shall prepare and submit to the local government a report and recommendations on the regional impact of the proposed development. In preparing its report and recommendations, the regional planning agency shall identify regional issues based upon the following review criteria and make recommendations to the local government on these regional issues, specifically considering whether, and the extent to which:

1. The development will have a favorable or unfavorable impact on state or regional resources or facilities identified in the applicable state or regional plans. For the purposes of this subsection, "applicable state plan" means the state comprehensive plan ~~and the state land development plan~~. For the purposes of this subsection, "applicable regional plan" means an adopted comprehensive regional policy plan until the adoption of a strategic regional policy plan pursuant to s. 186.508, and thereafter means an adopted strategic regional policy plan.

2. The development will significantly impact adjacent jurisdictions. At the request of the appropriate local government, regional planning agencies may also review and comment upon issues that affect only the requesting local government.

3. As one of the issues considered in the review in subparagraphs 1. and 2., the development will favorably or adversely affect the ability of people to find adequate housing reasonably accessible to their places of employment. The determination should take into account information on factors that are relevant to the availability of reasonably accessible adequate housing. Adequate housing means housing that is available for occupancy and that is not substandard.

(b) At the request of the regional planning agency, other appropriate agencies shall review the proposed development and shall prepare reports and recommendations on issues that are clearly within the jurisdiction of those agencies. Such agency reports shall become part of the regional planning agency report; however, the regional planning agency may attach dissenting views. When water management district and Department of Environmental Protection permits have been issued pursuant to chapter 373 or chapter 403, the regional planning council may comment on the regional implications of the permits but may not offer conflicting recommendations.

(c) The regional planning agency shall afford the developer or any substantially affected party reasonable opportunity to present evidence to the regional planning agency head relating to the proposed regional agency report and recommendations.

(14) CRITERIA OUTSIDE AREAS OF CRITICAL STATE CONCERN.—If the development is not located in an area of critical state concern, in considering whether the development shall be approved, denied, or approved subject to conditions, restrictions, or limitations, the local government shall consider whether, and the extent to which:

~~(a) The development unreasonably interferes with the achievement of the objectives of an adopted state land development plan applicable to the area;~~

(a)~~(b)~~ The development is consistent with the local comprehensive plan and local land development regulations;

(b)~~(c)~~ The development is consistent with the report and recommendations of the regional planning agency submitted pursuant to subsection (12); and

(c)~~(d)~~ The development is consistent with the State Comprehensive Plan. In consistency determinations the plan shall be construed and applied in accordance with s. 187.101(3).

Section 27. Paragraph (a) of subsection (3) of section 380.061, Florida Statutes, is amended to read:

380.061 The Florida Quality Developments program.—

(3)(a) To be eligible for designation under this program, the developer shall comply with each of the following requirements which is applicable to the site of a qualified development:

1. Have donated or entered into a binding commitment to donate the fee or a lesser interest sufficient to protect, in perpetuity, the natural attributes of the types of land listed below. In lieu of the above requirement, the developer may enter into a binding commitment which runs with the land to set aside such areas on the property, in perpetuity, as open space to be retained in a natural condition or as otherwise permitted under this subparagraph. Under the requirements of this subparagraph, the developer may reserve the right to use such areas for the purpose of passive recreation that is consistent with the purposes for which the land was preserved.

a. Those wetlands and water bodies throughout the state as would be delineated if the provisions of s. 373.4145(1)(b) were applied. The developer may use such areas for the purpose of site access, provided other routes of access are unavailable or impracticable; may use such areas for the purpose of stormwater or domestic sewage management and other necessary utilities to the extent that such uses are permitted pursuant to chapter 403; or may redesign or alter wetlands and water bodies within the jurisdiction of the Department of Environmental Protection which have been artificially created, if the redesign or alteration is done so as to produce a more naturally functioning system.

b. Active beach or primary and, where appropriate, secondary dunes, to maintain the integrity of the dune system and adequate public accessways to the beach. However, the developer may retain the right to construct and maintain elevated walkways over the dunes to provide access to the beach.

c. Known archaeological sites determined to be of significance by the Division of Historical Resources of the Department of State.

d. Areas known to be important to animal species designated as endangered or threatened animal species by the United States Fish and

Wildlife Service or by the Florida Game and Fresh Water Fish Commission, for reproduction, feeding, or nesting; for traveling between such areas used for reproduction, feeding, or nesting; or for escape from predation.

e. Areas known to contain plant species designated as endangered plant species by the Department of Agriculture and Consumer Services.

2. Produce, or dispose of, no substances designated as hazardous or toxic substances by the United States Environmental Protection Agency or by the Department of Environmental Protection or the Department of Agriculture and Consumer Services. This subparagraph is not intended to apply to the production of these substances in nonsignificant amounts as would occur through household use or incidental use by businesses.

3. Participate in a downtown reuse or redevelopment program to improve and rehabilitate a declining downtown area.

4. Incorporate no dredge and fill activities in, and no stormwater discharge into, waters designated as Class II, aquatic preserves, or Outstanding Florida Waters, except as activities in those waters are permitted pursuant to s. 403.813(2) and the developer demonstrates that those activities meet the standards under Class II waters, Outstanding Florida Waters, or aquatic preserves, as applicable.

5. Include open space, recreation areas, Xeriscape as defined in s. 373.185, and energy conservation and minimize impermeable surfaces as appropriate to the location and type of project.

6. Provide for construction and maintenance of all onsite infrastructure necessary to support the project and enter into a binding commitment with local government to provide an appropriate fair-share contribution toward the offsite impacts which the development will impose on publicly funded facilities and services, except offsite transportation, and condition or phase the commencement of development to ensure that public facilities and services, except offsite transportation, will be available concurrent with the impacts of the development. For the purposes of offsite transportation impacts, the developer shall comply, at a minimum, with the standards of the state land planning agency's development-of-regional-impact transportation rule, the approved strategic regional policy plan, any applicable regional planning council transportation rule, and the approved local government comprehensive plan and land development regulations adopted pursuant to part II of chapter 163.

7. Design and construct the development in a manner that is consistent with the adopted state plan, ~~the state land development plan,~~ the applicable strategic regional policy plan, and the applicable adopted local government comprehensive plan.

Section 28. Subsection (3) of section 380.065, Florida Statutes, is amended to read:

380.065 Certification of local government review of development.—

(3) Development orders issued pursuant to this section are subject to the provisions of s. 380.07; however, a certified local government's findings of fact and conclusions of law are presumed to be correct on appeal. The grounds for appeal of a development order issued by a certified local government under this section shall be limited to:

(a) Inconsistency with the local government's comprehensive plan or land use regulations.

(b) Inconsistency with the ~~state land development plan and the~~ state comprehensive plan.

(c) Inconsistency with any regional standard or policy identified in an adopted strategic regional policy plan for use in reviewing a development of regional impact.

(d) Whether the public facilities meet or exceed the standards established in the capital improvements plan required by s. 163.3177 and will be available when needed for the proposed development, or that development orders and permits are conditioned on the availability of the public facilities necessary to serve the proposed development. Such development orders and permit conditions shall not allow a reduction in the level of service for affected regional public facilities below the level of services provided in the adopted strategic regional policy plan.

Section 29. Paragraph (d) is added to subsection (3) of section 380.23, Florida Statutes, to read:

380.23 Federal consistency.—

(3) Consistency review shall be limited to review of the following activities, uses, and projects to ensure that such activities and uses are conducted in accordance with the state's coastal management program:

(d) Federal activities within the territorial limits of neighboring states when the governor and the department determine that significant individual or cumulative impact to the land or water resources of the state would result from the activities.

Section 30. *Transportation and Land Use Study Committee.—The state land planning agency and the Department of Transportation shall evaluate the statutory provisions relating to land use and transportation coordination and planning issues, including community design, required in part II of chapter 163, Florida Statutes, and shall consider changes to statutes, as well as to all pertinent rules associated with the statutes. The evaluation must include an evaluation of the roles of local government, regional planning councils, state agencies, regional transportation authorities, and metropolitan planning organizations in addressing these subject areas. Special emphasis must be given in this evaluation to concurrency on the highway system, levels of service methodologies, and land use impact assessments used to project transportation needs. The evaluation must be conducted in consultation with a technical committee of at least 15 members to be known as the Transportation and Land Use Study Committee, appointed jointly by the secretary of the state land planning agency and the Secretary of Transportation. The membership must be representative of local governments, regional planning councils, the private sector, metropolitan planning organizations, regional transportation authorities, and citizen and environmental organizations. By January 15, 1999, the committee shall send an evaluation report to the Governor, the President of the Senate, and the Speaker of the House of Representatives to provide recommendations for appropriate changes to the transportation planning requirements in chapter 163, Florida Statutes, and other statutes, as appropriate.*

Section 31. *Subsection (7) of section 380.0555, and paragraph (a) of subsection (14) of section 380.06, Florida Statutes, are repealed.*

Section 32. Subsection (17) of section 380.031, Florida Statutes, is amended to read:

380.031 Definitions.—As used in this chapter:

(17) "State land development plan" means a comprehensive statewide plan or any portion thereof setting forth state land development policies. *Such plan shall not have any legal effect until enacted by general law or the Legislature confers express rulemaking authority on the state land planning agency to adopt such plan by rule for specific application.*

Section 33. *Severability.—If any provision of this act or the application thereof to any person, government entity, or circumstance is held invalid, it is the legislative intent that the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.*

Section 34. *The Department of Community Affairs, the Department of Environmental Protection, Miami-Dade County, and the municipalities of Key Biscayne and Miami must jointly conduct discussions, pursuant to section 163.3171(3) and (4), Florida Statutes, for the purpose of establishing agreements concerning land use, economic development, emergency management, and environmental protection for a planning area defined as eastward of the toll plaza at the entrance of the area known as "Key Biscayne." The departments, the county, and the municipalities must, after such discussions, enter into agreements by December 1, 1998 that provide for and ensure orderly development of the planning area. They shall also report to the Legislature by February 1, 1999, on the agreement and implementation thereof. In the event that no agreement is executed, the report to the Legislature shall include all items that at least three of the five governmental entities agreed upon and list the entities that agreed to each item.*

Section 35. Except as otherwise provided in this act, this act shall take effect upon becoming a law.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to growth management, land use planning, and school concurrency; amending s. 20.18, F.S.; renaming the Division of Resource Planning and Management; amending s. 163.3164, F.S.; defining the term "optional sector plan"; amending s. 163.3171, F.S.; inserting a cross-reference; amending s. 163.3177, F.S.; requiring that the future land use element of a local government's comprehensive plan include certain criteria relating to location of schools; specifying the date by which such plans must comply and providing effect of noncompliance; providing requirements with respect to the data and analyses on which a public school facilities element to implement a school concurrency program should be based; providing for goals, objectives, and policies; providing for future conditions maps; amending s. 163.3180, F.S.; modifying de minimis standards for transportation concurrency; revising requirements for imposition of a school concurrency requirement by a local government and for the local government comprehensive plan or plan amendment to implement such requirement; requiring a public schools facilities element; providing requirements for level of service standards; providing requirements for designation of service areas; providing requirements with respect to financial feasibility; specifying an availability standard; requiring that intergovernmental coordination requirements be satisfied and providing that certain municipalities are not required to be a signatory of the required interlocal agreement; providing duties of such municipalities to evaluate their status and enter into the interlocal agreement when required, and providing effect of failure to do so; providing requirements with respect to the interlocal agreement; directing the state land planning agency to adopt by rule minimum criteria for review and determination of compliance of a public schools facilities element; amending s. 163.3184, F.S.; inserting cross-references; requiring the department to maintain specified documents dealing with amendments to local comprehensive plans; amending s. 163.3187, F.S.; prohibiting local governments from amending comprehensive plans until after adoption of an evaluation and appraisal report; amending s. 163.3191, F.S.; revising the requirements for evaluation and appraisal reports; providing for contents; providing that the local planning agency's periodic report on the comprehensive plan shall assess the coordination of the plan with public schools; amending s. 235.185, F.S.; directing school boards to adopt annually 10-year and 20-year work programs in addition to the required 5-year district facilities work program; amending s. 235.19, F.S.; providing a directive to school boards with respect to school location; amending s. 235.193, F.S.; providing requirements for the 5-year district facilities work program with respect to enrollment and population projections; precluding the siting of new schools in certain jurisdictions; providing for implementation of an alternative public schools concurrency system by counties subject to a final order by the Administration Commission; creating s. 163.3245, F.S.; authorizing the adoption of optional sector plans under certain circumstances; providing for agreements with the Department of Community Affairs; amending s. 171.044, F.S.; requiring a municipality to notify the county of voluntary annexation ordinances; amending ss. 186.507, 186.508, 186.511, F.S.; revising responsibilities of the Executive Office of the Governor relating to strategic regional policy plans; amending ss. 186.003, 186.007, 186.008, 186.009, F.S.; deleting references to the state land development plan; creating a committee to be appointed by the Governor to review the state comprehensive plan; revising a definition; deleting obsolete language; revising review responsibilities of the Executive Office of the Governor; amending s. 288.975, F.S.; redefining the term "regional policy plan"; revising criteria for military base reuse plans; amending s. 288.980, F.S.; providing revised standards for military base retention; providing conditions for the award of grants by the Office of Tourism, Trade, and Economic Development; amending s. 380.06, F.S.; deleting reference to the state land development plan; adding day care facilities as an issue in the development-of-regional-impact review process; amending s. 380.061, F.S.; deleting a consistency requirement for certain Florida Quality Developments; amending s. 380.065, F.S.; deleting a reference to the state land development plan; amending s. 380.23, F.S.; adding an element to federal consistency review; creating the Transportation and Land Use Study Committee; requiring the committee to report to the Governor and the Legislature; amending s. 380.031, F.S.; revising a definition; repealing s. 380.0555(7), F.S., which provides for a resource planning and management committee for the Apalachicola Bay Area; providing for severability; providing effective dates.

On motion by Senator Lee, the Senate concurred in **House Amendment 1** as amended and requested the House to concur in the Senate amendment to the House amendment.

CS for SB 2474 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Diaz-Balart	Horne	Myers
Bronson	Dudley	Jones	Ostalkiewicz
Brown-Waite	Dyer	Kirkpatrick	Rossin
Burt	Forman	Klein	Scott
Campbell	Geller	Kurth	Silver
Casas	Grant	Latvala	Sullivan
Childers	Gutman	Laurent	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

RECONSIDERATION OF BILL

On motion by Senator Silver, the Senate reconsidered the vote by which **CS for SB 2474** as amended passed this day.

On motion by Senator Silver, the Senate reconsidered the vote by which the Senate concurred in **House Amendment 1** as amended.

On motion by Senator Silver, the Senate reconsidered the vote by which **Senate Amendment 1 to House Amendment 1** was adopted.

Senator Silver moved the following amendment to **Senate Amendment 1** which was adopted:

Amendment 1A to Senate Amendment 1 to House Amendment 1—On page 69, line 20, delete "*must*" and insert: *may*

Senate Amendment 1 to House Amendment 1 as amended was adopted.

On motion by Senator Lee, the Senate concurred in **House Amendment 1** as amended and requested the House to concur in the Senate amendment to the House amendment.

CS for SB 2474 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Diaz-Balart	Horne	Myers
Bronson	Dudley	Jones	Ostalkiewicz
Brown-Waite	Dyer	Kirkpatrick	Rossin
Burt	Forman	Klein	Scott
Campbell	Geller	Kurth	Silver
Casas	Grant	Latvala	Sullivan
Childers	Gutman	Laurent	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has amended Senate Amendment(s) 1, and concurred in same as amended, and passed CS for HB 823 as further amended, and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for HB 823—A bill to be entitled An act relating to financial matters; amending s. 18.10, F.S., which provides requirements for deposit and investment of state money; revising the standards that certain corporate obligations and state and local government obligations must meet to be qualified for such investment; authorizing investment in certain foreign bonds and certain convertible debt obligations of corporations domiciled in the United States; amending s. 766.315, F.S.; providing that the investment of funds by the Florida Birth-Related Neurological Injury Compensation Association is subject to the provisions of s. 215.47, F.S.; providing an effective date.

House Amendment 1 (with title amendment) to Senate Amendment 1—On page 1, line 31 of the amendment, after the period insert:

Section 4. Paragraph (c) of subsection (1) and subsection (2) of section 125.31, Florida Statutes, are amended to read:

125.31 Investment of surplus public funds; regulations.—

(1) Unless otherwise authorized by law or by ordinance, the board of county commissioners shall, by resolution to be adopted from time to time, invest and reinvest any surplus public funds in its control or possession in:

(c) Interest-bearing time deposits or savings accounts in *qualified public depositories as defined in s. 280.02* ~~banks organized under the laws of this state, in national banks organized under the laws of the United States and doing business and situated in this state, in savings and loan associations which are under state supervision, or in federal savings and loan associations located in this state and organized under federal law and federal supervision, provided that any such deposits are secured by collateral as may be prescribed by law~~;

(2)(a) Every security purchased under this section on behalf of the governing body of a county shall be properly earmarked and:

1. If registered with the issuer or its agents, shall be immediately placed for safekeeping in a location which protects the governing body's interest in the security;

2. If in book entry form, shall be held for the credit of the governing body of the county by a depository chartered by ~~either~~ the Federal Government, ~~or~~ the state, *or any other state or territory of the United States, that has a branch or principal place of business in this state as defined in s. 658.12,* and shall be kept by the depository in an account separate and apart from the assets of the financial institution; or

3. If physically issued to the holder but not registered with the issuer or its agents, shall be immediately placed for safekeeping in a safe-deposit box in a financial institution in this state that maintains adequate safe-deposit box insurance.

(b) The board of county commissioners may also receive bank trust receipts in return for investment of surplus funds in securities. Any trust receipts received must enumerate the various securities held together with the specific number of each security held. The actual securities on which the trust receipts are issued may be held by any bank depository chartered by the United States Government, ~~or~~ the State of Florida, or *any other state or territory of the United States, that has a branch or principal place of business in this state as defined in s. 658.12* ~~their designated agents~~.

Section 5. Section 136.01, Florida Statutes, is amended to read:

136.01 County depositories.—*Each county depository shall be a qualified public depository as defined in s. 280.02 for the following* ~~Any bank or savings association organized under the laws of this state or of the United States and authorized to do business in this state which, as to the various funds herein referred to, conforms to the requirements of chapter 280 is authorized to accept county deposits. These~~ funds ~~include~~: county funds; funds of all county officers, including constitutional officers; funds of the school board; and funds of the community college district board of trustees. This enumeration of funds is made not by way of limitation, but of illustration; and it is the intent hereof that all funds of the county, the board of county commissioners or the several county officers, the school board, or the community college district board of trustees be included.

Section 6. Section 159.09, Florida Statutes, is amended to read:

159.09 Trust agreement.—In the discretion of the governing body, each or any issue of such bonds may be secured by a trust agreement by and between the unit and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or outside the state. Such trust agreement may pledge or assign the revenues to be received, but shall not convey or mortgage any project or any part thereof. Either the ordinance or resolution providing for the issuance of revenue bonds or such trust agreement may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the unit and the governing body thereof in relation to the acquisition, construction, improvement, maintenance, operation, repair, and insurance of the project, and the custody, safeguarding, and application of all moneys. It shall be lawful for any bank or trust company incorporated under the laws of this state, *or any other state or territory of the United States, that has a branch or principal place of business in this state as defined in s. 658.12,* to act as such depository and to furnish such indemnifying bonds or to pledge such securities as may be required by the governing body. Such ordinance or resolution or such trust agreement may set forth the rights and remedies of the bondholders and of the trustee, if any, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds or debentures of corporations. In addition to the foregoing, such ordinance or resolution or such trust agreement may contain such other provisions as the governing body may deem reasonable and proper for the security of bondholders. Except as in this part otherwise provided, the governing body may provide, by ordinance or resolution or by such trust agreement, for the payment of the proceeds of the sale of the bonds and the revenues of the project to such officer, board or depository as it may determine for the custody thereof, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out such trust agreement may be treated as a part of the cost of operation of the project affected by such trust agreement.

Section 7. Paragraph (c) of subsection (1) and subsection (2) of section 166.261, Florida Statutes, are amended to read:

166.261 Municipalities; investments.—

(1) Unless otherwise authorized by law or by ordinance, the governing body of each municipality shall, by resolution to be adopted from time to time, invest and reinvest any surplus public funds in its control or possession in:

(c) Interest-bearing time deposits or savings accounts in *qualified public depositories as defined in s. 280.02* ~~banks organized under the laws of this state, in national banks organized under the laws of the United States and doing business and situated in this state, in savings and loan associations which are under state supervision, or in federal savings and loan associations located in this state and organized under federal law and federal supervision, provided that any such deposits are secured by collateral as may be prescribed by law~~;

(2)(a) Every security purchased under this section on behalf of the governing body of a municipality shall be properly earmarked and:

1. If registered with the issuer or its agents, shall be immediately placed for safekeeping in a location which protects the interest of the governing body in the security;

2. If in book entry form, shall be held for the credit of the governing body of the municipality by a depository chartered by ~~either~~ the Federal Government, ~~or~~ the state, *or any other state or territory of the United States, that has a branch or principal place of business in this state as defined in s. 658.12,* and shall be kept by the depository in an account separate and apart from the assets of the financial institution; or

3. If physically issued to the holder, but not registered with the issuer or its agents, shall be immediately placed for safekeeping in a safe-deposit box in a financial institution in this state that maintains adequate safe-deposit box insurance.

(b) The governing body may also receive bank trust receipts in return for investment of surplus funds in securities. Any trust receipts received must enumerate the various securities held, together with the specific number of each security held. The actual securities on which the trust receipts are issued may be held by any bank depository chartered by the United States Government, ~~or~~ the State of Florida, or *any other state or territory of the United States, that has a branch or principal place of business in this state as defined in s. 658.12, or* their designated agents.

Section 8. Paragraph (c) of subsection (1) and paragraph (b) of subsection (2) of section 218.345, Florida Statutes, are amended to read:

218.345 Special districts; investments.—

(1) The governing body of each special district shall, by resolution to be adopted from time to time, invest and reinvest any surplus public funds in its control or possession in:

(c) Interest-bearing time deposits or savings accounts in *qualified public depositories as defined in s. 280.02* ~~banks organized under the laws of this state, in national banks organized under the laws of the United States and doing business and situated in this state, in savings and loan associations which are under state supervision, or in federal savings and loan associations located in this state and organized under federal law and federal supervision, provided that any such deposits are secured by collateral as may be prescribed by law~~;

(2)

(b) The governing body may also receive bank trust receipts in return for investment of surplus funds in securities. Any trust receipts received must enumerate the various securities held, together with the specific number of each security held. The actual securities on which the trust receipts are issued may be held by any bank depository chartered by the United States Government, ~~or~~ the State of Florida, *or any other state or territory of the United States, that has a branch or principal place of business in this state as defined in s. 658.12,* or their designated agents.

Section 9. Paragraphs (a) and (b) of subsection (2) of section 236.24, Florida Statutes, are amended to read:

236.24 Sources of district school fund.—

(2)(a) Unless otherwise authorized by law or by ordinance, each school board shall, by resolution to be adopted from time to time, invest and reinvest any surplus public funds in its control or possession in:

1. The Local Government Surplus Funds Trust Fund;

2. Negotiable direct obligations of, or obligations the principal and interest of which are unconditionally guaranteed by, the United States Government at the then prevailing market price for such securities;

3. Interest-bearing time deposits or savings accounts in *qualified public depositories as defined in s. 280.02* ~~banks organized under the laws of this state, in national banks organized under the laws of the United States and doing business and situated in this state, in savings and loan associations which are under state supervision, or in federal savings and loan associations located in this state and organized under federal law and federal supervision, provided that any such deposits are secured by collateral as may be prescribed by law~~;

4. Obligations of the federal farm credit banks; the Federal Home Loan Mortgage Corporation, including Federal Home Loan Mortgage Corporation participation certificates; or the Federal Home Loan Bank or its district banks or obligations guaranteed by the Government National Mortgage Association;

5. Obligations of the Federal National Mortgage Association, including Federal National Mortgage Association participation certificates and mortgage pass-through certificates guaranteed by the Federal National Mortgage Association; or

6. Securities of, or other interests in, any open-end or closed-end management type investment company or investment trust registered under the Investment Company Act of 1940, 15 U.S.C. ss. 80a-1 et seq., as amended from time to time, provided the portfolio of such investment company or investment trust is limited to obligations of the United States Government or any agency or instrumentality thereof and to repurchase agreements fully collateralized by such United States Government obligations, and provided such investment company or investment trust takes delivery of such collateral either directly or through an authorized custodian.

(b)1. Securities purchased by any such school board under the authority of this law shall be delivered by the seller to the school board or its appointed safekeeper. The safekeeper shall be a qualified bank or trust company chartered to operate as such by the State of Florida, *any other state or territory of the United States,* or the United States Government, *that has a branch or principal place of business in this state as defined in s. 658.12*. The safekeeper shall issue documentation for each transaction, and a monthly statement detailing all transactions for the period.

2. Securities physically delivered to the school board shall be placed in a safe-deposit box in a bank or other institution located within the county and duly licensed and insured. Withdrawals from such safe-deposit box shall be only by persons duly authorized by resolution of the school board.

3. The school board may also receive bank trust receipts in return for investment of surplus funds in securities. Any trust receipts received must enumerate the various securities held together with the specific number of each security held. The actual securities on which the trust receipts are issued may be held by any bank depository chartered by the United States Government, ~~or~~ the State of Florida, *or any other state or territory of the United States, that has a branch or principal place of business in this state as defined in s. 658.12,* or their designated agents.

Section 10. Paragraph (h) of subsection (4) of section 255.502, Florida Statutes, is amended to read:

255.502 Definitions; ss. 255.501-255.525.—As used in this act, the following words and terms shall have the following meanings unless the context otherwise requires:

(4) "Authorized investments" means and includes without limitation any investment in:

(h) Savings accounts in, or certificates of deposit of, *qualified public depositories as defined in s. 280.02* ~~any bank, savings bank, or savings and loan association which is incorporated under the laws of this state or organized under the laws of the United States and is doing business and situated in this state, the accounts of which are insured by the Federal Government or an agency thereof~~, in an amount that does not exceed 15 percent of the net worth of the institution, or a lesser amount as determined by rule by the State Board of Administration, provided such savings accounts and certificates of deposit are secured in the manner prescribed in chapter 280.

Investments in any security authorized in this subsection may be under repurchase agreements or reverse repurchase agreements.

Section 11. Subsections (11) through (19) of section 280.02, Florida Statutes, are renumbered as subsections (12) through (20), respectively, a new subsection (11) is added to said section, and present subsection (16) is renumbered and amended, to read:

280.02 Definitions.—As used in this chapter, the term:

(11) "Governmental unit" means the state or any county, school district, community college district, special district, metropolitan government, or municipality, including any agency, board, bureau, commission, and institution of any of such entities, or any court.

(17)~~(16)~~ "Qualified public depository" means any bank, savings bank, or savings association that:

(a) Is organized and exists under the laws of the United States, the laws of this state or any other state or territory of the United States.

(b) Has its principal place of business in this state or has a branch office in this state which is authorized under the laws of this state or of the United States to receive deposits in this state.

(c) Has deposit insurance under the provision of the Federal Deposit Insurance Act, as amended, 12 U.S.C. ss. 1811 et seq.

(d) Has procedures and practices for accurate identification, classification, reporting, and collateralization of public deposits.

(e)~~(d)~~ Meets all the requirements of this chapter.

(f)~~(e)~~ Has been designated by the Treasurer as a qualified public depository.

Section 12. Section 280.03, Florida Statutes, is amended to read:

280.03 Public deposits to be secured; *prohibitions; exemptions* ~~exceptions~~.—

(1)(a) All public deposits shall be secured as provided in this chapter *when public depositors comply with the requirements of this chapter*.

(b) Public deposits shall be made in a qualified public depository unless exempted by law. ~~Notwithstanding the provisions of any other law, a public deposit as defined in s. 280.02(13) may be deposited in a qualified public depository as defined in s. 280.02(16).~~

(2)~~(b)~~ Public funds shall not be deposited directly or indirectly in negotiable certificates of deposit. ~~Except as otherwise provided by law, no public deposit may be made except in a qualified public depository.~~

(3)~~(2)~~ *The following are exempt from the requirements of, and protection under, this chapter:*

(a) Public deposits deposited in a bank or savings association by a trust department or trust company which are fully secured under trust business laws. ~~Every public deposit held by a trust company, which trust company has legal title thereto and is subject to the applicable provisions of chapters 658 and 660 or such federal laws that are applicable to trusts and trust companies, in trust or in escrow pursuant to the provisions of any written trust indenture or escrow agreement authorized by law, unless provided otherwise in the documents or proceedings authorizing the terms of and the execution of the trust indenture or escrow agreement, and~~

(b) Moneys of the System Trust Fund, as defined in s. 121.021(36)~~, are exempt from the requirements of this chapter~~.

(c)~~(3)~~ Public deposits held outside the country ~~are exempt from the requirements and protection of this chapter~~.

(d)~~(4)~~ Wire transfers and transfers of funds ~~for a period not exceeding 7 days~~ solely for the purpose of paying registrars and paying agents ~~are exempt from the requirements of this chapter~~.

(e) Public deposits which are fully secured under federal regulations.

Section 13. Paragraph (d) of subsection (1) of section 280.04, Florida Statutes, is amended to read:

280.04 Collateral for public deposits; general provisions.—

(1) Every qualified public depository shall deposit with the Treasurer eligible collateral equal to or in excess of the required collateral of the depository to be held subject to his or her order. The Treasurer, by rule, shall establish minimum required collateral pledging levels and shall notify each qualified public depository of its required pledging level. Each qualified public depository shall calculate the amount of its required collateral based upon any one or any combination of the following formulas:

(d) One hundred twenty-five percent of the average daily balance of public deposits in excess of 20 percent of the total *average monthly balances of* public deposits held by all qualified public depositories ~~of the same type, i.e., banks or savings associations~~. The Treasurer shall determine the total *average monthly balances of* public deposits held *during* ~~based on~~ the immediately preceding 12-month *period* ~~average~~. That 12-month average amount must be disseminated to the qualified public depositories at such time and in such manner as the Treasurer determines appropriate.

Section 14. Section 280.05, Florida Statutes, is amended to read:

280.05 Powers and duties of the Treasurer.—In fulfilling the requirements of this act, the Treasurer has the power to:

(1)~~(6)~~ Establish criteria, based on the overall financial condition of the participant and applicants, as may be necessary, to protect the integrity of the public deposits program, to:

(a) Refuse entry into the program by an applicant;

(b) Order discontinuance of participation in the program by a qualified public depository;

(c) Restrict the total amount of public deposits a depository may hold;

(d) Establish collateral-pledging levels based on qualitative and quantitative standards; and

(e) Restrict substitutions of collateral subject to the approval of the Treasurer.

(2)~~(9)~~ Appoint *a six-member* ~~two separate three-member~~ advisory *committee* ~~committees, one for banks and one for savings associations,~~ to review and recommend criteria to be used by the Treasurer for purposes stated in subsection *(1)* ~~(6)~~ in order to protect public deposits and the depositories in the program. Each member selected to serve on *the* ~~an~~ advisory committee must be a representative of his or her ~~respective~~ industry. Advisory committee members must represent active qualified public depositories, not in the process of withdrawing from the public deposits program, in compliance with all applicable rules, regulations, and reporting requirements of this chapter. Members must possess knowledge, skill, and experience in one or more of the following areas:

(a) Financial analysis;

(b) Trend analysis;

(c) Accounting;

(d) Banking;

(e) Risk management; or

(f) Investment management.

Members' terms shall be for 4 years~~, except that in making the initial appointments, the Treasurer shall appoint from each group one member to serve 2 years, one member to serve 3 years, and one member to serve 4 years~~. Any person appointed to fill a vacancy on the advisory *committee* ~~committees~~ may serve only for the remainder of the unexpired term. Any member is eligible for reappointment and shall serve until a successor qualifies. ~~The Treasurer shall appoint a member of each advisory committee to serve as its initial chair.~~ *The* ~~Thereafter, each~~ advisory committee shall elect a chair and vice chair and shall also designate a secretary who need not be a member of the advisory committee. *The* ~~Each~~ secretary shall keep a record of the proceedings of *the* ~~his or her~~ advisory committee and shall be the custodian of all printed materials filed with or by the advisory committee. Notwithstanding the existence of vacancies on the advisory committee, a majority of the members constitutes a quorum. *The* ~~Neither~~ advisory committee *shall not* ~~may~~ take official action in the absence of a quorum. Each member may name a designee to serve on the advisory committee on behalf of the member. However, any designee so named must meet the qualifications required of the selected member and be approved by the Treasurer. The advisory *committee* ~~committees~~ shall convene as needed.

(3)~~(10)~~ Establish goals and objectives and provide other data as may be necessary to assist the advisory *committee* ~~committees~~ established under subsection *(2)* ~~(9)~~ in developing standards for the program.

(4)~~(11)~~ Review, implement, monitor, evaluate, and modify, as needed, all or any part of the standards and policies recommended by an advisory committee.

(5)~~(16)~~ Perform financial analysis of any qualified public depository as needed.

(6)~~(1)~~ Require such collateral, or increase the collateral-pledging level, of any qualified public depository as may be necessary to administer the provisions of this chapter and to protect the integrity of the public deposits program.

(7)~~(18)~~ Establish a minimum amount of required collateral as the Treasurer deems necessary to provide for the contingent liability *pool* ~~pools~~.

(8)~~(2)~~ Decline to accept, or reduce the reported value of, collateral as circumstances may require in order to ensure the pledging of sufficient marketable collateral to meet the purposes of this chapter.

(9)~~(15)~~ Maintain perpetual inventory of pledged collateral and perform monthly market valuations and quality ratings.

(10)~~(13)~~ Monitor and confirm, as often as deemed necessary by the Treasurer, the pledged collateral held by third party custodians.

(11)~~(17)~~ Perfect interest in pledged collateral by having pledged securities moved into an account established in the Treasurer's name. This action shall be taken at the discretion of the Treasurer.

(12) Furnish written notice to custodians of collateral to hold interest and principal payments made on securities held as collateral and to deposit or transfer such payments pursuant to the Treasurer's instructions.

(13) Release collateral held in the Treasurer's name, subject to sale and transfer of funds directly from the custodian to public depositors of a withdrawing depository.

(14)~~(7)~~ Sell ~~pledged~~ securities~~, or move pledged securities to an account established in the Treasurer's name,~~ for the purpose of paying losses to public depositors not covered by deposit insurance ~~or to perfect the Treasurer's interest in the pledged securities~~.

(15)~~(8)~~ Transfer funds directly from the custodian to public depositors or the receiver in order to facilitate prompt payment of claims.

(16)~~(14)~~ Require the filing of ~~and inspect, review, or analyze~~ the following *reports which the Treasurer shall process as provided*:

(a) *Qualified* public depository monthly reports and schedules. *The Treasurer shall review the reports of each qualified public depository for material changes in capital accounts or changes in name, address, or type of institution, record the average daily balances of public deposits held, and monitor the collateral-pledging levels and required collateral.*

(b) Quarterly regulatory reports from qualified public depositories. *The Treasurer shall analyze qualified public depositories ranked in the lowest category based on established financial condition criteria.*

(c) *Qualified* public depository annual reports *and public depositor annual reports. The Treasurer shall compare public deposit information reported by qualified public depositories and public depositors. Such comparison shall be conducted for qualified public depositories which are ranked in the lowest category based on established financial condition criteria of record on September 30. Additional comparison processes may be performed as public deposits program resources permit.*

~~(d) Public depositors annual reports.~~

(d)~~(e)~~ Any related documents, reports, records, or other information deemed necessary by the Treasurer in order to ascertain compliance with this chapter.

(17)~~(4)~~ Verify the reports of any qualified public depository relating to public deposits it holds when necessary to protect the integrity of the public deposits program.

(18)~~(12)~~ Confirm public deposits, to the extent possible under current law, when needed.

(19) *Require* ~~Allow~~ at his or her discretion the filing of any information or forms required under this chapter to be by electronic data transmission. Such filings of information or forms shall have the same enforceability as a signed writing.

(20)~~(3)~~ Suspend or disqualify or disqualify after suspension any qualified public depository that has violated any of the provisions of this chapter or of rules adopted hereunder.

(a) Any *qualified* public depository that is suspended or disqualified pursuant to this subsection is subject to the provisions of s. 280.11(2) governing withdrawal from the public deposits program and return of pledged collateral. Any suspension shall not exceed a period of 6 months. Any qualified public depository which has been disqualified may not reapply for qualification until after the expiration of 1 year from the date of the final order of disqualification or the final disposition of any appeal taken therefrom.

(b) ~~If the Treasurer finds that one or more grounds exist for the suspension or disqualification of a qualified public depository, he or she may,~~ In lieu of ~~such~~ suspension or disqualification, impose an administrative penalty upon the qualified public depository as provided in s. 280.054.

(c) If the Treasurer has reason to believe that any qualified public depository or any other financial institution holding public deposits is or has been violating any of the provisions of this chapter or of rules adopted hereunder, he or she may issue to the qualified public depository or other financial institution an order to cease and desist from the violation or to correct the condition giving rise to or resulting from the violation. If any qualified public depository or other financial institution violates a cease-and-desist or corrective order, the Treasurer may impose an administrative penalty upon the qualified public depository or other financial institution as provided in s. 280.054 or s. 280.055. In addition to the administrative penalty, the Treasurer may suspend or disqualify any qualified public depository for violation of any order issued pursuant to this paragraph.

~~(5) Allow an exception to public deposit limitations of any qualified public depository that has contracted with the Treasurer to clear the receipts of the State of Florida to the extent, and only to the extent, that clearing the receipts would violate this chapter.~~

Section 15. Section 280.07, Florida Statutes, is amended to read:

280.07 Mutual responsibility.—Any bank or savings association that is designated as a qualified public depository and that is not insolvent shall guarantee public depositors against loss caused by the default or insolvency of other qualified public depositories ~~of the same type~~. *Each qualified public depository shall execute a form prescribed by the Treasurer for such guarantee which shall be approved by the board of directors and shall become an official record of the institution.* ~~The Treasurer shall maintain separate and totally independent contingent liability agreements, one such agreement exclusively for banks and another exclusively for savings associations.~~

Section 16. Subsections (2) and (3) of section 280.08, Florida Statutes, are amended to read:

280.08 Procedure for payment of losses.—When the Treasurer determines that a default or insolvency has occurred, he or she shall provide notice as required in s. 280.085(1) and implement the following procedures:

(2) The potential loss to public depositors shall be calculated by compiling claims received from such depositors. *The Treasurer shall validate claims on public deposit accounts which meet the requirements of s. 280.17 and are confirmed as provided in subsection (1).* ~~Such claims shall be validated by the Treasurer.~~

(3)(a) The loss to public depositors shall be satisfied, insofar as possible, first through any applicable deposit insurance and then through the sale of securities pledged *or deposited* by the defaulting depository. *The Treasurer may assess qualified public depositories as provided in paragraph (b) for the total loss if the sale of securities cannot be accomplished within 7 business days.*

(b)~~(3) If the loss to public depositors is not covered by such insurance or the proceeds of such sale,~~ The Treasurer shall provide coverage of *any* ~~the~~ remaining loss by assessment against the other qualified public depositories ~~of the same type as the depository in default~~. ~~However, if the sale of securities cannot be accomplished within 7 days, the Treasurer may proceed with the assessment to qualified public depositories.~~ *The Treasurer shall determine* such assessment *for each qualified public depository* ~~shall be determined~~ by multiplying the total amount of *any remaining* ~~the~~ loss to all public depositors by a percentage which represents the average *monthly balance* ~~share~~ of public ~~fund~~ deposits held by *each* ~~that~~ *qualified public* depository during the previous 12 months divided by the ~~average~~ total *average monthly balances of* public deposits held by all *qualified public* depositories, *excluding the defaulting depository,* ~~of the same type~~ during the same ~~12-month~~ period. *The assessment calculation shall be computed to six decimal places.*

Section 17. Section 280.16, Florida Statutes, is amended to read:

280.16 *Requirements* ~~Reports~~ of *qualified* public depositories*; confidentiality*.—

(1) In addition to any other requirements specified in this chapter, qualified public depositories shall:

(a) Beginning July 1, 1998, take the following actions for each public deposit account:

1. Identify the account as a "Florida public deposit" on the deposit account record with the name of the public depositor or provide a unique code for the account for such designation.

2. When the form prescribed by the Treasurer for acknowledgment of receipt of each public deposit account is presented to the qualified public depository by the public depositor opening an account, the qualified public depository shall execute and return the completed form to the public depositor.

3. When the acknowledgment of receipt form is presented to the qualified public depository by the public depositor due to a change of account name, account number, or qualified public depository name on an existing public deposit account, the qualified public depository shall execute and return the completed form to the public depositor within 45 calendar days after such presentation.

4. When the acknowledgment of receipt form is presented to the qualified public depository by the public depositor on an account existing before July 1, 1998, the qualified public depository shall execute and return the completed form to the public depositor within 45 calendar days after such presentation.

(b)~~(1)~~ Within 15 days after the end of each calendar month, or when requested by the Treasurer, ~~each qualified public depository shall~~ submit to the Treasurer a written report, under oath, indicating the average daily balance of all public deposits held by it during the reported month, required collateral, a detailed schedule of all securities pledged as collateral, selected financial information, and any other information that the Treasurer determines necessary to administer this chapter.

(c) Provide to each public depositor annually, not later than October 30, the following information on all open accounts identified as a "Florida public deposit" for that public depositor as of September 30, to be used for confirmation purposes: the federal employer identification number of the qualified public depository, the name on the deposit account record, the federal employer identification number on the deposit account record, and the account number, account type, and actual account balance on deposit. Any discrepancy found in the confirmation process shall be reconciled before November 30.

(d)~~(2)~~ *Submit to the Treasurer* annually, not later than November *30* ~~15, each qualified public depository shall cause to be delivered to the Treasurer, from the president or chief executive officer of the depository or a person qualified to conduct audits,~~ a *report* ~~statement~~ of all public deposits held for the credit of all public depositors at the close of business on September 30 ~~each year~~. *Such annual report shall consist of public deposit information in a report format prescribed by the Treasurer. The manner of required filing may be as a signed writing or electronic data transmission, at the discretion of the Treasurer.*

(e)(3) ~~In addition to the reports required in subsections (1) and (2), each qualified public depository shall~~ Submit to the Treasurer *not later than* ~~within 10 days after~~ the date ~~it is~~ required to be filed with the federal agency:

1.~~(a)~~ A copy of the quarterly Consolidated Reports of Condition and Income, and any amended reports, required by the Federal Deposit Insurance Act, 12 U.S.C. ss. 1811 et seq., if such depository is a bank; or

2.~~(b)~~ A copy of the Thrift Financial Report, and any amended reports, required to be filed with the Office of Thrift Supervision if such depository is a savings and loan association.

(2)~~(4) In addition to the requirements of subsection (1),~~ The following forms must be made under oath:

(a) The agreement of contingent liability.

(b) The public depository pledge agreement.

~~(c) The public depository change of name, address, and type of institution.~~

(3)~~(5)~~ Any information contained in a report of a qualified public depository required under this chapter or any rule adopted under this chapter, together with any information required of a financial institution that is not a qualified public depository, shall, if made confidential by any law of the United States or of this state, be considered confidential and exempt from the provisions of s. 119.07(1) and not subject to dissemination to anyone other than the Treasurer under the provisions of this chapter; however, it is the responsibility of each qualified public depository and each financial institution from which information is required to inform the Treasurer of information that is confidential and the law providing for the confidentiality of that information, and the Treasurer does not have a duty to inquire into whether information is confidential.

Section 18. Section 280.17, Florida Statutes, is amended to read:

280.17 Requirements for public depositors*; notice to public depositors and governmental units; loss of protection*.—In addition to any other requirement specified in this chapter, public depositors *shall* ~~must~~ comply with the following ~~requirements~~:

(1)(a) Each official custodian of moneys, that meet the definition of a public deposit under s. 280.02, shall ensure such moneys are placed in a qualified public depository unless the moneys are exempt under the laws of this state.

(b) Each depositor, asserting that moneys meet the definition of a public deposit provided in s. 280.02 and are not exempt under the laws of this state, is responsible for any research or defense required to support such assertion.

(2)~~(1)~~ *Beginning July 1, 1998,* each public depositor *shall take the following actions for each public deposit account:* ~~must~~

(a) Ensure that the name of the public depositor is on the account or certificate or other form provided to the public depositor by the qualified public depository in a manner sufficient to identify that the account is a *Florida* public deposit.

(b) Execute a form prescribed by the Treasurer for identification of each public deposit account and obtain acknowledgment of receipt on the form from the qualified public depository at the time of opening the account. Such public deposit identification and acknowledgment form shall be replaced with a current form as required in subsection (3). A public deposit account existing before July 1, 1998, must have a form completed before September 30, 1998.

(c) Maintain the current public deposit identification and acknowledgment form as a valuable record. Such form is mandatory for filing a claim with the Treasurer upon default or insolvency of a qualified public depository.

(3) Each public depositor shall review the Treasurer's published list of qualified public depositories and ascertain the status of depositories used. A public depositor shall, for status changes of depositories:

(a) Execute a replacement public deposit identification and acknowledgment form, as described in subsection (2), for each public deposit account when there is a merger, acquisition, name change, or other event which changes the account name, account number, or name of the qualified public depository.

(b) Move and close public deposit accounts when an institution is not included in the authorized list of qualified public depositories or is shown as withdrawing.

(4)~~(2)~~ *Whenever public deposits are* ~~Each public depositor who has assets on deposit~~ in a qualified public depository that *has been declared to be* ~~is~~ in default or ~~is~~ insolvent, *each public depositor shall:* ~~must~~

(a) Notify the Treasurer ~~of that fact~~ immediately *by telecommunication* after receiving notice of the default or insolvency from the receiver of the depository *with subsequent written confirmation and a copy of the notice.*

(b) Submit to the Treasurer for each public deposit, within 30 days after the date of official notification from the Treasurer, the following:

1. A claim form and agreement, as prescribed by the Treasurer, executed under oath, accompanied by proof of authority to execute the form on behalf of the public depositor.

2. A completed public deposit identification and acknowledgment form, as described in subsection (2).

3. Evidence of the insurance afforded the deposit pursuant to the Federal Deposit Insurance Act.

(5)~~(3)~~ *Each public depositor shall confirm* annually *that public deposit information as of the close of business on September 30 has been provided by each qualified public depository and is in agreement with public depositor records. Such confirmation shall include the federal employer identification number of the qualified public depository, the name on the deposit account record, the federal employer identification number on the deposit account record, and the account number, account type, and actual account balance on deposit. Public depositors shall request such confirmation information from qualified public depositories on or before the fifth calendar day of October and shall allow until October 31 to receive such information. Any discrepancy found in the confirmation process shall be reconciled before November 30.*~~,~~

(6) Each public depositor shall submit, not later than November *30* ~~15~~*, an annual report to* ~~each public depositor shall notify~~ the Treasurer *which shall include:*

(a) The ~~of its~~ official name, *mailing* address, *and* federal employer identification number *of the public depositor*~~, and account balances at the close of business on September 30~~.

(b) Verification that confirmation of public deposit information as of September 30, as described in subsection (5), has been completed.

(c) Public deposit information in a report format prescribed by the Treasurer. The manner of required filing may be as a signed writing or electronic data transmission, at the discretion of the Treasurer.

(d) Confirmation that a current public deposit identification and acknowledgment form, as described in subsection (2), has been completed for each public deposit account and is in the possession of the public depositor. ~~This notification shall include the name of the institutions with whom accounts are established and, for each institution listed, the account name, number, balance, type, and federal employer identification number.~~

(7)~~(4)~~ *Notices relating to the public deposits program shall be mailed to public depositors and governmental units from a list developed annually from:*

(a) Public depositors that filed an annual report under subsection (6).

(b) Governmental units existing on September 30 that had no public deposits but filed an annual report stating "no public deposits".

(c) Governmental units ~~A public entity~~ established during the year *that filed an annual report as a new governmental unit or otherwise furnished in writing to the Treasurer* ~~shall furnish~~ its official name, address, and federal employer identification number ~~to the Treasurer prior to making any public deposit~~.

(8)~~(5)~~ If a public depositor does not comply with this section *on each public deposit account,* the protection from loss provided in s. 280.18 is not effective as to that public *deposit account* ~~depositor~~.

Section 19. Section 280.18, Florida Statutes, is amended to read:

280.18 *Protection* ~~Liability~~ of public depositors*; liability of* ~~and~~ the state.—

(1) When public deposits are made in accordance with this chapter, *there shall be protection from loss to public depositors, as defined in s. 280.02,* ~~no public depositor shall be liable for any loss thereof resulting from the default or insolvency of any qualified public depository~~ in the absence of negligence, malfeasance, misfeasance, or nonfeasance on the *part of the* public *depositor* ~~depositor's part~~ or on the part of his or her agents or employees.

(2) *The liability of the state, the Treasurer, or any state agency, or any employee or agent of the state, the Treasurer, or a state agency, for any action taken in the performance of their powers and duties under this chapter shall be limited to that as a public depositor.* ~~Under no circumstance is the state, or any state agency or subdivision of the state, liable for all or any portion of any loss resulting from the default or insolvency of a qualified public depository.~~

Section 20. Subsection (2) of section 331.309, Florida Statutes, is amended to read:

331.309 Treasurer; depositories; fiscal agent.—

(2) The board is authorized to select as depositories in which the funds of the board and of the authority shall be deposited any *qualified public depository as defined in s. 280.02* ~~banking corporation or other financial institution organized under the laws of the state, or under the laws of the United States and doing business in the state~~, upon such terms and conditions as to the payment of interest by such depository upon the funds so deposited as the board may deem just and reasonable. The funds of the authority may be kept in or removed from the State Treasury upon written notification from the chair of the board to the state Comptroller.

And the title is amended as follows:

On page 2, line 13 of the amendment, after the semicolon remove: consumer finance and installment sales; and insert in lieu thereof: amending ss. 125.31, 136.01, 159.09, 166.261, 218.345, 236.24, 255.502, and 331.309, F.S.; providing for deposit of certain public funds in qualified public depositories or certain chartered depositories; amending s. 280.02, F.S.; defining governmental unit; revising the definition of qualified public depository; amending s. 280.03, F.S.; requiring deposit of public deposits into qualified public depositories; providing exemptions; amending s. 280.04, F.S.; clarifying certain collateral requirements; amending s. 280.05, F.S.; revising provisions providing powers and duties of the Treasurer; amending s. 280.07, F.S.; requiring qualified public depositories to execute a form for certain purposes; amending s. 280.08, F.S.; revising procedures for payment of losses; amending s. 280.16, F.S.; providing requirements for qualified public depositories; amending s. 280.17, F.S.; revising requirements for public depositors; amending s. 280.18, F.S.; providing for protection from loss to public depositors; limiting liability of the state and the Treasurer;

On motion by Senator Kurth, the Senate concurred in the House amendment to the Senate amendment.

CS for HB 823 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—38

Madam President	Dudley	Jones	Ostalkiewicz
Bronson	Dyer	Kirkpatrick	Rossin
Brown-Waite	Forman	Klein	Scott
Burt	Geller	Kurth	Silver
Campbell	Grant	Latvala	Sullivan
Casas	Gutman	Laurent	Thomas
Childers	Hargrett	Lee	Turner
Clary	Harris	McKay	Williams
Cowin	Holzendorf	Meadows	
Diaz-Balart	Horne	Myers	

Nays—None

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has amended Senate Amendment(s) 1, and concurred in same as amended, and passed CS for HB 3671 as further amended, and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for HB 3671—A bill to be entitled An act relating to timber management; creating s. 253.036, F.S.; requiring the Division of Forestry of the Department of Agriculture and Consumer Services, or other qualified professional forester, to assess the feasibility of managing timber in land management plans; providing legislative intent; providing for the reimbursement of management services performed by the division; amending s. 259.035, F.S.; requiring the Land Acquisition and Management Advisory Council to consider timber management as a feasible multiple-use strategy; amending s. 373.591, F.S.; specifying circumstances under which the land managing agency must provide an explanation to the management review team concerning the management of lands; amending s. 589.04, F.S.; directing the Division of Forestry to begin certain forestation programs on certain lands; providing appropriations; providing an effective date.

House Amendment 1 (with title amendment) to Senate Amendment 1—On page 1, line 16, after the period insert: *In addition, $1,000,000 is hereby appropriated to the Department of Agriculture and Consumer Services from the General Revenue Fund for fiscal year 1998-1999 for reforestation activities authorized in this bill.*

And the title is amended as follows:

On page 1, line 24, of the amendment remove: all of said lines and insert in lieu thereof: providing appropriations; providing an

On motion by Senator Bronson, the Senate refused to concur in the House amendment to the Senate amendment to **CS for HB 3671** and the House was requested to recede. The action of the Senate was certified to the House.

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendment(s) 1; refused to concur in Senate Amendment(s) 2, and requests the Senate to recede therefrom; and passed CS for HB 3107 as further amended, and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for HB 3107—A bill to be entitled An act relating to sexual predator registration; amending s. 775.21, F.S.; revising an exception to sexual predator registration requirements; revising the conditions for removal of sexual predator designation by the court; requiring filing of the petition for removal in the circuit of the sexual predator's residence; extending from 10 years to 20 years the minimum period following the sexual predator's release during which the predator may not have been arrested before petitioning the court to remove the sexual predator designation; requiring the petitioner to make certain demonstrations to the court with respect to lack of arrest and compliance with federal standards for removal of designation as a predator; permitting the removal of designation only when the court is satisfied the petitioner is not a threat to the public safety; requiring specified notice of hearing on the petition to the state attorney in the circuit where filed; allowing the state attorney to present evidence in opposition to the petition; allowing the court to establish date for rehearing of petition, if denied; providing an effective date.

On motion by Senator Grant, the Senate receded from **Senate Amendment 2**.

CS for HB 3107 as amended passed and the action of the Senate was certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Diaz-Balart	Horne	Myers
Bronson	Dudley	Jones	Ostalkiewicz
Brown-Waite	Dyer	Kirkpatrick	Rossin
Burt	Forman	Klein	Scott
Campbell	Geller	Kurth	Silver
Casas	Grant	Latvala	Sullivan
Childers	Gutman	Laurent	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

SPECIAL ORDER CALENDAR, continued

CS for SB 268—A bill to be entitled An act relating to health insurance; providing a short title; amending s. 627.668, F.S.; providing that the current requirement for group insurers to offer coverage for mental health conditions does not apply to serious mental illness; creating s. 627.6681, F.S.; requiring group health insurers and health maintenance organizations to provide coverage for serious mental illness; requiring benefits to be the same as for physical illness generally; exempting group health plans or coverage for a small employer, as defined; providing a definition; providing authority for certain manuals to be updated by rule; authorizing an insurer to require services to be provided by an exclusive provider of care; authorizing an insurer to enter into a capitation contract with an exclusive provider of care to provide benefits; providing exemption for coverage; amending ss. 627.6472, 627.6515, 641.31, F.S., relating to exclusive provider organizations, out-of-state groups, and health maintenance contracts; providing requirements for coverage compliance; providing an appropriation; providing a description of state interest; providing an effective date.

—was read the second time by title.

SENATOR BANKHEAD PRESIDING

Senator Holzendorf moved the following amendments which failed:

Amendment 1—On page 6, lines 4-6, delete those lines and insert: *appropriate financial incentives, peer review, case management, preadmission screenings, prior authorization of services, or other mechanisms to reduce service costs and utilization without compromising quality of care.*

Amendment 2 (with title amendment)—On page 7, between lines 16 and 17, insert:

Section 9. Section 627.624, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 627.624, F.S., for present text.)

627.624 Overinsurance; valid loss of time coverage.—

(1) A disability income insurance policy may include the following overinsurance provision:

"Overinsurance: After the loss-of-time benefit of this policy has been payable for 90 days, the benefit will be adjusted, as provided below, if the total amount of unadjusted loss-of-time benefits provided in all valid loss-of-time coverage upon the insured exceeds ___(percent)___ of the insured's earned income. If the information contained in the application discloses that the total amount of loss-of-time benefits under this policy and under all other valid loss-of-time coverage expected to be effective upon the insured in accordance with the application for this policy exceeded ___(percent)___ of the insured's earned income at the time of such application, the higher percentage will be used in place of ___(percent)___ . The adjusted loss-of-time benefit under this policy for any month is the proportion of the loss-of-time benefit otherwise payable under this policy as the product of the insured's earned income and ___(percent)___ bears to the total amount of loss-of-time benefits payable for such month under this policy and all other valid loss-of-time coverage on the insured (without giving effect to the overinsurance provision in this or any other coverage) less any amount of loss-of-time benefits payable under other valid loss-of-time coverage that does not contain an overinsurance provision. In making the computation, all benefits and earnings must be converted to a consistent ___(weekly or monthly)___ basis. If the numerator of the foregoing ratio is zero or is negative, no benefit is payable under this policy. This provision may not reduce the total combined amount of loss-of-time benefits payable under this policy and all other valid loss-of-time coverage below an amount that is the lesser of $300 or the total combined amount of loss-of-time benefits determined without giving effect to any overinsurance provision. This provision may not increase the amount of benefits payable under this policy above the amount that would have been paid in the absence of this provision, or take into account or operate to reduce any benefit other than the loss-of-time benefit."

(2) For purposes of the overinsurance provision of subsection (1), the term:

(a) "Earned income," except where otherwise specified, means the greater of monthly earnings of the insured at the time disability commences or the insured's average monthly earnings for a period of 2 years immediately preceding the commencement of disability. The term does not include any investment income or any other income not derived from the insured's vocational activities.

(b) "Overinsurance provision" means the contract provision authorized in subsection (1) and any other provision with respect to any loss-of-time coverage which may have the effect of reducing an insurer's liability if the total amount of loss-of-time benefits under all coverage exceeds a stated relationship to the insured's earnings.

(c) "Department" means the Department of Insurance.

(3) The overinsurance provision authorized in subsection (1) may be inserted only in a policy that provides a loss-of-time benefit that may be payable for at least 52 weeks, that is issued on the basis of selective underwriting of each individual application, and for which the application includes a question designed to elicit information necessary either to determine the ratio of the total loss-of-time benefits of the insured to the insured's earned income or to determine that such ratio does not exceed the percentage of earnings, not less than 60 percent, selected by the insurer and inserted in lieu of the blank factor in the overinsurance provision. The insurer may require, as part of the proof of claim, the information necessary to administer the provision. If the application indicates that other loss-of-time coverage is to be discontinued, the amount of such other coverage must be excluded in computing the alternative percentage in the overinsurance provision. The policy must define the term "valid loss-of-time coverage" as approved by the department, which definition may include coverage provided by governmental agencies and by organizations subject to regulation by insurance law and by insurance authorities of this or any other state or of any country; coverage provided for such insured pursuant to any disability benefits, workers' compensation benefits, or employer's liability benefits provided by labor-management trustee plans or union welfare plans; salary continuance or pension programs; or any other coverage the inclusion of which has been approved by the department.

(4) If by any application of the overinsurance provision an insurer affects a material reduction of benefits otherwise payable under the policy, the insurer must refund, for the period 2 years preceding the disability for which a claim is made, any premium unearned on the policy by reason of such reduction of coverage, subject to the insurer's right to provide in the policy that no such reduction of benefits or refund will be made unless the unearned premium to be refunded amounts to $5.

(5) The application for a policy containing the overinsurance provision authorized by this section shall include the following disclosure:

"The benefit payable under this policy may be reduced if the total loss-of-time coverage in effect exceeds ___(percent)___ *of your income."*

(6) The department may by rule prescribe definitions, forms, and procedures necessary to administer this section.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 27, after the semicolon (;) insert: amending s. 627.624, F.S.; revising loss-of-time benefit requirements; providing definitions of the terms "earned income" and "overinsurance provisions"; requiring disclosure for overinsurance provision; authorizing the Department of Insurance to adopt rules;

Senator Grant moved that **CS for SB 268** be read the third time by title. The motion was adopted by two-thirds vote.

The vote was:

Yeas—25

Bankhead	Dyer	Klein	Myers
Brown-Waite	Forman	Kurth	Rossin
Campbell	Geller	Latvala	Sullivan
Casas	Grant	Laurent	Williams
Clary	Harris	Lee	
Crist	Jones	McKay	
Dudley	Kirkpatrick	Meadows	

Nays—9

Bronson	Gutman	Holzendorf	Thomas
Burt	Hargrett	Ostalkiewicz	Turner
Childers			

On motion by Senator Grant, **CS for SB 268** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Bankhead	Burt	Childers	Crist
Bronson	Campbell	Clary	Diaz-Balart
Brown-Waite	Casas	Cowin	Dudley
Dyer	Holzendorf	Laurent	Scott
Forman	Horne	Lee	Silver
Geller	Jones	McKay	Sullivan
Grant	Kirkpatrick	Meadows	Thomas
Gutman	Klein	Myers	Turner
Hargrett	Kurth	Ostalkiewicz	Williams
Harris	Latvala	Rossin	

Nays—None

Consideration of **CS for SB 2342** was deferred.

CS for SB 270—A bill to be entitled An act relating to municipal firefighters' pension trust funds and municipal police officers' retirement trust funds; amending and revising the provisions of chapters 175 and 185, F.S.; defining "chapter plans," "local law plans," and "fully funded"; redefining "compensation" or "salary" for retirement purposes under these chapters; clarifying the applicability of minimum benefits for both chapter and local law plans; revising investment provisions to permit cities greater investment latitude to make foreign investments; eliminating discriminatory language in conformance with state and federal discrimination provisions; providing that certain benefits provided are a minimum and may not be diminished by any other state, local, or federal benefits; providing an exception; modifying the formula for calculating volunteer firefighter service retirement benefits; clarifying terminology relating to "sole and exclusive use of" premium tax funds and "extra benefits" by providing that moneys must be placed in a police-only or firefighter-only plan or a combined police and firefighter plan as opposed to placing moneys in any type of plan that includes general employees; providing an exception; providing for establishment of a new board and for transfer of assets in certain cases; creating s. 175.195, F.S.; prohibiting certain fraudulent practices; providing criminal and administrative penalties; creating ss. 175.411, 185.60, F.S.; providing that a municipality or special fire control district may opt out of a pension plan; repealing s. 175.152, F.S., relating to contributions; repealing s. 175.251, F.S., relating to employment records that are required to be kept by the secretary of the board of trustees; repealing s. 175.291, F.S., relating to the requirement that the attorney for the municipality or special fire control district represent the board of trustees upon request and the option to employ independent counsel and other persons; repealing s. 175.321, F.S., relating to the application of certain provisions to municipalities and fire control districts; repealing s. 175.331, F.S., relating to the rights of firefighters under former law; repealing s. 175.391, F.S., relating to payment of attorney's fees and costs; repealing s. 185.14, F.S., relating to contributions; repealing s. 185.15, F.S., relating to contributions and new employees; creating s. 185.185, F.S.; prohibiting certain fraudulent practices; providing criminal and administrative penalties; repealing s. 185.27, F.S., relating to the roster of retirees; repealing s. 185.29, F.S., relating to the city attorney representing the board of trustees; repealing s. 185.32, F.S., relating to exemptions from the chapter; repealing s. 185.36, F.S., relating to the rights of police officers under former laws; repealing s. 185.40, F.S., relating to costs and attorney's fees; providing an effective date.

—was read the second time by title.

Amendments were considered and adopted to conform **CS for SB 270** to **CS for CS for CS for HB 3075**.

Pending further consideration of **CS for SB 270** as amended, on motion by Senator Dudley, by two-thirds vote **CS for CS for CS for HB 3075** was withdrawn from the Committees on Community Affairs; and Ways and Means.

On motion by Senator Dudley—

CS for CS for CS for HB 3075—A bill to be entitled An act relating to municipal firefighters' pension trust funds and municipal police officers' retirement trust funds; amending and revising the provisions of chapters 175 and 185, F.S.; defining "chapter plans," "local law plans," and "supplemental plan municipality"; redefining "compensation" or "salary" for retirement purposes under these chapters; clarifying the applicability of minimum benefits for both chapter and local law plans; revising investment provisions to permit cities greater investment latitude to make foreign investments; eliminating discriminatory language

in conformance with state and federal discrimination provisions; providing that certain benefits provided are a minimum and may not be diminished by any other state, local, or federal benefits; providing an exception; modifying the formula for calculating volunteer firefighter service retirement benefits; clarifying terminology relating to "sole and exclusive use of" premium tax funds and "extra benefits" by providing that moneys must be placed in a police-only or firefighter-only plan or a combined police and firefighter plan as opposed to placing moneys in any type of plan that includes general employees; providing for establishment of a new board and for transfer of assets in certain cases; creating s. 175.195, F.S.; prohibiting certain fraudulent practices; providing criminal and administrative penalties; repealing s. 175.152, F.S., relating to contributions; repealing s. 175.251, F.S., relating to employment records that are required to be kept by the secretary of the board of trustees; repealing s. 175.291, F.S., relating to the requirement that the attorney for the municipality or special fire control district represent the board of trustees upon request and the option to employ independent counsel and other persons; repealing s. 175.321, F.S., relating to the application of certain provisions to municipalities and fire control districts; repealing s. 175.331, F.S., relating to the rights of firefighters under former law; repealing s. 175.391, F.S., relating to payment of attorney's fees and costs; repealing s. 185.14, F.S., relating to contributions; repealing s. 185.15, F.S, relating to contributions and new employees; creating s. 185.185, F.S.; prohibiting certain fraudulent practices; providing criminal and administrative penalties; repealing s. 185.27, F.S., relating to the roster of retirees; repealing s. 185.29, F.S., relating to the city attorney representing the board of trustees; repealing s. 185.32, F.S., relating to exemptions from the chapter; repealing s. 185.36, F.S., relating to the rights of police officers under former laws; repealing s. 185.40, F.S., relating to costs and attorney's fees; creating ss. 175.411 and 185.60, F.S.; providing for optional participation; providing an effective date.

—a companion measure, was substituted for **CS for SB 270** as amended and read the second time by title.

Senator Myers moved the following amendments which failed:

Amendment 1—On page 42, line 17 through page 45, line 15, delete those lines and insert:

(1) *With respect to chapter plans:*

(a) A firefighter having 10 or more ~~continuous~~ years of credited service *or a firefighter who becomes totally and permanently disabled in the line of duty, regardless of length of service,* ~~and having contributed to the firefighters' pension trust fund for 10 years or more~~ may retire from the service of the municipality or special fire control district under the plan if~~, prior to his or her normal retirement date,~~ the firefighter becomes totally and permanently disabled as defined in *paragraph (b)* ~~subsection (2)~~ by reason of any cause other than a cause set out in *paragraph (c)* ~~subsection (3)~~ on or after the effective date of the plan. Such retirement shall herein be referred to as "disability retirement." ~~The provisions for disability other than line-of-duty disability shall not apply to a member who has reached early or normal retirement age.~~

(b)~~(2)~~ A firefighter will be considered totally disabled if, in the opinion of the board of trustees, he or she is wholly prevented from rendering useful and efficient service as a firefighter; and a firefighter will be considered permanently disabled if, in the opinion of the board of trustees, he or she is likely to remain so disabled continuously and permanently from a cause other than is specified in *paragraph (c)* ~~subsection (3)~~.

(c)~~(3)~~ A firefighter will not be entitled to receive any disability retirement income if the disability is a result of:

1.~~(a)~~ Excessive and habitual use by the firefighter of drugs, intoxicants, or narcotics;

2.~~(b)~~ Injury or disease sustained by the firefighter while willfully and illegally participating in fights, riots, or civil insurrections or while committing a crime;

3.~~(c)~~ Injury or disease sustained by the firefighter while serving in any armed forces; or

4.~~(d)~~ Injury or disease sustained by the firefighter after his or her employment has terminated.

(d)~~(4)~~ No firefighter shall be permitted to retire under the provisions of this section until he or she is examined by a duly qualified physician or surgeon, to be selected by the board of trustees for that purpose, and is found to be disabled in the degree and in the manner specified in this section. Any firefighter retiring under this section *may* ~~shall~~ be examined periodically by a duly qualified physician or surgeon or board of physicians and surgeons, to be selected by the board of trustees for that purpose, to determine if such disability has ceased to exist.

(e)~~(5)~~ The *benefit* ~~benefits~~ payable to a firefighter who retires from the service of a municipality or special fire control district due to total and permanent disability as a direct result of a disability ~~commencing prior to his or her normal retirement date~~ is the monthly income payable for 10 years certain and life for which, if the firefighter's disability occurred in the line of duty, his or her monthly benefit shall be the accrued retirement benefit, but shall not be less than 42 percent of his or her average monthly salary at the time of disability. If after 10 years of service the disability is other than in the line of duty, the firefighter's monthly benefit shall be the accrued normal retirement benefit, but shall not be less than 25 percent of his or her average monthly salary at the time of disability.

(f)~~(6)~~ The monthly retirement income to which a firefighter is entitled in the event of his or her disability retirement shall be payable on the first day of the first month after the board of trustees determines such entitlement. However, the monthly retirement income shall be payable as of the date the board determines such entitlement, and any portion due for a partial month shall be paid together with the first payment. The last payment will be, if the firefighter recovers from the disability ~~prior to his or her normal retirement date~~, the payment due next preceding the date of such recovery or, if the firefighter dies without recovering from the disability, the payment due next preceding his or her death or the 120th monthly payment, whichever is later. *In lieu of the benefit payment as provided in this paragraph, a firefighter may select an optional form as provided in s. 175.171.* Any monthly retirement income payments due after the death of a disabled firefighter shall be paid to the firefighter's designated beneficiary (or beneficiaries) as provided in ss. 175.181 and 175.201.

(g)~~(7)~~ If the board of trustees finds that a firefighter who is receiving a disability retirement income is~~, at any time prior to his or her normal retirement date,~~ no longer disabled, as provided herein, the board of trustees shall direct that the disability retirement income be discontinued. "Recovery from disability" as used herein means the ability of the firefighter to render useful and efficient service as a firefighter.

(h)~~(8)~~ If the firefighter recovers from disability and reenters the service as a firefighter, service will be deemed to have been continuous, but the period beginning with the first month for which he or she received a disability retirement income payment and ending with the date he or she reentered the service *may* ~~will~~ not be considered as credited service for the purpose of this plan.

(2) With respect to a local law plan, the plan shall provide a disability benefit for its firefighters, or for its firefighters and police officers where included, and their beneficiaries.

Amendment 2—On page 58, delete line 19 and insert: *pension plan and shall be used to fund pension benefits, including extra benefits, to the*

On motion by Senator Dudley, by two-thirds vote **CS for CS for CS for HB 3075** was read the third time by title, passed by the required constitutional three-fifths vote of the membership and certified to the House. The vote on passage was:

Yeas—36

Bankhead	Crist	Harris	Myers
Bronson	Diaz-Balart	Holzendorf	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Klein	Scott
Campbell	Forman	Kurth	Silver
Casas	Geller	Laurent	Sullivan
Childers	Grant	Lee	Thomas
Clary	Gutman	McKay	Turner
Cowin	Hargrett	Meadows	Williams

Nays—1

Latvala

Consideration of **CS for SB 1114**, **SR 2108** and **CS for SB 2080** was deferred.

On motion by Senator Clary, by two-thirds vote **HB 4439** was withdrawn from the Committee on Community Affairs.

On motion by Senator Clary, by two-thirds vote—

HB 4439—A bill to be entitled An act relating to contracting; amending s. 468.603, F.S.; revising and providing definitions relating to electrical inspectors; amending s. 468.432, F.S.; requiring registration of community association management entities; creating s. 468.604, F.S.; providing responsibilities of building code administrators, plans examiners, and inspectors; amending s. 468.605, F.S.; revising membership of the Florida Building Code Administrators and Inspectors Board; amending s. 468.609, F.S.; revising and providing requirements for certification as a building code administrator, plans examiner, or inspector, including provisional certification; amending s. 468.617, F.S.; revising provisions relating to local governments contracting for building code, examination, and inspection services; amending s. 468.627, F.S.; revising and eliminating fees; amending s. 468.629, F.S.; prohibiting making or attempting to make a certificateholder violate a local or state building code; prohibiting acting or practicing as a building code administrator or building official, plans examiner, or inspector without being an active certificateholder; providing penalties; amending s. 469.001, F.S.; redefining the terms "abatement" and "survey"; defining the term "project designer"; amending s. 469.002, F.S., relating to exemptions from state regulation of asbestos abatement; revising an exemption applicable to certain asbestos-related activities done by government employees; revising certain existing exemptions; amending s. 469.004, F.S.; eliminating provisions relating to prerequisites to issuance of a license and to continuing education; amending s. 469.005, F.S.; revising licensure requirements for asbestos consultants and asbestos contractors relating to required coursework; amending s. 469.006, F.S.; requiring applicants for business licensure to submit evidence of financial responsibility and an affidavit attesting to having obtained the required workers' compensation, public liability, and property damage insurance; amending s. 469.013, F.S.; revising continuing education requirements applicable to asbestos surveyors, management planners, and project monitors; repealing s. 469.015, F.S., relating to seals; amending ss. 255.551, 376.60, and 469.014, F.S.; correcting cross references; creating s. 471.026, F.S.; allowing engineers to perform building inspection duties; amending s. 475.276, F.S; providing an exception to requirement that real estate licensees provide a notice of nonrepresentation; creating s. 481.222, F.S.; allowing architects to perform duties of building code inspectors; amending s. 489.103, F.S.; providing exemptions from regulation under pt. I, ch. 489, F.S., relating to construction contracting; amending s. 489.105, F.S.; revising and providing definitions applicable to contractors; amending s. 489.107, F.S.; requiring the Construction Industry Licensing Board and the Electrical Contractors' Licensing Board to each appoint a committee to meet jointly at least twice a year; amending s. 489.113, F.S.; providing that expansion of the scope of practice of any type of contractor does not limit the scope of practice of any existing type of contractor unless the Legislature expressly provides such limitation; repealing s. 489.1135, F.S., relating to designation and certification of underground utility and excavation contractors; creating s. 489.1136, F.S.; providing for medical gas certification for plumbing contractors who install, improve, repair, or maintain conduits used to transport gaseous or partly gaseous substances for medical purposes; requiring certain coursework; requiring an examination for certain persons; providing for discipline and penalties; providing a definition; amending s. 553.06, F.S.; providing that plumbing contractors who install, improve, repair, or maintain such conduits shall be governed by the National Fire Prevention Association Standard 99C; amending s. 489.115, F.S.; authorizing certificateholders and registrants to apply continuing education courses earned under other regulatory provisions under certain circumstances; amending s. 489.119, F.S.; detailing what constitutes an incomplete contract for purposes of work allowed a business organization under temporary certification or registration; amending s. 489.140, F.S.; eliminating a provision that requires the transfer of surplus moneys from fines into the Construction Industries Recovery Fund; amending s. 489.141, F.S.; clarifying provisions relating to conditions for recovery from the fund; eliminating a notice requirement; revising a limitation on the making of a claim; amending s. 489.142, F.S.; revising a provision relating to powers of the Construction Industry Licensing Board with respect to actions for recovery from the fund, to conform; amending s. 489.143, F.S.; revising provisions relating to payment from the fund; amending s. 489.503, F.S.; providing exemptions from regulation under pt. II, ch. 489, F.S., relating to electrical and alarm system contracting; revising an exemption that applies to telecommunications, community antenna television, and radio distribution systems, to include cable television systems; amending s. 489.505, F.S., and repealing subsection (24), relating to the definition of "limited burglar alarm system contractor"; redefining terms applicable to electrical and alarm system contracting; defining the terms "monitoring" and "fire alarm system agent"; amending s. 489.507, F.S.; requiring the Electrical Contractors' Licensing Board and the Construction Industry Licensing Board to each appoint a committee to meet jointly at least twice a year; amending s. 489.509, F.S.; eliminating reference to the payment date of the biennial renewal fee for certificateholders and registrants; eliminating an inconsistent provision relating to failure to renew an active or inactive certificate or registration; providing for transfer of a portion of certain fees applicable to regulation of electrical and alarm system contracting to fund certain projects relating to the building construction industry and continuing education programs related thereto; amending s. 489.511, F.S.; revising eligibility requirements for certification as an electrical or alarm system contractor; authorizing the taking of the certification examination more than three times and providing requirements with respect thereto; eliminating an obsolete provisions; amending s. 489.513, F.S.; revising registration requirements for electrical contractors; amending s. 489.517, F.S.; authorizing certificateholders and registrants to apply continuing education courses earned under other regulatory provisions under certain circumstances; providing for verification of public liability and property damage insurance; creating s. 489.5185, F.S.; providing requirements for fire alarm system agents, including specified training and fingerprint and criminal background checks; providing for fees for approval of training providers and courses; providing applicability to applicants, current employees, and various licensees; requiring an identification card and providing requirements therefor; providing continuing education requirements; providing disciplinary penalties; amending s. 489.519, F.S.; authorizing certificateholders and registrants to apply for voluntary inactive status at any time during the period of certification or registration; authorizing a person passing the certification examination and applying for licensure to place his or her license on inactive status without having to qualify a business; amending s. 489.521, F.S.; providing conditions on qualifying agents qualifying more than one business organization; providing for revocation or suspension of such qualification for improper supervision; providing technical changes; amending s. 489.525, F.S.; revising reporting requirements of the Department of Business and Professional Regulation to local boards and building officials; providing applicability with respect to information provided on the Internet; amending s. 489.533, F.S.; revising and providing grounds for discipline; providing penalties; reenacting s. 489.518(5), F.S., relating to alarm system agents, to incorporate the amendment to s. 489.533, F.S., in a reference thereto; amending s. 489.537, F.S.; authorizing registered electrical contractors to install raceways for alarm systems; providing that licensees under pt. II, ch. 489, F.S., are subject, as applicable, to certain provisions relating to local occupational license taxes; amending s. 205.0535, F.S.; providing that businesses providing local exchange telephone service or pay telephone service may not be assessed an occupational license tax on a per-instrument basis; amending s. 553.19, F.S.; updating electrical and alarm standards; adding a national code relating to fire alarms to the minimum electrical and alarm standards required in this state; amending 553.73, F.S; adding an exception from the Florida Building Code; creating s. 501.935, F.S.; providing requirements relating to home-inspection reports; providing legislative intent; providing definitions; providing exemptions; requiring, prior to inspection, provision of inspector credentials, a caveat, a disclosure of conflicts of interest and certain relationships, and a statement or agreement of scope, limitations, terms, and conditions; requiring a report on the results of the inspection; providing prohibited acts, for which there are civil penalties; providing that failure to comply is a deceptive and unfair trade practice; creating s. 501.937, F.S.; providing requirements for use of professional titles by industrial hygienists and safety professionals; providing definitions; providing that violation of such requirements is a deceptive and unfair trade practice; creating s. 715.15, F.S.; providing that certain provisions in contracts for improvement of real property are void; providing applicability; An act relating to fire prevention and control; amending s. 633.021, F.S.; defining the term "fire extinguisher";

amending s. 633.061, F.S.; requiring an individual or organization that hydrotests fire extinguishers and preengineered systems to obtain a permit or license from the State Fire Marshal; revising the services that may be performed under certain licenses and permits issued by the State Fire Marshal; providing additional application requirements; providing requirements for obtaining an upgraded license; amending ss. 633.065, 633.071, F.S.; providing requirements for installing and inspecting fire suppression equipment; amending s. 633.162, F.S.; prohibiting an owner, officer, or partner of a company from applying for licensure if the license held by the company is suspended or revoked; revising the grounds upon which the State Fire Marshal may deny, revoke, or suspend a license or permit; providing restrictions on activities of former licenseholders and permittees; amending s. 633.171, F.S.; revising the prohibition against rendering a fire extinguisher or preengineered system inoperative to conform to changes made by the act; amending s. 633.547, F.S.; providing the State Fire Marshal authority to suspend and revoke certificates; providing restrictions on the activities of former certificateholders whose certificates are suspended or revoked; amending s. 489.105, F.S., relating to contracting; conforming a cross-reference to changes made by the act; amending s. 468.385, F.S.; revising provisions relating to the written examination required for licensure as an auctioneer; amending s. 468.388, F.S.; eliminating exemptions from the requirement that a written agreement be executed prior to conducting an auction; amending s. 468.389, F.S.; revising a ground for disciplinary action relating to failure to account for or to pay certain money, to include reference to property belonging to another; providing penalties; reenacting ss. 468.385(3)(b) and 468.391, F.S., relating to licensure as an auctioneer and to a criminal penalty, respectively, to incorporate the amendment to s. 468.389, F.S., in references thereto; amending s. 468.393, F.S.; reducing the level at which the Auctioneer Recovery Fund must be maintained and for which surcharges are levied; reenacting s. 468.392(5), F.S., relating to moneys in the Auctioneer Recovery Fund, to incorporate the amendment to s. 468.393, F.S., in references thereto; amending s. 468.395, F.S.; revising circumstances under which recovery from the Auctioneer Recovery Fund may be obtained; reducing the amount per claim or claims arising out of the same transaction or auction and the aggregate lifetime limit with respect to any one licensee that may be paid from the fund; amending s. 468.396, F.S., relating to claims against a single licensee in excess of the dollar limitation, to conform; eliminating semiannual identification and payment of claims; amending s. 468.397, F.S., relating to payment of claim; correcting language; creating s. 205.1945, F.S.; prohibiting local jurisdiction from charging an occupational license tax under certain circumstances; amending s. 489.129, F.S.; providing procedures and responsibilities when the department undertakes an investigation of a contractor; deleting a ground for disciplinary action; amending s. 489.131, F.S.; requiring that bids for public projects be accompanied by certain evidence; requiring local boards or agencies that license contractors to transmit quarterly reports; clarifying the department's authority to initiate disciplinary actions; providing that local boards that license and discipline contractors must have at least 2 consumer representatives; providing effective dates.

—a companion measure, was substituted for **CS for CS for SB 2336** and by two-thirds vote read the second time by title.

Senator Clary moved the following amendment:

Amendment 1 (with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Paragraph (h) is added to subsection (6) of section 468.603, Florida Statutes, to read:

468.603 Definitions.—As used in this part:

(6) "Categories of building inspectors" include the following:

(h) "Electrical inspector" means a person who is qualified to inspect and determine the electrical safety of commercial and residential buildings and accessory structures by inspecting for compliance with the provisions of the National electrical code.

Section 2. Section 468.604, Florida Statutes, is created to read:

468.604 Responsibilities of building code administrators, plans examiners and inspectors.—

(1) It is the responsibility of the building code administrator or building official to administrate, supervise, direct, enforce, or perform the permitting and inspection of construction, alteration, repair, remodeling, or demolition of structures and the installation of building systems within the boundaries of their governmental jurisdiction, when permitting is required, to ensure compliance with building, plumbing, mechanical, electrical, gas fuel, energy conservation, accessibility, and other construction codes which are required or adopted by municipal code, county ordinance, or state law. The building code administrator or building official shall faithfully perform these responsibilities without interference from any person. These responsibilities include:

(a) The review of construction plans to ensure compliance with all applicable codes. The construction plans must be reviewed before the issuance of any building, system installation, or other construction permit. The review of construction plans must be done by the building code administrator or building official or by a person having the appropriate plans examiner license issued under this chapter.

(b) The inspection of each phase of construction where a building or other construction permit has been issued. The building code administrator or building official, or a person having the appropriate building code inspector license issued under this chapter, shall inspect the construction or installation to ensure that the work is performed in accordance with applicable codes.

(2) It is the responsibility of the building code inspector to conduct inspections of construction, alteration, repair, remodeling, or demolition of structures and the installation of building systems, when permitting is required, to ensure compliance with building, plumbing, mechanical, electrical, gas fuel, energy conservation, accessibility, and other construction codes required by municipal code, county ordinance, or state law. Each building code inspector must be licensed in the appropriate category as defined in s. 468.603. The building code inspector's responsibilities must be performed under the direction of the building code administrator or building official without interference from any unlicensed person.

(3) It is the responsibility of the plans examiner to conduct review of construction plans submitted in the permit application to assure compliance with all applicable codes required by municipal code, county ordinance, or state law. The review of construction plans must be done by the building code administrator or building official or by a person licensed in the appropriate plans examiner category as defined in s. 468.603. The plans examiner's responsibilities must be performed under the supervision and authority of the building code administrator or building official without interference from any unlicensed person.

Section 3. Subsection (2) of section 468.605, Florida Statutes, is amended to read:

468.605 Florida Building Code Administrators and Inspectors Board.—

(2) The board shall consist of nine members, as follows:

(a) One member who is an architect licensed pursuant to chapter 481, an engineer licensed pursuant to chapter 471, or a contractor licensed pursuant to chapter 489.

(b) Two members serving as building code administrators.

(c) *Two members* ~~One member~~ serving as *an* ~~a building~~ inspector ~~who is without managerial authority in the employing agency~~.

(d) One member serving as a plans examiner.

(e) One member who is a representative of a city or a charter county.

~~(f) One member serving as a city manager.~~

(f)~~(g)~~ Two consumer members who are not, and have never been, members of a profession regulated under this part, chapter 481, chapter 471, or chapter 489. One of the consumer members must be a person with a disability or a representative of an organization which represents persons with disabilities.

None of the board members described in paragraph (a) or paragraph *(f)* ~~(g)~~ may be an employee of a municipal, county, or state governmental agency.

Section 4. Section 468.609, Florida Statutes, is amended to read:

468.609 Administration of this part; standards for certification; additional categories of certification.—

(1) Except as provided in this part, any person who desires to be certified shall apply to the board, in writing upon forms approved and furnished by the board, to take the certification examination.

(2) A person shall be entitled to take the examination for certification *as an inspector or plans examiner* pursuant to this part if the person:

(a) Is at least 18 years of age;

(b) Is of good moral character; and

(c) Meets eligibility requirements according to one of the following criteria:

1. Demonstrates 5 years' combined experience in the field of construction *or related field* ~~or~~ inspection, *or plans review* corresponding to the certification category sought;

2. Demonstrates a combination of postsecondary education *in the field of construction or related field* and experience which totals 4 years, with at least 1 year of such *total being* experience in construction, ~~or~~ building inspection, *or plans review*; or

3. Currently holds a standard certificate as issued by the board and satisfactorily completes an inspector or plans examiner training program of not less than 200 hours in the certification category sought. The board shall establish by rule criteria for the development and implementation of the training programs.

(3)~~3.~~ *A person shall be entitled to take the examination for certification as a building code administrator pursuant to this part if the person:*

(a) Is at least 18 years of age;

(b) Is of good moral character; and

(c) Meets eligibility requirements according to one of the following criteria:

1. ~~For certification as a building code administrator or building official,~~ Demonstrates 10 years' combined experience as an architect, engineer, *plan examiner,* building *code* inspector, *registered or certified* contractor, or construction superintendent, with at least 5 years of such experience in supervisory positions*; or*~~.~~

2. Demonstrates a combination of postsecondary education in the field of construction or related field, no more than 5 years of which may be applied, and experience as an architect, engineer, plan examiner, building code inspector, registered or certified contractor, or construction superintendent which totals 10 years, with at least 5 years of such total being experience in supervisory positions.

(4)~~(3)~~ No person may engage in the duties of a building code administrator, plans examiner, or inspector pursuant to this part after October 1, 1993, unless such person possesses one of the following types of certificates, currently valid, issued by the board attesting to the person's qualifications to hold such position:

(a) A standard certificate.

(b) A limited certificate.

(c) A provisional certificate.

(5)~~(4)~~(a) To obtain a standard certificate, an individual must pass an examination approved by the board which demonstrates that the applicant has fundamental knowledge of the state laws and codes relating to the construction of buildings for which the applicant has code administration, *plan examining,* or inspection responsibilities. It is the intent of the Legislature that the examination approved for certification pursuant to this part be substantially equivalent to the examinations administered by the Southern Building Code Congress International, the Building Officials Association of Florida, the South Florida Building Code (Dade and Broward), and the Council of American Building Officials.

(b) A standard certificate shall be issued to each applicant who successfully completes the examination, which certificate authorizes the individual named thereon to practice throughout the state as a building code administrator, plans examiner, or inspector within such class and level as is specified by the board.

(c) The board may accept proof that the applicant has passed an examination which is substantially equivalent to the board-approved examination set forth in this section.

(6)~~(5)~~(a) A building code administrator, plans examiner, or inspector holding office on July 1, 1993, shall not be required to possess a standard certificate as a condition of tenure or continued employment, but shall be required to obtain a limited certificate as described in this subsection.

(b) By October 1, 1993, individuals who were employed on July 1, 1993, as building code administrators, plans examiners, or inspectors, who are not eligible for a standard certificate, but who wish to continue in such employment, shall submit to the board the appropriate application and certification fees and shall receive a limited certificate qualifying them to engage in building code administration, plans examination, or inspection in the class, at the performance level, and within the governmental jurisdiction in which such person is employed.

(c) The limited certificate shall be valid only as an authorization for the building code administrator, plans examiner, or inspector to continue in the position held, and to continue performing all functions assigned to that position, on July 1, 1993.

(d) A building code administrator, plans examiner, or inspector holding a limited certificate can be promoted to a position requiring a higher level certificate only upon issuance of a standard certificate or provisional certificate appropriate for such new position.

(7)~~(6)~~(a) The board may provide for the issuance of provisional ~~or temporary~~ certificates valid for such period, not less than 1 year nor more than 3 years, as specified by board rule, to any *newly employed or promoted* building code administrator, plans examiner, or inspector ~~newly employed or newly promoted who lacks the qualifications prescribed by the board or by statute as prerequisite to issuance of a standard certificate~~.

(b) No building code administrator, plans examiner, or inspector may have a provisional ~~or temporary~~ certificate extended beyond the specified period by renewal or otherwise.

(c) The board may provide for appropriate levels of provisional ~~or temporary~~ certificates and may issue these certificates with such special conditions or requirements relating to the place of employment of the person holding the certificate, the supervision of such person on a consulting or advisory basis, or other matters as the board may deem necessary to protect the public safety and health.

(d) A newly employed or hired person may perform the duties of a plans examiner or inspector for 90 days if a provisional certificate application has been submitted, provided such person is under the direct supervision of a certified building code administrator who holds a standard certification and who has found such person qualified for a provisional certificate.

(8)~~(7)~~(a) Any individual who holds a valid certificate under the provisions of s. 553.795, or who has successfully completed all requirements for certification pursuant to such section, shall be deemed to have satisfied the requirements for receiving a standard certificate prescribed by this part.

(b) Any individual who holds a valid certificate issued by the Southern Building Code Congress International, the Building Officials Association of Florida, the South Florida Building Code (Dade and Broward), or the Council of American Building Officials certification programs, or who has been approved for certification under one of those programs not later than October 1, 1995, shall be deemed to have satisfied the requirements for receiving a standard certificate in the corresponding category prescribed by this part. Employees of counties with a population of less than 50,000, or employees of municipalities with a population of less than 3,500, shall be deemed to have satisfied the requirements for standard certification where such employee is approved for certification under one of the programs set forth in this paragraph not later than October 1, 1998.

(9)~~(8)~~ Any individual applying to the board may be issued a certificate valid for multiple inspection classes, as deemed appropriate by the board.

(10)~~(9)~~ Certification and training classes may be developed in coordination with degree career education centers, community colleges, the State University System, or other entities offering certification and training classes.

(11)~~(10)~~ The board may by rule create categories of certification in addition to those defined in s. 468.603(6) and (7). Such certification categories shall not be mandatory and shall not act to diminish the scope of any certificate created by statute.

Section 5. Subsections (2) and (3) of section 468.617, Florida Statutes, are amended to read:

468.617 Joint inspection department; other arrangements.—

(2) Nothing in this part shall prohibit local governments from *contracting with* ~~employing~~ persons certified pursuant to this part to perform inspections *or plan reviews* ~~on a contract basis~~. *An individual or entity may not inspect or examine plans on projects in which the individual or entity designed or permitted the projects.*

(3) Nothing in this part shall prohibit any county or municipal government from entering into any contract with any person or entity for the provision of services regulated under this part, and notwithstanding any other statutory provision, such county or municipal governments may enter into contracts ~~which provide for payment of inspection or review fees directly to the contract provider~~.

Section 6. Section 468.627, Florida Statutes, is amended to read:

468.627 Application; examination; renewal; fees.—

(1) The board shall establish by rule fees to be paid for application, examination, reexamination, certification and certification renewal, inactive status application, and reactivation of inactive certificates. The board may establish by rule a late renewal penalty. The board shall establish fees which are adequate, when combined with revenue generated by the provisions of s. 468.631, to ensure the continued operation of this part. Fees shall be based on department estimates of the revenue required to implement this part.

(2) The initial application fee may not exceed $25 for building code administrators, plans examiners, or inspectors.

(3) The initial examination fee may not exceed *$150* ~~$50~~ for building code administrators, plans examiners, or inspectors.

~~(4) The initial certification fee may not exceed $25 for building code administrators, plans examiners, or inspectors.~~

~~(5) The biennial certification renewal fee may not exceed $25 for building code administrators, plans examiners, or inspectors.~~

(4)~~(6)~~ Employees of local government agencies having responsibility for inspection, regulation, and enforcement of building, plumbing, mechanical, electrical, gas, fire prevention, energy, accessibility, and other construction codes shall pay no application *fees* or examination fees~~, and shall pay not more than $5 each for initial certification and biennial certification renewal fees~~.

(5)~~(7)~~ The certificateholder shall provide proof, in a form established by board rule, that the certificateholder has completed at least 14 classroom hours of at least 50 minutes each of continuing education courses during each biennium since the issuance or renewal of the certificate. The board shall by rule establish criteria for approval of continuing education courses and providers, and may by rule establish criteria for accepting alternative nonclassroom continuing education on an hour-for-hour basis.

Section 7. Section 471.045, Florida Statutes, is created to read:

471.045 Professional engineers performing building code inspector duties.—Notwithstanding any other provision of law, a person who is currently licensed under this chapter to practice as a professional engineer may provide building inspection services described in s. 468.603(6) and (7) to a local government or state agency upon its request, without being certified by the Board of Building Code Administrators and Inspectors under part XIII of chapter 468. When performing these building inspection services, the professional engineer is subject to the disciplinary guidelines of this chapter and s. 468.621(1)(c)-(g). Any complaint processing, investigation, and discipline that arise out of a professional engineer's performing building inspection services shall be conducted by the Board of Professional Engineers rather than the Board of Building Code Administrators and Inspectors. A professional engineer may not perform plans review as an employee of a local government upon any job that the professional engineer or the professional engineer's company designed.

Section 8. Section 481.222, Florida Statutes, is created to read:

481.222 Architects performing building code inspector duties.—Notwithstanding any other provision of law, a person who is currently licensed to practice as an architect under this part may provide building inspection services described in s. 468.603(6) and (7) to a local government or state agency upon its request, without being certified by the Board of Building Code Administrators and Inspectors under part XIII of chapter 468. With respect to the performance of such building inspection services, the architect is subject to the disciplinary guidelines of this part and s. 468.621(1)(c)-(g). Any complaint processing, investigation, and discipline that arise out of an architect's performance of building inspection services shall be conducted by the Board of Architecture and Interior Design rather than the Board of Building Code Administrators and Inspectors. An architect may not perform plans review as an employee of a local government upon any job that the architect or the architect's company designed.

Section 9. Paragraph (d) of subsection (1) of section 489.129, Florida Statutes, is amended and subsection (12) is added to that section to read:

489.129 Disciplinary proceedings.—

(1) The board may take any of the following actions against any certificateholder or registrant: place on probation or reprimand the licensee, revoke, suspend, or deny the issuance or renewal of the certificate, registration, or certificate of authority, require financial restitution to a consumer for financial harm directly related to a violation of a provision of this part, impose an administrative fine not to exceed $5,000 per violation, require continuing education, or assess costs associated with investigation and prosecution, if the contractor, financially responsible officer, or business organization for which the contractor is a primary qualifying agent, a financially responsible officer, or a secondary qualifying agent responsible under s. 489.1195 is found guilty of any of the following acts:

~~(d) Knowingly violating the applicable building codes or laws of the state or of any municipalities or counties thereof.~~

(12) When an investigation of a contractor is undertaken, the department shall promptly furnish to the contractor or the contractor's attorney a copy of the complaint or document that resulted in the initiation of the investigation. The department shall make the complaint and supporting documents available to the contractor. The complaint or supporting documents shall contain information regarding the specific facts that serve as the basis for the complaint. The contractor may submit a written response to the information contained in such complaint or document within 20 days after service to the contractor of the complaint or document. The contractor's written response shall be considered by the probable cause panel. The right to respond does not prohibit the issuance of a summary emergency order if necessary to protect the public. However, if the secretary, or the secretary's designee, and the chair of the board or the chair of the probable cause panel agree in writing that such notification would be detrimental to the investigation, the department may withhold notification. The department may conduct an investigation without notification to a contractor if the act under investigation is a criminal offense.

Section 10. Subsections (7) and (10) of section 489.131, Florida Statutes, are amended to read:

489.131 Applicability.—

(7)(a) It is the policy of the state that the purpose of regulation is to protect the public by attaining compliance with the policies established in law. Fines and other penalties are provided in order to ensure compliance; however, the collection of fines and the imposition of penalties are intended to be secondary to the primary goal of attaining compliance with state laws and local jurisdiction ordinances. It is the intent of the

Legislature that a local jurisdiction agency charged with enforcing regulatory laws shall issue a notice of noncompliance as its first response to a minor violation of a regulatory law in any instance in which it is reasonable to assume that the violator was unaware of such a law or unclear as to how to comply with it. A violation of a regulatory law is a "minor violation" if it does not result in economic or physical harm to a person or adversely affect the public health, safety, or welfare or create a significant threat of such harm. A "notice of noncompliance" is a notification by the local jurisdiction agency charged with enforcing the ordinance, which is issued to the licensee that is subject to the ordinance. A notice of noncompliance should not be accompanied with a fine or other disciplinary penalty. It should identify the specific ordinance that is being violated, provide information on how to comply with the ordinance, and specify a reasonable time for the violator to comply with the ordinance. Failure of a licensee to take action correcting the violation within a set period of time would then result in the institution of further disciplinary proceedings.

(b) The local governing body of a county or municipality, or its local enforcement body, is authorized to enforce the provisions of this part as well as its local ordinances against locally licensed or registered contractors, as appropriate. The local jurisdiction enforcement body may conduct disciplinary proceedings against a locally licensed or registered contractor and may require restitution, impose a suspension or revocation of his or her local license, or a fine not to exceed $5,000, or a combination thereof, against the locally licensed or registered contractor, according to ordinances which a local jurisdiction may enact. In addition, the local jurisdiction may assess reasonable investigative and legal costs for the prosecution of the violation against the violator, according to such ordinances as the local jurisdiction may enact.

(c) In addition to any action the local jurisdiction enforcement body may take against the individual's local license, and any fine the local jurisdiction may impose, the local jurisdiction enforcement body shall issue a recommended penalty for board action. This recommended penalty may include a recommendation for no further action, or a recommendation for suspension, revocation, or restriction of the registration, or a fine to be levied by the board, or a combination thereof. The local jurisdiction enforcement body shall inform the disciplined contractor and the complainant of the local license penalty imposed, the board penalty recommended, his or her rights to appeal, and the consequences should he or she decide not to appeal. The local jurisdiction enforcement body shall, upon having reached adjudication or having accepted a plea of nolo contendere, immediately inform the board of its action and the recommended board penalty.

(d) The department, the disciplined contractor, or the complainant may challenge the local jurisdiction enforcement body's recommended penalty for board action to the Construction Industry Licensing Board. A challenge shall be filed within 60 days after the issuance of the recommended penalty to the board. If challenged, there is a presumptive finding of probable cause and the case may proceed without the need for a probable cause hearing.

(e) Failure of the department, the disciplined contractor, or the complainant to challenge the local jurisdiction's recommended penalty within the time period set forth in this subsection shall constitute a waiver of the right to a hearing before the board. A waiver of the right to a hearing before the board shall be deemed an admission of the violation, and the penalty recommended shall become a final order according to procedures developed by board rule without further board action. The disciplined contractor may appeal this board action to the district court.

(f)*1.* The department may investigate any complaint *that* ~~which~~ is made with the department. However, ~~if~~ the department *may not initiate or pursue any* ~~determines that the~~ complaint against a registered contractor *where a local jurisdiction enforcement body has jurisdiction over the complaint. The department shall refer the complaint to the local jurisdiction enforcement body for investigation or prosecution. The department shall not proceed until the* ~~is for an action which a~~ local jurisdiction enforcement body has investigated and reached adjudication or accepted a plea of nolo contendere, including a recommended penalty to the board, *except as provided otherwise in this section.*

2. The department shall not initiate prosecution for that action, unless the secretary has initiated summary procedures pursuant to s. 455.225(8).

3. If the department proves that a local government enforcement body has failed or refused to investigate a complaint within 1 year, the board may suspend or rescind its determination of the adequacy of the local government enforcement body's disciplinary procedures granted under s. 489.117(2).

(g) Nothing in this subsection shall be construed to allow local jurisdictions to exercise disciplinary authority over certified contractors.

(10) No municipal or county government may issue any certificate of competency or license for any contractor defined in s. 489.105(3)(a)-(o) after July 1, 1993, unless such local government exercises disciplinary control and oversight over such locally licensed contractors, including forwarding a recommended order in each action to the board as provided in subsection (7). *Each local board that licenses and disciplines contractors must have at least two consumer representatives on that board. If the board has seven or more members, at least three of those members must be consumer representatives. The consumer representative may be any resident of the local jurisdiction that is not, and has never been, a member or practitioner of a profession regulated by the board or a member of any closely related profession.*

Section 11. Subsection (1) of section 469.001, Florida Statutes, is amended, present subsections (20) and (22) are renumbered as subsections (21) and (23), respectively, present subsection (21) is renumbered as subsection (22) and amended, and a new subsection (20) is added to that section, to read:

469.001 Definitions.—As used in this chapter:

(1) "Abatement" means the removal, encapsulation, enclosure, or disposal of asbestos.

(20) "Project designer" means a person who works under the direction of a licensed asbestos consultant and engages in the design of project specifications for asbestos abatement projects.

(22)~~(21)~~ "Survey" means the process of inspecting a facility for the presence of asbestos-containing materials *to determine the location and condition of asbestos-containing materials* prior to transfer of property, renovation, demolition, or maintenance projects which may disturb asbestos-containing materials.

Section 12. Section 469.002, Florida Statutes, is amended to read:

469.002 Exemptions.—

(1) This chapter does not apply to:

(a) An authorized employee of the United States, this state, or any municipality, county, or other political subdivision, public or private school, or private entity who has completed all training required by NESHAP and OSHA or by AHERA for the activities described in this paragraph and who is conducting abatement work solely for maintenance purposes within the scope of the person's employment involving less than 160 square feet of asbestos-containing materials or less than 260 linear feet of asbestos-containing material on pipe, so long as the employee is not available for hire or does not otherwise engage in asbestos abatement, contracting, or consulting.

(b) Asbestos-related activities which disturb asbestos-containing materials within manufacturing, utility, or military facilities and which are undertaken by regular full-time employees of the owner or operator who have completed all training required by this chapter or NESHAP and OSHA for conducting such activities in areas where access is restricted to authorized personnel who are carrying out specific assignments.

(c) Reinspections at public or private schools, whether K-12 or any other configuration, when conducted by an employee who has completed the AHERA-required training for such reinspections pursuant to this chapter and who is conducting work within the scope of the person's employment.

(d) Moving, removal, or disposal of asbestos-containing materials on a residential building where the owner occupies the building, the building is not for sale or lease, and the work is performed according to the owner-builder limitations provided in this paragraph. To qualify for exemption under this paragraph, an owner must personally appear and sign the building permit application. The permitting agency shall provide the person with a disclosure statement in substantially the following form:

Disclosure Statement

State law requires asbestos abatement to be done by licensed contractors. You have applied for a permit under an exemption to that law. The exemption allows you, as the owner of your property, to act as your own asbestos abatement contractor even though you do not have a license. You must supervise the construction yourself. You may move, remove, or dispose of asbestos-containing materials on a residential building where you occupy the building and the building is not for sale or lease, or the building is a farm outbuilding on your property. If you sell or lease such building within 1 year after the asbestos abatement is complete, the law will presume that you intended to sell or lease the property at the time the work was done, which is a violation of this exemption. You may not hire an unlicensed person as your contractor. Your work must be done according to all local, state, and federal laws and regulations which apply to asbestos abatement projects. It is your responsibility to make sure that people employed by you have licenses required by state law and by county or municipal licensing ordinances.

(e) An authorized employee of the United States, this state, or any municipality, county, or other political subdivision who has completed all training required by NESHAP and OSHA or by AHERA for the activities described in this paragraph, while engaged in *asbestos-related activities set forth in s. 255.5535 and* asbestos-related activities involving the demolition of a ~~residential~~ building owned by that governmental unit, where such activities are within the scope of that employment and the employee does not hold out for hire or otherwise engage in asbestos abatement, contracting, or consulting.

(2) Licensure as an asbestos contractor is not required for the moving, removal, or disposal of asbestos-containing roofing material by a roofing contractor certified or registered under part I of chapter 489, if all such activities are performed under the direction of an onsite roofing supervisor trained as provided in s. 469.012.

(3) Licensure as an asbestos contractor or asbestos consultant is not required for the moving, removal, repair, maintenance, or disposal, or related inspections, of asbestos-containing resilient floor covering or its adhesive, if:

(a) The resilient floor covering is a Category I nonfriable material as defined in NESHAP and remains a Category I nonfriable material during removal activity.

(b) All such activities are performed in accordance with all applicable asbestos standards of the United States Occupational Safety and Health Administration under 29 C.F.R. part 1926.

(c) The removal is not subject to asbestos licensing or accreditation requirements under federal asbestos NESHAP regulations of the United States Environmental Protection Agency.

(d) Written notice of the time, place, and company performing the removal and certification that all conditions required under this subsection are met are provided to the Department of Business and Professional Regulation at least 3 days prior to such removal. The contractor removing such flooring materials is responsible for maintaining proof that all the conditions required under this subsection are met.

The department may inspect removal sites to determine compliance with this subsection and shall adopt rules governing inspections.

(4) Licensure as an asbestos consultant or contractor is not required for the repair, maintenance, removal, or disposal of asbestos-containing pipe or conduit, if:

(a) The pipe or conduit is used for electrical, electronic, communications, sewer, or water service;

(b) The pipe or conduit is not located in a building;

(c) The pipe or conduit is made of Category I or Category II nonfriable material as defined in NESHAP; and

(d) All such activities are performed according to all applicable regulations, including work practices and training, of the United States Occupational Safety and Health Administration under 29 C.F.R. part 1926.

(5)~~(2)~~ Nothing in this section shall be construed to alter or affect otherwise applicable Florida Statutes and rules promulgated thereunder, or Environmental Protection Agency or OSHA regulations regarding asbestos activities.

Section 13. Section 469.004, Florida Statutes, is amended to read:

469.004 License; asbestos consultant; asbestos contractor~~; exceptions.—~~

(1) All asbestos consultants must be licensed by the department. An asbestos consultant's license may be issued only to an applicant who holds a current, valid, active license as an architect issued under chapter 481; holds a current, valid, active license as a professional engineer issued under chapter 471; holds a current, valid, active license as a professional geologist issued under chapter 492; is a diplomat of the American Board of Industrial Hygiene; or has been awarded designation as a Certified Safety Professional by the Board of Certified Safety Professionals.

(2) All asbestos contractors must be licensed by the department. An asbestos contractor may not perform abatement activities involving work that affects building structures or systems. Work on building structures or systems may be performed only by a contractor licensed under chapter 489.

~~(3) Licensure as an asbestos contractor is not required for the moving, removal, or disposal of asbestos-containing roofing material by a roofing contractor certified or registered under part I of chapter 489, if all such activities are performed under the direction of an onsite roofing supervisor trained as provided in s. 469.012.~~

~~(4) Licensure as an asbestos contractor or asbestos consultant is not required for the moving, removal, or disposal, or related inspections, of asbestos-containing resilient floor covering or its adhesive, if:~~

~~(a) The resilient floor covering is a Category I nonfriable material as defined in NESHAP and remains a Category I nonfriable material during removal activity.~~

~~(b) All such activities are performed in accordance with all applicable asbestos standards of the United States Occupational Safety and Health Administration under 29 C.F.R. part 1926.~~

~~(c) The removal is not subject to asbestos licensing or accreditation requirements under federal asbestos NESHAP regulations of the United States Environmental Protection Agency.~~

~~(d) Written notice of the time, place, and company performing the removal and certification that all conditions required under this subsection are met are provided to the Department of Business and Professional Regulation at least 3 days prior to such removal. The contractor removing such flooring materials is responsible for maintaining proof that all the conditions required under this subsection are met.~~

~~The department may inspect removal sites to determine compliance with this subsection and shall adopt rules governing inspections.~~

~~(5) Prior to the department's issuance of an asbestos consultant's license or an asbestos contractor's license, the applicant must provide evidence, as provided by the department by rule, that the applicant has met the requirements of s. 469.005.~~

~~(6) A license issued under this section must be renewed every 2 years. Before renewing a contractor's license, the department shall require proof that the licensee has completed a 1-day course of continuing education during each of the preceding 2 years. Before renewing a consultant's license, the department shall require proof that the licensee has completed a 2-day course of continuing education during each of the preceding 2 years.~~

~~(7) Licensure as an asbestos consultant or contractor is not required for the repair, removal, or disposal of asbestos-containing pipe or conduit, if:~~

~~(a) The pipe or conduit is used for electrical, electronic, communications, sewer, or water service;~~

~~(b) The pipe or conduit is not located in a building;~~

~~(c) The pipe or conduit is made of Category I or Category II nonfriable material as defined in NESHAP; and~~

~~(d) All such activities are performed according to all applicable regulations, including work practices and training, of the United States Occupational Safety and Health Administration under 29 C.F.R. part 1926.~~

Section 14. Section 469.005, Florida Statutes, is amended to read:

469.005 License requirements.—All applicants for licensure as either asbestos consultants or asbestos contractors shall:

(1) Pay the initial licensing fee.

(2) *When applying for licensure as an asbestos consultant,* successfully complete the following *department-approved* courses~~, as approved by the department~~:

(a) An asbestos *contractor/supervisor* ~~abatement project management and supervision~~ course. Such course shall consist of not less than *5* **4** days of instruction ~~and shall cover the nature of the health risks, the medical effects of exposure, federal and state asbestos laws and regulations, legal and insurance considerations, contract specifications, sampling and analytical methodology, worker protection, and work area protection~~.

(b) A ~~course in~~ building asbestos surveys and mechanical systems *course.* Such course shall consist of not less than 3 days of instruction.

(c) *An* ~~A course in~~ asbestos management planning *course.* Such course shall consist of not less than 2 days of instruction.

(d) A ~~course in~~ respiratory protection *course.* Such course shall consist of not less than 3 days of instruction.

(e) A project designer course. Such course shall consist of not less than 3 days of instruction.

(3) When applying for licensure as as asbestos contractor, successfully complete the following department-approved courses:

(a) An asbestos contractor/supervisor course. Such course shall consist of not less than 5 days of instruction.

(b) A respiratory protection course. Such course shall consist of not less than 3 days of instruction.

(4)~~(3)~~ Provide evidence of satisfactory work on 10 asbestos projects within the last 5 years.

(5)~~(4)~~ Provide evidence of financial stability.

(6)~~(5)~~ Pass a department-approved examination of qualifications and knowledge relating to asbestos.

Section 15. Subsection (2) and paragraph (a) of subsection (5) of section 469.006, Florida Statutes, are amended to read:

469.006 Licensure of business organizations; qualifying agents.—

(2)*(a)* If the applicant proposes to engage in consulting or contracting as a partnership, corporation, business trust, or other legal entity, or in any name other than the applicant's legal name, the legal entity must apply for licensure through a qualifying agent or the individual applicant must apply for licensure under the fictitious name.

(b)~~(a)~~ The application must state the name of the partnership and of each of its partners, the name of the corporation and of each of its officers and directors and the name of each of its stockholders who is also an officer or director, the name of the business trust and of each of its trustees, or the name of such other legal entity and of each of its members.

1. The application for primary qualifying agent must include an affidavit on a form provided by the department attesting that the applicant's signature is required on all checks, drafts, or payments, regardless of the form of payment, made by the entity, and that the applicant has final approval authority for all construction work performed by the entity.

2. The application for financially responsible officer must include an affidavit on a form provided by the department attesting that the applicant's signature is required on all checks, drafts, or payments, regardless of the form of payment, made by the entity, and that the applicant has authority to act for the business organization in all financial matters.

3. The application for secondary qualifying agent must include an affidavit on a form provided by the department attesting that the applicant has authority to supervise all construction work performed by the entity as provided in s. 489.1195(2).

(c) As a prerequisite to the issuance of a license under this section, the applicant shall submit the following:

1. An affidavit on a form provided by the department attesting that the applicant has obtained workers' compensation insurance as required by chapter 440, public liability insurance, and property damage insurance, in amounts determined by department rule. The department shall establish by rule a procedure to verify the accuracy of such affidavits based upon a random sample method.

2. Evidence of financial responsibility. The department shall adopts rules to determine financial responsibility which shall specify grounds on which the department may deny licensure. Such criteria shall include, but not be limited to, credit history and limits of bondability and credit.

(d)~~(b)~~ A joint venture, including a joint venture composed of qualified business organizations, is itself a separate and distinct organization that must be qualified in accordance with department rules.

(e)~~(c)~~ The license, when issued upon application of a business organization, must be in the name of the business organization, and the name of the qualifying agent must be noted thereon. If there is a change in any information that is required to be stated on the application, the business organization shall, within 45 days after such change occurs, mail the correct information to the department.

(f)~~(d)~~ The applicant must furnish evidence of statutory compliance if a fictitious name is used, the provisions of s. 865.09(7) notwithstanding.

(5)(a) Each asbestos consultant or contractor shall affix the consultant's or contractor's *signature* ~~seal, if any,~~ and license number to each construction document, plan, or any other document prepared or approved for use by the licensee which is related to any asbestos abatement project and filed for public record with any governmental agency, and to any offer, bid, or contract submitted to a client.

Section 16. Subsection (1) of section 469.013, Florida Statutes, is amended to read:

469.013 Course requirements for asbestos surveyors, management planners, and project monitors.—

(1) All asbestos surveyors, management planners, and project monitors must comply with the requirements set forth in this section prior to commencing such activities and must also complete *the* ~~a 1-day course of~~ continuing education *necessary to maintain certification* each year ~~thereafter~~.

(a) Management planners must complete all requirements of s. 469.005(2)(c) *and (e).*

(b) Asbestos surveyors must complete all requirements of s. 469.005(2)(b).

(c) Project monitors must complete all requirements of s. 469.005(2)(a) and must also complete an asbestos sampling course which is equivalent to NIOSH Course 582.

Section 17. Section 469.014, Florida Statutes, is amended to read:

469.014 Approval of asbestos training courses and providers.—

(1) The department shall approve training courses and the providers of such courses as are required under this chapter. The department must also approve training courses and the providers of such courses who offer training for persons who are exempt from licensure as an asbestos contractor or asbestos consultant under s. *469.002(3)* ~~469.004(4)~~.

(2)~~(1)~~ The department shall, by rule, prescribe criteria for approving training courses and course providers and may by rule modify the training required by this chapter.

(3)~~(2)~~ The department may enter into agreements with other states for the reciprocal approval of training courses or training-course providers.

(4)~~(3)~~ The department shall, by rule, establish reasonable fees in an amount not to exceed the cost of evaluation, approval, and recordmaking and recordkeeping of training courses and training-course providers.

(5)~~(4)~~ The department may impose against a training-course provider any penalty that it may impose against a licensee under this chapter or s. 455.227, may decline to approve courses, and may withdraw approval of courses proposed by a provider who has, or whose agent has, been convicted of, or pled guilty or nolo contendere to, or entered into a stipulation or consent agreement relating to, without regard to adjudication, any crime or administrative violation in any jurisdiction which involves fraud, deceit, or false or fraudulent representations made in the course of seeking approval of or providing training courses.

Section 18. *Section 469.015, Florida Statutes, is repealed.*

Section 19. Subsection (1) of section 255.551, Florida Statutes, is amended to read:

255.551 Definitions; ss. 255.551-255.565.—As used in ss. 255.551-255.565:

(1) "Abatement" means the removal, encapsulation, or enclosure of asbestos, but does not include the removal of bituminous resinous roofing systems or the removal of resilient floor covering and its adhesive in accordance with the licensing exemption in s. *469.002(3)* ~~469.004(4)~~.

Section 20. Section 376.60, Florida Statutes, is amended to read:

376.60 Asbestos removal program inspection and notification fee.—The Department of Environmental Protection shall charge an inspection and notification fee, not to exceed $300 for a small business as defined in s. 288.703(1), or $1,000 for any other project, for any asbestos removal project. Schools, colleges, universities, residential dwellings, and those persons otherwise exempted from licensure under s. *469.002(4)* ~~469.004(7)~~ are exempt from the fees. Any fee collected must be deposited in the asbestos program account in the Air Pollution Control Trust Fund to be used by the department to administer its asbestos removal program.

(1) In those counties with approved local air pollution control programs, the department shall return 80 percent of the asbestos removal program inspection and notification fees collected in that county to the local government quarterly, if the county requests it.

(2) The fees returned to a county under subsection (1) must be used only for asbestos-related program activities.

(3) A county may not levy any additional fees for asbestos removal activity while it receives fees under subsection (1).

(4) If a county has requested reimbursement under subsection (1), the department shall reimburse the approved local air pollution control program with 80 percent of the fees collected in the county retroactive to July 1, 1994, for asbestos-related program activities.

(5) If an approved local air pollution control program that is providing asbestos notification and inspection services according to 40 C.F.R. part 61, subpart M, and is collecting fees sufficient to support the requirements of 40 C.F.R. part 61, subpart M, opts not to receive the state-generated asbestos notification fees, the state may discontinue collection of the state asbestos notification fees in that county.

Section 21. Subsections (17) and (18) are added to section 489.103, Florida Statutes, to read:

489.103 Exemptions.—This part does not apply to:

(17) The sale, delivery, assembly, or tie-down of prefabricated portable sheds that are not more than 250 square feet in interior size and are not intended for use as a residence or as living quarters. This exemption may not be construed to interfere with local building codes, local licensure requirements, or other local ordinance provisions.

(18) Any one-family, two-family, or three-family residence constructed by Habitat for Humanity International, Inc., or its local affiliates. Habitat for Humanity International, Inc., or its local affiliates, must:

(a) Obtain all necessary building permits; and

(b) Obtain all required building inspections.

Section 22. Paragraphs (a), (d), (f), (g), (h), (i), (l), and (n) of subsection (3) of section 489.105, Florida Statutes, are amended, and subsection (19) is added to that section, to read:

489.105 Definitions.—As used in this part:

(3) "Contractor" means the person who is qualified for, and shall only be responsible for, the project contracted for and means, except as exempted in this part, the person who, for compensation, undertakes to, submits a bid to, or does himself or herself or by others construct, repair, alter, remodel, add to, demolish, subtract from, or improve any building or structure, including related improvements to real estate, for others or for resale to others; and whose job scope is substantially similar to the job scope described in one of the subsequent paragraphs of this subsection. For the purposes of regulation under this part, "demolish" applies only to demolition of steel tanks over 50 feet in height; towers over 50 feet in height; other structures over 50 feet in height, other than buildings or residences over three stories tall; and buildings or residences over three stories tall. Contractors are subdivided into two divisions, Division I, consisting of those contractors defined in paragraphs (a)-(c), and Division II, consisting of those contractors defined in paragraphs (d)-(q):

(a) "General contractor" means a contractor whose services are unlimited as to the type of work which he or she may do, *who may contract for any activity requiring licensure under this part, and who may perform any work requiring licensure under this part,* except as *otherwise expressly* provided in *s. 489.113* ~~this part~~.

(d) "Sheet metal contractor" means a contractor whose services are unlimited in the sheet metal trade and who has the experience, knowledge, and skill necessary for the manufacture, fabrication, assembling, handling, erection, installation, dismantling, conditioning, adjustment, insulation, alteration, repair, servicing, or design, when not prohibited by law, of ferrous or nonferrous metal work of U.S. No. 10 gauge or its equivalent or lighter gauge and of other materials, including, but not limited to, fiberglass, used in lieu thereof and of air-handling systems, including the setting of air-handling equipment and reinforcement of same, ~~and including~~ the balancing of air-handling systems*, and any duct cleaning and equipment sanitizing which requires at least a partial disassembling of the system*.

(f) "Class A air-conditioning contractor" means a contractor whose services are unlimited in the execution of contracts requiring the experience, knowledge, and skill to install, maintain, repair, fabricate, alter, extend, or design, when not prohibited by law, central air-conditioning, refrigeration, heating, and ventilating systems, including duct work in connection with a complete system only to the extent such duct work is performed by the contractor as is necessary to make complete an air-distribution system, boiler and unfired pressure vessel systems, and all appurtenances, apparatus, or equipment used in connection therewith, *and any duct cleaning and equipment sanitizing which requires at least a partial disassembling of the system*; to install, maintain, repair, fabricate, alter, extend, or design, when not prohibited by law, piping, insulation of pipes, vessels and ducts, pressure and process piping, and pneumatic control piping; to replace, disconnect, or reconnect power wiring on the load side of the dedicated existing electrical disconnect switch; to install, disconnect, and reconnect low voltage heating, ventilating, and air-conditioning control wiring; and to install a condensate drain from an air-conditioning unit to an existing safe waste or other approved disposal other than a direct connection to a sanitary system. The scope of work for such contractor shall also include any excavation work incidental thereto, but shall not include any work such as liquefied petroleum or natural gas fuel lines within buildings, potable water lines or connections thereto, sanitary sewer lines, swimming pool piping and filters, or electrical power wiring.

(g) "Class B air-conditioning contractor" means a contractor whose services are limited to 25 tons of cooling and 500,000 Btu of heating in any one system in the execution of contracts requiring the experience, knowledge, and skill to install, maintain, repair, fabricate, alter, extend,

or design, when not prohibited by law, central air-conditioning, refrigeration, heating, and ventilating systems, including duct work in connection with a complete system only to the extent such duct work is performed by the contractor as is necessary to make complete an air-distribution system being installed under this classification, *and any duct cleaning and equipment sanitizing which requires at least a partial disassembling of the system*; to install, maintain, repair, fabricate, alter, extend, or design, when not prohibited by law, piping and insulation of pipes, vessels, and ducts; to replace, disconnect, or reconnect power wiring on the load side of the dedicated existing electrical disconnect switch; to install, disconnect, and reconnect low voltage heating, ventilating, and air-conditioning control wiring; and to install a condensate drain from an air-conditioning unit to an existing safe waste or other approved disposal other than a direct connection to a sanitary system. The scope of work for such contractor shall also include any excavation work incidental thereto, but shall not include any work such as liquefied petroleum or natural gas fuel lines within buildings, potable water lines or connections thereto, sanitary sewer lines, swimming pool piping and filters, or electrical power wiring.

(h) "Class C air-conditioning contractor" means a contractor whose business is limited to the servicing of air-conditioning, heating, or refrigeration systems, including *any* duct *cleaning and equipment sanitizing which requires at least a partial disassembling of the system* ~~alterations in connection with those systems he or she is servicing~~, and whose certification or registration, issued pursuant to this part, was valid on October 1, 1988. No person not previously registered or certified as a Class C air-conditioning contractor as of October 1, 1988, shall be so registered or certified after October 1, 1988. However, the board shall continue to license and regulate those Class C air-conditioning contractors who held Class C licenses prior to October 1, 1988.

(i) "Mechanical contractor" means a contractor whose services are unlimited in the execution of contracts requiring the experience, knowledge, and skill to install, maintain, repair, fabricate, alter, extend, or design, when not prohibited by law, central air-conditioning, refrigeration, heating, and ventilating systems, including duct work in connection with a complete system only to the extent such duct work is performed by the contractor as is necessary to make complete an air-distribution system, boiler and unfired pressure vessel systems, lift station equipment and piping, and all appurtenances, apparatus, or equipment used in connection therewith, *and any duct cleaning and equipment sanitizing which requires at least a partial disassembling of the system*; to install, maintain, repair, fabricate, alter, extend, or design, when not prohibited by law, piping, insulation of pipes, vessels and ducts, pressure and process piping, pneumatic control piping, gasoline tanks and pump installations and piping for same, standpipes, air piping, vacuum line piping, oxygen lines, nitrous oxide piping, ink and chemical lines, fuel transmission lines, and natural gas fuel lines within buildings; to replace, disconnect, or reconnect power wiring on the load side of the dedicated existing electrical disconnect switch; to install, disconnect, and reconnect low voltage heating, ventilating, and air-conditioning control wiring; and to install a condensate drain from an air-conditioning unit to an existing safe waste or other approved disposal other than a direct connection to a sanitary system. The scope of work for such contractor shall also include any excavation work incidental thereto, but shall not include any work such as liquefied petroleum gas fuel lines within buildings, potable water lines or connections thereto, sanitary sewer lines, swimming pool piping and filters, or electrical power wiring.

(l) "Swimming pool/spa servicing contractor" means a contractor whose scope of work involves the servicing and repair of any swimming pool or hot tub or spa, whether public or private. The scope of such work may include any necessary piping and repairs, replacement and repair of existing equipment, or installation of new additional equipment as necessary. The scope of such work includes the reinstallation of tile and coping, repair and replacement of all piping, filter equipment, and chemical feeders of any type, replastering, reconstruction of decks, and reinstallation or addition of pool heaters. The installation, construction, modification, *substantial or complete disassembly,* or replacement of equipment permanently attached to and associated with the pool or spa for the purpose of water treatment or cleaning of the pool or spa requires licensure; however, the usage of such equipment for the purposes of water treatment or cleaning shall not require licensure unless the usage involves construction, modification, *substantial or complete disassembly,* or replacement of such equipment. Water treatment that does not require such equipment does not require a license. In addition, a license shall not be required for the cleaning of the pool or spa in any way that does not affect the structural integrity of the pool or spa or its associated equipment.

(n) "Underground utility and excavation contractor" means a contractor whose services are limited to the construction, installation, and repair, on public or private property, *whether accomplished through open excavations or through other means, including, but not limited to, directional drilling, auger boring, jacking and boring, trenchless technologies, wet and dry taps, grouting, and slip lining,* of main sanitary sewer collection systems, main water distribution systems, storm sewer collection systems, and the continuation of utility lines from the main systems to a point of termination up to and including the meter location for the individual occupancy, sewer collection systems at property line on residential or single-occupancy commercial properties, or on multioccupancy properties at manhole or wye lateral extended to an invert elevation as engineered to accommodate future building sewers, water distribution systems, or storm sewer collection systems at storm sewer structures. However, an underground utility and excavation contractor may install empty underground conduits in rights-of-way, easements, platted rights-of-way in new site development, and sleeves for parking lot crossings no smaller than 2 inches in diameter, provided that each conduit system installed is designed by a licensed professional engineer or an authorized employee of a municipality, county, or public utility and that the installation of any such conduit does not include installation of any conductor wiring or connection to an energized electrical system. An underground utility and excavation contractor shall not install any piping that is an integral part of a fire protection system as defined in s. 633.021(7) beginning at the point where the piping is used exclusively for such system.

(19) "Initial issuance" means the first time a certificate or registration is granted to an individual or business organization, including the first time an individual becomes a qualifying agent for that business organization and the first time a business organization is qualified by that individual.

Section 23. Subsections (4) and (6) of section 489.107, Florida Statutes, are amended to read:

489.107 Construction Industry Licensing Board.—

(4) The board shall be divided into two divisions, Division I and Division II.

(a) Division I is comprised of the general contractor, building contractor, and residential contractor members of the board; one of the members appointed pursuant to paragraph (2)(j); and one of the members appointed pursuant to paragraph (2)(k). Division I has jurisdiction over the ~~examination and~~ regulation of general contractors, building contractors, and residential contractors.

(b) Division II is comprised of the roofing contractor, sheet metal contractor, air-conditioning contractor, mechanical contractor, pool contractor, plumbing contractor, and underground utility and excavation contractor members of the board; one of the members appointed pursuant to paragraph (2)(j); and one of the members appointed pursuant to paragraph (2)(k). Division II has jurisdiction over the ~~examination and~~ regulation of contractors defined in s. 489.105(3)(d)-(p).

(c) Jurisdiction for the ~~examination and~~ regulation of specialty contractors defined in s. 489.105(3)(q) shall lie with the division having jurisdiction over the scope of work of the specialty contractor as defined by board rule.

(6) The Construction Industry Licensing Board and the Electrical Contractors' Licensing Board shall *each appoint a committee to* meet *jointly* ~~in joint session~~ at least twice a year.

Section 24. Subsection (10) of section 489.113, Florida Statutes, is amended to read:

489.113 Qualifications for practice; restrictions.—

(10) The addition of a new type of contractor *or the expansion of the scope of practice of any type of contractor* under this part shall not limit the scope of practice of any existing type of contractor under this part unless the Legislature expressly provides such a limitation.

Section 25. *Section 489.1135, Florida Statutes, is repealed.*

Section 26. Section 489.1136, Florida Statutes, is created to read:

489.1136 Medical gas certification.—

(1)(a) In addition to the certification or registration required to engage in business as a plumbing contractor, any plumbing contractor who wishes to engage in the business of installation, improvement, repair, or maintenance of any tubing, pipe, or similar conduit used to transport gaseous or partly gaseous substances for medical purposes shall take, as part of the contractor's continuing education requirement, at least once during the holding of such license, a course of at least of 6 hours. Such course shall be given by an instructional facility or teaching entity that has been approved by the board. In order for a course to be approved, the board must find that the course is designed to teach familiarity with the National Fire Prevention Association Standard 99C (Standard on Gas and Vacuum Systems, latest edition) and also designed to teach familiarity and practical ability in performing and inspecting brazing duties required of medical gas installation, improvement, repair, or maintenance work. Such course shall issue a certificate of completion to the taker of the course, which certificate shall be available for inspection by any entity or person seeking to have such contractor engage in the business of installation, improvement, repair, or maintenance of a medical gas system.

(b) Any other natural person who is employed by a licensed plumbing contractor to provide work on the installation, improvement, repair, or maintenance of a medical gas system, except as noted in paragraph (c), shall, as a prerequisite to his or her ability to provide such service, take a course approved by the board. Such course shall be at least 8 hours and consist of both classroom and practical work designed to teach familiarity with the National Fire Prevention Association Standard 99C (Standard on Gas and Vacuum Systems, latest edition) and also designed to teach familiarity and practical ability in performing and inspecting brazing duties required of medical gas installation, improvement, repair, or maintenance work. Such course shall also include the administration of a practical examination in the skills required to perform work as outlined above, including brazing, and each examination shall be reasonably constructed to test for knowledge of the subject matter. The person taking such course and examination must, upon successful completion of both, be issued a certificate of completion by the giver of such course, which certificate shall be made available by the holder for inspection by any person or entity seeking to have such person perform work on the installation, improvement, repair, or maintenance of a medical gas system.

(c) Any other natural person who wishes to perform only brazing duties incidental to the installation, improvement, repair, or maintenance of a medical gas system shall pass an examination designed to show that person's familiarity with and practical ability in performing brazing duties required of medical gas installation, improvement, repair, or maintenance. Such examination shall be from a test approved by the board. Such examination must test for knowledge of National Fire Prevention Association Standard 99C (Standard on Gas and Vacuum Systems, latest edition). The person taking such examination must, upon passing such examination, be issued a certificate of completion by the giver of such examination, and such certificate shall be made available by the holder for inspection by any person or entity seeking to have or employ such person to perform brazing duties on a medical gas system.

(d) It is the responsibility of the licensed plumbing contractor to ascertain whether members of his or her workforce are in compliance with this subsection, and such contractor is subject to discipline under s. 489.129 for violation of this subsection.

(e) Training programs in medical gas piping installation, improvement, repair, or maintenance shall be reviewed annually by the board to ensure that programs have been provided equitably across the state.

(f) Periodically, the board shall review training programs in medical gas piping installation for quality in content and instruction in accordance with the National Fire Prevention Association Standard 99C (Standard on Gas and Vacuum Systems, latest edition). The board shall also respond to complaints regarding approved programs.

(g) Training required under this section for current licensees must be met by October 1, 2000.

(2)(a) On any job site where a medical gas system is being installed, improved, repaired, or maintained, it is required that a person qualified under paragraph (1)(a) or paragraph (1)(b) must be present. When any brazing work is performed by a person qualified under paragraph (1)(c), a person qualified under paragraph (1)(a) or paragraph (1)(b) must be present.

(b) It is the responsibility of the licensed contractor to ascertain whether members of his or her workforce are in compliance with paragraph (a), and such contractor is subject to discipline under s. 489.129 for violation of this subsection.

(3) The term "medical" as used in this section means any medicinal, life-supporting, or health-related purpose. Any and all gaseous or partly gaseous substance used in medical patient care and treatment shall be presumed for the purpose of this section to be used for medical purposes.

Section 27. Subsection (4) is added to section 553.06, Florida Statutes, to read:

553.06 State Plumbing Code.—

(4) All installations, improvements, maintenance, or repair relating to tubing, pipe, or similar conduit used to transport gaseous or partly gaseous substances for medical purposes shall be governed and regulated under National Fire Prevention Association Standard 99C (Standard on Gas and Vacuum Systems, latest edition). Notwithstanding the prohibition of s. 553.11, no county or municipality is exempt or excepted from the requirements of this subsection.

Section 28. Paragraph (b) of subsection (4) of section 489.115, Florida Statutes, is amended, and subsection (7) is added to that section, to read:

489.115 Certification and registration; endorsement; reciprocity; renewals; continuing education.—

(4)

(b)1. Each certificateholder or registrant shall provide proof, in a form established by rule of the board, that the certificateholder or registrant has completed at least 14 classroom hours of at least 50 minutes each of continuing education courses during each biennium since the issuance or renewal of the certificate or registration. The board shall establish by rule that a portion of the required 14 hours must deal with the subject of workers' compensation, *business practices,* and workplace safety. The board shall by rule establish criteria for the approval of continuing education courses and providers, including requirements relating to the content of courses and standards for approval of providers, and may by rule establish criteria for accepting alternative nonclassroom continuing education on an hour-for-hour basis.

2. In addition, the board may approve specialized continuing education courses on compliance with the wind resistance provisions for one and two family dwellings contained in the State Minimum Building Codes and any alternate methodologies for providing such wind resistance which have been approved for use by the Board of Building Codes and Standards. Division I certificateholders or registrants who demonstrate proficiency upon completion of such specialized courses may certify plans and specifications for one and two family dwellings to be in compliance with the code or alternate methodologies, as appropriate, except for dwellings located in floodways or coastal hazard areas as defined in ss. 60.3D and E of the National Flood Insurance Program.

(7) If a certificateholder or registrant holds a license under both this part and part II and is required to have continuing education courses under s. 489.517(3), the certificateholder or registrant may apply those course hours for workers' compensation, workplace safety, and business practices obtained under part II to the requirements under this part.

Section 29. Paragraph (a) of subsection (3) of section 489.119, Florida Statutes, is amended to read:

489.119 Business organizations; qualifying agents.—

(3)(a) The qualifying agent shall be certified or registered under this part in order for the business organization to be issued a certificate of authority in the category of the business conducted for which the qualifying agent is certified or registered. If any qualifying agent ceases to be affiliated with such business organization, he or she shall so inform the

department. In addition, if such qualifying agent is the only certified or registered contractor affiliated with the business organization, the business organization shall notify the department of the termination of the qualifying agent and shall have 60 days from the termination of the qualifying agent's affiliation with the business organization in which to employ another qualifying agent. The business organization may not engage in contracting until a qualifying agent is employed, unless the executive director or chair of the board has granted a temporary nonrenewable certificate or registration to the financially responsible officer, the president, a partner, or, in the case of a limited partnership, the general partner, who assumes all responsibilities of a primary qualifying agent for the entity. This temporary certificate or registration shall only allow the entity to proceed with incomplete contracts ~~as defined in s. 489.121~~. *For the purposes of this paragraph, an incomplete contract is one which has been awarded to, or entered into by, the business organization prior to the cessation of affiliation of the qualifying agent with the business organization or one on which the business organization was the low bidder and the contract is subsequently awarded, regardless of whether any actual work has commenced under the contract prior to the qualifying agent ceasing to be affiliated with the business organization.*

Section 30. Section 489.140, Florida Statutes, is amended to read:

489.140 Construction Industries Recovery Fund.—There is created the Florida Construction Industries Recovery Fund as a separate account in the Professional Regulation Trust Fund.

(1) The Florida Construction Industries Recovery Fund shall be disbursed as provided in s. 489.143, on order of the board, as reimbursement to any natural person adjudged by a court of competent jurisdiction to have suffered monetary damages, or to whom the licensee has been ordered to pay restitution by the board, where the judgment or restitution order is based on a violation of s. 489.129(1)(d), (h), (k), or (l), committed by any contractor, financially responsible officer, or business organization licensed under the provisions of this part at the time the violation was committed, and providing that the violation occurs after July 1, 1993.

(2) The Construction Industries Recovery Fund shall be funded out of the receipts deposited in the Professional Regulation Trust Fund from the one-half cent per square foot surcharge on building permits collected and disbursed pursuant to s. 468.631.

~~(3) In addition, any surplus of moneys collected from the fines imposed by the board and collected by the department shall be transferred into the Construction Industries Recovery Fund.~~

Section 31. Section 489.141, Florida Statutes, is amended to read:

489.141 Conditions for recovery; eligibility.—

(1) Any person is eligible to seek recovery from the Construction Industries Recovery Fund after having made a claim and exhausting the limits of any available bond, cash bond, surety, guarantee, warranty, letter of credit, or policy of insurance, if:

(a) Such person has received final judgment in a court of competent jurisdiction in this state in any action wherein the cause of action was based on a construction contract or the Construction Industry Licensing Board has issued a final order directing the licensee to pay restitution to the claimant based upon a violation of s. 489.129(1)(d), (h), (k), or (l), where the contract was executed and the violation occurred on or after July 1, 1993, and provided that:

~~1. At the time the action was commenced, such person gave notice thereof to the board by certified mail; except that, if no notice has been given to the board, the claim may still be honored if the board finds good cause to waive the notice requirement;~~

1.a.~~2.~~ Such person has caused to be issued a writ of execution upon such judgment, and the officer executing the writ has made a return showing that no personal or real property of the judgment debtor *or licensee* liable to be levied upon in satisfaction of the judgment can be found or that the amount realized on the sale of the judgment debtor's *or licensee's* property pursuant to such execution was insufficient to satisfy the judgment; or

b.~~3.~~ If such person is unable to comply with *sub-subparagraph a.* ~~subparagraph 2.~~ for a valid reason to be determined by the board, such person has made all reasonable searches and inquiries to ascertain whether the judgment debtor *or licensee* is possessed of real or personal property or other assets subject to being sold or applied in satisfaction of the judgment and by his or her search has discovered no property or assets or has discovered property and assets and has taken all necessary action and proceedings for the application thereof to the judgment but the amount thereby realized was insufficient to satisfy the judgment; or

2.~~(b)~~ The claimant has made a diligent attempt, as defined by board rule, to collect the restitution awarded by the board; ~~and~~

(b)~~(c)~~ A claim for recovery is made within 2 years from the time of the act giving rise to the claim or within 2 years from the time the act is discovered or should have been discovered with the exercise of due diligence; however, in no event may a claim for recovery be made more than 4 years after the date of the act giving rise to the claim *or more than 1 year after the conclusion of any civil or administrative action based on the act, whichever is later*; ~~and~~

(c)~~(d)~~ Any amounts recovered by such person from the judgment debtor *or licensee*, or from any other source, have been applied to the damages awarded by the court or the amount of restitution ordered by the board; and

(d)~~(e)~~ Such person is not a person who is precluded by this act from making a claim for recovery.

(2) A person is not qualified to make a claim for recovery from the Construction Industries Recovery Fund, if:

(a) The claimant is the spouse of the judgment debtor *or licensee* or a personal representative of such spouse;

(b) The claimant is a *licensee* ~~certificateholder or registrant~~ who acted as the contractor in the transaction which is the subject of the claim;

(c) Such person's claim is based upon a construction contract in which the *licensee* ~~certificateholder or registrant~~ was acting with respect to the property owned or controlled by the *licensee* ~~certificateholder or registrant~~;

(d) Such person's claim is based upon a construction contract in which the contractor did not hold a valid and current license at the time of the construction contract; or

(e) Such person was associated in a business relationship with the *licensee* ~~certificateholder or registrant~~ other than the contract at issue.

(f) Such person has suffered damages as the result of making improper payments to a contractor as defined in chapter 713, part I.

Section 32. Section 489.142, Florida Statutes, is amended to read:

489.142 Board powers *relating to recovery* ~~upon notification of commencement of action~~.—*With respect to actions for recovery from the Construction Industries Recovery Fund* ~~When the board receives certified notice of any action, as required by s. 489.141(1)(a)~~, the board may intervene, enter an appearance, file an answer, defend the action, or take any action it deems appropriate and may take recourse through any appropriate method of review on behalf of the State of Florida.

Section 33. Section 489.143, Florida Statutes, is amended to read:

489.143 Payment from the fund.—

(1) Any person who meets all of the conditions prescribed in s. 489.141(1) may apply to the board to cause payment to be made to such person from the Construction Industries Recovery Fund in an amount equal to the judgment *or restitution order*, exclusive of postjudgment interest, against the *licensee* ~~certificateholder~~ or $25,000, whichever is less, or an amount equal to the unsatisfied portion of such person's judgment *or restitution order*, exclusive of postjudgment interest, or $25,000, whichever is less, but only to the extent and amount reflected in the judgment *or restitution order* as being actual or compensatory damages. The fund is not obligated to pay ~~any portion of any judgment, or~~ any judgment *or restitution order, or any portion thereof*, which is not expressly based on one of the grounds for recovery set forth in s. 489.140(1).

(2) Upon receipt by a claimant under subsection (1) of payment from the Construction Industries Recovery Fund, the claimant shall assign his or her additional right, title, and interest in the judgment *or restitution order*, to the extent of such payment, to the board, and thereupon the board shall be subrogated to the right, title, and interest of the claimant; and any amount subsequently recovered on the judgment *or restitution order* by the board, to the extent of the right, title, and interest of the board therein, shall be for the purpose of reimbursing the Construction Industries Recovery Fund.

(3) Payments for claims arising out of the same transaction shall be limited, in the aggregate, to $25,000, regardless of the number of claimants involved in the transaction.

(4) Payments for claims against any one *licensee* ~~certificateholder or registrant~~ shall not exceed, in the aggregate, $100,000.

(5) Claims shall be paid in the order filed, up to the aggregate limits for each transaction and licensee and to the limits of the amount appropriated to pay claims against the fund for the fiscal year in which the claims were filed.

(6) If the annual appropriation is exhausted with claims pending, such claims shall be carried forward to the next fiscal year. Any moneys in excess of pending claims remaining in the Construction Industries Recovery Fund at the end of the fiscal year shall be paid as provided in s. 468.631.

~~(5) If at any time the claims pending against the fund exceed 80 percent of the fund balance plus anticipated revenue for the next two quarters, the board shall accept no further claims until such time as the board is given express authorization and funding from the Legislature.~~

(7)~~(6)~~ Upon the payment of any amount from the Construction Industries Recovery Fund in settlement of a claim in satisfaction of a judgment or restitution order against a *licensee* ~~certificateholder~~ as described in s. 489.141(1), the license of such *licensee* ~~certificateholder~~ shall be automatically suspended, without further administrative action, upon the date of payment from the fund. The license of such *licensee* ~~certificateholder~~ shall not be reinstated until he or she has repaid in full, plus interest, the amount paid from the fund. A discharge of bankruptcy does not relieve a person from the penalties and disabilities provided in this section.

Section 34. Subsection (14) of section 489.503, Florida Statutes, is amended, and subsections (17), (18), and (19) are added to that section, to read:

489.503 Exemptions.—This part does not apply to:

(14) The installation of, repair of, alteration of, addition to, or design of electrical wiring, fixtures, appliances, thermostats, apparatus, raceways, and conduit, or any part thereof, when those items are for the purpose of transmitting data, voice communications, or commands as part of:

(a) A system of telecommunications, including computers, telephone customer premises equipment, or premises wiring; or

(b) A *cable television,* community antenna television, or radio distribution system.

The scope of this exemption is limited to electrical circuits and equipment governed by the applicable provisions of Articles 725 (Classes 2 and 3 circuits only), 770, 800, 810, and 820 of the National Electrical Code, current edition, or 47 C.F.R. part 68. Additionally, a company certified under chapter 364 is not subject to any local ordinance that requires a permit for work performed by its employees related to low voltage electrical work, including related technical codes and regulations. This exemption shall apply only if such work is requested by the company's customer, is required in order to complete phone service, is incidental to provision of telecommunication service as required by chapter 364, and is not actively competitive in nature or the subject of a competitive bid. The definition of "employee" established in subsection (1) applies to this exemption and does not include subcontractors.

(17) The monitoring of an alarm system without fee by a direct employee of a law enforcement agency or of a county, municipal, or special-district fire department or by a law enforcement officer or fire official acting in an official capacity.

(18) The monitoring of an alarm system by a direct employee of any state or federally chartered financial institution, as defined in s. 655.005(1)(h), or any parent, affiliate, or subsidiary thereof, so long as:

(a) The institution is subject to, and in compliance with, s. 3 of the Federal Bank Protection Act of 1968, 12 U.S.C. s. 1882;

(b) The alarm system is in compliance with all applicable firesafety standards as set forth in chapter 633; and

(c) The monitoring is limited to an alarm system associated with:

1. The commercial property where banking operations are housed or where other operations are conducted by a state or federally chartered financial institution, as defined in s. 655.005(1)(h), or any parent, affiliate, or subsidiary thereof; or

2. The private property occupied by the institution's executive officers, as defined in s. 655.005(1)(f),

and does not otherwise extend to the monitoring of residential systems.

(19) The monitoring of an alarm system of a business by the direct employees of that business, so long as:

(a) The alarm system is the exclusive property of, or is leased by, the business;

(b) The alarm system complies with all applicable firesafety standards as set forth in chapter 633; and

(c) The alarm system is designed to protect only the commercial premises leased by the business endeavor or commercial premises owned by the business endeavor and not leased to another.

This exemption is intended to allow businesses to monitor their own alarm systems and is not limited to monitoring a single location of that business. However, it is not intended to enable the owner of any apartment complex, aggregate housing, or commercial property to monitor alarm systems on property leased or rented to the residents, clients, or customers thereof.

Section 35. Subsection (24) of section 489.505, Florida Statutes, is repealed, subsections (1), (7), (19), and (23) are amended, present subsections (25), (26), and (27) are redesignated as subsections (24), (25), and (26), respectively, and new subsections (27) and (28) are added to that section, to read:

489.505 Definitions.—As used in this part:

(1) "Alarm system" means any electrical device, *signaling device,* or combination of electrical devices used to *signal or* detect ~~a situation which causes an alarm in the event of~~ a burglary, fire, robbery, *or* medical emergency~~, or equipment failure~~.

(7) "Certified alarm system contractor" means an alarm system contractor who possesses a certificate of competency issued by the department. The scope of certification is limited to alarm circuits originating in the alarm control panel and equipment governed by the applicable provisions of Articles 725, 760, 770, 800, and 810 of the National Electrical Code, Current Edition, *and National Fire Protection Association Standard 72, Current Edition*. The scope of certification for alarm system contractors also includes the installation, repair, fabrication, erection, alteration, addition, or design of electrical wiring, fixtures, appliances, thermostats, apparatus, raceways, and conduit, or any part thereof not to exceed 77 volts, when those items are for the purpose of transmitting data or proprietary video (satellite systems that are not part of a community antenna television or radio distribution system) or providing central vacuum capability or electric locks; however, this provision governing the scope of certification does not create any mandatory licensure requirement.

(19) "Specialty contractor" means a contractor whose scope of practice is limited to a specific segment of electrical or alarm system contracting, including, but not limited to, residential electrical contracting, maintenance of electrical fixtures, ~~installation and maintenance of elevators,~~ and fabrication, erection, installation, and maintenance of electrical ~~outdoor~~ advertising signs together with the interrelated parts and supports thereof. Categories of specialty contractor shall be established by board rule.

(23) "Registered residential alarm system contractor" means an alarm system contractor whose business is limited to burglar alarm systems in single-family residential, quadruplex housing, and mobile homes ~~and to fire alarm systems~~ of a residential occupancy class and who is registered with the department pursuant to s. 489.513 or s. 489.537(8). The board shall define "residential occupancy class" by rule. A registered residential alarm system contractor may contract only in the jurisdiction for which his or her registration is issued.

~~(24) "Limited burglar alarm system contractor" means an alarm system contractor whose business is limited to the installation of burglar alarms in single-family homes and two-family homes, mobile homes, and small commercial buildings having a square footage of not more than 5,000 square feet and who is registered with the department pursuant to s. 489.513 or s. 489.537(8).~~

(24)~~(25)~~ "Licensure" means any type of certification or registration provided for in this part.

(25)~~(26)~~ "Burglar alarm system agent" means a person:

(a) Who is employed by a licensed alarm system contractor or licensed electrical contractor;

(b) Who is performing duties which are an element of an activity which constitutes alarm system contracting requiring licensure under this part; and

(c) Whose specific duties include any of the following: altering, installing, maintaining, moving, repairing, replacing, servicing, selling onsite, or monitoring an intrusion or burglar alarm system for compensation.

(26)~~(27)~~ "Personal emergency response system" means any device which is simply plugged into a telephone jack or electrical receptacle and which is designed to initiate a telephone call to a person who responds to, or has a responsibility to determine the proper response to, personal emergencies.

(27) "Monitoring" means to receive electrical or electronic signals, originating from any building within the state, produced by any security, medical, fire, or burglar alarm, closed circuit television camera, or related or similar protective system and to initiate a response thereto. A person shall not have committed the act of monitoring if:

(a) The person is an occupant of, or an employee working within, protected premises;

(b) The person initiates emergency action in response to hearing or observing an alarm signal;

(c) The person's action is incidental to his or her primary responsibilities; and

(d) The person is not employed in a proprietary monitoring facility, as defined by the National Fire Protection Association pursuant to rule adopted under chapter 633.

(28) "Fire alarm system agent" means a person:

(a) Who is employed by a licensed fire alarm contractor or certified unlimited electrical contractor;

(b) Who is performing duties which are an element of an activity that constitutes fire alarm system contracting requiring certification under this part; and

(c) Whose specific duties include any of the following: altering, installing, maintaining, moving, repairing, replacing, servicing, selling onsite, or monitoring a fire alarm system for compensation.

Section 36. Subsection (5) of section 489.507, Florida Statutes, is amended to read:

489.507 Electrical Contractors' Licensing Board.—

(5) The Electrical Contractors' Licensing Board and the Construction Industry Licensing Board shall *each appoint a committee to* meet *jointly* ~~in joint session~~ at least twice a year.

Section 37. Section 489.509, Florida Statutes, is amended to read:

489.509 Fees.—

(1) The board, by rule, shall establish fees to be paid for applications, examination, reexamination, transfers, licensing and renewal, reinstatement, and recordmaking and recordkeeping. The examination fee shall be in an amount that covers the cost of obtaining and administering the examination and shall be refunded if the applicant is found ineligible to sit for the examination. The application fee is nonrefundable. The fee for initial application and examination for certification of electrical contractors may not exceed $400. The initial application fee for registration may not exceed $150. The biennial renewal fee may not exceed $400 for certificateholders and $200 for registrants~~, and shall be paid by June 30 of each biennial period~~. The fee for initial application and examination for certification of alarm system contractors may not exceed $400. The biennial renewal fee for certified alarm system contractors may not exceed $450. The board may establish a fee for a temporary certificate as an alarm system contractor not to exceed $75. The board may also establish by rule a delinquency fee not to exceed $50. ~~Failure to renew an active or inactive certificate or registration within 90 days after the date of renewal will result in the certificate or registration becoming delinquent.~~ The fee to transfer a certificate or registration from one business organization to another may not exceed $200. The fee for reactivation of an inactive license may not exceed $50. The board shall establish fees that are adequate to ensure the continued operation of the board. Fees shall be based on department estimates of the revenue required to implement this part and the provisions of law with respect to the regulation of electrical contractors and alarm system contractors.

(2) A person who is registered or holds a valid certificate ~~from the board~~ may go on inactive status during which time he or she shall not engage in contracting, but may retain the certificate or registration on an inactive basis, on payment of a renewal fee during the inactive period, not to exceed $50 per renewal period.

(3) Four dollars of each fee under subsection (1) paid to the department at the time of application or renewal shall be transferred at the end of each licensing period to the Department of Education to fund projects relating to the building construction industry or continuing education programs offered to persons engaged in the building construction industry in Florida. The board shall, at the time the funds are transferred, advise the Department of Education on the most needed areas of research or continuing education based on significant changes in the industry's practices or on the most common types of consumer complaints or on problems costing the state or local governmental entities substantial waste. The board's advice is not binding on the Department of Education. The Department of Education must allocate 50 percent of the funds to a graduate program in building construction in a Florida university and 50 percent of the funds to all accredited private and state universities and community colleges within the state offering approved courses in building construction, with each university or college receiving a pro rata share of such funds based upon the number of full-time building construction students enrolled at the institution. The Department of Education shall ensure the distribution of research reports and the availability of continuing education programs to all segments of the building construction industry to which they relate. The Department of Education shall report to the board in October of each year, summarizing the allocation of the funds by institution and summarizing the new projects funded and the status of previously funded projects. The Commissioner of Education is directed to appoint one electrical contractor and one certified alarm system contractor to the Building Construction Industry Advisory Committee.

Section 38. Paragraph (a) of subsection (2), subsection (3), and paragraph (b) of subsection (5) of section 489.511, Florida Statutes, are amended to read:

489.511 Certification; application; examinations; endorsement.—

(2)(a) A person shall be entitled to take the certification examination for the purpose of determining whether he or she is qualified to engage in contracting throughout the state as a contractor if the person:

1. Is at least 18 years of age;

2. Is of good moral character; and

3. Meets eligibility requirements according to one of the following criteria:

a. Has, within the 6 years immediately preceding the filing of the application, at least 3 years' proven management experience in the trade or education equivalent thereto, or a combination thereof, but not more than one-half of such experience may be educational equivalent;

b. Has, within the 8 years immediately preceding the filing of the application, at least 4 years' experience as a ~~foreman,~~ supervisor~~,~~ or contractor in the trade for which he or she is making application;

c. Has, within the 12 years immediately preceding the filing of the application, at least 6 years of comprehensive training, technical education, or *supervisory* ~~broad~~ experience associated with an electrical or alarm system *contracting business, or at least 6 years of technical experience in electrical or alarm system work with the Armed Forces or a governmental entity* ~~installation or servicing endeavor~~; ~~or~~

d. Has*, within the 12 years immediately preceding the filing of the application,* been licensed for 3 years as *a professional* ~~an~~ engineer *who is qualified by education, training, or experience to practice electrical engineering; or*

e. Has any combination of qualifications under sub-subparagraphs a.-c. totaling 6 years of experience.

(3) *On or after October 1, 1998, every applicant who is qualified shall be allowed to take the examination three times, notwithstanding the number of times the applicant has previously failed the examination. If an applicant fails the examination three times after October 1, 1998, the board shall require the applicant to complete additional college-level or technical education courses in the areas of deficiency, as determined by the board, as a condition of future eligibility to take the examination. The applicant must also submit a new application that meets all certification requirements at the time of its submission and must pay all appropriate fees.* ~~Any registered unlimited electrical contractor or certified or registered specialty contractor who, prior to October 1, 1987, passed an examination determined by the board to be substantially equivalent to the examination required for certification as either an unlimited electrical contractor or an alarm system contractor and who has satisfied the other requirements of this section shall be certified as an alarm system contractor I without further examination.~~

(5)

(b) For those specialty electrical or alarm system contractors applying for certification under this part who work in jurisdictions that do not require local licensure for those activities for which the applicant desires to be certified, the experience requirement may be met by demonstrating at least 6 years of comprehensive training, technical education, or *supervisory* ~~broad~~ experience*, within the 12 years immediately preceding the filing of the application,* in the type of specialty electrical or alarm system work for which certification is desired. An affidavit signed by the applicant's employer stating that the applicant performed the work required under this paragraph shall be sufficient to demonstrate to the board that the applicant has met the experience requirement.

Section 39. Subsection (3) of section 489.513, Florida Statutes, is amended to read:

489.513 Registration; application; requirements.—

(3)~~(a) To be registered as an electrical contractor, the applicant shall file evidence of holding a current occupational license or a current license issued by any municipality or county of the state for the type of work for which registration is desired, on a form provided by the department, together with evidence of successful compliance with the local examination and licensing requirements, if any, in the area for which registration is desired, accompanied by the registration fee fixed pursuant to this part. No examination may be required for registration as an electrical contractor except for any examination required by a local government to obtain the local licensure.~~

~~(b)~~ To be registered as *an electrical contractor,* an alarm system contractor I, an alarm system contractor II, or a residential alarm system contractor, the applicant shall file evidence of holding a current occupational license or a current license issued by any municipality or county of the state for the type of work for which registration is desired, on a form provided by the department, if such a license is required by that municipality or county, together with evidence of having passed an appropriate local examination, written or oral, designed to test skills and knowledge relevant to the technical performance of the profession, accompanied by the registration fee fixed pursuant to this part. For any person working or wishing to work in any local jurisdiction which does not issue a local license as an *electrical or* alarm system contractor or does not require an examination for its license, the applicant may apply and shall be considered qualified to be issued a registration in the appropriate *electrical or* alarm system category, provided that he or she shows that he or she has scored at least 75 percent on an examination which is substantially equivalent to the examination approved by the board for certification in the category and that he or she has had at least 3 years' technical experience in the trade. The requirement to take and pass an examination in order to obtain a registration shall not apply to persons making application prior to the effective date of this act.

Section 40. Subsections (4) and (5) are added to section 489.517, Florida Statutes, to read:

489.517 Renewal of certificate or registration; continuing education.—

(4)(a) If a certificateholder or registrant holds a license under both this part and part I and is required to have continuing education courses under s. 489.115(4)(b)1., the certificateholder or registrant may apply those course hours for workers' compensation, workplace safety, and business practices obtained under part I to the requirements under this part.

(b) Of the 14 classroom hours of continuing education required, at least 7 hours must be on technical subjects, 1 hour on workers' compensation, 1 hour on workplace safety, and 1 hour on business practices.

(5) By applying for renewal, each certificateholder or registrant certifies that he or she has continually maintained the required amounts of public liability and property damage insurance as specified by board rule. The board shall establish by rule a procedure to verify the public liability and property damage insurance for a specified period, based upon a random sampling method.

Section 41. Section 489.519, Florida Statutes, is amended to read:

489.519 Inactive status.—

(1) A certificate or registration that has become inactive may be reactivated under s. 489.517 upon application to the department. The board may prescribe, by rule, continuing education requirements as a condition of reactivating a certificate or registration. The continuing education requirements for reactivating a certificate or registration may not exceed 12 classroom hours for each year the certificate or registration was inactive.

(2) Notwithstanding any provision of s. 455.271 to the contrary, a certificateholder or registrant may apply to the department for voluntary inactive status at any time during the period of certification or registration.

(3)~~(2)~~ The board shall impose, by rule, continuing education requirements for ~~voluntary~~ inactive certificateholders, when ~~voluntary~~ inactive status is sought by certificateholders who are also building code administrators, plans examiners, or inspectors certified pursuant to part XIII of chapter 468.

(4) After January 1, 1999, any person who passes the certification examination must submit an application either to qualify a business or to place the person's license on inactive status.

Section 42. Section 489.521, Florida Statutes, is amended to read:

489.521 Business organizations; qualifying agents.—

(1) If an individual proposes to engage in contracting as a sole proprietorship, certification~~, when granted,~~ shall be issued ~~only~~ in the name of that individual. *If a fictitious name is used, the applicant shall furnish evidence of statutory compliance.*

(2)(a)1. If the applicant proposing to engage in contracting is a partnership, corporation, business trust, or other legal entity, other than a sole proprietorship, the application shall state the name of the partnership and its partners; the name of the corporation and its officers and

directors and the name of each of its stockholders who is also an officer or director; the name of the business trust and its trustees; or the name of such other legal entity and its members. In addition, the applicant shall furnish evidence of statutory compliance if a fictitious name is used. ~~Such application shall also show that the qualifying agent is legally qualified to act for the business organization in all matters connected with its electrical or alarm system contracting business and that he or she has authority to supervise electrical or alarm system contracting undertaken by such business organization.~~ A joint venture, including a joint venture composed of qualified business organizations, is itself a separate and distinct organization that shall be qualified in accordance with board rules. The registration or certification, when issued upon application of a business organization, shall be in the name of the qualifying agent, and the name of the business organization shall be noted thereon. If there is a change in any information that is required to be stated on the application, the business organization shall, within 45 days after such change occurs, mail the correct information to the department.

2. Any person certified or registered pursuant to this part who has had his or her license revoked shall not be eligible for a 5-year period to be a partner, officer, director, or trustee of a business organization as defined by this section. Such person shall also be ineligible to reapply for certification or registration under this part for a period of 5 years.

(b) The *applicant* ~~application~~ shall also show that the proposed qualifying agent is legally qualified to act for the business organization in *all* matters connected with its *electrical or alarm system* contracting business and concerning regulations by the board and that he or she has authority to supervise *electrical or alarm system contracting* ~~work~~ undertaken by the business organization.

(c) The proposed qualifying agent shall demonstrate that he or she possesses the required skill, knowledge, and experience to qualify the business organization in the following manner:

1. Having met the qualifications provided in s. 489.511 and been issued a certificate of competency pursuant to the provisions of s. 489.511; or

2. Having demonstrated that he or she possesses the required experience and education requirements provided in s. 489.511 which would qualify him or her as eligible to take the certification examination.

(3)(a) The *applicant* ~~business organization~~ shall furnish evidence of financial responsibility, credit, and business reputation of the business organization, as well as the name of the qualifying agent. The board shall adopt rules defining financial responsibility based upon the business organization's credit history, ability to be bonded, and any history of bankruptcy or assignment of receivers. Such rules shall specify the financial responsibility grounds on which the board may determine that a business organization is not qualified to engage in contracting.

(b) In the event a qualifying agent must take the certification examination, the board shall, within 60 days from the date of the examination, inform the business organization in writing whether or not its qualifying agent has qualified.

(c) If the qualifying agent of a business organization applying to engage in contracting, after having been notified to do so, does not appear for examination within 1 year from the date of filing of the application, the examination fee paid by it shall be credited as an earned fee to the department. A new application to engage in contracting shall be accompanied by another application fee fixed pursuant to this act. Forfeiture of a fee may be waived by the board for good cause.

(d) Once the board has determined that the business organization's proposed qualifying agent has qualified, the business organization shall be authorized to engage in the contracting business. The certificate, when issued, shall be in the name of the qualifying agent, and the name of the business organization shall be noted thereon.

(4) As a prerequisite to the initial issuance ~~or the renewal~~ of a certificate, the *applicant* ~~certificateholder~~ or the business organization he or she qualifies shall submit *evidence* ~~an affidavit on a form provided by the board attesting to the fact~~ that he or she or the business organization has obtained public liability and property damage insurance for the safety and welfare of the public in an amount to be determined by *board* rule ~~by the board. The board shall by rule establish a procedure to verify the accuracy of such affidavits based upon a random sample method. In addition to the affidavit of insurance, as a prerequisite to the initial issuance of a certificate, the applicant shall furnish evidence of financial responsibility, credit, and business reputation of either himself or herself or the business organization he or she desires to qualify. The board shall adopt rules defining financial responsibility based upon the credit history, ability to be bonded, and any history of bankruptcy or assignment of receivers. Such rules shall specify the financial responsibility grounds on which the board may refuse to qualify an applicant to engage in the contracting business. If, within 60 days from the date the certificateholder or business organization is notified that he or she has qualified, he or she does not provide the evidence required, he or she shall apply to the department for an extension of time which shall be granted upon a showing of just cause. Thereupon, the board shall certify to the department that the certificateholder or the business organization is competent and qualified to engage in contracting. However, the provisions of this subsection do not apply to inactive certificates~~.

(5) At least one *officer* ~~member~~ or supervising employee of the business organization must be qualified under this act in order for the business organization to be qualified to engage in contracting in the category of the business conducted ~~for which the member or supervising employee is qualified~~. If any individual so qualified on behalf of the business organization ceases to *qualify* ~~be affiliated with~~ the business organization, he or she shall notify the board and the department thereof within 30 days after such occurrence. In addition, if the individual is the only ~~qualified~~ individual *who qualifies* ~~affiliated with~~ the business organization, the business organization shall notify the board and the department of the individual's termination, and it shall have a period of 60 days from the termination of the *individual* ~~individual's affiliation with the business organization in which~~ to qualify another person under the provision of this act, failing which, the board shall determine that the business organization is no longer qualified to engage in contracting. The individual shall also inform the board in writing when he or she proposes to engage in contracting in his or her own name or in affiliation with another business organization, and the individual, or such new business organization, shall supply the same information to the board as required for applicants under this act. After an investigation of the financial responsibility, credit, and business reputation of the individual or the new business organization and upon a favorable determination, the board shall certify the business organization as qualified, and the department shall issue, without examination, a new certificate in the individual's name, which shall include the name of the new business organization, as provided in this section.

(6) When a business organization qualified to engage in contracting makes application for an occupational license in any municipality or county of this state, the application shall be made with the tax collector in the name of the business organization, and the license, when issued, shall be issued to the business organization upon payment of the appropriate licensing fee and exhibition to the tax collector of a valid certificate issued by the department.

(7)(a) Each registered or certified contractor shall affix the number of his or her registration or certification to each application for a building permit and to each building permit issued and recorded. Each city or county building department shall require, as a precondition for the issuance of a building permit, that the contractor applying for the permit provide verification giving the number of his or her registration or certification under this part.

(b) The registration or certification number of a contractor shall be stated in each offer of services, business proposal, or advertisement, regardless of medium, used by that contractor. For the purposes of this part, the term "advertisement" does not include business stationery or any promotional novelties such as balloons, pencils, trinkets, or articles of clothing. The board shall assess a fine of not less than $100 or issue a citation to any contractor who fails to include that contractor's certification or registration number when submitting an advertisement for publication, broadcast, or printing. In addition, any person who claims in any advertisement to be a certified or registered contractor, but who does not hold a valid state certification or registration, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(8) Each qualifying agent shall pay the department an amount equal to the original fee for certification or registration to qualify any additional business organizations. If the qualifying agent for a business

organization desires to qualify additional business organizations, the board shall require him or her to present evidence of *supervisory* ability and financial responsibility of each such organization. *Allowing a licensee to qualify more than one business organization shall be conditioned upon the licensee showing that the licensee has both the capacity and intent to adequately supervise each business organization in accordance with s. 489.522(1). The board shall not limit the number of business organizations which the licensee may qualify except upon the licensee's failing to provide such information as is required under this subsection or upon a finding that such information or evidence as is supplied is incomplete or unpersuasive in showing the licensee's capacity and intent to comply with the requirements of this subsection. A qualification for an additional business organization may be revoked or suspended upon a finding by the board that the licensee has failed in the licensee's responsibility to adequately supervise the operations of that business organization in accordance with s. 489.522(1). Failure of the responsibility to adequately supervise the operations of a business organization in accordance with s. 489.522(1) shall be grounds for denial to qualify additional business organizations.* ~~The issuance of such certification or registration is discretionary with the board.~~

(9) If a business organization or any of its partners, officers, directors, trustees, or members is disciplined for violating s. 489.533(1), the board may, on that basis alone, deny issuance of a certificate or registration to a qualifying agent on behalf of that business organization.

Section 43. Section 489.525, Florida Statutes, is amended to read:

489.525 Reports of certified contractors to local building officials.—

~~(1) The department shall inform all local boards or building officials prior to October of each year of the names of all certificateholders and the status of the certificates.~~

~~(2)~~ The department *may* ~~shall include in the report of certified contractors provided in subsection (1) a~~ report to all ~~county tax collectors, local boards, and~~ building officials~~, containing:~~

~~(a)~~ the contents of this part~~;~~ and

~~(b)~~ the contents of the rules of the board ~~and the contents of the rules of the department which affect local government as determined by the department~~. *Any information that is available through the Internet or other electronic means may be excluded from the report.*

Section 44. Subsections (1) and (2) of section 489.533, Florida Statutes, are amended to read:

489.533 Disciplinary proceedings.—

(1) The following acts shall constitute grounds for disciplinary actions as provided in subsection (2):

(a) *Failure to comply with* ~~Violating~~ any provision of ~~s. 489.531 or~~ chapter 455.

(b) Attempting to procure a certificate or registration to practice electrical or alarm system contracting by bribery or fraudulent *or willful* misrepresentations.

(c) Having a certificate or registration to practice contracting revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(d) Being convicted or found guilty *of, or entering a plea of nolo contendere to,* regardless of adjudication, ~~of~~ a crime in any jurisdiction which directly relates to the practice of electrical or alarm system contracting or the ability to practice electrical or alarm system contracting.

(e) Making or filing a report or record which the certificateholder or registrant knows to be false, willfully failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to impede or obstruct such filing. Such reports or records shall include only those which are signed in the capacity of a certified electrical or alarm system contractor.

(f) Committing fraud or deceit, or negligence, incompetency, or misconduct in the practice of electrical or alarm system contracting.

(g) Violating chapter 633 or the rules of the State Fire Marshal.

(h) Practicing on a revoked, suspended, inactive, or delinquent certificate or registration.

(i) Willfully or deliberately disregarding and violating the applicable building codes or laws of the state or any municipality or county thereof.

(j) Performing any act which assists a person or entity in engaging in the prohibited uncertified and unregistered practice of contracting, if the certificateholder or registrant knows or has reasonable grounds to know that the person or entity was uncertified and unregistered.

(k) Knowingly combining or conspiring with any person by allowing one's certificate to be used by any uncertified person with intent to evade the provisions of this part. When a certificateholder allows his or her certificate to be used by one or more companies without having any active participation in the operations or management of said companies, such act constitutes prima facie evidence of an intent to evade the provisions of this part.

(l) Acting in the capacity of a contractor under any certificate or registration issued hereunder except in the name of the certificateholder or registrant as set forth on the issued certificate or registration or in accordance with the personnel of the certificateholder or registrant as set forth in the application for the certificate or registration or as later changed as provided in this part.

(m) Committing financial mismanagement or misconduct in the practice of contracting that causes financial harm to a customer. Financial mismanagement or misconduct occurs if:

1. A valid lien has been recorded against the property of a contractor's customer for supplies or services ordered by the contractor for the customer's job, the contractor has received funds from the customer to pay for the supplies or services, and the contractor has not had the lien removed from the property, by payment or by bond, within 75 days after the date of the lien;

2. A contractor has abandoned a customer's job and the percentage of completion is less than the percentage of the total contract price that had been paid to the contractor as of the time of abandonment, unless the contractor is entitled to retain the excess funds under the terms of the contract or refunds the excess funds within 30 days after the date of abandonment; ~~or~~

3. The contractor's job has been completed and it is shown that the customer has had to pay more for the contracted job than the original contract price, as adjusted for subsequent change orders, unless such increase in cost was the result of circumstances beyond the control of the contractor, was the result of circumstances caused by the customer, or was otherwise permitted by the terms of the contract between the contractor and the customer*; or*

4. The contractor fails, within 18 months, to pay or comply with a repayment schedule of a judgment obtained against the contractor or a business qualified by the contractor and relating to the practice of contracting.

(n) Being disciplined by any municipality or county for an act that is a violation of this section.

(o) Failing in any material respect to comply with the provisions of this part *and the rules adopted pursuant thereto.*

(p) Abandoning a project which the contractor is engaged in or is under contractual obligation to perform. A project is to be considered abandoned after 90 days if the contractor terminates the project without just cause or without proper notification to the prospective owner, including the reason for termination, or fails to perform work without just cause for 90 consecutive days.

(q) Failing to affix a registration or certification number as required by s. 489.521(7).

(r) Proceeding on any job without obtaining applicable local building department permits and inspections.

(s) Practicing beyond the scope of a certification or registration.

For the purposes of this subsection, construction is considered to be commenced when the contract is executed and the contractor has accepted funds from the customer or lender.

(2) When the board finds any applicant, contractor, or business organization for which the contractor is a primary qualifying agent or secondary qualifying agent responsible under s. 489.522 guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(a) Denial of an application for certification or registration.

(b) Revocation or suspension of a certificate or registration.

(c) Imposition of an administrative fine not to exceed $5,000 for each count or separate offense.

(d) Issuance of a reprimand.

(e) Placement of the contractor on probation for a period of time and subject to such conditions as the board may specify, including requiring the contractor to attend continuing education courses or to work under the supervision of another contractor.

(f) Restriction of the authorized scope of practice by the contractor.

(g) Require financial restitution to a consumer.

Section 45. For the purpose of incorporating the amendment to section 489.533, Florida Statutes, in a reference thereto, subsection (5) of section 489.518, Florida Statutes, is reenacted to read:

489.518 Alarm system agents.—

(5) Failure to comply with any of the provisions of this section shall be a disciplinable offense against the contractor pursuant to s. 489.533.

Section 46. Paragraph (b) of subsection (2) of section 489.537, Florida Statutes, is amended, and subsection (9) is added to that section, to read:

489.537 Application of this part.—

(2)

(b) A registered electrical contractor may bid on electrical contracts which include alarm systems contracting as a part of the contract, provided that the individual shall subcontract such alarm systems contracting, *except raceway systems,* to a properly certified or registered alarm system contractor. *Registered electrical contractors may install raceways for alarm systems.* However, if the registered electrical contractor is properly certified or registered as an alarm system contractor, the individual is not required to subcontract out the alarm system contracting.

(9) Persons licensed under this part are subject to ss. 205.0535(1) and 205.065, as applicable.

Section 47. Section 489.539, Florida Statutes, is amended to read:

489.539 Adoption of electrical *and alarm* standards.—For the purpose of establishing minimum electrical *and alarm* standards in this state, *the current edition of* the following standards are adopted:

(1) "National Electrical Code ~~1990~~," NFPA No. *70* ~~70-1990~~.

(2) Underwriters' Laboratories, Inc., "Standards for Safety, Electrical Lighting Fixtures, and Portable Lamps," UL *57* ~~57-1982~~, and UL *153* ~~153-1983~~.

(3) Underwriters' Laboratories, Inc., "Standard for Electric Signs," UL *48* ~~48-1982~~.

(4) The provisions of the following which prescribe minimum electrical *and alarm* standards:

(a) NFPA No. *56A* ~~56A-1978~~, "Inhalation Anesthetics ~~1978~~."

(b) NFPA No. *56B* ~~56B-1982~~, "Respiratory Therapy ~~1982~~."

(c) NFPA No. *56C* ~~56C-1980~~, "Laboratories in Health-related Institutions ~~1980~~."

(d) NFPA No. *56D* ~~56D-1982~~, "Hyperbaric Facilities."

(e) NFPA No. *56F* ~~56F-1983~~, "Nonflammable Medical Gas Systems ~~1983~~."

(f) NFPA No. 72, "National Fire Alarm Code."

(g)~~(f)~~ NFPA No. *76A* ~~76A-1984~~, "Essential Electrical Systems for Health Care Facilities ~~1984~~."

(5) Chapter 10D-29 of the rules of the Department of Health and Rehabilitative Services, entitled "Nursing Homes and Related Facilities Licensure."

(6) The minimum standards for grounding of portable electric equipment, chapter 8C-27, as recommended by the Industrial Standards Section of the Division of Workers' Compensation of the Department of Labor and Employment Security.

Section 48. Section 553.19, Florida Statutes, is amended to read:

553.19 Adoption of electrical *and alarm* standards.—For the purpose of establishing minimum electrical *and alarm* standards in this state, *the current edition of* the following standards are adopted:

(1) "National Electrical Code ~~1990~~," NFPA No. *70* ~~70-1990~~.

(2) Underwriters' Laboratories, Inc., "Standards for Safety, Electrical Lighting Fixtures, and Portable Lamps," UL *57* ~~57-1982~~ and UL *153* ~~153-1983~~.

(3) Underwriters' Laboratories, Inc., "Standard for Electric Signs," UL *48* ~~48-1982~~.

(4) The provisions of the following which prescribe minimum electrical *and alarm* standards:

(a) NFPA No. *56A* ~~56A-1978~~, "Inhalation Anesthetics ~~1978~~."

(b) NFPA No. *56B* ~~56B-1982~~, "Respiratory Therapy ~~1982~~."

(c) NFPA No. *56C* ~~56C-1980~~, "Laboratories in Health-related Institutions ~~1980~~."

(d) NFPA No. *56D* ~~56D-1982~~, "Hyperbaric Facilities."

(e) NFPA No. *56F* ~~56F-1983~~, "Nonflammable Medical Gas Systems ~~1983~~."

(f) NFPA No. 72, "National Fire Alarm Code."

(g)~~(f)~~ NFPA No. *76A* ~~76A-1984~~, "Essential Electrical Systems for Health Care Facilities ~~1984~~."

(5) Chapter 10D-29 of the rules and regulations of the Department of Health and Rehabilitative Services, entitled "Nursing Homes and Related Facilities Licensure."

(6) The minimum standards for grounding of portable electric equipment, chapter 8C-27 as recommended by the Industrial Standards Section, Division of Workers' Compensation, Department of Labor and Employment Security.

Section 49. Section 489.5185, Florida Statutes, is created to read:

489.5185 Fire alarm system agents.—

(1) A certified unlimited electrical contractor or licensed fire alarm contractor may not employ a person to perform the duties of a fire alarm system agent unless the person:

(a) Is at least 18 years of age or has evidence of a court-approved declaration of emancipation.

(b) Has successfully completed a minimum of 18 hours of initial training, to include basic fire alarm system technology in addition to related training in National Fire Protection Association (NFPA) codes and standards and access control training. Such training must be from a board-approved provider, and the employee or applicant for employment must provide proof of successful completion to the licensed employer. The board, by rule, shall establish criteria for the approval of

training courses and providers. The board shall approve qualified providers that conduct training in other than the English language. The board shall establish a fee for the approval of training providers, not to exceed $200, and a fee for the approval of courses at $25 per credit hour, not to exceed $100 per course.

(c) Has not been convicted within the last 3 years of a crime that directly relates to the business for which employment is being sought. Although the employee is barred from operating as a fire alarm system agent for 3 years subsequent to his or her conviction, the employer shall be supplied the information regarding any convictions occurring prior to that time, and the employer may at his or her discretion consider an earlier conviction to be a bar to employment as a fire alarm system agent. To ensure that this requirement has been met, a certified unlimited electrical contractor or licensed fire alarm contractor must obtain from the Florida Department of Law Enforcement a completed fingerprint and criminal background check for each applicant for employment as a fire alarm system agent or for each individual currently employed on the effective date of this act as a fire alarm system agent.

(d) Has not been committed for controlled substance abuse or been found guilty of a crime under chapter 893 or any similar law relating to controlled substances in any other state within the 3-year period immediately preceding the date of application for employment, or immediately preceding the effective date of this act for an individual employed as a fire alarm system agent on that date, unless the person establishes that he or she is not currently abusing any controlled substance and has successfully completed a rehabilitation course.

(2)(a) Any applicant for employment as a fire alarm system agent, or any individual employed as a fire alarm system agent on the effective date of this act, who has completed alarm system agent or burglar alarm system agent training prior to the effective date of this act in a board-certified program is not required to take additional training in order to comply with the initial training requirements of this section.

(b) A state-certified electrical contractor, a state-certified fire alarm system contractor, a state-registered fire alarm system contractor, a journeyman electrician licensed by any local jurisdiction, or an alarm technician licensed by a local jurisdiction that requires an examination and experience or training as licensure qualifications is not required to complete the training required for fire alarm system agents. A state-registered electrical contractor is not required to complete the training required for fire alarm system agents, so long as he or she is only doing electrical work up to the alarm panel.

(c) A nonsupervising employee working as a helper or apprentice under the direct, onsite, continuous supervision of a state-certified electrical contractor, a state-registered electrical contractor, a state-certified fire alarm system contractor, a state-registered fire alarm system contractor, a journeyman electrician licensed by any local jurisdiction, an alarm technician licensed by a local jurisdiction that requires an examination and experience or training as licensure qualifications, or a qualified fire alarm system agent is not required to complete the training otherwise required and is not required to be 18 years of age or older.

(d) A burglar alarm system agent employed by a licensed fire alarm contractor or certified unlimited electrical contractor who has fulfilled all requirements of s. 489.518 prior to the effective date of this act is not required to complete the initial training required by this section for fire alarm system agents.

(3) An applicant for employment as a fire alarm system agent may commence employment, or an individual employed as a fire alarm system agent on the effective date of this act may continue employment, pending completion of both the training and the fingerprint and criminal background checks required by this section, for a period not to exceed 90 days after the date of application for employment or 90 days after the effective date of this act for individuals employed as fire alarm system agents on that date. However, the person must work under the direction and control of a sponsoring certified unlimited electrical contractor or licensed fire alarm contractor until completion of both the training and the fingerprint and criminal background checks. If an applicant or an individual employed on the effective date of this act does not complete the training or receive satisfactory fingerprint and criminal background checks within the 90-day period, the employment must be terminated immediately.

(4)(a) A certified unlimited electrical contractor or licensed fire alarm contractor must furnish each of his or her fire alarm system agents with an identification card.

(b) The card shall follow a board-approved format, to include a picture of the agent; shall specify at least the name of the holder of the card and the name and license number of the certified unlimited electrical contractor or licensed fire alarm contractor; and shall be signed by both the contractor and the holder of the card. Each identification card shall be valid for a period of 2 years after the date of issuance. The identification card must be in the possession of the fire alarm system agent while engaged in fire alarm system agent duties.

(c) Each person to whom an identification card has been issued is responsible for the safekeeping thereof, and may not loan, or allow any other person to use or display, the identification card.

(d) Each identification card must be renewed every 2 years and in a board-approved format to show compliance with the 6 hours of continuing education necessary to maintain certification as a fire alarm system agent.

(5) Each fire alarm system agent must receive 6 hours of continuing education on fire alarm system installation and repair every 2 years from a board-approved sponsor of training and through a board-approved training course.

(6) Failure to comply with any of the provisions of this section shall be grounds for disciplinary action against the contractor pursuant to s. 489.533.

Section 50. Section 501.937, Florida Statutes, is created to read:

501.937 Industrial hygienists and safety professionals; use of professional titles; failure to comply.—

(1) Any person representing himself or herself as a "safety professional" or "industrial hygienist" must accurately disclose his or her credentials.

(2) A person may not represent himself or herself as a "certified safety professional," "associate safety professional," "certified occupational health and safety technologist," "industrial hygienist in training," or "certified industrial hygienist" unless he or she holds a current valid certificate in the field of safety or industrial hygiene from either the American Board of Industrial Hygiene or the Board of Certified Safety Professionals, or unless the Department of Business and Professional Regulation has, upon request, examined another certification program and has formally concluded that the certification standards of that certification program are substantially equivalent to the standards for certificates issued by those organizations; nor may the person mislead or deceive anyone by the unauthorized use of any certification mark that has been awarded by the United States Patent and Trademark Office.

(3)(a) A "safety professional" is a person having a baccalaureate degree in safety, engineering, chemistry, physics, or a closely related physical or biological science who has acquired competency in the field of safety. The studies and training necessary to acquire such competency should have been sufficient in all of the above cognate sciences to provide the abilities to anticipate, identify, and evaluate hazardous conditions and practices; to develop hazard control designs, methods, procedures, and programs; to implement, administer, and advise others on hazard controls and hazard control programs; and to measure, audit, and evaluate the effectiveness of hazard controls and hazard control programs.

(b) An "industrial hygienist" is a person having a baccalaureate degree in engineering, chemistry, physics, or a closely related physical or biological science who has acquired competency in the field of industrial hygiene. The studies and training necessary to acquire such competency should have been sufficient in all of the above cognate sciences to provide the abilities to anticipate and recognize the environmental factors and stresses associated with work and work operations and to understand their effects on people and their well-being; to evaluate, on the basis of training and experience and with the aid of quantitative measurement techniques, the magnitude of these factors and stresses in terms of ability to impair human health and well-being; and to prescribe methods to eliminate, control, or reduce such factors and stresses when necessary to alleviate their effects.

(4) Failure to comply with this section constitutes a deceptive and unfair trade practice.

Section 51. Present subsections (7) through (25) of section 633.021, Florida Statutes, are redesignated as subsections (8) through (26), respectively, and a new subsection (7) is added to that section, to read:

633.021 Definitions.—As used in this chapter:

(7) A "fire extinguisher" is a cylinder that:

(a) Is portable and can be carried or is on wheels.

(b) Is manually operated.

(c) May use a variety of extinguishing agents that are expelled under pressure.

(d) Is rechargeable or nonrechargeable.

(e) Is installed, serviced, repaired, recharged, inspected, and hydrotested according to applicable procedures of the manufacturer, standards of the National Fire Protection Association, and the Code of Federal Regulations.

(f) Is listed by a nationally recognized testing laboratory.

Section 52. Section 633.061, Florida Statutes, is amended to read:

633.061 License or permit required of organizations and individuals servicing, recharging, repairing, testing, marking, inspecting, ~~or~~ installing, *or hydrotesting* fire extinguishers and preengineered systems.—

(1) It is unlawful for any organization or individual to engage in the business of servicing, repairing, recharging, testing, marking, inspecting, ~~or~~ installing, *or hydrotesting* any fire extinguisher or preengineered system in this state except in conformity with the provisions of this chapter. Each organization or individual *that* ~~which~~ engages in such activity must possess a valid and subsisting license issued by the State Fire Marshal. All fire extinguishers and preengineered systems required by statute or by rule must be serviced by an organization or individual licensed under the provisions of this chapter. The licensee is legally qualified to act for the business organization in all matters connected with its business, and the licensee must supervise all activities undertaken by such business organization. Each licensee shall maintain a specific business location. A further requirement, in the case of multiple locations where such servicing or recharging is taking place, is that each licensee who maintains more than one place of business where actual work is carried on must possess an additional license, as set forth in this section, for each location, except that *a* ~~no~~ licensed individual may *not* qualify for more than five locations. A licensee is limited to a specific type of work performed depending upon the class of license held. Licenses and license fees are required for the following:

(a) Class A $150
To service, recharge, repair, install, or inspect all types of fire extinguishers~~, including recharging carbon dioxide units,~~ and to conduct hydrostatic tests on all types of fire extinguishers~~, including carbon dioxide units~~.

(b) Class B $100
To service, recharge, repair, install, or inspect all types of fire extinguishers, including recharging carbon dioxide units and conducting hydrostatic tests on *all* ~~water, water chemical, and dry chemical~~ types of *fire* extinguishers, *except carbon dioxide units* ~~only~~.

(c) Class C $100
To service, recharge, repair, install, or inspect all types of fire extinguishers, except recharging carbon dioxide units, and to conduct hydrostatic tests on *all* ~~water, water chemical, and dry chemical~~ types of fire extinguishers, *except carbon dioxide units* ~~only~~.

(d) Class D $125
To service, repair, *recharge, hydrotest,* install, or inspect all types of preengineered fire extinguishing systems.

(e) Licenses issued as duplicates or to reflect a change of address $10

Any fire equipment dealer licensed pursuant to this subsection who does not want to engage in the business of servicing, inspecting, recharging, repairing, *hydrotesting,* or installing halon equipment must file an affidavit on a form provided by the division so stating. Licenses will be issued by the division to reflect the work authorized thereunder. It is unlawful, unlicensed activity for any person or firm to falsely hold himself or herself or a business organization out to perform any service, inspection, recharge, repair, *hydrotest,* or installation except as specifically described in the license.

(2) Each individual actually performing the work of servicing, recharging, repairing, *hydrotesting,* installing, testing, or inspecting fire extinguishers or preengineered systems must possess a valid and subsisting permit issued by the State Fire Marshal. Permittees are limited as to specific type of work performed dependent upon the class of permit held which shall be a class allowing work no more extensive than the class of license held by the licensee under whom the permittee is working. Permits and fees therefor are required for the following:

(a) Class 1 . . . . . $50
Servicing, recharging, repairing, installing, or inspecting all types of fire extinguishers~~, including carbon dioxide units,~~ and conducting hydrostatic tests on all types of fire extinguishers~~, including carbon dioxide units~~.

(b) Class 2 . . . . . $50
Servicing, recharging, repairing, installing, or inspecting all types of fire extinguishers, including carbon dioxide units, and conducting hydrostatic tests on *all* ~~water, water chemical, and dry chemical~~ types of fire extinguishers, *except carbon dioxide units* ~~only~~.

(c) Class 3 . . . . . $50
Servicing, recharging, repairing, installing, or inspecting all types of fire extinguishers, except recharging carbon dioxide units, and conducting hydrostatic tests on *all* ~~water, water chemical, and dry chemical~~ types of fire extinguishers, *except carbon dioxide units* ~~only~~.

(d) Class 4 . . . . . $65
Servicing, repairing, *hydrotesting, recharging,* installing, or inspecting all types of preengineered fire extinguishing systems.

(e) Permits issued as duplicates or to reflect a change of address $10

Any fire equipment permittee licensed pursuant to this subsection who does not want to engage in servicing, inspecting, recharging, repairing, *hydrotesting,* or installing halon equipment must file an affidavit on a form provided by the division so stating. Permits will be issued by the division to reflect the work authorized thereunder. It is unlawful, unlicensed activity for any person or firm to falsely hold himself or herself out to perform any service, inspection, recharge, repair, *hydrotest,* or installation except as specifically described in the permit.

(3)(a) Such licenses and permits shall be issued by the State Fire Marshal for each license year beginning January 1 and expiring the following December 31. The failure to renew a license or permit by December 31 will cause the license or permit to become inoperative. The holder of an inoperative license or permit shall not engage in any activities for which a license or permit is required by this section. A license or permit which is inoperative because of the failure to renew it shall be restored upon payment of the applicable fee plus a penalty equal to the applicable fee, if the application for renewal is filed no later than the following March 31. If the application for restoration is not made before the March 31st deadline, the fee for restoration shall be equal to the original application fee and the penalty provided for herein, and, in addition, the State Fire Marshal shall require reexamination of the applicant. Each licensee or permittee shall successfully complete a course or courses of continuing education for fire equipment technicians within 5 years of initial issuance of a license or permit and within every 5-year period thereafter or no such license or permit shall be renewed. The State Fire Marshal shall adopt rules describing the continuing education requirements.

(b) The forms of such licenses and permits and applications therefor shall be prescribed by the State Fire Marshal; in addition to such other information and data as that officer determines is appropriate and required for such forms, there shall be included in such forms the following matters. Each such application shall be in such form as to provide that the data and other information set forth therein shall be sworn to by the applicant or, if a corporation, by an officer thereof. An application for a permit shall include the name of the licensee employing such permittee,

and the permit issued in pursuance of such application shall also set forth the name of such licensee. A permit is valid solely for use by the holder thereof in his or her employment by the licensee named in the permit.

(c) A license of any class shall not be issued or renewed by the State Fire Marshal and a license of any class shall not remain operative unless:

1. The applicant has submitted to the State Fire Marshal evidence of registration as a Florida corporation or evidence of compliance with s. 865.09.

2. The State Fire Marshal or his or her designee has by inspection determined that the applicant possesses the equipment required for the class of license sought. The State Fire Marshal shall give an applicant a reasonable opportunity to correct any deficiencies discovered by inspection. A fee of $50, payable to the State Fire Marshal, shall be required for any subsequent reinspection.

3. The applicant has submitted to the State Fire Marshal proof of insurance providing coverage for comprehensive general liability for bodily injury and property damage, products liability, completed operations, and contractual liability. The State Fire Marshal shall adopt rules providing for the amounts of such coverage, but such amounts shall not be less than $300,000 for Class A or Class D licenses, $200,000 for Class B licenses, and $100,000 for Class C licenses; and the total coverage for any class of license held in conjunction with a Class D license shall not be less than $300,000. The State Fire Marshal may, at any time after the issuance of a license or its renewal, require upon demand, and in no event more than 30 days after notice of such demand, the licensee to provide proof of insurance, on a form provided by the State Fire Marshal, containing confirmation of insurance coverage as required by this chapter. Failure, for any length of time, to provide proof of insurance coverage as required shall result in the immediate suspension of the license until proof of proper insurance is provided to the State Fire Marshal. An insurer which provides such coverage shall notify the State Fire Marshal of any change in coverage or of any termination, cancellation, or nonrenewal of any coverage.

4. The applicant successfully completes a prescribed training course offered by the State Fire College or an equivalent course approved by the State Fire Marshal. This subparagraph does not apply to any holder of or applicant for a permit under paragraph (d) or to a business organization or a governmental entity seeking initial licensure or renewal of an existing license solely for the purpose of inspecting, servicing, repairing, marking, recharging, and maintaining fire extinguishers used and located on the premises of and owned by such organization or entity.

5. The applicant has a current retestor identification number that is appropriate for the license for which the applicant is applying and that is listed with the U.S. Department of Transportation.

6.~~5.~~ The applicant has passed, with a grade of at least 70 percent, a written examination testing his or her knowledge of the rules and statutes regulating the activities authorized by the license and demonstrating his or her knowledge and ability to perform those tasks in a competent, lawful, and safe manner. Such examination shall be developed and administered by the State Fire Marshal, *or his or her designee*. An applicant shall pay a nonrefundable examination fee of $50 for each examination or reexamination scheduled. No reexamination shall be scheduled sooner than 30 days after any administration of an examination to an applicant. No applicant shall be permitted to take an examination for any level of license more than a total of four times during 1 year, regardless of the number of applications submitted. As a prerequisite to taking the examination, the applicant:

a. Must be at least 18 years of age.

b. Must have 4 years of proven experience as a fire equipment permittee at a level equal to or greater than the level of license applied for or have a combination of education and experience determined to be equivalent thereto by the State Fire Marshal. Having held a permit at the appropriate level for the required period constitutes the required experience.

c. Must not have been convicted of, or pled nolo contendere to, any felony. If an applicant has been convicted of any such felony, the applicant must comply with s. 112.011(1)(b).

This subparagraph does not apply to any holder of or applicant for a permit under paragraph (d) or to a business organization or a governmental entity seeking initial licensure or renewal of an existing license solely for the purpose of inspecting, servicing, repairing, marking, recharging, *hydrotesting*, and maintaining fire extinguishers used and located on the premises of and owned by such organization or entity.

(d)~~6.~~ An applicant who fails the examination may take it three more times during the 1-year period after he or she originally filed an application for the examination. If the applicant fails the examination within 1 year after the application date and seeks to retake the examination, he or she must file a new application, pay the application and examination fees, and successfully complete a prescribed training course approved by the State Fire College or an equivalent course approved by the State Fire Marshal. An applicant may not submit a new application within 6 months after the date of his or her last reexamination.

(e) A fire equipment dealer licensed under this section may apply to upgrade the license currently held, if the licensed dealer:

1. Submits an application for the license on a form in conformance with paragraph (b). The application must be accompanied by a fee as prescribed in subsection (1) for the type of license requested.

2. Provides evidence of 2 years' experience as a licensed dealer and meets such relevant educational requirements as are established by rule by the State Fire Marshal for purposes of upgrading a license.

3. Meets the requirements of paragraph (c).

(f)~~(d)~~ No permit of any class shall be issued or renewed to a person by the State Fire Marshal, and no permit of any class shall remain operative, unless the person has:

1. Submitted a nonrefundable examination fee in the amount of $50;

2. Successfully completed a training course offered by the State Fire College or an equivalent course approved by the State Fire Marshal; and

3. Passed, with a grade of at least 70 percent, a written examination testing his or her knowledge of the rules and statutes regulating the activities authorized by the permit and demonstrating his or her knowledge and ability to perform those tasks in a competent, lawful, and safe manner. Such examination shall be developed and administered by the State Fire Marshal. An examination fee shall be paid for each examination scheduled. No reexamination shall be scheduled sooner than 30 days after any administration of an examination to an applicant. No applicant shall be permitted to take an examination for any level of permit more than four times during 1 year, regardless of the number of applications submitted. As a prerequisite to taking the permit examination, the applicant must be at least 16 years of age.

(g)~~(e)~~ An applicant who fails the examination may take it three more times during the 1-year period after he or she originally filed an application for the examination. If the applicant fails the examination within 1 year after the application date and he or she seeks to retake the examination, he or she must file a new application, pay the application and examination fees, and successfully complete a prescribed training course offered by the State Fire College or an equivalent course approved by the State Fire Marshal. The applicant may not submit a new application within 6 months after the date of his or her last reexamination.

(4)(a) It is unlawful for a fire equipment dealer to engage in training an individual to perform the work of installing, testing, recharging, repairing, or inspecting portable extinguishers or preengineered systems except in conformity with this section. Each individual engaging in such training activity must be registered with the State Fire Marshal. The dealer must register the trainee prior to the trainee performing any work. The dealer must submit training criteria to the State Fire Marshal for review and approval.

(b) No trainee shall perform work requiring a permit unless an individual possessing a valid and current fire equipment permit for the type of work performed is physically present. The trainee's registration shall be valid for a 90-day period from the date of issuance and is nontransferable and nonrenewable. The initial training period may be extended for an additional 90 days of training if the applicant has filed an application for permit and enrolled in the 40-hour course at the State Fire College within 60 days after the date of registration as a trainee and either the

training course at the State Fire College was unavailable to the applicant within the initial training period, at no fault of the applicant, or the applicant attends and fails the 40-hour training course or the competency examination. At no time will an individual be registered as a trainee for more than two 90-day periods as provided in this paragraph. The trainee must:

1. Be 18 years of age.

2. Possess on his or her person at all times a valid Florida driver's license or a valid state identification card, issued by the Department of Highway Safety and Motor Vehicles. A trainee must produce identification to the State Fire Marshal or his or her designated representative upon demand.

3. Pay a fee for registration of $10 per trainee for a 90-day period.

(c) No more than two trainees shall be under the supervision of a single trainer, who shall be directly responsible for all work performed by any trainee while under his or her supervision. No trainee shall perform any work not within the scope of the license or permit held by the fire equipment dealer or permittee directly supervising his or her work.

(d) Upon completion of a training period, an individual must comply with the provisions of this section to obtain a permit.

(5) The State Fire Marshal shall adopt rules providing for the approval of the time, place, and curriculum of each training course required by this section.

(6) Every permittee must have a valid and subsisting permit upon his or her person at all times while engaging in the servicing, recharging, repairing, testing, inspecting, or installing of fire extinguishers and preengineered systems, and every licensee or permittee must be able to produce such license or permit upon demand. In addition, every permittee shall at all times carry an identification card containing his or her photograph and other identifying information as prescribed by the State Fire Marshal or the State Fire Marshal's designee, which shall be produced on demand. The State Fire Marshal shall supply this card at a fee which shall be related to the cost of producing the card.

(7) The fees collected for any such licenses and permits and the filing fees for license and permit examination are hereby appropriated for the use of the State Fire Marshal in the administration of this chapter and shall be deposited in the Insurance Commissioner's Regulatory Trust Fund.

(8) The provisions of this chapter do not apply to inspections by fire chiefs, fire inspectors, fire marshals, or insurance company inspectors.

(9) All fire extinguishers and preengineered systems *that* ~~which~~ are required by statute or by rule must be serviced, recharged, repaired, *hydrotested*, tested, inspected, and installed in compliance with this chapter and with the rules adopted by the State Fire Marshal. The State Fire Marshal may adopt by rule the standards of the National Fire Protection Association and of other reputable national organizations.

(10) If the licensee leaves the business organization or dies, the business organization shall immediately notify the State Fire Marshal of the licensee's departure, shall return the license to the State Fire Marshal, and shall have a grace period of 60 days in which to license another person under the provisions of this chapter, failing which the business shall no longer perform those activities for which a license under this section is required.

Section 53. Paragraph (b) of subsection (1) of section 633.065, Florida Statutes, is amended to read:

633.065 Requirements for installation, inspection, and maintenance of fire suppression equipment.—

(1) The requirements for installation of fire extinguishers and preengineered systems are as follows:

(b) Equipment supplied shall be listed by a nationally recognized testing laboratory, such as Underwriters Laboratories, Inc., or Factory Mutual Laboratories, Inc. *Equipment supplied for new installations or alterations of existing systems must be currently listed as described in this section.* The State Fire Marshal shall adopt by rule procedures for determining whether a laboratory is nationally recognized, taking into account the laboratory's facilities, procedures, use of nationally recognized standards, and any other criteria reasonably calculated to reach an informed determination.

Section 54. Subsection (1) of section 633.071, Florida Statutes, is amended to read:

633.071 Standard service tag required on all fire extinguishers and preengineered systems; serial number required on all portable fire extinguishers.—

(1) The State Fire Marshal shall adopt by rule specifications as to the size, shape, color, and information and data contained thereon of service tags to be attached to all fire extinguishers and preengineered systems required by statute or by rule, whether they be portable, stationary, or on wheels when they are placed in service, installed, serviced, repaired, tested, recharged, or inspected. Fire extinguishers may be tagged only after meeting all standards as set forth by this chapter, the standards of the National Fire Protection Association, and ~~all~~ manufacturer's *specifications* ~~requirements~~. Preengineered systems may be tagged only after a system has been inspected, serviced, installed, repaired, tested, ~~and~~ recharged, *and hydrotested* in compliance with this chapter, the standards of the National Fire Protection Association, and the manufacturer's specifications, and after a report, as specified by rule, has been completed in detail, indicating any and all deficiencies or deviations from the manufacturer's specifications and the *standards* ~~requirements~~ of the National Fire Protection Association. A copy of the inspection report shall be provided to the owner at the time of inspection, and, if a system is found to be in violation of this chapter, the manufacturer's specifications, or the standards of the National Fire Protection Association, a copy shall be forwarded to the state or local authority having jurisdiction within 30 days from the date of service. It shall be unlawful to place in service, service, test, repair, inspect, install, *hydrotest,* or recharge any fire extinguisher or preengineered system without attaching one of these tags completed in detail, including the actual month work was performed, or to use a tag not meeting the specifications set forth by the State Fire Marshal.

Section 55. Section 633.162, Florida Statutes, is amended to read:

633.162 Disciplinary action; fire extinguisher or preengineered systems; grounds for denial, nonrenewal, suspension, or revocation of license or permit.—

(1) The violation of any provision of this chapter or any rule adopted and promulgated pursuant hereto or the failure or refusal to comply with any notice or order to correct a violation or any cease and desist order by any person who possesses a license or permit issued pursuant to s. 633.061 is cause for denial, nonrenewal, revocation, or suspension of such license or permit by the State Fire Marshal after such officer has determined that the person is guilty of such violation. An order of suspension shall state the period of time of such suspension, which period may not be in excess of 2 years from the date of such order. An order of revocation may be entered for a period not exceeding 5 years. Such orders shall effect suspension or revocation of all licenses or permits then held by the person, and during such period of time no license or permit shall be issued to such person. *During the suspension or revocation of any license or permit, the former licensee or permittee shall not engage in or attempt or profess to engage in any transaction or business for which a license or permit is required under this chapter or directly or indirectly own, control, or be employed in any manner by any firm, business, or corporation for which a license or permit under this chapter is required.* If, during the period between the beginning of proceedings and the entry of an order of suspension or revocation by the State Fire Marshal, a new license or permit has been issued to the person so charged, the order of suspension or revocation shall operate to suspend or revoke such new license or permit held by such person.

(2) The department shall not, so long as the revocation or suspension remains in effect, grant any new license or permit for the establishment of any new firm, business, or corporation of any person or qualifier that has or will have the same or similar management, ownership, control, employees, permittees, or licensees, or will use a same or similar name as a previously revoked or suspended firm, business, corporation, person, or qualifier.

(3) The State Fire Marshal may deny, nonrenew, suspend, or revoke the license or permit of:

(a) Any person, firm, or corporation the license of which under this chapter has been suspended or revoked;

(b) Any firm or corporation if an officer, qualifier, director, stockholder, owner, or person interested directly or indirectly in the firm or corporation has had his or her license or permit under this chapter suspended or revoked; or

(c) Any person who is or has been an officer, qualifier, director, stockholder, or owner of a firm or corporation, or who was interested directly or indirectly in a firm or corporation, the license or permit of which has been suspended or revoked under this chapter.

(4)~~(2)~~ In addition to the grounds set forth in subsection (1), it is cause for denial, nonrenewal, revocation, or suspension of a license or permit by the State Fire Marshal if she or he determines that the licensee or permittee has:

(a) Rendered inoperative a fire extinguisher or preengineered system required by statute or by rule, except during such time as the extinguisher or preengineered system is being inspected, serviced, repaired, *hydrotested*, or recharged, or except pursuant to court order.

(b) Falsified any record required to be maintained by this chapter or rules adopted pursuant hereto.

(c) Improperly serviced, recharged, repaired, *hydrotested*, tested, or inspected a fire extinguisher or preengineered system.

(d) While holding a permit or license, allowed another person to use the permit number or license number, or used a license number or permit number other than her or his valid license number or permit number.

(e) Failed to provide proof of insurance to the State Fire Marshal or failed to maintain in force the insurance coverage required by s. 633.061.

(f) Failed to obtain, retain, or maintain one or more of the qualifications for a license or permit as specified in this chapter.

(g) Made a material misstatement, misrepresentation, or committed a fraud in obtaining or attempting to obtain a license or permit.

(h) Failed to notify the State Fire Marshal, in writing, within 30 days after a change of residence, principal business address, or name.

(3) In addition, the Department of Insurance shall not issue a new license or permit if it finds that the circumstance or circumstances for which the license or permit was previously revoked or suspended still exist or are likely to recur.

Section 56. Section 633.171, Florida Statutes, is amended to read:

633.171 Penalty for violation of law, rule, or order to cease and desist or for failure to comply with corrective order.—

(1) The violation of any provision of this law, or any order or rule of the State Fire Marshal or order to cease and desist or to correct conditions issued hereunder, shall constitute a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(2) It shall constitute a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, to intentionally or willfully:

(a) Render a fire extinguisher or preengineered system required by statute or by rule inoperative except during such time as *the* ~~said~~ extinguisher or preengineered system is being serviced, *hydrotested*, tested, repaired, or recharged, except pursuant to court order.

(b) Obliterate the serial number on a fire extinguisher for purposes of falsifying service records.

(c) Improperly service, recharge, repair, *hydrotest*, test, or inspect a fire extinguisher or preengineered system.

(d) Use the license or permit number of another person.

(e) Hold a permit and allow another person to use said permit number.

(f) Use, or permit the use of, any license by any individual or organization other than the one to whom the license is issued.

Section 57. Present subsections (4) and (5) of section 633.547, Florida Statutes, are renumbered as subsections (6) and (7), respectively, and new subsections (4) and (5) are added to that section, to read:

633.547 Disciplinary action; fire protection system contractors; grounds for denial, nonrenewal, suspension, or revocation of certificate.—

(4) During the suspension or revocation of the certificate, the former certificateholder shall not engage in or attempt to profess to engage in any transaction or business for which a certificate is required under this chapter or directly or indirectly own, control, or be employed in any manner by any firm or corporation for which a certificate under this chapter is required. The department shall not, so long as the revocation or suspension remains in effect, grant any new certificate for the establishment of any new firm, business, or corporation of any person that has or will have the same or similar management, ownership, control, or employees or that will use a same or similar name as a previously revoked or suspended firm, business, or corporation.

(5) The State Fire Marshal may deny, suspend, or revoke the certificate of:

(a) Any person, firm, or corporation the certificate of which under this chapter has been suspended or revoked.

(b) Any firm or corporation if an officer, director, stockholder, owner, or person interested directly or indirectly has had his or her certificate under this chapter suspended or revoked.

(c) Any person who is or has been an officer, director, stockholder, or owner of a firm or corporation, or who was interested directly or indirectly in a corporation, the certificate of which has been suspended or revoked under this chapter.

Section 58. Paragraph (n) of subsection (3) of section 489.105, Florida Statutes, is amended to read:

489.105 Definitions.—As used in this part:

(3) "Contractor" means the person who is qualified for, and shall only be responsible for, the project contracted for and means, except as exempted in this part, the person who, for compensation, undertakes to, submits a bid to, or does himself or herself or by others construct, repair, alter, remodel, add to, demolish, subtract from, or improve any building or structure, including related improvements to real estate, for others or for resale to others; and whose job scope is substantially similar to the job scope described in one of the subsequent paragraphs of this subsection. For the purposes of regulation under this part, "demolish" applies only to demolition of steel tanks over 50 feet in height; towers over 50 feet in height; other structures over 50 feet in height, other than buildings or residences over three stories tall; and buildings or residences over three stories tall. Contractors are subdivided into two divisions, Division I, consisting of those contractors defined in paragraphs (a)-(c), and Division II, consisting of those contractors defined in paragraphs (d)-(q):

(n) "Underground utility and excavation contractor" means a contractor whose services are limited to the construction, installation, and repair, on public or private property, of main sanitary sewer collection systems, main water distribution systems, storm sewer collection systems, and the continuation of utility lines from the main systems to a point of termination up to and including the meter location for the individual occupancy, sewer collection systems at property line on residential or single-occupancy commercial properties, or on multioccupancy properties at manhole or wye lateral extended to an invert elevation as engineered to accommodate future building sewers, water distribution systems, or storm sewer collection systems at storm sewer structures. However, an underground utility and excavation contractor may install empty underground conduits in rights-of-way, easements, platted rights-of-way in new site development, and sleeves for parking lot crossings no smaller than 2 inches in diameter, provided that each conduit system installed is designed by a licensed professional engineer or an

authorized employee of a municipality, county, or public utility and that the installation of any such conduit does not include installation of any conductor wiring or connection to an energized electrical system. An underground utility and excavation contractor shall not install any piping that is an integral part of a fire protection system as defined in *s. 633.021* ~~s. 633.021(7)~~ beginning at the point where the piping is used exclusively for such system.

Section 59. This act shall take effect October 1, 1998.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to regulation of contracting; amending s. 468.603, F.S.; providing definitions; creating s. 468.604, F.S.; providing responsibilities of building code administrators, plans examiners, and inspectors; amending s. 468.605, F.S.; providing membership of the Florida Building Code Administrators and Inspectors Board; amending s. 468.609, F.S.; providing standards for certification as an inspector, building code administrator, or plans examiner; eliminating the board's authority to issue temporary certificates; amending s. 468.617, F.S.; providing that nothing prohibits local governments from contracting with certified persons to perform inspections; amending s. 468.627, F.S.; increasing the initial examination fee; creating ss. 471.045, 481.222, F.S.; allowing architects and professional engineers to perform the duties of building code inspectors in specified circumstances; providing disciplinary guidelines; providing restrictions; amending s. 489.129, F.S.; deleting a ground for discipline; requiring the department to provide certain information to a contractor who is the subject of a complaint; amending s. 489.131, F.S.; specifying the department's authority to investigate complaints; requiring local boards to have consumer members; amending s. 469.001, F.S.; redefining the terms "abatement" and "survey"; defining the term "project designer"; amending s. 469.002, F.S., relating to exemptions from state regulation of asbestos abatement; revising an exemption applicable to certain asbestos-related activities done by government employees; revising certain existing exemptions; amending s. 469.004, F.S.; eliminating provisions relating to prerequisites to issuance of a license and to continuing education; amending s. 469.005, F.S.; revising licensure requirements for asbestos consultants and asbestos contractors relating to required coursework; amending s. 469.006, F.S.; requiring applicants for business licensure to submit evidence of financial responsibility and an affidavit attesting to having obtained the required workers' compensation, public liability, and property damage insurance; amending s. 469.013, F.S.; revising continuing education requirements applicable to asbestos surveyors, management planners, and project monitors; repealing s. 469.015, F.S., relating to seals; amending ss. 255.551, 376.60, and 469.014, F.S.; conforming cross-references; amending s. 489.103, F.S.; providing exemptions from regulation for the sale, delivery, assembly, or tie-down of prefabricated portable sheds under certain conditions; amending s. 489.105, F.S.; revising and providing definitions applicable to contractors; amending s. 489.107, F.S.; eliminating reference to board jurisdiction over examinations; requiring the Construction Industry Licensing Board and the Electrical Contractors' Licensing Board to each appoint a committee to meet jointly at least twice a year; amending s. 489.113, F.S.; providing that expansion of the scope of practice of any type of contractor does not limit the scope of practice of any existing type of contractor unless the Legislature expressly provides such limitation; repealing s. 489.1135, F.S., which provides for certification of underground utility and excavation contractors; creating s. 489.1136, F.S.; providing for medical gas certification for plumbing contractors who install, improve, repair, or maintain conduits used to transport gaseous or partly gaseous substances for medical purposes; requiring certain coursework; requiring an examination for certain persons; providing for discipline and penalties; providing a definition; amending s. 553.06, F.S.; providing that plumbing contractors who install, improve, repair, or maintain such conduits shall be governed by the National Fire Prevention Association Standard 99C; amending s. 489.115, F.S.; authorizing certificateholders and registrants to apply continuing education courses earned under other regulatory provisions under certain circumstances; amending s. 489.119, F.S.; detailing what constitutes an incomplete contract for purposes of work allowed a business organization under temporary certification or registration; amending s. 489.140, F.S.; eliminating a provision that requires the transfer of surplus moneys from fines into the Construction Industries Recovery Fund; amending s. 489.141, F.S.; clarifying provisions relating to conditions for recovery from the fund; eliminating a notice requirement; revising a limitation on the making of a claim; amending s. 489.142, F.S.; revising a provision relating to powers of the Construction Industry Licensing Board with respect to actions for recovery from the fund, to conform; amending s. 489.143, F.S.; revising provisions relating to payment from the fund; amending s. 489.503, F.S., relating to exemptions from part II of chapter 489, F.S., relating to electrical and alarm system contracting; revising an exemption that applies to telecommunications, community antenna television, and radio distribution systems, to include cable television systems; providing exemptions relating to the monitoring of alarm systems by law enforcement employees or officers or fire department employees or officials, by employees of state or federally chartered financial institutions, or by employees of a business; amending s. 489.505, F.S., and repealing subsection (24), relating to the definition of "limited burglar alarm system contractor"; redefining terms applicable to electrical and alarm system contracting; defining the term "monitoring"; amending s. 489.507, F.S.; requiring the Electrical Contractors' Licensing Board and the Construction Industry Licensing Board to each appoint a committee to meet jointly at least twice a year; amending s. 489.509, F.S.; eliminating reference to the payment date of the biennial renewal fee for certificateholders and registrants; eliminating an inconsistent provision relating to failure to renew an active or inactive certificate or registration; providing for transfer of a portion of certain fees applicable to regulation of electrical and alarm system contracting to fund certain projects relating to the building construction industry and continuing education programs related thereto; amending s. 489.511, F.S.; revising eligibility requirements for certification as an electrical or alarm system contractor; authorizing the taking of the certification examination more than three times and providing requirements with respect thereto; eliminating an obsolete provision; amending s. 489.513, F.S.; revising registration requirements for electrical contractors; amending s. 489.517, F.S.; authorizing certificateholders and registrants to apply continuing education courses earned under other regulatory provisions under certain circumstances; providing for verification of public liability and property damage insurance; amending s. 489.519, F.S.; authorizing certificateholders and registrants to apply for voluntary inactive status at any time during the period of certification or registration; authorizing a person passing the certification examination and applying for licensure to place his or her license on inactive status without having to qualify a business; amending s. 489.521, F.S.; providing conditions on qualifying agents qualifying more than one business organization; providing for revocation or suspension of such qualification for improper supervision; providing technical changes; amending s. 489.525, F.S.; revising reporting requirements of the Department of Business and Professional Regulation to local boards and building officials; providing applicability with respect to information provided on the Internet; amending s. 489.533, F.S.; revising and providing grounds for discipline; providing penalties; reenacting s. 489.518(5), F.S., relating to alarm system agents, to incorporate the amendment to s. 489.533, F.S., in a reference thereto; amending s. 489.537, F.S.; authorizing registered electrical contractors to install raceways for alarm systems; providing that licensees under part II, ch. 489, F.S., are subject, as applicable, to certain provisions relating to local occupational license taxes; amending ss. 489.539, 553.19, F.S.; updating electrical and alarm standards; adding a national code relating to fire alarms to the minimum electrical and alarm standards required in this state; amending s. 489.505, F.S.; defining the term "fire alarm system agent"; creating s. 489.5185, F.S.; providing requirements for fire alarm system agents, including specified training and fingerprint and criminal background checks; providing for fees for approval of training providers and courses; providing applicability to applicants, current employees, and various licensees; requiring an identification card and providing requirements therefor; providing continuing education requirements; providing disciplinary penalties; creating s. 501.937, F.S.; providing requirements for use of professional titles by industrial hygienists and safety professionals; providing definitions; providing that violation of such requirements is a deceptive and unfair trade practice; amending s. 633.021, F.S.; defining the term "fire extinguisher"; amending s. 633.061, F.S.; requiring an individual or organization that hydrotests fire extinguishers and preengineered systems to obtain a permit or license from the State Fire Marshal; revising the services that may be performed under certain licenses and permits issued by the State Fire Marshal; providing additional application requirements; providing requirements for obtaining an upgraded license; amending ss. 633.065, 633.071, F.S.; providing requirements for installing and inspecting fire suppression equipment; amending s. 633.162, F.S.; prohibiting an owner, officer, or partner of a company from applying for licensure if the license held by the company is suspended or revoked; revising the grounds upon which the State Fire Marshal may deny, revoke, or suspend a license or permit; providing restrictions on activities of former licenseholders and permittees; amending s. 633.171, F.S.; revising the prohibition against rendering a fire extinguisher or preengineered system inoperative to conform to changes made by the

act; amending s. 633.547, F.S.; providing the State Fire Marshal authority to suspend and revoke certificates; providing restrictions on the activities of former certificateholders whose certificates are suspended or revoked; amending s. 489.105, F.S., relating to contracting; conforming a cross-reference to changes made by the act; providing an effective date.

Senator Clary moved the following amendment to **Amendment 1** which was adopted:

Amendment 1A (with title amendment)—On page 14, line 7 through page 17, line 31, delete those lines and insert:

Section 10. Subsections (2), (7) and (10) and paragraphs (c) of subsection (6) of section 489.131, Florida Statutes, are amended to read:

489.131 Applicability.—

(2) The state or any county or municipality shall require that bids submitted for construction, improvement, remodeling, or repair *on* ~~of~~ public *projects* ~~buildings~~ be accompanied by evidence that the bidder holds an appropriate certificate or registration, unless the work to be performed is exempt under s. 489.103.

(6)

(c) Each local board or agency that licenses contractors must transmit *quarterly* ~~monthly~~ to the board a report of any disciplinary action taken against contractors and of any administrative or disciplinary action taken against unlicensed persons for engaging in the business or acting in the capacity of a contractor including any cease and desist orders issued pursuant to s. 489.113(2)(b) and any fine issued pursuant to s. 489.127(5).

(7)(a) It is the policy of the state that the purpose of regulation is to protect the public by attaining compliance with the policies established in law. Fines and other penalties are provided in order to ensure compliance; however, the collection of fines and the imposition of penalties are intended to be secondary to the primary goal of attaining compliance with state laws and local jurisdiction ordinances. It is the intent of the Legislature that a local jurisdiction agency charged with enforcing regulatory laws shall issue a notice of noncompliance as its first response to a minor violation of a regulatory law in any instance in which it is reasonable to assume that the violator was unaware of such a law or unclear as to how to comply with it. A violation of a regulatory law is a "minor violation" if it does not result in economic or physical harm to a person or adversely affect the public health, safety, or welfare or create a significant threat of such harm. A "notice of noncompliance" is a notification by the local jurisdiction agency charged with enforcing the ordinance, which is issued to the licensee that is subject to the ordinance. A notice of noncompliance should not be accompanied with a fine or other disciplinary penalty. It should identify the specific ordinance that is being violated, provide information on how to comply with the ordinance, and specify a reasonable time for the violator to comply with the ordinance. Failure of a licensee to take action correcting the violation within a set period of time would then result in the institution of further disciplinary proceedings.

(b) The local governing body of a county or municipality, or its local enforcement body, is authorized to enforce the provisions of this part as well as its local ordinances against locally licensed or registered contractors, as appropriate. The local jurisdiction enforcement body may conduct disciplinary proceedings against a locally licensed or registered contractor and may require restitution, impose a suspension or revocation of his or her local license, or a fine not to exceed $5,000, or a combination thereof, against the locally licensed or registered contractor, according to ordinances which a local jurisdiction may enact. In addition, the local jurisdiction may assess reasonable investigative and legal costs for the prosecution of the violation against the violator, according to such ordinances as the local jurisdiction may enact.

(c) In addition to any action the local jurisdiction enforcement body may take against the individual's local license, and any fine the local jurisdiction may impose, the local jurisdiction enforcement body shall issue a recommended penalty for board action. This recommended penalty may include a recommendation for no further action, or a recommendation for suspension, revocation, or restriction of the registration, or a fine to be levied by the board, or a combination thereof. The local jurisdiction enforcement body shall inform the disciplined contractor and the complainant of the local license penalty imposed, the board penalty recommended, his or her rights to appeal, and the consequences should he or she decide not to appeal. The local jurisdiction enforcement body shall, upon having reached adjudication or having accepted a plea of nolo contendere, immediately inform the board of its action and the recommended board penalty.

(d) The department, the disciplined contractor, or the complainant may challenge the local jurisdiction enforcement body's recommended penalty for board action to the Construction Industry Licensing Board. A challenge shall be filed within 60 days after the issuance of the recommended penalty to the board. If challenged, there is a presumptive finding of probable cause and the case may proceed without the need for a probable cause hearing.

(e) Failure of the department, the disciplined contractor, or the complainant to challenge the local jurisdiction's recommended penalty within the time period set forth in this subsection shall constitute a waiver of the right to a hearing before the board. A waiver of the right to a hearing before the board shall be deemed an admission of the violation, and the penalty recommended shall become a final order according to procedures developed by board rule without further board action. The disciplined contractor may appeal this board action to the district court.

(f)*1.* The department may investigate any complaint which is made with the department. However, *the department may not initiate or pursue any* ~~if the department determines that the~~ complaint against a registered contractor *who is not also a certified contractor where a local jurisdiction enforcement body has jurisdiction over the complaint, unless summary procedures are initiated by the secretary pursuant to s. 455.225(8), or unless the local jurisdiction enforcement body has failed to investigate and prosecute a complaint, or make a finding of no violation, within 6 months of receiving the complaint. The department shall refer the complaint to the local jurisdiction enforcement body for investigation, and if appropriate, prosecution. However, the department may investigate such complaints to the extent necessary to determine whether summary procedures should be initiated* ~~is for an action which a local jurisdiction enforcement body has investigated and reached adjudication or accepted a plea of nolo contendere, including a recommended penalty to the board, the department shall not initiate prosecution for that action, unless the secretary has initiated summary procedures pursuant to s. 455.225(8)~~.

2. Upon a recommendation by the department, the board may make conditional, suspend, or rescind its determination of the adequacy of the local government enforcement body's disciplinary procedures granted under s. 489.117(2).

(g) Nothing in this subsection shall be construed to allow local jurisdictions to exercise disciplinary authority over certified contractors.

(10) No municipal or county government may issue any certificate of competency or license for any contractor defined in s. 489.105(3)(a)-(o) after July 1, 1993, unless such local government exercises disciplinary control and oversight over such locally licensed contractors, including forwarding a recommended order in each action to the board as provided in subsection (7). *Each local board that licenses and disciplines contractors must have at least two consumer representatives on that board. If the board has seven or more members, at least three of those members must be consumer representatives. The consumer representative may be any resident of the local jurisdiction that is not, and has never been, a member or practitioner of a profession regulated by the board or a member of any closely related profession.*

Section 11. *The amendments to paragraph (f) of subsection (7) of section 489.131 of this act shall not affect any investigative activities or administrative actions commenced by the department as a result of complaints filed prior to the effective date of this legislation.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 107, lines 15-18, delete those lines and insert: amending s. 489.131, F.S.; requiring that bids for public projects be accompanied by certain evidence; requiring local boards or agencies that license contractors to transmit quarterly reports; clarifying the department's authority to initiate disciplinary actions; providing that local boards that license and discipline contractors must have at least 2 consumer representatives; amending s. 469.001, F.S.;

On motion by Senator Clary, further consideration of **HB 4439** with pending **Amendment 1** as amended was deferred.

On motion by Senator Dudley, by two-thirds vote **CS for HB 3883** was withdrawn from the Committees on Judiciary; Children, Families and Seniors; and Rules and Calendar.

On motion by Senator Dudley, by two-thirds vote—

CS for HB 3883—A bill to be entitled An act relating to protection of children; reorganizing and revising ch. 39, F.S.; providing for pt. I of said chapter, entitled "General Provisions"; amending ss. 39.001, 39.002, and 415.501, F.S.; revising purposes and intent; providing for personnel standards and screening and for drug testing; amending s. 39.01, F.S.; revising definitions; renumbering and amending s. 39.455, F.S., relating to immunity from liability for agents of the Department of Children and Family Services or a social service agency; amending s. 39.012, F.S., and creating s. 39.0121, F.S.; providing authority and requirements for department rules; renumbering and amending s. 39.40, F.S., relating to procedures and jurisdiction; providing for right to counsel; renumbering s. 39.4057, F.S., relating to permanent mailing address designation; renumbering and amending s. 39.411, F.S., relating to oaths, records, and confidential information; renumbering s. 39.414, F.S., relating to court and witness fees; renumbering and amending ss. 39.415 and 39.474, F.S., relating to compensation of appointed counsel; renumbering and amending s. 39.418, F.S., relating to the Operations and Maintenance Trust Fund; renumbering and amending s. 415.5015, F.S., relating to child abuse prevention training in the district school system; providing for pt. II of ch. 39, F.S., entitled "Reporting Child Abuse"; renumbering and amending s. 415.504, F.S., relating to mandatory reports of child abuse, abandonment, or neglect; renumbering and amending s. 415.511, F.S., relating to immunity from liability in cases of child abuse, abandonment, or neglect; renumbering and amending s. 415.512, F.S., relating to abrogation of privileged communications in cases of child abuse, abandonment, or neglect; renumbering and amending s. 415.513, F.S.; providing penalties relating to reporting of child abuse, abandonment, or neglect; deleting the requirement for the Department of Children and Family Services to provide information to the state attorney; providing for the Department of Children and Family Services to report annually to the Legislature the number of reports referred to law enforcement agencies; providing for investigation by local law enforcement agencies of possible false reports; providing for law enforcement agencies to refer certain reports to the state attorney for prosecution; providing for law enforcement entities to handle certain reports of abuse or neglect during the pendency of such an investigation; providing procedures; specifying the penalty for knowingly and willfully making, or advising another to make, a false report; providing for state attorneys to report annually to the Legislature the number of complaints that have resulted in informations or indictments and the disposition of those complaints; renumbering and amending s. 415.5131, F.S., increasing an administrative fine for false reporting; providing for pt. III of ch. 39, F.S., entitled "Protective Investigations"; creating s. 39.301, F.S.; providing for child protective investigations; creating s. 39.302, F.S.; providing for protective investigations of institutional child abuse, abandonment, or neglect; renumbering and amending s. 415.5055, F.S., relating to child protection teams and services and eligible cases; creating s. 39.3035, F.S.; providing standards for child advocacy centers eligible for state funding; renumbering and amending s. 415.507, F.S., relating to photographs, medical examinations, X rays, and medical treatment of an abused, abandoned, or neglected child; renumbering and amending s. 415.5095, F.S., relating to a model plan for intervention and treatment in sexual abuse cases; creating s. 39.306, F.S.; providing for working agreements with local law enforcement to perform criminal investigations; renumbering and amending s. 415.50171, F.S., relating to reports of child-on-child sexual abuse; providing for pt. IV of ch. 39, F.S., entitled "Family Builders Program"; renumbering and amending s. 415.515, F.S., relating to establishment of the program; renumbering and amending s. 415.516, F.S., relating to goals of the program; renumbering and amending s. 415.517, F.S., relating to contracts for services; renumbering and amending s. 415.518, F.S., relating to family eligibility; renumbering s. 415.519, F.S., relating to delivery of services; renumbering and amending s. 415.520, F.S., relating to qualifications of program workers; renumbering s. 415.521, F.S., relating to outcome evaluation; renumbering and amending s. 415.522, F.S., relating to funding; providing for pt. V of ch. 39, F.S., entitled "Taking Children into Custody and Shelter Hearings"; creating s. 39.395, F.S.; providing for medical or hospital personnel taking a child into protective custody; amending s. 39.401, F.S.; providing for law enforcement officers or authorized agents of the department taking a child alleged to be dependent into custody; amending s. 39.402, F.S., relating to placement in a shelter; amending s. 39.407, F.S., relating to physical and mental examination and treatment of a child and physical or mental examination of a person requesting custody; renumbering and amending s. 39.4033, F.S., relating to referral of a dependency case to mediation; providing for pt. VI of ch. 39, F.S., entitled "Petition, Arraignment, Adjudication, and Disposition"; renumbering and amending s. 39.404, F.S., relating to petition for dependency; renumbering and amending s. 39.405, F.S., relating to notice, process, and service; renumbering and amending s. 39.4051, F.S., relating to procedures when the identity or location of the parent, legal custodian, or caregiver is unknown; renumbering and amending s. 39.4055, F.S., relating to injunction pending disposition of a petition for detention or dependency; renumbering and amending s. 39.406, F.S., relating to answers to petitions or other pleadings; renumbering and amending s. 39.408(1), F.S., relating to arraignment hearings; renumbering and amending ss. 39.408(2) and 39.409, F.S., relating to adjudicatory hearings and orders; renumbering and amending ss. 39.408(3) and (4) and 39.41, F.S., relating to disposition hearings and powers of disposition; creating s. 39.5085, F.S.; establishing the Relative Caregiver Program; directing the Department of Children and Family Services to establish and operate the Relative-Caregiver Program; providing financial assistance within available resources to relatives caring for children; providing for financial assistance and support services to relatives caring for children placed with them by the child protection system; providing for rules establishing eligibility guidelines, caregiver benefits, and payment schedule; renumbering and amending s. 39.4105, F.S., relating to grandparents rights; renumbering and amending s. 39.413, F.S., relating to appeals; providing for pt. VII of ch. 39, F.S., entitled "Case Plans"; renumbering and amending ss. 39.4031 and 39.451, F.S., relating to case plan requirements and case planning for children in out-of-home care; renumbering and amending s. 39.452(1)-(4), F.S., relating to case planning for children in out-of-home care when the parents, legal custodians, or caregivers do not participate; renumbering and amending s. 39.452(5), F.S., relating to court approvals of case planning; providing for pt. VIII of ch. 39, F.S., entitled "Judicial Reviews"; renumbering and amending s. 39.453, F.S., relating to judicial review of the status of a child; renumbering and amending s. 39.4531, F.S., relating to citizen review panels; renumbering and amending s. 39.454, F.S., relating to initiation of proceedings for termination of parental rights; renumbering and amending s. 39.456, F.S.; revising exemptions from judicial review; providing for pt. IX of ch. 39, F.S., entitled "Termination of Parental Rights"; renumbering and amending ss. 39.46 and 39.462, F.S., relating to procedures, jurisdiction, and service of process; renumbering and amending ss. 39.461 and 39.4611, F.S., relating to petition for termination of parental rights, and filing and elements thereof; creating s. 39.803, F.S.; providing procedures when the identity or location of the parent is unknown after filing a petition for termination of parental rights; renumbering s. 39.4627, F.S., relating to penalties for false statements of paternity; renumbering and amending s. 39.463, F.S., relating to petitions and pleadings for which no answer is required; renumbering and amending s. 39.464, F.S., relating to grounds for termination of paternal rights; renumbering and amending s. 39.465, F.S., relating to right to counsel and appointment of a guardian ad litem; renumbering and amending s. 39.466, F.S., relating to advisory hearings; renumbering and amending s. 39.467, F.S., relating to adjudicatory hearings; renumbering and amending s. 39.4612, F.S., relating to the manifest best interests of the child; renumbering and amending s. 39.469, F.S., relating to powers of disposition and order of disposition; renumbering and amending s. 39.47, F.S., relating to post disposition relief; creating s. 39.813, F.S.; providing for continuing jurisdiction of the court which terminates parental rights over all matters pertaining to the child's adoption; renumbering s. 39.471, F.S., relating to oaths, records, and confidential information; renumbering and amending s. 39.473, F.S., relating to appeal; creating s. 39.816, F.S.; authorizing certain pilot and demonstration projects contingent on receipt of federal grants or contracts; creating s. 39.817, F.S.; providing for a foster care demonstration pilot project; providing for pt. X of ch. 39, F.S., entitled "Guardians Ad Litem and Guardian Advocates"; creating s. 39.820, F.S.; providing definitions; renumbering s. 415.5077, F.S., relating to qualifications of guardians ad litem; renumbering and amending s. 415.508, F.S., relating to appointment of a guardian ad litem for an abused, abandoned, or neglected child; renumbering and amending s. 415.5082, F.S., relating to guardian advocates for drug dependent newborns; renumbering and amending s. 415.5083, F.S., relating to procedures and jurisdiction; renumbering s. 415.5084, F.S., relating to petition for appointment of a

guardian advocate; renumbering s. 415.5085, F.S., relating to process and service; renumbering and amending s. 415.5086, F.S., relating to hearing for appointment of a guardian advocate; renumbering and amending s. 415.5087, F.S., relating to grounds for appointment of a guardian advocate; renumbering s. 415.5088, F.S., relating to powers and duties of the guardian advocate; renumbering and amending s. 415.5089, F.S., relating to review and removal of a guardian advocate; providing for pt. XI of ch. 39, F.S., entitled "Domestic Violence"; renumbering s. 415.601, F.S., relating to legislative intent regarding treatment and rehabilitation of victims and perpetrators; renumbering and amending s. 415.602, F.S., relating to definitions; renumbering and amending s. 415.603, F.S., relating to duties and functions of the department; renumbering and amending s. 415.604, F.S., relating to an annual report to the Legislature; renumbering and amending s. 415.605, F.S., relating to domestic violence centers; renumbering s. 415.606, F.S., relating to referral to such centers and notice of rights; renumbering s. 415.608, F.S., relating to confidentiality of information received by the department or a center; amending ss. 20.43, 61.13, 61.401, 61.402, 63.052, 63.092, 90.5036, 154.067, 216.136, 232.50, 318.21, 384.29, 392.65, 393.063, 395.1023, 400.4174, 400.556, 402.165, 402.166, 409.1672, 409.176, 409.2554, 409.912, 409.9126, 414.065, 447.401, 464.018, 490.014, 491.014, 741.30, 744.309, 784.075, 933.18, 944.401, 944.705, 984.03, 984.10, 984.15, 984.24, 985.03, and 985.303, F.S.; correcting cross references; conforming related provisions and references; amending s. 20.19, F.S.; providing for certification programs for family safety and preservation employees of the department; providing for rules; amending ss. 213.053 and 409.2577, F.S.; authorizing disclosure of certain confidential taxpayer and parent locator information for diligent search activities under ch. 39, F.S.; creating s. 435.045, F.S.; providing background screening requirements for prospective foster or adoptive parents; amending s. 943.045, F.S.; providing that the Department of Children and Family Services is a "criminal justice agency" for purposes of the criminal justice information system; providing an appropriation; repealing s. 39.0195, F.S., relating to sheltering unmarried minors and aiding unmarried runaways; repealing s. 39.0196, F.S., relating to children locked out of the home; repealing ss. 39.39, 39.449, and 39.459, F.S., relating to definition of "department"; repealing s. 39.403, F.S., relating to protective investigation; repealing s. 39.4032, F.S., relating to multidisciplinary case staffing; repealing s. 39.4052, F.S., relating to affirmative duty of written notice to adult relatives; repealing s. 39.4053, F.S., relating to diligent search after taking a child into custody; repealing s. 39.45, F.S., relating to legislative intent regarding foster care; repealing s. 39.457, F.S., relating to a pilot program in Leon County to provide additional benefits to children in foster care; repealing s. 39.4625, F.S., relating to identity or location of parent unknown after filing of petition for termination of parental rights; repealing s. 39.472, F.S., relating to court and witness fees; repealing s. 39.475, F.S., relating to rights of grandparents; repealing ss. 415.5016, 415.50165, 415.5017, 415.50175, 415.5018, 415.50185, and 415.5019, F.S., relating to purpose and legislative intent, definitions, procedures, confidentiality of records, district authority and responsibilities, outcome evaluation, and rules for the family services response system; repealing s. 415.502, F.S., relating to legislative intent for comprehensive protective services for abused or neglected children; repealing s. 415.503, F.S., relating to definitions; repealing s. 415.505, F.S., relating to child protective investigations and investigations of institutional child abuse or neglect; repealing s. 415.506, F.S., relating to taking a child into protective custody; repealing s. 415.5075, F.S., relating to rules for medical screening and treatment of children; repealing s. 415.509, F.S., relating to public agencies' responsibilities for prevention, identification, and treatment of child abuse and neglect; repealing s. 415.514, F.S., relating to rules for protective services; providing effective dates.

—a companion measure, was substituted for **CS for SB 2170** and by two-thirds vote read the second time by title.

On motion by Senator Dudley, further consideration of **CS for HB 3883** was deferred.

The Senate resumed consideration of—

HB 4259—A bill to be entitled An act relating to postsecondary education; amending s. 232.2466, F.S.; revising requirements for the college-ready diploma program; amending s. 239.117, F.S.; exempting specified students from postsecondary fees; amending s. 239.225, F.S.; revising provisions relating to the Vocational Improvement Program; amending s. 240.1163, F.S.; revising dual enrollment provisions; amending s. 240.235, F.S.; exempting specified university students from fees; amending s. 240.321, F.S., relating to duties of community college district boards of trustees; requiring notification of alternative remedial options; providing student requirements relating to enrollment in courses; amending s. 240.324, F.S., relating to the community college accountability process; providing for coinciding reporting deadlines; clarifying language; amending s. 240.35, F.S.; exempting specified community college students from fees; amending s. 240.36, F.S.; revising provisions relating to the matching of funds and the uses of proceeds of a trust fund for community colleges; amending s. 240.382, F.S.; correcting a cross reference; amending s. 240.4097, F.S., relating to the Florida Postsecondary Student Assistance Grant Program; requiring the establishment of application deadlines; amending s. 246.201, F.S.; revising legislative intent; amending s. 246.203, F.S.; renaming the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools the State Board of Nonpublic Career Education; revising definition of schools regulated by the board; amending s. 246.205, F.S.; conforming language; amending s. 246.207, F.S.; revising powers and duties of the board; amending s. 246.213, F.S.; conforming language; amending s. 246.215, F.S.; requiring licensing of specified programs by the board; creating s. 246.216, F.S.; providing for exemption from licensure for specified entities; providing for statements of exemption; providing for revocation of statements of exemption; providing for remedies; amending ss. 246.219, 246.220, 246.2265, 246.227, and 246.31, F.S.; conforming language; amending ss. 20.15, 240.40204, 246.011, 246.081, 246.085, 246.091, 246.111, 246.50, 455.2125, 455.554, 467.009, 476.178, 477.023, and 488.01, F.S.; conforming language; providing an effective date.

—with pending **Amendment 1** by Senators Forman and Kirkpatrick as amended.

Senator Kirkpatrick moved the following amendment to **Amendment 1** which was adopted:

Amendment 1B (with title amendment)—On page 44, between lines 24 and 25, insert:

Section 39. *The sum of $13,244,151 is appropriated for fiscal year 1998-1999 from the Public Education and Capital Outlay Debt Service Trust Fund to the Columbia County School District for the Ft. White High School. No funds shall be released for this project before the Special Facilities Review Commission has approved said project.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 46, line 23, after the semicolon (;) insert: providing an appropriation to the Columbia County School District; providing a contingency;

Senator Clary moved the following amendment to **Amendment 1** which was adopted:

Amendment 1C (with title amendment)—On page 66, between lines 6 and 7, insert:

Section 48. Section 240.551, Florida Statutes, is amended to read:

240.551 Florida Prepaid *College* ~~Postsecondary Education Expense~~ Program.—

(1) *LEGISLATIVE INTENT.*—The Legislature recognizes that educational opportunity at the postsecondary level is a critical state interest. It further recognizes that educational opportunity is best ensured through the provision of postsecondary institutions that are geographically and financially accessible. Accordingly, it is the intent of the Legislature that a program be established through which many of the costs associated with postsecondary attendance may be paid in advance and fixed at a guaranteed level for the duration of undergraduate enrollment. It is similarly the intent of the Legislature to provide a program that fosters timely financial planning for postsecondary attendance and to encourage employer participation in such planning through program contributions on behalf of employees and the dependents of employees.

(2) *DEFINITIONS.*—~~As used in this section:~~

(a) "Advance payment contract" means a contract entered into by the board and a purchaser pursuant to this section.

(b) "Board" means the *Florida* Prepaid *College* ~~Postsecondary Education Expense~~ Board.

(c) "Fund" means the *Florida* Prepaid *College* ~~Postsecondary Education Expense~~ Trust Fund.

(d)~~(g)~~ "Program" means the Florida Prepaid *College* ~~Postsecondary Education Expense~~ Program.

(e)~~(d)~~ "Purchaser" means a person who makes or is obligated to make advance registration or dormitory residence payments in accordance with an advance payment contract.

(f)~~(e)~~ "Qualified beneficiary" means:

1. A resident of this state at the time a purchaser enters into an advance payment contract on behalf of the resident;

2. A nonresident who is the child of a noncustodial parent who is a resident of this state at the time that such parent enters into an advance payment contract on behalf of the child; or

3. For purposes of advance payment contracts entered into pursuant to *subsection (22)* ~~paragraph (5)(j)~~, a graduate of an accredited high school in this state who is a resident of this state at the time he or she is designated to receive the benefits of the advance payment contract.

(g)~~(h)~~ "Registration fee" means matriculation fee, financial aid fee, building fee, and Capital Improvement Trust Fund fee.

(h)~~(f)~~ "State postsecondary institution" means any community college identified in s. 240.3031 or university identified in s. 240.2011.

(3) *FLORIDA PREPAID COLLEGE PROGRAM; CREATION.*—There is created a Florida Prepaid *College* ~~Postsecondary Education Expense~~ Program to provide a medium through which the cost of registration and dormitory residence may be paid in advance of enrollment in a state postsecondary institution at a rate lower than the projected corresponding cost at the time of actual enrollment. Such payments shall be combined and invested in a manner that yields, at a minimum, sufficient interest to generate the difference between the prepaid amount and the cost of registration and dormitory residence at the time of actual enrollment. Students who enroll in a state postsecondary institution pursuant to this section shall be charged no fees in excess of the terms delineated in the advance payment contract.

(4) *FLORIDA PREPAID COLLEGE TRUST FUND.*—There is created within the State Board of Administration the *Florida* Prepaid *College* ~~Postsecondary Education Expense~~ Trust Fund. The fund shall consist of state appropriations, moneys acquired from other governmental or private sources, and moneys remitted in accordance with advance payment contracts. All funds deposited into the trust fund may be invested pursuant to s. 215.47~~; however, such investment shall not be mandatory~~. Dividends, interest, and gains accruing to the trust fund shall increase the total funds available for the program. Notwithstanding the provisions of chapter 717, funds associated with *terminated* contracts ~~terminated~~ pursuant to *subsection (12)* ~~paragraph (6)(d)~~ and canceled contracts for which no refunds have been claimed shall increase the total funds available for the program. However, the board shall establish procedures for notifying purchasers who subsequently cancel their contracts of any unclaimed refund and shall establish a time period after which no refund may be claimed by a purchaser who canceled a contract. Any balance contained within the fund at the end of a fiscal year shall remain therein and shall be available for carrying out the purposes of the program. In the event that dividends, interest, and gains *exceed* ~~exceeds~~ the amount necessary for program administration and disbursements, the board may designate an additional percentage of the fund to serve as a contingency fund. Moneys contained within the fund shall be exempt from the investment requirements of s. 18.10. Any funds of a direct-support organization created pursuant to *subsection (22)* ~~paragraph (5)(j)~~ shall be exempt from the provisions of this *subsection* ~~paragraph~~.

(5) *PROGRAM ADMINISTRATION.*—

(a) The Florida Prepaid *College* ~~Postsecondary Education Expense~~ Program shall be administered by the *Florida* Prepaid *College* ~~Postsecondary Education Expense~~ Board as an agency of the state. The *Florida* Prepaid *College* ~~Postsecondary Education Expense~~ Board is hereby created as a body corporate with all the powers of a body corporate for the purposes delineated in this section. For the purposes of s. 6, Art. IV of the State Constitution, the board shall be assigned to and administratively housed within the State Board of Administration, but it shall independently exercise the powers and duties specified in this section.

(b) The board shall consist of seven members to be composed of the Insurance Commissioner and Treasurer, the Comptroller, the Chancellor of the Board of Regents, the Executive Director of the State Board of Community Colleges, and three members appointed by the Governor and subject to confirmation by the Senate. Each member appointed by the Governor shall possess knowledge, skill, and experience in the areas of accounting, actuary, risk management, or investment management. Each member of the board not appointed by the Governor may name a designee to serve the board on behalf of the member; however, any designee so named shall meet the qualifications required of gubernatorial appointees to the board. Members appointed by the Governor shall serve terms of 3 years ~~except that, in making the initial appointments, the Governor shall appoint one member to serve for 1 year, one member to serve for 2 years, and one member to serve for 3 years~~. Any person appointed to fill a vacancy on the board shall be appointed in a like manner and shall serve for only the unexpired term. Any member shall be eligible for reappointment and shall serve until a successor qualifies. Members of the board shall serve without compensation but shall be reimbursed for per diem and travel in accordance with s. 112.061. Each member of the board shall file a full and public disclosure of his or her financial interests pursuant to s. 8, Art. II of the State Constitution and corresponding statute.

(c)~~(a) The Governor shall appoint a member of the board to serve as the initial chair of the board. Thereafter, the board shall elect a chair annually.~~ The board shall annually elect a board member to serve as *chair and a board member to serve as* vice chair and shall designate a secretary-treasurer who need not be a member of the board. The secretary-treasurer shall keep a record of the proceedings of the board and shall be the custodian of all printed material filed with or by the board and of its official seal. Notwithstanding the existence of vacancies on the board, a majority of the members shall constitute a quorum. The board shall take no official action in the absence of a quorum. The board shall meet, at a minimum, on a quarterly basis at the call of the chair.

(6) FLORIDA PREPAID COLLEGE BOARD; DUTIES.—The board shall:

(a)~~(b) The board shall~~ Appoint an executive director to serve as the chief administrative and operational officer of the board and to perform other duties assigned to him or her by the board.

(b) Administer the fund in a manner that is sufficiently actuarially sound to defray the obligations of the program. The board shall annually evaluate or cause to be evaluated the actuarial soundness of the fund. If the board perceives a need for additional assets in order to preserve actuarial soundness, the board may adjust the terms of subsequent advance payment contracts to ensure such soundness.

(c) Establish a comprehensive investment plan for the purposes of this section with the approval of the State Board of Administration. The comprehensive investment plan shall specify the investment policies to be utilized by the board in its administration of the fund. The board may place assets of the fund in savings accounts or use the same to purchase fixed or variable life insurance or annuity contracts, securities, evidence of indebtedness, or other investment products pursuant to the comprehensive investment plan and in such proportions as may be designated or approved under that plan. Such insurance, annuity, savings, or investment products shall be underwritten and offered in compliance with the applicable federal and state laws, regulations, and rules by persons who are duly authorized by applicable federal and state authorities. Within the comprehensive investment plan, the board may authorize investment vehicles, or products incident thereto, as may be available or offered by qualified companies or persons. A contract purchaser may not direct the investment of his or her contribution to the trust fund and a contract beneficiary may not direct the contribution made on his or her behalf to the trust fund. Board members and employees of the board are not prohibited from purchasing advance payment contracts by virtue of their fiduciary responsibilities as members of the board or official duties as employees of the board.

(d) Solicit proposals and contract, pursuant to s. 287.057, for the marketing of the Florida Prepaid College Program. The entity designated

pursuant to this paragraph shall serve as a centralized marketing agent for the program and shall be solely responsible for the marketing of the program. Any materials produced for the purpose of marketing the program shall be submitted to the board for review. No such materials shall be made available to the public before the materials are approved by the board. Any educational institution may distribute marketing materials produced for the program; however, all such materials shall have been approved by the board prior to distribution. Neither the state nor the board shall be liable for misrepresentation of the program by a marketing agent.

(e) Solicit proposals and contract, pursuant to s. 287.057, for a trustee services firm to select and supervise investment programs on behalf of the board. The goals of the board in selecting a trustee services firm shall be to obtain the highest standards of professional trustee services, to allow all qualified firms interested in providing such services equal consideration, and to provide such services to the state at no cost and to the purchasers at the lowest cost possible. The trustee services firm shall agree to meet the obligations of the board to qualified beneficiaries if moneys in the fund fail to offset the obligations of the board as a result of imprudent selection or supervision of investment programs by such firm. Evaluations of proposals submitted pursuant to this paragraph shall include, but not be limited to, the following criteria:

1. Adequacy of trustee services for supervision and management of the program, including current operations and staff organization and commitment of management to the proposal.

2. Capability to execute program responsibilities within time and regulatory constraints.

3. Past experience in trustee services and current ability to maintain regular and continuous interactions with the board, records administrator, and product provider.

4. The minimum purchaser participation assumed within the proposal and any additional requirements of purchasers.

5. Adequacy of technical assistance and services proposed for staff.

6. Adequacy of a management system for evaluating and improving overall trustee services to the program.

7. Adequacy of facilities, equipment, and electronic data processing services.

8. Detailed projections of administrative costs, including the amount and type of insurance coverage, and detailed projections of total costs.

(f) Solicit proposals and contract, pursuant to s. 287.057, for product providers to develop investment portfolios on behalf of the board to achieve the purposes of this section. Product providers shall be limited to authorized insurers as defined in s. 624.09, banks as defined in s. 658.12, associations as defined in s. 665.012, authorized Securities and Exchange Commission investment advisers, and investment companies as defined in the Investment Company Act of 1940. All product providers shall have their principal place of business and corporate charter located and registered in the United States. In addition, each product provider shall agree to meet the obligations of the board to qualified beneficiaries if moneys in the fund fail to offset the obligations of the board as a result of imprudent investing by such provider. Each authorized insurer shall evidence superior performance overall on an acceptable level of surety in meeting its obligations to its policyholders and other contractual obligations. Only qualified public depositories approved by the Insurance Commissioner and Treasurer shall be eligible for board consideration. Each investment company shall provide investment plans as specified within the request for proposals. The goals of the board in selecting a product provider company shall be to provide all purchasers with the most secure, well-diversified, and beneficially administered postsecondary education expense plan possible, to allow all qualified firms interested in providing such services equal consideration, and to provide such services to the state at no cost and to the purchasers at the lowest cost possible. Evaluations of proposals submitted pursuant to this paragraph shall include, but not be limited to, the following criteria:

1. Fees and other costs charged to purchasers that affect account values or operational costs related to the program.

2. Past and current investment performance, including investment and interest rate history, guaranteed minimum rates of interest, consistency of investment performance, and any terms and conditions under which moneys are held.

3. Past experience and ability to provide timely and accurate service in the areas of records administration, benefit payments, investment management, and complaint resolution.

4. Financial history and current financial strength and capital adequacy to provide products, including operating procedures and other methods of protecting program assets.

(7)~~(e)~~ *FLORIDA PREPAID COLLEGE BOARD; POWERS.*—The board shall have the powers necessary or proper to carry out the provisions of this section, including, but not limited to, the power to:

(a)~~1.~~ Adopt an official seal and rules.

(b)~~2.~~ Sue and be sued.

(c)~~3.~~ Make and execute contracts and other necessary instruments.

(d)~~4.~~ Establish agreements or other transactions with federal, state, and local agencies, including state universities and community colleges.

(e)~~5.~~ Invest funds not required for immediate disbursement.

(f)~~6.~~ Appear in its own behalf before boards, commissions, or other governmental agencies.

(g)~~7.~~ Hold, buy, and sell any instruments, obligations, securities, and property determined appropriate by the board.

(h)~~8.~~ Require a reasonable length of state residence for qualified beneficiaries.

(i)~~9.~~ Restrict the number of participants in the community college plan, university plan, and dormitory residence plan, respectively. However, any person denied participation solely on the basis of such restriction shall be granted priority for participation during the succeeding year.

(j)~~10.~~ Segregate contributions and payments to the fund into various accounts and funds.

(k)~~11.~~ Contract for necessary goods and services, employ necessary personnel, and engage the services of private consultants, actuaries, managers, legal counsel, and auditors for administrative or technical assistance.

(l)~~12.~~ Solicit and accept gifts, grants, loans, and other aids from any source or participate in any other way in any government program to carry out the purposes of this section.

(m)~~13.~~ Require and collect administrative fees and charges in connection with any transaction and impose reasonable penalties, including default, for delinquent payments or for entering into an advance payment contract on a fraudulent basis.

(n)~~14.~~ Procure insurance against any loss in connection with the property, assets, and activities of the fund or the board.

(o)~~15.~~ Impose reasonable time limits on use of the tuition benefits provided by the program. However, any such limitation shall be specified within the advance payment contract.

(p)~~16.~~ Delineate the terms and conditions under which payments may be withdrawn from the fund and impose reasonable fees and charges for such withdrawal. Such terms and conditions shall be specified within the advance payment contract.

(q)~~17.~~ Provide for the receipt of contributions in lump sums or installment payments.

~~18. Establish other policies, procedures, and criteria to implement and administer the provisions of this section.~~

(r)~~19.~~ Require that purchasers of advance payment contracts verify, under oath, any requests for contract conversions, substitutions, transfers, cancellations, refund requests, or contract changes of any nature. Verification shall be accomplished as authorized and provided for in s. 92.525(1)(a).

~~(d) The board shall administer the fund in a manner that is sufficiently actuarially sound to defray the obligations of the program. The board shall annually evaluate or cause to be evaluated the actuarial soundness of the fund. If the board perceives a need for additional assets in order to preserve actuarial soundness, the board may adjust the terms of subsequent advance payment contracts to ensure such soundness.~~

~~(e) The board, acting with the approval of the State Board of Administration, shall establish a comprehensive investment plan for the purposes of this section. The comprehensive investment plan shall specify the investment policies to be utilized by the board in its administration of the fund. The board may place assets of the fund in savings accounts or use the same to purchase fixed or variable life insurance or annuity contracts, securities, evidence of indebtedness, or other investment products pursuant to the comprehensive investment plan and in such proportions as may be designated or approved under that plan. Such insurance, annuity, savings, or investment products shall be underwritten and offered in compliance with the applicable federal and state laws, regulations, and rules by persons who are duly authorized by applicable federal and state authorities. Within the comprehensive investment plan, the board may authorize investment vehicles, or products incident thereto, as may be available or offered by qualified companies or persons. A contract purchaser may not direct the investment of his or her contribution to the trust fund, and a contract beneficiary may not direct the contribution made on his or her behalf to the trust fund. Board members and employees of the board are not prohibited from purchasing advance payment contracts by virtue of their fiduciary responsibilities as members of the board or official duties as employees of the board.~~

(s)~~(f) The board may~~ Delegate responsibility for administration of the comprehensive investment plan required in paragraph *(6)(c)*~~(e)~~ to a person the board determines to be qualified. Such person shall be compensated by the board. Directly or through such person, the board may contract with a private corporation or institution to provide such services as may be a part of the comprehensive investment plan or as may be deemed necessary or proper by the board or such person, including, but not limited to, providing consolidated billing, individual and collective recordkeeping and accountings, and asset purchase, control, and safekeeping.

(t) Endorse insurance coverage written exclusively for the purpose of protecting advance payment contracts, and the purchasers and beneficiaries thereof, which may be issued in the form of a group life policy and which is exempt from the provisions of part V of chapter 627.

(u) Solicit proposals and contract, pursuant to s. 287.057, for the services of a records administrator. The goals of the board in selecting a records administrator shall be to provide all purchasers with the most secure, well-diversified, and beneficially administered postsecondary education expense plan possible, to allow all qualified firms interested in providing such services equal consideration, and to provide such services to the state at no cost and to the purchasers at the lowest cost possible. Evaluations of proposals submitted pursuant to this paragraph shall include, but not be limited to, the following criteria:

1. Fees and other costs charged to purchasers that affect account values or operational costs related to the program.

2. Past experience in records administration and current ability to provide timely and accurate service in the areas of records administration, audit and reconciliation, plan communication, participant service, and complaint resolution.

3. Sufficient staff and computer capability for the scope and level of service expected by the board.

4. Financial history and current financial strength and capital adequacy to provide administrative services required by the board.

(v) Establish other policies, procedures, and criteria to implement and administer the provisions of this section.

~~(g) The board shall annually prepare or cause to be prepared a report setting forth in appropriate detail an accounting of the fund and a description of the financial condition of the program at the close of each fiscal year. Such report shall be submitted to the President of the Senate, the Speaker of the House of Representatives, and members of the State Board of Education on or before March 31 each year. In addition, the board shall make the report available to purchasers of advance payment contracts. The board shall provide to the Board of Regents and the State Board of Community Colleges by March 31 each year complete advance payment contract sales information including projected postsecondary enrollments of qualified beneficiaries. The accounts of the fund shall be subject to annual audits by the Auditor General or his or her designee.~~

(8)~~(h)~~ *QUALIFIED STATE TUITION PROGRAM STATUS.*—Notwithstanding any other provision of this section, the board may adopt rules necessary to enable the program to retain its status as a "qualified state *tuition* ~~prepaid~~ program" in order to maintain its tax exempt status or other similar status of the program, purchasers, and qualified beneficiaries under the Internal Revenue Code of 1986, as defined in s. 220.03(1). The board shall inform purchasers of changes to the tax or securities status of contracts purchased through the program.

~~(i) The board shall solicit proposals for the marketing of the Florida Prepaid Postsecondary Education Expense Program pursuant to s. 287.057. The entity designated pursuant to this paragraph shall serve as a centralized marketing agent for the program and shall be solely responsible for the marketing of the program. Any materials produced for the purpose of marketing the program shall be submitted to the board for review. No such materials shall be made available to the public before the materials are approved by the board. Any educational institution may distribute marketing materials produced for the program; however, all such materials shall have been approved by the board prior to distribution. Neither the state nor the board shall be liable for misrepresentation of the program by a marketing agent.~~

~~(j) The board may establish a direct-support organization which is:~~

~~1. A Florida corporation, not for profit, incorporated under the provisions of chapter 617 and approved by the Secretary of State.~~

~~2. Organized and operated exclusively to receive, hold, invest, and administer property and to make expenditures to or for the benefit of the program.~~

~~3. An organization which the board, after review, has certified to be operating in a manner consistent with the goals of the program and in the best interests of the state. Unless so certified, the organization may not use the name of the program.~~

~~4. Subject to an annual postaudit by an independent certified public accountant in accordance with rules promulgated by the board. The annual audit shall be submitted to the State Board of Administration and the Auditor General for review. The State Board of Administration and Auditor General shall have the authority to require and receive from the organization or its independent auditor any detail or supplemental data relative to the operation of the organization. The identity of donors who desire to remain anonymous shall be confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution, and such anonymity shall be maintained in the auditor's report. Information received by the organization that is otherwise confidential or exempt by law shall retain such status. Any sensitive, personal information regarding contract beneficiaries, including their identities, is exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.~~

~~The chair of the board and the executive director shall be directors of the direct-support organization and shall jointly name three other individuals to serve as directors of the organization.~~

~~(k) The board may endorse insurance coverage written exclusively for the purpose of protecting advance payment contracts, and the purchasers or beneficiaries thereof, which may be issued in the form of a group life policy and which is exempt from the provisions of part V of chapter 627.~~

(9) PREPAID COLLEGE PLANS.—At a minimum, the board shall make advance payment contracts available for two independent plans to be known as the community college plan and the university plan. The board may also make advance payment contracts available for a dormitory residence plan.

(a)1. Through the community college plan, the advance payment contract shall provide prepaid registration fees for a specified number of undergraduate semester credit hours not to exceed the average number of hours required for the conference of an associate degree. The cost of participation in the community college plan shall be based primarily on

the average current and projected registration fees within the State Community College System and the number of years expected to elapse between the purchase of the plan on behalf of a qualified beneficiary and the exercise of the benefits provided in the plan by such beneficiary. Qualified beneficiaries shall bear the cost of any laboratory fees associated with enrollment in specific courses. Each qualified beneficiary shall be classified as a resident for tuition purposes, pursuant to s. 240.1201, regardless of his or her actual legal residence.

2. Effective July 1, 1998, the board may provide advance payment contracts for additional fees delineated in s. 240.35, not to exceed the average number of hours required for the conference of an associate degree, in conjunction with advance payment contracts for registration fees. The cost of purchasing such fees shall be based primarily on the average current and projected fees within the State Community College System and the number of years expected to elapse between the purchase of the plan on behalf of the beneficiary and the exercise of benefits provided in the plan by such beneficiary. Community college plan contracts purchased prior to July 1, 1998, shall be limited to the payment of registration fees as defined in subsection (2).

(b)1. Through the university plan, the advance payment contract shall provide prepaid registration fees for a specified number of undergraduate semester credit hours not to exceed the average number of hours required for the conference of a baccalaureate degree. The cost of participation in the university plan shall be based primarily on the current and projected registration fees within the State University System and the number of years expected to elapse between the purchase of the plan on behalf of a qualified beneficiary and the exercise of the benefits provided in the plan by such beneficiary. Qualified beneficiaries shall bear the cost of any laboratory fees associated with enrollment in specific courses. Each qualified beneficiary shall be classified as a resident for tuition purposes pursuant to s. 240.1201, regardless of his or her actual legal residence.

2. Effective July 1, 1998, the board may provide advance payment contracts for additional fees delineated in s. 240.235(1), for a specified number of undergraduate semester credit hours not to exceed the average number of hours required for the conference of a baccalaureate degree, in conjunction with advance payment contracts for registration fees. Such contracts shall provide prepaid coverage for the sum of such fees, to a maximum of 45 percent of the cost of registration fees. The costs of purchasing such fees shall be based primarily on the average current and projected cost of these fees within the State University System and the number of years expected to elapse between the purchase of the plan on behalf of the qualified beneficiary and the exercise of the benefits provided in the plan by such beneficiary. University plan contracts purchased prior to July 1, 1998, shall be limited to the payment of registration fees as defined in subsection (2).

(c) Through the dormitory residence plan, the advance payment contract may provide prepaid housing fees for a maximum of 10 semesters of full-time undergraduate enrollment in a state university. Dormitory residence plans shall be purchased in increments of 2 semesters. The cost of participation in the dormitory residence plan shall be based primarily on the average current and projected housing fees within the State University System and the number of years expected to elapse between the purchase of the plan on behalf of a qualified beneficiary and the exercise of the benefits provided in the plan by such beneficiary. Qualified beneficiaries shall have the highest priority in the assignment of housing within university residence halls. Qualified beneficiaries shall bear the cost of any additional elective charges such as laundry service or long-distance telephone service. Each state university may specify the residence halls or other university-held residences eligible for inclusion in the plan. In addition, any state university may request immediate termination of a dormitory residence contract based on a violation or multiple violations of rules of the residence hall or other university-held residences. In the event that sufficient housing is not available for all qualified beneficiaries, the board shall refund the purchaser or qualified beneficiary an amount equal to the fees charged for dormitory residence during that semester. If a qualified beneficiary fails to be admitted to a state university or chooses to attend a community college that operates one or more dormitories or residency opportunities, or has one or more dormitories or residency opportunities operated by the community college direct-support organization, the qualified beneficiary may transfer or cause to have transferred to the community college, or community college direct-support organization, the fees associated with dormitory residence. Dormitory fees transferred to the community college or community college direct-support organization may not exceed the maximum fees charged for state university dormitory residence for the purposes of this section, or the fees charged for community college or community college direct-support organization dormitories or residency opportunities, whichever is less.

(10) TRANSFER OF BENEFITS TO PRIVATE AND OUT-OF-STATE COLLEGES AND UNIVERSITIES.—

(a) A qualified beneficiary may apply a community college plan, university plan, or dormitory residence plan toward any eligible independent college or university. An independent college or university which is located and chartered in Florida, is not for profit, is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools or the Accrediting Commission of the Association of Independent Colleges and Schools, and which confers degrees as defined in s. 246.021, shall be eligible for such application. The board shall transfer, or cause to have transferred, to the eligible independent college or university designated by the qualified beneficiary an amount not to exceed the redemption value of the advance payment contract within a state postsecondary institution. In the event that the cost of registration or housing fees at the independent college or university is less than the corresponding fees at a state postsecondary institution, the amount transferred shall not exceed the actual cost of registration or housing fees. No transfer authorized pursuant to this paragraph shall exceed the number of semester credit hours or semesters of dormitory residence contracted on behalf of a qualified beneficiary.

(b) A qualified beneficiary may apply the benefits of an advance payment contract toward an eligible out-of-state college or university. An out-of-state college or university which is not for profit and is accredited by a regional accrediting association, and which confers baccalaureate degrees, shall be eligible for such application. The board shall transfer, or cause to have transferred, an amount not to exceed the redemption value of the advance payment contract or the original purchase price plus 5 percent compounded interest, whichever is less, after assessment of a reasonable transfer fee. In the event that the cost of registration or housing fees charged the qualified beneficiary at the eligible out-of-state college or university is less than this calculated amount, the amount transferred shall not exceed the actual cost of registration or housing fees. Any remaining amount shall be transferred in subsequent semesters until the transfer value is depleted. No transfer authorized pursuant to this paragraph shall exceed the number of semester credit hours or semesters of dormitory residence contracted on behalf of a qualified beneficiary.

(11)~~(6)(a)~~ *ADVANCE PAYMENT CONTRACTS; CONTENTS.*—The board shall construct advance payment contracts for registration and may construct advance payment contracts for dormitory residence *as provided* in ~~accordance with the provisions of~~ this section. Advance payment contracts constructed for the purposes of this section shall be exempt from ~~the provisions of~~ chapter 517 and the Florida Insurance Code. ~~The board may request assistance from the Department of Legal Affairs in the development of the advance payment contracts. The contents of both~~ Such contracts shall include, but not be limited to, the following:

(a)~~1.~~ The amount of the payment or payments and the number of payments required from a purchaser on behalf of a qualified beneficiary.

(b)~~2.~~ The terms and conditions under which purchasers shall remit payments, including, but not limited to, the date or dates upon which each payment shall be due.

(c)~~3.~~ Provisions for late payment charges and for default.

(d)~~4.~~ Provisions for penalty fees for withdrawals from the fund.

(e)~~5.~~ Except for an advance payment contract entered into pursuant to *subsection (22)* ~~paragraph (5)(j)~~, the name and date of birth of the qualified beneficiary on whose behalf the contract is drawn and the terms and conditions under which another person may be substituted as the qualified beneficiary.

(f)~~6.~~ The name of any person who may terminate the contract. The terms of the contract shall specify whether the contract may be terminated by the purchaser, the qualified beneficiary, a specific designated person, or any combination of these persons.

(g)~~7.~~ The terms and conditions under which a contract may be terminated, modified, or converted, the name of the person entitled to any

refund due as a result of termination of the contract pursuant to such terms and conditions, and the amount of refund, if any, due to the person so named.

~~8. The time limitations, if any, within which the qualified beneficiary must claim his or her benefits through the program.~~

~~9. Other terms and conditions deemed by the board to be necessary or proper.~~

~~(b) In addition to the provisions of paragraph (a), an advance payment contract for registration shall include, but not be limited to, the following:~~

(h)~~1.~~ The number of semester credit hours *or semesters of dormitory residence* contracted by the purchaser.

(i)~~2.~~ The state postsecondary system toward which the contracted credit hours *or semesters of dormitory residence* will be applied.

(j)~~3.~~ The assumption of a contractual obligation by the board to the qualified beneficiary to provide for a specified number of semester credit hours of undergraduate instruction at a state postsecondary institution, not to exceed the average number of credit hours required for the conference of the degree that corresponds to the plan purchased on behalf of the qualified beneficiary *or to provide for a specified number of semesters of dormitory residence, not to exceed the number of semesters of full-time enrollment required for the conference of a baccalaureate degree.*

(k) Other terms and conditions deemed by the board to be necessary or proper.

~~(c) In addition to the provisions of paragraph (a), an advance payment contract for dormitory residence shall include, but not be limited to, the following:~~

~~1. The number of semesters of dormitory residence contracted by the purchaser.~~

~~2. The assumption of a contractual obligation by the board to the qualified beneficiary to provide for a specified number of semesters of dormitory residence at a state university, not to exceed the maximum number of semesters of full-time enrollment required for the conference of a baccalaureate degree.~~

(12)~~(d)~~ *DURATION OF BENEFITS; ADVANCE PAYMENT CONTRACT.*—An advance payment contract may provide that contracts which have not been terminated or the benefits exercised within a specified period of time shall be considered terminated. Time expended by a qualified beneficiary as an active duty member of any of the armed services of the United States shall be added to the period of time specified pursuant to this *subsection* ~~paragraph~~. No purchaser or qualified beneficiary whose advance payment contract is terminated pursuant to this *subsection* ~~paragraph~~ shall be entitled to a refund. The board shall retain any moneys paid by the purchaser for an advance payment contract that has been terminated in accordance with this *subsection* ~~paragraph~~. Such moneys retained by the board are exempt from chapter 717, and such retained moneys must be used by the board to further the purposes of this section.

(13) REFUNDS.—

(a)~~(e)1.~~ *Except as provided in paragraphs (b) and (c),* no refund ~~provided pursuant to subparagraph (a)7.~~ shall exceed the amount paid into the fund by the purchaser. ~~In the event that an advance payment contract is converted from a university to a community college registration plan, the refund amount shall be reduced by the amount transferred to a community college on behalf of the qualified beneficiary. However, refunds may exceed the amount paid into the fund in the following circumstances:~~

(b)~~a.~~ If the beneficiary is awarded a scholarship, the terms of which cover the benefits included in the advance payment contracts, moneys paid for the purchase of the advance payment contracts shall be returned to the purchaser in semester installments coinciding with the matriculation by the beneficiary in amounts of either the original purchase price plus 5 percent compounded interest, or the current rates at state postsecondary institutions, whichever is less.

(c)~~b.~~ In the event of the death or total disability of the beneficiary, moneys paid for the purchase of advance payment contracts shall be returned to the purchaser together with 5 percent compounded interest, or the current rates at state postsecondary institutions, whichever is less.

(d)~~c.~~ If an advance payment contract is converted from *one registration plan to a plan of lesser value* ~~a university plan to a community college plan or a community college plus university plan, or is converted from a community college plus university plan to a community college plan~~, the amount refunded shall not exceed the difference between the amount paid for the original contract and the amount that would have been paid for the contract to which the plan is converted had the converted plan been purchased under the same payment plan at the time the original advance payment contract was executed.

(e)~~2.~~ No refund shall be authorized through an advance payment contract for any school year partially attended but not completed. For purposes of this section, a school year partially attended but not completed shall mean any one semester whereby the student is still enrolled at the conclusion of the official drop-add period, but withdraws before the end of such semester. If a beneficiary does not complete a community college plan or university plan for reasons other than specified in *paragraph (c)* ~~subparagraph 1.~~, the purchaser shall receive a refund of the amount paid into the fund for the remaining unattended years of the advance payment contract pursuant to rules promulgated by the board.

(14)~~(f)~~ *CONFIDENTIALITY OF ACCOUNT INFORMATION.*—Information that identifies the purchasers or beneficiaries of any plan promulgated under this section and their advance payment account activities is exempt from the provisions of s. 119.07(1). However, the board may authorize the program's records administrator to release such information to a community college, college, or university in which a beneficiary may enroll or is enrolled. Community colleges, colleges, and universities shall maintain such information as exempt from the provisions of s. 119.07(1).

~~(7) At a minimum, the board shall make advance payment contracts available for two independent plans to be known as the community college plan and the university plan. The board may also make advance payment contracts available for a dormitory residence plan.~~

~~(a) Through the community college plan, the advance payment contract shall provide prepaid registration fees for a specified number of undergraduate semester credit hours not to exceed the average number of hours required for the conference of an associate degree. The cost of participation in the community college plan shall be based primarily on the average current and projected registration fees within the State Community College System and the number of years expected to elapse between the purchase of the plan on behalf of a qualified beneficiary and the exercise of the benefits provided in the plan by such beneficiary. Qualified beneficiaries shall bear the cost of any laboratory fees associated with enrollment in specific courses. Each qualified beneficiary shall be classified as a resident for tuition purposes pursuant to s. 240.1201 regardless of his or her actual legal residence.~~

~~(b) Through the university plan, the advance payment contract shall provide prepaid registration fees for a specified number of undergraduate semester credit hours not to exceed the average number of hours required for the conference of a baccalaureate degree. The cost of participation in the university plan shall be based primarily on the current and projected registration fees within the State University System and the number of years expected to elapse between the purchase of the plan on behalf of a qualified beneficiary and the exercise of the benefits provided in the plan by such beneficiary. Qualified beneficiaries shall bear the cost of any laboratory fees associated with enrollment in specific courses. In the event that a qualified beneficiary fails to be admitted to a state university or chooses to attend a community college, the qualified beneficiary may convert the average number of semester credit hours required for the conference of an associate degree from a university plan to a community college plan and may retain the remaining semester credit hours in the university plan or may request a refund for prepaid credit hours in excess of the average number of semester credit hours required for the conference of an associate degree pursuant to subparagraph (6)(a)7. Each qualified beneficiary shall be classified as a resident for tuition purposes pursuant to s. 240.1201 regardless of his or her actual legal residence.~~

~~(c) Through the dormitory residence plan, the advance payment contract may provide prepaid housing fees for a maximum of 10 semesters of full-time undergraduate enrollment in a state university. Dormitory residence plans shall be purchased in increments of 2 semesters. The cost of participation in the dormitory residence plan shall be based primarily on the average current and projected housing fees within the State University System and the number of years expected to elapse between the purchase of the plan on behalf of a qualified beneficiary and the exercise of the benefits provided in the plan by such beneficiary. Qualified beneficiaries shall bear the cost of any additional elective charges such as laundry service or long-distance telephone service. Each state university may specify the residence halls or other university-held residences eligible for inclusion in the plan. In addition, any state university may request immediate termination of a dormitory residence contract based on a violation or multiple violations of rules of the residence hall or other university-held residences. Qualified beneficiaries shall have the highest priority in the assignment of housing within university residence halls. In the event that sufficient housing is not available for all qualified beneficiaries, the board shall refund the purchaser or qualified beneficiary an amount equal to the fees charged for dormitory residence during that semester. If a qualified beneficiary fails to be admitted to a state university or chooses to attend a community college that operates one or more dormitories or residency opportunities, or has one or more dormitories or residency opportunities operated by the community college direct-support organization, the qualified beneficiary may transfer or cause to have transferred to the community college, or community college direct-support organization, the fees associated with dormitory residence. Dormitory fees transferred to the community college or community college direct-support organization may not exceed the maximum fees charged for state university dormitory residence for the purposes of this section, or the fees charged for community college or community college direct-support organization dormitories or residency opportunities, whichever is less.~~

~~(d) A qualified beneficiary may apply a community college plan, university plan, or dormitory residence plan toward any eligible independent college or university. An independent college or university which is located and chartered in Florida, is not for profit, is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools or the Accrediting Commission of the Association of Independent Colleges and Schools, and which confers degrees as defined in s. 246.021 shall be eligible for such application. The board shall transfer or cause to have transferred to the eligible independent college or university designated by the qualified beneficiary an amount not to exceed the redemption value of the advance payment contract within a state postsecondary institution. In the event that the cost of registration or housing fees at the independent college or university is less than the corresponding fees at a state postsecondary institution, the amount transferred shall not exceed the actual cost of registration or housing fees. No transfer authorized pursuant to this paragraph shall exceed the number of semester credit hours or semesters of dormitory residence contracted on behalf of a qualified beneficiary.~~

~~(e) A qualified beneficiary may apply the benefits of an advance payment contract toward an eligible out-of-state college or university. An out-of-state college or university which is not for profit, is accredited by a regional accrediting association, and which confers baccalaureate degrees shall be eligible for such application. The board shall transfer, or cause to have transferred, an amount not to exceed the redemption value of the advance payment contract or the original purchase price plus 5 percent compounded interest, whichever is less, after assessment of a reasonable transfer fee. In the event that the cost of registration or housing fees charged the qualified beneficiary at the eligible out-of-state college or university is less than this calculated amount, the amount transferred shall not exceed the actual cost of registration or housing fees. Any remaining amount shall be transferred in subsequent semesters until the transfer value is depleted. No transfer authorized pursuant to this paragraph shall exceed the number of semester credit hours or semesters of dormitory residence contracted on behalf of a qualified beneficiary.~~

~~(8) The board shall solicit proposals for the operation of the Florida Prepaid Postsecondary Education Expense Program pursuant to s. 287.057, through which the board shall contract for the services of a records administrator, a trustee services firm, and one or more product providers.~~

~~(a) The records administrator shall be the entity designated by the board to conduct the daily operations of the program on behalf of the board. The goals of the board in selecting a records administrator shall be to provide all purchasers with the most secure, well-diversified, and beneficially administered postsecondary education expense plan possible, to allow all qualified firms interested in providing such services equal consideration, and to provide such services to the state at no cost and to the purchasers at the lowest cost possible. Evaluations of proposals submitted pursuant to this paragraph shall include, but not be limited to, the following criteria:~~

~~1. Fees and other costs charged to purchasers that affect account values or operational costs related to the program.~~

~~2. Past experience in records administration and current ability to provide timely and accurate service in the areas of records administration, audit and reconciliation, plan communication, participant service, and complaint resolution.~~

~~3. Sufficient staff and computer capability for the scope and level of service expected by the board.~~

~~4. Financial history and current financial strength and capital adequacy to provide administrative services required by the board.~~

~~(b) The trustee services firm shall be the entity designated by the board to select and supervise investment programs on behalf of the board. The goals of the board in selecting a trustee services firm shall be to obtain the highest standards of professional trustee services, to allow all qualified firms interested in providing such services equal consideration, and to provide such services to the state at no cost and to the purchasers at the lowest cost possible. The trustee services firm shall agree to meet the obligations of the board to qualified beneficiaries if moneys in the fund fail to offset the obligations of the board as a result of imprudent selection or supervision of investment programs by such firm. Evaluations of proposals submitted pursuant to this paragraph shall include, but not be limited to, the following criteria:~~

~~1. Adequacy of trustee services for supervision and management of the program, including current operations and staff organization and commitment of management to the proposal.~~

~~2. Capability to execute program responsibilities within time and regulatory constraints.~~

~~3. Past experience in trustee services and current ability to maintain regular and continuous interactions with the board, records administrator, and product provider.~~

~~4. The minimum purchaser participation assumed within the proposal and any additional requirements of purchasers.~~

~~5. Adequacy of technical assistance and services proposed for staff.~~

~~6. Adequacy of a management system for evaluating and improving overall trustee services to the program.~~

~~7. Adequacy of facilities, equipment, and electronic data processing services.~~

~~8. Detailed projections of administrative costs, including the amount and type of insurance coverage, and detailed projections of total costs.~~

~~(c)1. The product providers shall be the entities designated by the board to develop investment portfolios on behalf of the board to achieve the purposes of this section. Product providers shall be limited to authorized insurers as defined in s. 624.09, banks as defined in s. 658.12, associations as defined in s. 665.012, authorized Securities and Exchange Commission investment advisers, and investment companies as defined in the Investment Company Act of 1940. All product providers shall have their principal place of business and corporate charter located and registered in the United States. In addition, each product provider shall agree to meet the obligations of the board to qualified beneficiaries if moneys in the fund fail to offset the obligations of the board as a result of imprudent investing by such provider. Each authorized insurer shall evidence superior performance overall on an acceptable level of surety in meeting its obligations to its policyholders and other contractual obligations. Only qualified public depositories approved by the State Insurance Commissioner and Treasurer shall be eligible for board consideration. Each investment company shall provide investment plans as specified within the request for proposals.~~

~~2. The goals of the board in selecting a product provider company shall be to provide all purchasers with the most secure, well-diversified, and beneficially administered postsecondary education expense plan possible, to allow all qualified firms interested in providing such services equal consideration, and to provide such services to the state at no cost and to the purchasers at the lowest cost possible. Evaluations of proposals submitted pursuant to this paragraph shall include, but not be limited to, the following criteria:~~

~~a. Fees and other costs charged to purchasers that affect account values or operational costs related to the program.~~

~~b. Past and current investment performance, including investment and interest rate history, guaranteed minimum rates of interest, consistency of investment performance, and any terms and conditions under which moneys are held.~~

~~c. Past experience and ability to provide timely and accurate service in the areas of records administration, benefit payments, investment management, and complaint resolution.~~

~~d. Financial history and current financial strength and capital adequacy to provide products, including operating procedures and other methods of protecting program assets.~~

(15)~~(9)~~ *OBLIGATIONS OF BOARD; PAYMENT.*—The state shall agree to meet the obligations of the board to qualified beneficiaries if moneys in the fund fail to offset the obligations of the board. The Legislature shall appropriate to the *Florida* Prepaid *College* ~~Postsecondary Education Expense~~ Trust Fund the amount necessary to meet the obligations of the board to qualified beneficiaries.

(16)~~(10)~~ *ASSETS OF THE FUND; EXPENDITURE PRIORITY.*—The assets of the fund shall be maintained, invested, and expended solely for the purposes of this section and shall not be loaned, transferred, or otherwise used by the state for any purpose other than the purposes of this section. This subsection shall not be construed to prohibit the board from investing in, by purchase or otherwise, bonds, notes, or other obligations of the state or an agency or instrumentality of the state. Unless otherwise specified by the board, assets of the fund shall be expended in the following order of priority:

(a) To make payments to state postsecondary institutions on behalf of qualified beneficiaries.

(b) To make refunds upon termination of advance payment contracts.

(c) To pay the costs of program administration and operations.

(17)~~(11)~~ *EXEMPTION FROM CLAIMS OF CREDITORS.*—Moneys paid into or out of the fund by or on behalf of a purchaser or qualified beneficiary of an advance payment contract made under this section, which contract has not been terminated, are exempt, as provided by s. 222.22, from all claims of creditors of the purchaser or the beneficiary. Neither moneys paid into the program nor benefits accrued through the program may be pledged for the purpose of securing a loan.

(18)~~(12)~~ *PAYROLL DEDUCTION AUTHORITY.*—The state or any state agency, county, municipality, or other political subdivision may, by contract or collective bargaining agreement, agree with any employee to remit payments toward advance payment contracts through payroll deductions made by the appropriate officer or officers of the state, state agency, county, municipality, or political subdivision. Such payments shall be held and administered in accordance with this section.

(19)~~(13)~~ *DISCLAIMER.*—Nothing in this section shall be construed as a promise or guarantee that a qualified beneficiary will be admitted to a state postsecondary institution or to a particular state postsecondary institution, will be allowed to continue enrollment at a state postsecondary institution after admission, or will be graduated from a state postsecondary institution.

(20)~~(14)~~ *PROGRAM TERMINATION.*—In the event that the state determines the program to be financially infeasible, the state may discontinue the provision of the program. Any qualified beneficiary who has been accepted by and is enrolled or is within 5 years of enrollment in an eligible independent college or university or state postsecondary institution shall be entitled to exercise the complete benefits for which he or she has contracted. All other contract holders shall receive a refund~~, pursuant to subparagraph (6)(a)7.,~~ of the amount paid in and an additional amount in the nature of interest at a rate that corresponds, at a minimum, to the prevailing interest rates for savings accounts provided by banks and savings and loan associations.

(21) ANNUAL REPORT.—The board shall annually prepare or cause to be prepared a report setting forth in appropriate detail an accounting of the fund and a description of the financial condition of the program at the close of each fiscal year. Such report shall be submitted to the President of the Senate, the Speaker of the House of Representatives, and members of the State Board of Education on or before March 31 each year. In addition, the board shall make the report available to purchasers of advance payment contracts. The board shall provide to the Board of Regents and the State Board of Community Colleges, by March 31 each year, complete advance payment contract sales information, including projected postsecondary enrollments of qualified beneficiaries. The accounts of the fund shall be subject to annual audits by the Auditor General or his or her designee.

(22) DIRECT-SUPPORT ORGANIZATION; AUTHORITY.—

(a) The board may establish a direct-support organization which is:

1. A Florida corporation, not for profit, incorporated under the provisions of chapter 617 and approved by the Secretary of State.

2. Organized and operated exclusively to receive, hold, invest, and administer property and to make expenditures to or for the benefit of the program.

3. An organization which the board, after review, has certified to be operating in a manner consistent with the goals of the program and in the best interests of the state. Unless so certified, the organization may not use the name of the program.

4. Subject to an annual postaudit by an independent certified public accountant in accordance with rules promulgated by the board. The annual audit shall be submitted to the State Board of Administration and the Auditor General for review. The State Board of Administration and Auditor General shall have the authority to require and receive from the organization or its independent auditor any detail or supplemental data relative to the operation of the organization. The identity of donors who desire to remain anonymous shall be confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution, and such anonymity shall be maintained in the auditor's report. Information received by the organization that is otherwise confidential or exempt by law shall retain such status. Any sensitive, personal information regarding contract beneficiaries, including their identities, is exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(b) The chair and the executive director of the board shall be directors of the direct-support organization and shall jointly name three other individuals to serve as directors of the organization.

Section 49. Section 222.22, Florida Statutes, is amended to read:

222.22 Exemption of moneys in the Prepaid Postsecondary Education Expense Trust Fund from legal process.—Moneys paid into or out of the *Florida* Prepaid *College* ~~Postsecondary Education Expense~~ Trust Fund by or on behalf of a purchaser or qualified beneficiary pursuant to an advance payment contract made under s. 240.551, which contract has not been terminated, are not liable to attachment, garnishment, or legal process in the state in favor of any creditor of the purchaser or beneficiary of such advance payment contract.

Section 50. Subsection (2) of section 732.402, Florida Statutes, is amended to read:

732.402 Exempt property.—

(2) Exempt property shall consist of:

(a) Household furniture, furnishings, and appliances in the decedent's usual place of abode up to a net value of $10,000 as of the date of death.~~; and~~

(b) All automobiles held in the decedent's name and regularly used by the decedent or members of the decedent's immediate family as their personal automobiles.

(c) Florida Prepaid College Program contracts purchased pursuant to s. 240.551.

Section 51. For the purpose of incorporating the amendment to s. 732.402, Florida Statutes, in references thereto, subsection (13) of section 731.201 and subsection (1) of section 735.301, Florida Statutes, are reenacted to read:

731.201 General definitions.—Subject to additional definitions in subsequent chapters that are applicable to specific chapters or parts, and unless the context otherwise requires, in this code and chapters 737, 738, and 744:

(13) "Exempt property" means the property of a decedent's estate which is described in s. 732.402.

735.301 Disposition without administration.—

(1) No administration shall be required or formal proceedings instituted upon the estate of a decedent leaving only personal property exempt under the provisions of s. 732.402, personal property exempt from the claims of creditors under the Constitution of Florida, and nonexempt personal property the value of which does not exceed the sum of the amount of preferred funeral expenses and reasonable and necessary medical and hospital expenses of the last 60 days of the last illness.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 69, line 24, after the semicolon (;) insert: amending s. 240.551, F.S.; renaming the Florida Prepaid Postsecondary Education Expense Program, Board, and Trust Fund the Florida Prepaid College Program, Board, and Trust Fund, respectively; reordering provisions and providing technical revisions; deleting obsolete provisions; conforming cross-references; permitting soliciting and contracting for records administration services; providing for the inclusion of certain fees within advance payment contracts for tuition; amending s. 222.22, F.S.; conforming provisions; amending s. 732.402, F.S.; exempting Florida Prepaid College Program contracts from the probate claims of creditors; reenacting ss. 731.201(13) and 735.301(1), F.S., relating to probate, to incorporate the amendment to s. 732.402, F.S., in references;

Senator Horne moved the following amendment to **Amendment 1** which was adopted:

Amendment 1D (with title amendment)—On page 44, between lines 24 and 25, insert:

Section 39. Section 236.08106, Florida Statutes, is created to read:

236.08106 Excellent Teaching Program.—

(1) The Legislature recognizes that teachers play a critical role in preparing students to achieve the high levels of academic performance expected by the Sunshine State Standards. The Legislature further recognizes the importance of identifying and rewarding teaching excellence and of encouraging good teachers to become excellent teachers. The Legislature finds that the National Board of Professional Teaching Standards (NBPTS) has established high and rigorous standards for accomplished teaching and has developed a national voluntary system for assessing and certifying teachers who demonstrate teaching excellence by meeting those standards. It is therefore the Legislature's intent to provide incentives for teachers to seek NBPTS certification and to reward teachers who demonstrate teaching excellence by attaining NBPTS certification and sharing their expertise with other teachers.

(2) The Excellent Teaching Program is created to provide categorical funding for monetary incentives and bonuses for teaching excellence. The Department of Education shall allocate and distribute to each school district an amount as prescribed annually by the Legislature for the Excellent Teaching Program. Unless otherwise provided in the General Appropriations Act, each school district's annual allocation shall be the sum of the amounts earned for the following incentives and bonuses:

(a) A fee subsidy to be paid by the school district to the NBPTS on behalf of each individual who is an employee of the district school board or a public school within that school district, who is certified by the district to have demonstrated satisfactory teaching performance pursuant to s. 231.29 and, beginning in the school fiscal year 1999-2000, to have qualified for the district performance-based pay incentive pursuant to s. 230.23, who satisfies the prerequisites for participating in the NBPTS certification program, and who agrees, in writing, to pay 10 percent of the NBPTS participation fee and to participate in the NBPTS certification program during the school year for which the fee subsidy is provided. The fee subsidy for each eligible participant shall be an amount equal to 90 percent of the fee charged for participating in the NBPTS certification program, but not more than $1,800 per eligible participant. The fee subsidy is a one-time award and may not be duplicated for any individual.

(b) A portfolio-preparation incentive of $150 for each teacher employed by the district school board or a public school within the district who is participating in the NBPTS certification program. The portfolio-preparation incentive is a one-time award paid during the school year for which the NBPTS fee subsidy is provided.

(c) An annual bonus equal to 10 percent of the prior fiscal year's statewide average salary for classroom teachers to be paid to each individual who holds NBPTS certification and is employed by the district school board or by a public school within that school district. The district school board shall distribute the annual bonus to each individual who meets the requirements of this paragraph and who is certified annually by the district to have demonstrated satisfactory teaching performance pursuant to s. 231.29 and to have qualified for the performance-based pay incentive pursuant to s. 230.23. The annual bonus may be paid as a single payment or divided into not more than three payments.

(d) An annual bonus equal to 10 percent of the prior fiscal year's statewide average salary for classroom teachers to be paid to each individual who meets the requirements of paragraph (c) and agrees, in writing, to provide the equivalent of 12 workdays of mentoring and related services to public school teachers within the district who do not hold NBPTS certification. The district school board shall distribute the annual bonus in a single payment following the completion of all required mentoring and related services for the year. It is not the intent of the Legislature to remove excellent teachers from their assigned classrooms, therefore, credit may not be granted by a school district or public school for mentoring or related services provided during the regular school day or during the 196 days of required service for the school year.

(e) The district shall receive an amount equal to 50 percent of the teacher bonuses provided under paragraph (c) and (d), which shall be used by the district for professional development of teachers. The district must give priority to using all funds received pursuant to this paragraph for professional development of teachers employed at schools identified as performing at critically low levels.

A teacher for whom the state pays the certification fee and who does not complete the certification program or does not teach in a public school of this state for a least 1 year after completing the certification program must repay the amount of the certification fee to the state. However, a teacher who completes the certification program but fails to be awarded NBPTS certification is not required to repay the amount of the certification fee if the teacher meets the 1-year teaching requirement. Repayment is not required of a teacher who does not complete the certification program or fails to fulfill the teaching requirement because of the teacher's death or disability or because of other extenuating circumstances as determined by the State Board of Education.

Section 40. Paragraph (a) of subsection (5) of section 236.081, Florida Statutes, as amended by chapter 97-380, Laws of Florida, is amended to read:

236.081 Funds for operation of schools.—If the annual allocation from the Florida Education Finance Program to each district for operation of schools is not determined in the annual appropriations act or the substantive bill implementing the annual appropriations act, it shall be determined as follows:

(5) CATEGORICAL PROGRAMS.—The Legislature hereby provides for the establishment of selected categorical programs to assist in the development and maintenance of activities giving indirect support to the programs previously funded. These categorical appropriations may be funded as general and transitional categorical programs. It is the intent of the Legislature that no transitional categorical program be funded for more than 4 fiscal years from the date of original authorization. Such programs are as follows:

(a) General.—

1. Comprehensive school construction and debt service as provided by law.

2. Community schools as provided by law.

3. School lunch programs as provided by law.

4. Instructional material funds as provided by law.

5. Student transportation as provided by law.

6. Student development services as provided by law.

7. Diagnostic and learning resource centers as provided by law.

8. Comprehensive health education as provided by law.

9. Excellent Teaching Program as provided by law.

(b) Transitional.—

1. Bilingual program as provided by law.

Section 41. Section 231.173, Florida Statutes, is amended to read:

231.173 Successful experienced out-of-state teachers and administrators.—

(1) Notwithstanding the provisions of ss. 231.02, 231.15, *and* 231.17~~, and 231.172~~ or any other provision of law or rule to the contrary, a successful, experienced, ~~and certified~~ out-of-state teacher or administrator *qualifies* ~~employed in a public school or nonpublic school in this state may qualify~~ for a professional certificate if the applicant:

(a)~~(1)~~ Completes the application process, including the filing of a complete set of fingerprints as required by s. 231.02.

(b)~~(2)~~ Holds a valid standard certificate issued by the state where the applicant most recently taught, which standard certificate is equivalent to the professional certificate issued by this state and for which specialization coverage is based on a level of training comparable to that required in this state for the *specialization coverage sought by the applicant* ~~applicant's area of assignment~~.

(c)~~(3)~~ Documents 5 years of appropriate successful full-time teaching or administrative experience *in another state*, including 2 continuous years during the 5-year period immediately preceding the date of application for certification.

(2) An out-of-state applicant qualifies for a professional certificate if the applicant meets the requirements of paragraphs (1)(a) and (b) and holds a valid certificate issued by the National Board of Professional Teaching Standards.

~~(4) Submits a request for issuance of the professional certificate from the superintendent of the employing school district or governing authority of the employing developmental research school, state-supported school, or nonpublic school within the first 120 days of assignment with validation of awareness of the standards of professional practice.~~

(3)~~(5)~~ The *professional* certificate issued in accordance with *subsection (1)* ~~these provisions~~ shall reflect specialization coverages as follows:

(a) Teachers.—*An applicant* ~~A teacher appointed to an academic assignment~~ shall be eligible for the academic coverage in an area in which the teacher is assigned *to teach in a public school or nonpublic school in this state or in the area of the applicant's certification by the National Board of Professional Teaching Standards.*

(b) Principals.—An individual appointed as an intern or interim principal of a *public or nonpublic* K-12 school *in this state* shall be eligible for the educational leadership coverage.

(c) Administrators of adult education.—An individual appointed as an administrator of an adult education program *at a public or nonpublic school in this state* shall be eligible for the administration of adult education coverage.

(d) Directors of career education.—An individual appointed as a director of career education *at a public or nonpublic school in this state* shall be eligible for the director of career education coverage.

Section 42. Subsection (2) and paragraph (b) of subsection (3) of section 231.24, Florida Statutes, are amended to read:

231.24 Process for renewal of professional certificates.—

(2) All professional certificates, except a nonrenewable professional certificate, shall be renewable for successive periods not to exceed 5 years after the date of submission of documentation of completion of the requirements for renewal provided in subsection (3). Only one renewal may be granted during each 5-year validity period of a professional certificate, *except that a teacher with national certification from the National Board for Professional Teaching Standards is deemed to meet state renewal requirements for the life of the teacher's national certificate.* However, if the renewal application form is not received by the department or by the employing school district before the expiration of the professional certificate, the application form, application fee, and a late fee must be submitted before July 1 of the year following expiration of the certificate in order to renew the professional certificate. The state board shall adopt rules to allow a 1-year extension of the validity period of a professional certificate in the event of serious illness, injury, or other extraordinary extenuating circumstances of the applicant. The department shall grant such 1-year extension upon written request by the applicant or by the superintendent of the local school district or the governing authority of a developmental research school, state-supported school, or nonpublic school that employs the applicant.

(3) For the renewal of a professional certificate, the following requirements must be met:

(b) In lieu of college course credit or inservice points, the applicant may renew a specialization area by passage of a state board approved subject area test, *by completion of the national certification from the National Board for Professional Teaching Standards in that specialization area,* or by completion of a department approved summer work program in a business or industry directly related to an area of specialization listed on the certificate. The state board shall adopt rules providing for the approval procedure.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 68, line 6, after the first semicolon (;) insert: creating s. 236.08106, F.S., relating to the Excellent Teaching Program; providing legislative findings and intent; authorizing monetary incentives and bonuses for teaching excellence; providing for annual allocations to districts; providing fee subsidies and conditions for repayment of subsidies for participating in the certification program of the National Board of Professional Teaching Standards; requiring the distribution of certain monetary bonuses to teachers; providing eligibility criteria; requiring release time for certain activities; requiring certain district expenditures for professional development of teachers; amending s. 236.081, F.S.; authorizing categorical funding for the Excellent Teaching Program; amending s. 231.173, F.S., relating to certification of experienced out-of-state teachers and administrators; deleting a requirement for superintendents to request certification; providing for issuance of a professional certificate to individuals certified by the National Board of Professional Teaching Standards; conforming provisions; amending s. 231.24, F.S.; authorizing renewal of certificates through national certification;

Senator Kirkpatrick moved the following amendment to **Amendment 1** which was adopted:

Amendment 1E (with title amendment)—On page 44, between lines 24 and 25, insert:

Section 39. Paragraph (b) of subsection (7) of section 239.117, Florida Statutes, is amended to read:

239.117 Postsecondary student fees.—

(b) Students enrolled in college-preparatory instruction shall pay fees equal to the fees charged for college credit courses. Students enrolled in the same college-preparatory class within a skill area more than *two times* ~~one-time~~ shall pay fees at 100 percent of the full cost of

instruction and shall not be included in calculations of full-time equivalent enrollments for state funding purposes; however, students who withdraw or fail a class due to extenuating circumstances may be granted an exception only once for each class, provided approval is granted according to policy established by the board of trustees. Each community college shall have the authority to review and reduce payment for increased fees due to continued enrollment in a college-preparatory class on an individual basis, contingent upon a student's financial hardship, pursuant to definitions and fee levels established by the State Board of Community Colleges. Fee-nonexempt students enrolled in vocational-preparatory instruction shall be charged fees equal to the fees charged for certificate career education instruction. Each community college that conducts college-preparatory and vocational-preparatory instruction in the same class section may charge a single fee for both types of instruction.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 68, line 6, after the first semicolon (;) insert: amending s. 239.117, F.S., revising student fees for college-preparatory classes that are repeated;

Senator Cowin moved the following amendment to **Amendment 1** which was adopted:

Amendment 1F—On page 4, lines 20-25, delete those lines and insert:

(4) In computing grade point averages, school districts and community colleges must weigh college-level dual enrollment courses the same as honors courses and advanced placement courses when the high school subject and the common course numbered course are of equal academic value. Students may dually enroll in advanced placement courses. Alternative grade calculation or weighting systems that discriminate against dual enrollment courses may be prohibited.

Senator Holzendorf moved the following amendment to **Amendment 1** which was adopted:

Amendment 1G (with title amendment)—On page 66, between lines 6 and 7, insert:

Section 48. Paragraph (d) is added to subsection (5) of section 240.529, Florida Statutes, present subsections (6) through (10) are renumbered as subsections (7) through (11), respectively, and a new subsection (6) is added to that section, to read:

240.529 Public accountability and state approval for teacher preparation programs.—

(5) PRESERVICE FIELD EXPERIENCE.—Beginning July 1, 1995, all postsecondary instructors, school district teachers, and school sites preparing teachers through preservice field experience courses and internships shall meet special requirements.

(d) Beginning with the 1998-1999 academic year, State University System initial teacher preparation programs shall provide all students with the option of an internship with multiple field experiences in schools located in socially and economically disadvantaged urban or rural areas. The experiences must provide interns with classroom experiences throughout the academic year. The internship must be designed to provide the intern with the necessary supervision and teaching methodology to become an effective teacher of students who live in a disadvantaged area.

(6) URBAN AND RURAL TEACHING RESIDENCY PROGRAM.—Beginning with the 1999-2000 academic year and contingent upon legislative funding, teacher preparation programs at State University System institutions shall establish teaching residencies in partnership with public school districts. Each university, in conjunction with its partners, shall recruit no more than 20 teaching residents per year. The total number of teaching residencies in the state is not to exceed 200 in any given year at the rate of 20 per university. Persons eligible to be hired as teaching residents must have completed teaching internships as specified in paragraph (5)(d). To be eligible to be hired as a teaching resident, a person must have received his or her initial license no more than 2 years before applying for a residency and must have less than 5 months of full-time equivalency teaching experience as a licensed teacher. The residency program must include:

(a) A guarantee from participating universities that those who complete initial teacher preparation programs have the knowledge and experience necessary to succeed in residencies in urban or rural settings and that they are prepared to teach in compliance with the Sunshine State Standards and demonstrate skills at the beginning level of the Florida Accomplished Teaching Practices;

(b) A mentoring team consisting of no fewer than one university faculty member and one school district clinical educator for each participating school to provide supervision of the teaching residents;

(c) One full-time-equivalent experienced classroom teacher assigned for each cluster of four teaching residents in order to provide alternative assignments for the resident teachers;

(d) Residencies lasting for a full academic year; and

(e) Teaching assignments for resident teachers of no more than 80 percent of the instructional time required of a full-time-equivalent teacher in the district. During the remaining time, a teaching resident shall participate in professional development activities as identified in conjunction with the school's mentoring team.

The resident teacher will be a member of the local bargaining unit and shall be covered under the terms of the contract. Upon successful completion of the teaching residency, each individual who teaches in a school located in a socially and economically disadvantaged urban or rural area in this state, and as funded by the Legislature in the Division of Human Resources within the Department of Education, will receive a supplemental stipend from the state of $3,000 in each year he or she teaches for the duration of legislative funding for the residency program.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 69, line 24, after the second semicolon (;) insert: amending s. 240.529, F.S.; providing that, beginning in the 1998-1999 academic year, State University System initial teacher preparation programs shall include an optional teacher internship in a socially and economically disadvantaged area; providing that, beginning in the 1999-2000 academic year, State University System initial teacher preparation programs, in partnership with public school districts, shall establish teaching residency programs in disadvantaged areas; providing for annual stipends for each teacher who has completed such a residency program;

Senator Cowin moved the following amendment to **Amendment 1** which was adopted:

Amendment 1H—On page 1, line 29 through page 2, line 8, delete those lines and insert: *courses, including:*

~~1. Two credits in algebra and one credit in geometry, or their equivalents, as determined by the state board.~~

~~2. One credit in biology, one credit in chemistry, and one credit in physics, or their equivalents, as determined by the state board.~~

~~3.~~ two credits in the same foreign language, taken for elective credit. A student whose native language is not English is exempt from this requirement if the student demonstrates proficiency in the native language. American sign language constitutes a foreign language.

Senator Gutman moved the following amendment to **Amendment 1** which was adopted:

Amendment 1I (with title amendment)—On page 66, between lines 6 and 7, insert:

Section 48. Paragraphs (o) and (p) are added to subsection (2) of section 233.061, Florida Statutes, to read:

233.061 Required instruction.—

(2) Members of the instructional staff of the public schools, subject to the rules and regulations of the commissioner, the state board, and the school board, shall teach efficiently and faithfully, using the books

and materials required, following the prescribed courses of study, and employing approved methods of instruction, the following:

(o) The study of Hispanic contributions to the United States.

(p) The study of Women's Contributions to the United States.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 66, delete line 17 and insert: An act relating to education; amending s. 233.061, F.S.; including the study of Hispanic and Women's contributions to the United States in required public school instruction;

Amendment 1 as amended was adopted.

On motion by Senator Forman, by two-thirds vote **HB 4259** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Bankhead	Diaz-Balart	Horne	Myers
Bronson	Dudley	Jones	Ostalkiewicz
Brown-Waite	Dyer	Kirkpatrick	Rossin
Burt	Forman	Klein	Scott
Campbell	Geller	Kurth	Silver
Casas	Grant	Latvala	Sullivan
Childers	Gutman	Laurent	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams
Crist	Holzendorf	Meadows	

Nays—None

THE PRESIDENT PRESIDING

CS for SB 1814—A bill to be entitled An act relating to termination of pregnancy; providing a short title; amending s. 390.011, F.S.; defining additional terms; amending s. 390.0111, F.S.; revising provisions relating to termination of pregnancy; prohibiting the performing or inducement of a termination of pregnancy upon a minor without specified notice; providing disciplinary action for violation; providing notice requirements; providing exceptions; providing procedure for judicial waiver of notice; providing for confidentiality of proceedings; providing for issuance of a court order authorizing consent to a termination of pregnancy without notification; providing for dismissal of petition; requiring the issuance of written findings of fact and legal conclusions; providing for expedited confidential appeal; providing for waiver of filing fees; requesting the Supreme Court to adopt rules; providing for severability; providing an effective date.

—was read the second time by title.

Senator Harris moved the following amendments which were adopted:

Amendment 1—On page 3, line 14 and on page 4, line 7, delete "*440.13(1)(b)*" and insert: *741.28(2)*

Amendment 2—On page 7, lines 15-31, delete those lines and insert: *to s. 743.015, or similar statutes of other states;*

4. Notice is waived if the patient has a dependent minor child; or

5. Notice is waived under the provisions of subsection (5).

(c) Violation of this subsection by a physician constitutes grounds for disciplinary action under s. 458.331 or s. 459.015.

(5) PROCEDURE FOR JUDICIAL WAIVER OF NOTICE.—

(a) A minor may petition any circuit court for a waiver of the notice requirements of subsection (4) and may participate in proceedings on her own behalf. The petition shall include a statement that the complainant is pregnant and notice has not been waived. The court may appoint a guardian ad litem for her. Any guardian ad litem appointed under this subsection shall act to maintain the confidentiality of the proceedings. The circuit court shall advise the minor that she has a right to court-appointed counsel and shall provide her with counsel upon her request. A county is not obligated to pay the salaries, costs, or expenses of any counsel appointed by the court under this section.

Amendment 3—On page 12, lines 1 and 2, delete those lines and insert:

Section 5. This act shall take effect July 1, 1999.

POINT OF ORDER

Senator Campbell raised a point of order that pursuant to Rule 4.8 the bill as amended should be referred to the Committee on Ways and Means.

The President referred the point to Senator Sullivan, Chairman of the Committee on Ways and Means.

Further consideration of **CS for SB 1814** as amended with pending point of order was deferred.

On motion by Senator Bankhead, by two-thirds vote **CS for HB 4283** was withdrawn from the Committees on Governmental Reform and Oversight; and Ways and Means.

On motion by Senator Bankhead, by two-thirds vote—

CS for HB 4283—A bill to be entitled An act relating to long-term care; creating s. 430.801, F.S.; creating the Florida Employee Long-Term-Care Plan Act; directing the Department of Elderly Affairs to develop, implement, and administer the long-term care plan for public employees; authorizing the department to contract for such administration; providing duties of the department; requiring the department to appoint a Florida Employee Long-Term-Care Plan Advisory Council for certain purposes; authorizing the department to contract with the State Board of Administration to invest certain funds; providing limitations; creating a Florida Employee Long-Term-Care Plan Board of Directors; providing for board membership and duties; providing trustees' duties, powers, and responsibilities; requiring an annual report; providing for terms of trustees; providing for expenses of the board of trustees; prohibiting use of state funds for certain costs; providing an effective date.

—a companion measure, was substituted for **CS for SB 2342** and by two-thirds vote read the second time by title.

SENATOR BURT PRESIDING

Senator Williams moved the following amendment:

Amendment 1 (with title amendment)—Delete everything after the enacting clause and insert:

Section 1. *Florida Employee Long-Term-Care Plan Act.—*

(1) The Legislature finds that state expenditures for long-term-care services continue to increase at a rapid rate and that the state faces increasing pressure in its efforts to meet the long-term-care needs of the public.

(a) It is the intent of the Legislature that the Division of State Group Insurance and the Department of Elderly Affairs implement a self-funded or fully insured, voluntary, long-term-care plan for public employees and their families.

(b) The Department of Elderly Affairs and the Division of State Group Insurance shall jointly design the plan to provide long-term-care coverage for public employees and family members of public employees. The Division of State Group Insurance and the Department of Elderly Affairs shall enter into an interagency agreement defining their roles with regard to plan development and design. Joint planning expenses shall be shared to the extent that funded planning activities are consistent with the goals of the department and the division. Eligible plan participants must include active and retired officers and employees of all branches and agencies of state and local government and their spouses, children, stepchildren, parents, and parents-in-law; active and retired federal employees residing in the state and their spouses, children, stepchildren, parents, and parents-in-law residing in the state; and the sur-

viving spouses, children, stepchildren, parents, and parents-in-law of such deceased officers and employees, whether active or retired at the time of death.

(c) This act in no way affects the Division of State Group Insurance's authority pursuant to s. 110.123.

(2) As used in this section, the term:

(a) "Department" means the Department of Elderly Affairs.

(b) "Division" means the Division of State Group Insurance.

(c) "Self–funded" means that plan benefits and costs are funded from contributions made by or on behalf of participants and trust fund investment revenue.

(d) "Plan" means the Florida Employee Long-Term-Care Plan.

(3) The division and the department shall, in consultation with public employers and employees and representatives from unions and associations representing state, university, local government, and other public employees, establish and supervise the implementation and administration of a self-funded or fully insured long-term-care plan entitled "Florida Employee Long-Term-Care Plan."

(a) The division shall, in consultation with the department, the Department of Management Services, and the Department of Insurance, contract for actuarial, professional-administrator, and other services for the Florida Employee Long-Term-Care Plan.

(b) When contracting for a professional administrator, the division shall consider, at a minimum, the entity's previous experience and expertise in administering group long-term-care self-funded plans or long-term-care insurance programs; the entity's demonstrated ability to perform its contractual obligations in the state and in other jurisdictions; the entity's projected administrative costs; the entity's capability to adequately provide service coverage, including a sufficient number of experienced and qualified personnel in the areas of marketing, claims processing, recordkeeping, and underwriting; the entity's accessibility to public employees and other qualified participants; and the entity's financial soundness and solvency.

(c) Any contract with a professional administrator entered into by the division must require that the state be held harmless and indemnified for any financial loss caused by the failure of the professional administrator to comply with the terms of the contract.

(d) The division shall explore innovations in long-term-care financing and service delivery with regard to possible future inclusion in the plan. Such innovative financing and service-delivery mechanisms may include managed long-term care and plans that set aside assets with regard to eligibility for Medicaid-funded long-term-care services in the same proportion that private long-term-care insurance benefits are used to pay for long-term care.

(4) The division and the department shall coordinate, directly or through contract, marketing of the plan. Expenses related to such marketing shall be reimbursed from funds of the plan.

(5) The division shall contract with the State Board of Administration for the investment of funds in the Florida Employee Long-Term-Care Plan reserve fund. Plan funds are not state funds. The moneys shall be held by the State Board of Administration on behalf of enrollees and invested and disbursed in accordance with a trust agreement approved by the division and the State Board of Administration and in accordance with the provisions of sections 215.44-215.53, Florida Statutes. Moneys in the reserve fund may be used only for the purposes specified in the agreement.

(6) A Florida Employee Long-term Care Plan Board of Directors is created, composed of seven members who shall serve 2-year terms, to be appointed as follows:

(a) The Secretary of the Department of Elderly Affairs shall appoint a member who is a plan participant.

(b) The Insurance Commissioner shall appoint an actuary.

(c) The Attorney General shall appoint an attorney licensed to practice law in this state.

(d) The Governor shall appoint three members from a broad cross-section of the residents of this state.

(e) The division shall appoint a member.

(7) The board of directors of the Florida Long-term Care Plan shall:

(a) Prepare an annual report of the plan, with the assistance of an actuarial consultant, to be submitted to the Speaker of the House of Representatives, the President of the Senate, the Governor, and the Minority Leaders of the Senate and the House of Representatives.

(b) Approve the appointment of an executive director jointly recommended by the division and the department to serve as the chief administrative and operational officer of the Florida Employee Long-term Care Plan.

(c) Approve the terms of the division's third-party administrator contract.

(d) Implement such other policies and procedures as necessary to assure the soundness and efficient operation of the plan.

(8) Members of the board may not receive a salary, but may be reimbursed for travel, per diem, and administrative expenses related to their duties. Board expenses and costs for the annual report and other administrative expenses must be borne by the plan. State funds may not be contributed toward costs associated with board members or their activities conducted on behalf of and for the benefit of plan beneficiaries.

(9) This section expires July 1, 1999.

Section 2. This act shall take effect July 1, 1998; however, no action to award a contract or implement any plan of care shall occur prior to July 1, 1999.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to long-term care; requiring the Department of Elderly Affairs and the Division of State Group Insurance to design a long-term-care plan for public employees and their families; requiring the division to coordinate marketing of the plan; providing for use of plan funds for marketing expenses; authorizing the division to contract with the State Board of Administration to invest certain funds; providing limitations; creating a Florida Employee Long-Term-Care Plan Board of Directors; providing for board membership, terms, and duties; requiring an annual report; providing for expenses of the board; prohibiting use of state funds for certain costs; providing for expiration of the act; providing an effective date.

Senator Bankhead moved the following amendments to **Amendment 1** which were adopted:

Amendment 1A—On page 3, line 4, after "division" insert: *and the department*

Amendment 1B—On page 5, lines 24-27, delete those lines and insert:

Section 2. This act shall take effect July 1, 1998.

Amendment 1 as amended was adopted.

On motion by Senator Bankhead, by two-thirds vote **CS for HB 4283** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Bankhead	Clary	Grant	Kirkpatrick
Bronson	Crist	Gutman	Klein
Brown-Waite	Diaz-Balart	Hargrett	Kurth
Burt	Dudley	Harris	Latvala
Campbell	Dyer	Holzendorf	Laurent
Casas	Forman	Horne	Lee
Childers	Geller	Jones	McKay

Meadows	Rossin	Silver	Thomas
Myers	Scott	Sullivan	Williams
Ostalkiewicz			

Nays—None

The Senate resumed consideration of—

CS for HB 3883—A bill to be entitled An act relating to protection of children; reorganizing and revising ch. 39, F.S.; providing for pt. I of said chapter, entitled "General Provisions"; amending ss. 39.001, 39.002, and 415.501, F.S.; revising purposes and intent; providing for personnel standards and screening and for drug testing; amending s. 39.01, F.S.; revising definitions; renumbering and amending s. 39.455, F.S., relating to immunity from liability for agents of the Department of Children and Family Services or a social service agency; amending s. 39.012, F.S., and creating s. 39.0121, F.S.; providing authority and requirements for department rules; renumbering and amending s. 39.40, F.S., relating to procedures and jurisdiction; providing for right to counsel; renumbering s. 39.4057, F.S., relating to permanent mailing address designation; renumbering and amending s. 39.411, F.S., relating to oaths, records, and confidential information; renumbering s. 39.414, F.S., relating to court and witness fees; renumbering and amending ss. 39.415 and 39.474, F.S., relating to compensation of appointed counsel; renumbering and amending s. 39.418, F.S., relating to the Operations and Maintenance Trust Fund; renumbering and amending s. 415.5015, F.S., relating to child abuse prevention training in the district school system; providing for pt. II of ch. 39, F.S., entitled "Reporting Child Abuse"; renumbering and amending s. 415.504, F.S., relating to mandatory reports of child abuse, abandonment, or neglect; renumbering and amending s. 415.511, F.S., relating to immunity from liability in cases of child abuse, abandonment, or neglect; renumbering and amending s. 415.512, F.S., relating to abrogation of privileged communications in cases of child abuse, abandonment, or neglect; renumbering and amending s. 415.513, F.S.; providing penalties relating to reporting of child abuse, abandonment, or neglect; deleting the requirement for the Department of Children and Family Services to provide information to the state attorney; providing for the Department of Children and Family Services to report annually to the Legislature the number of reports referred to law enforcement agencies; providing for investigation by local law enforcement agencies of possible false reports; providing for law enforcement agencies to refer certain reports to the state attorney for prosecution; providing for law enforcement entities to handle certain reports of abuse or neglect during the pendency of such an investigation; providing procedures; specifying the penalty for knowingly and willfully making, or advising another to make, a false report; providing for state attorneys to report annually to the Legislature the number of complaints that have resulted in informations or indictments and the disposition of those complaints; renumbering and amending s. 415.5131, F.S., increasing an administrative fine for false reporting; providing for pt. III of ch. 39, F.S., entitled "Protective Investigations"; creating s. 39.301, F.S.; providing for child protective investigations; creating s. 39.302, F.S.; providing for protective investigations of institutional child abuse, abandonment, or neglect; renumbering and amending s. 415.5055, F.S., relating to child protection teams and services and eligible cases; creating s. 39.3035, F.S.; providing standards for child advocacy centers eligible for state funding; renumbering and amending s. 415.507, F.S., relating to photographs, medical examinations, X rays, and medical treatment of an abused, abandoned, or neglected child; renumbering and amending s. 415.5095, F.S., relating to a model plan for intervention and treatment in sexual abuse cases; creating s. 39.306, F.S.; providing for working agreements with local law enforcement to perform criminal investigations; renumbering and amending s. 415.50171, F.S., relating to reports of child-on-child sexual abuse; providing for pt. IV of ch. 39, F.S., entitled "Family Builders Program"; renumbering and amending s. 415.515, F.S., relating to establishment of the program; renumbering and amending s. 415.516, F.S., relating to goals of the program; renumbering and amending s. 415.517, F.S., relating to contracts for services; renumbering and amending s. 415.518, F.S., relating to family eligibility; renumbering s. 415.519, F.S., relating to delivery of services; renumbering and amending s. 415.520, F.S., relating to qualifications of program workers; renumbering s. 415.521, F.S., relating to outcome evaluation; renumbering and amending s. 415.522, F.S., relating to funding; providing for pt. V of ch. 39, F.S., entitled "Taking Children into Custody and Shelter Hearings"; creating s. 39.395, F.S.; providing for medical or hospital personnel taking a child into protective custody; amending s. 39.401, F.S.; providing for law enforcement officers or authorized agents of the department taking a child alleged to be dependent into custody; amending s. 39.402, F.S., relating to placement in a shelter; amending s. 39.407, F.S., relating to physical and mental examination and treatment of a child and physical or mental examination of a person requesting custody; renumbering and amending s. 39.4033, F.S., relating to referral of a dependency case to mediation; providing for pt. VI of ch. 39, F.S., entitled "Petition, Arraignment, Adjudication, and Disposition"; renumbering and amending s. 39.404, F.S., relating to petition for dependency; renumbering and amending s. 39.405, F.S., relating to notice, process, and service; renumbering and amending s. 39.4051, F.S., relating to procedures when the identity or location of the parent, legal custodian, or caregiver is unknown; renumbering and amending s. 39.4055, F.S., relating to injunction pending disposition of a petition for detention or dependency; renumbering and amending s. 39.406, F.S., relating to answers to petitions or other pleadings; renumbering and amending s. 39.408(1), F.S., relating to arraignment hearings; renumbering and amending ss. 39.408(2) and 39.409, F.S., relating to adjudicatory hearings and orders; renumbering and amending ss. 39.408(3) and (4) and 39.41, F.S., relating to disposition hearings and powers of disposition; creating s. 39.5085, F.S.; establishing the Relative Caregiver Program; directing the Department of Children and Family Services to establish and operate the Relative-Caregiver Program; providing financial assistance within available resources to relatives caring for children; providing for financial assistance and support services to relatives caring for children placed with them by the child protection system; providing for rules establishing eligibility guidelines, caregiver benefits, and payment schedule; renumbering and amending s. 39.4105, F.S., relating to grandparents rights; renumbering and amending s. 39.413, F.S., relating to appeals; providing for pt. VII of ch. 39, F.S., entitled "Case Plans"; renumbering and amending ss. 39.4031 and 39.451, F.S., relating to case plan requirements and case planning for children in out-of-home care; renumbering and amending s. 39.452(1)-(4), F.S., relating to case planning for children in out-of-home care when the parents, legal custodians, or caregivers do not participate; renumbering and amending s. 39.452(5), F.S., relating to court approvals of case planning; providing for pt. VIII of ch. 39, F.S., entitled "Judicial Reviews"; renumbering and amending s. 39.453, F.S., relating to judicial review of the status of a child; renumbering and amending s. 39.4531, F.S., relating to citizen review panels; renumbering and amending s. 39.454, F.S., relating to initiation of proceedings for termination of parental rights; renumbering and amending s. 39.456, F.S.; revising exemptions from judicial review; providing for pt. IX of ch. 39, F.S., entitled "Termination of Parental Rights"; renumbering and amending ss. 39.46 and 39.462, F.S., relating to procedures, jurisdiction, and service of process; renumbering and amending ss. 39.461 and 39.4611, F.S., relating to petition for termination of parental rights, and filing and elements thereof; creating s. 39.803, F.S.; providing procedures when the identity or location of the parent is unknown after filing a petition for termination of parental rights; renumbering s. 39.4627, F.S., relating to penalties for false statements of paternity; renumbering and amending s. 39.463, F.S., relating to petitions and pleadings for which no answer is required; renumbering and amending s. 39.464, F.S., relating to grounds for termination of paternal rights; renumbering and amending s. 39.465, F.S., relating to right to counsel and appointment of a guardian ad litem; renumbering and amending s. 39.466, F.S., relating to advisory hearings; renumbering and amending s. 39.467, F.S., relating to adjudicatory hearings; renumbering and amending s. 39.4612, F.S., relating to the manifest best interests of the child; renumbering and amending s. 39.469, F.S., relating to powers of disposition and order of disposition; renumbering and amending s. 39.47, F.S., relating to post disposition relief; creating s. 39.813, F.S.; providing for continuing jurisdiction of the court which terminates parental rights over all matters pertaining to the child's adoption; renumbering s. 39.471, F.S., relating to oaths, records, and confidential information; renumbering and amending s. 39.473, F.S., relating to appeal; creating s. 39.816, F.S.; authorizing certain pilot and demonstration projects contingent on receipt of federal grants or contracts; creating s. 39.817, F.S.; providing for a foster care demonstration pilot project; providing for pt. X of ch. 39, F.S., entitled "Guardians Ad Litem and Guardian Advocates"; creating s. 39.820, F.S.; providing definitions; renumbering s. 415.5077, F.S., relating to qualifications of guardians ad litem; renumbering and amending s. 415.508, F.S., relating to appointment of a guardian ad litem for an abused, abandoned, or neglected child; renumbering and amending s. 415.5082, F.S., relating to guardian advocates for drug dependent newborns; renumbering and amending s. 415.5083, F.S., relating to procedures and jurisdiction; renumbering s. 415.5084, F.S., relating to petition for appointment of a guardian advocate; renumbering s. 415.5085, F.S., relating to process and service; renumbering and amending s. 415.5086, F.S., relating to

hearing for appointment of a guardian advocate; renumbering and amending s. 415.5087, F.S., relating to grounds for appointment of a guardian advocate; renumbering s. 415.5088, F.S., relating to powers and duties of the guardian advocate; renumbering and amending s. 415.5089, F.S., relating to review and removal of a guardian advocate; providing for pt. XI of ch. 39, F.S., entitled "Domestic Violence"; renumbering s. 415.601, F.S., relating to legislative intent regarding treatment and rehabilitation of victims and perpetrators; renumbering and amending s. 415.602, F.S., relating to definitions; renumbering and amending s. 415.603, F.S., relating to duties and functions of the department; renumbering and amending s. 415.604, F.S., relating to an annual report to the Legislature; renumbering and amending s. 415.605, F.S., relating to domestic violence centers; renumbering s. 415.606, F.S., relating to referral to such centers and notice of rights; renumbering s. 415.608, F.S., relating to confidentiality of information received by the department or a center; amending ss. 20.43, 61.13, 61.401, 61.402, 63.052, 63.092, 90.5036, 154.067, 216.136, 232.50, 318.21, 384.29, 392.65, 393.063, 395.1023, 400.4174, 400.556, 402.165, 402.166, 409.1672, 409.176, 409.2554, 409.912, 409.9126, 414.065, 447.401, 464.018, 490.014, 491.014, 741.30, 744.309, 784.075, 933.18, 944.401, 944.705, 984.03, 984.10, 984.15, 984.24, 985.03, and 985.303, F.S.; correcting cross references; conforming related provisions and references; amending s. 20.19, F.S.; providing for certification programs for family safety and preservation employees of the department; providing for rules; amending ss. 213.053 and 409.2577, F.S.; authorizing disclosure of certain confidential taxpayer and parent locator information for diligent search activities under ch. 39, F.S.; creating s. 435.045, F.S.; providing background screening requirements for prospective foster or adoptive parents; amending s. 943.045, F.S.; providing that the Department of Children and Family Services is a "criminal justice agency" for purposes of the criminal justice information system; providing an appropriation; repealing s. 39.0195, F.S., relating to sheltering unmarried minors and aiding unmarried runaways; repealing s. 39.0196, F.S., relating to children locked out of the home; repealing ss. 39.39, 39.449, and 39.459, F.S., relating to definition of "department"; repealing s. 39.403, F.S., relating to protective investigation; repealing s. 39.4032, F.S., relating to multidisciplinary case staffing; repealing s. 39.4052, F.S., relating to affirmative duty of written notice to adult relatives; repealing s. 39.4053, F.S., relating to diligent search after taking a child into custody; repealing s. 39.45, F.S., relating to legislative intent regarding foster care; repealing s. 39.457, F.S., relating to a pilot program in Leon County to provide additional benefits to children in foster care; repealing s. 39.4625, F.S., relating to identity or location of parent unknown after filing of petition for termination of parental rights; repealing s. 39.472, F.S., relating to court and witness fees; repealing s. 39.475, F.S., relating to rights of grandparents; repealing ss. 415.5016, 415.50165, 415.5017, 415.50175, 415.5018, 415.50185, and 415.5019, F.S., relating to purpose and legislative intent, definitions, procedures, confidentiality of records, district authority and responsibilities, outcome evaluation, and rules for the family services response system; repealing s. 415.502, F.S., relating to legislative intent for comprehensive protective services for abused or neglected children; repealing s. 415.503, F.S., relating to definitions; repealing s. 415.505, F.S., relating to child protective investigations and investigations of institutional child abuse or neglect; repealing s. 415.506, F.S., relating to taking a child into protective custody; repealing s. 415.5075, F.S., relating to rules for medical screening and treatment of children; repealing s. 415.509, F.S., relating to public agencies' responsibilities for prevention, identification, and treatment of child abuse and neglect; repealing s. 415.514, F.S., relating to rules for protective services; providing effective dates.

—which was previously considered this day.

Senator Dudley moved the following amendment:

Amendment 1 (with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Part I of chapter 39, Florida Statutes, consisting of sections 39.001, 39.01, 39.011, 39.012, 39.0121, 39.013, 39.0131, 39.0132, 39.0133, 39.0134, and 39.0135, Florida Statutes, shall be entitled to read:

PART I
GENERAL PROVISIONS

Section 2. Section 39.001, Florida Statutes, is amended to read:

39.001 Purposes and intent; personnel standards and screening.—

(1) *PURPOSES OF CHAPTER.*—The purposes of this chapter are:

(a)~~(b)~~ To provide for the care, safety, and protection of children in an environment that fosters healthy social, emotional, intellectual, and physical development; to ensure secure and safe custody; and to promote the health and well-being of all children under the state's care.

(b) To recognize that most families desire to be competent caregivers and providers for their children and that children achieve their greatest potential when families are able to support and nurture the growth and development of their children. Therefore, the Legislature finds that policies and procedures that provide for intervention through the department's child protection system should be based on the following principles:

1. The health and safety of the children served shall be of paramount concern.

2. The intervention should engage families in constructive, supportive, and nonadversarial relationships.

3. The intervention should intrude as little as possible into the life of the family, be focused on clearly defined objectives, and take the most parsimonious path to remedy a family's problems.

4. The intervention should be based upon outcome evaluation results that demonstrate success in protecting children and supporting families.

(c) To provide a child protection system that reflects a partnership between the department, other agencies, and local communities.

(d) To provide a child protection system that is sensitive to the social and cultural diversity of the state.

(e) To provide procedures that allow the department to respond to reports of child abuse, abandonment, or neglect in the most efficient and effective manner and that ensure the health and safety of children and the integrity of families.

~~(c) To ensure the protection of society, by providing for a comprehensive standardized assessment of the child's needs so that the most appropriate control, discipline, punishment, and treatment can be administered consistent with the seriousness of the act committed, the community's long-term need for public safety, the prior record of the child and the specific rehabilitation needs of the child, while also providing whenever possible restitution to the victim of the offense.~~

(f)~~(d)~~ To preserve and strengthen the child's family ties whenever possible, removing the child from parental custody only when his or her welfare ~~or the safety and protection of the public~~ cannot be adequately safeguarded without such removal.~~; and, when the child is removed from his or her own family, to secure for the child custody, care, and discipline as nearly as possible equivalent to that which should have been given by the parents; and to assure, in all cases in which a child must be permanently removed from parental custody, that the child be placed in an approved family home, adoptive home, independent living program, or other placement that provides the most stable and permanent living arrangement for the child, as determined by the court.~~

(g) To ensure that the parent or guardian from whose custody the child has been taken assists the department to the fullest extent possible in locating relatives suitable to serve as caregivers for the child.

(h) To ensure that permanent placement with the biological or adoptive family is achieved as soon as possible for every child in foster care and that no child remains in foster care longer than 1 year.

(i) To secure for the child, when removal of the child from his or her own family is necessary, custody, care, and discipline as nearly as possible equivalent to that which should have been given by the parents; and to ensure, in all cases in which a child must be removed from parental custody, that the child is placed in an approved relative home, licensed foster home, adoptive home, or independent living program that provides the most stable and potentially permanent living arrangement for the child, as determined by the court. All placements shall be in a safe environment where drugs and alcohol are not abused.

(j) To ensure that, when reunification or adoption is not possible, the child will be prepared for alternative permanency goals or placements, to include, but not be limited to, long-term foster care, independent living, custody with a relative on a permanent basis with or without legal guardianship, or custody with a foster parent or caregiver on a permanent basis with or without legal guardianship.

(k) To make every possible effort, when two or more children who are in the care or under the supervision of the department are siblings, to place the siblings in the same home; and in the event of permanent placement of the siblings, to place them in the same adoptive home or, if the siblings are separated, to keep them in contact with each other.

(l)~~(a)~~ To provide judicial and other procedures to assure due process through which children, *parents, and guardians* and other interested parties are assured fair hearings by a respectful and respected court or other tribunal and the recognition, protection, and enforcement of their constitutional and other legal rights, while ensuring that public safety interests and the authority and dignity of the courts are adequately protected.

(m) To ensure that children under the jurisdiction of the courts are provided equal treatment with respect to goals, objectives, services, and case plans, without regard to the location of their placement. It is the further intent of the Legislature that, when children are removed from their homes, disruption to their education be minimized to the extent possible.

~~(e)1. To assure that the adjudication and disposition of a child alleged or found to have committed a violation of Florida law be exercised with appropriate discretion and in keeping with the seriousness of the offense and the need for treatment services, and that all findings made under this chapter be based upon facts presented at a hearing that meets the constitutional standards of fundamental fairness and due process.~~

~~2. To assure that the sentencing and placement of a child tried as an adult be appropriate and in keeping with the seriousness of the offense and the child's need for rehabilitative services, and that the proceedings and procedures applicable to such sentencing and placement be applied within the full framework of constitutional standards of fundamental fairness and due process.~~

~~(f) To provide children committed to the Department of Juvenile Justice with training in life skills, including career education.~~

(2) *DEPARTMENT CONTRACTS.*—The department ~~of Juvenile Justice or the Department of Children and Family Services, as appropriate,~~ may contract with the Federal Government, other state departments and agencies, county and municipal governments and agencies, public and private agencies, and private individuals and corporations in carrying out the purposes of, and the responsibilities established in, this chapter.

(a) When the department ~~of Juvenile Justice or the Department of Children and Family Services~~ contracts with a provider for any program for children, all personnel, including owners, operators, employees, and volunteers, in the facility must be of good moral character. A volunteer who assists on an intermittent basis for less than 40 hours per month need not be screened if the volunteer is under direct and constant supervision by persons who meet the screening requirements.

(b) The department ~~of Juvenile Justice and the Department of Children and Family Services~~ shall require employment screening, *and rescreening no less frequently than once every 5 years,* pursuant to chapter 435, using the level 2 standards set forth in that chapter for personnel in programs for children or youths.

(c) The department ~~of Juvenile Justice or the Department of Children and Family Services~~ may grant exemptions from disqualification from working with children as provided in s. 435.07.

(d) The department shall require all job applicants, current employees, volunteers, and contract personnel who currently perform or are seeking to perform child protective investigations to be drug-tested pursuant to the procedures and requirements of s. 112.0455, the Drug-Free Workplace Act. The department is authorized to adopt rules, policies, and procedures necessary to implement this paragraph.

(e) The department shall develop and implement a written and performance-based testing and evaluation program, pursuant to s. 20.19(4), to ensure measurable competencies of all employees assigned to manage or supervise cases of child abuse, abandonment, and neglect.

(3) GENERAL PROTECTIONS FOR CHILDREN.—It is a purpose of the Legislature that the children of this state be provided with the following protections:

(a) Protection from abuse, abandonment, neglect, and exploitation.

(b) A permanent and stable home.

(c) A safe and nurturing environment which will preserve a sense of personal dignity and integrity.

(d) Adequate nutrition, shelter, and clothing.

(e) Effective treatment to address physical, social, and emotional needs, regardless of geographical location.

(f) Equal opportunity and access to quality and effective education, which will meet the individual needs of each child, and to recreation and other community resources to develop individual abilities.

(g) Access to preventive services.

(h) An independent, trained advocate, when intervention is necessary and a skilled guardian or caregiver in a safe environment when alternative placement is necessary.

(4) SUBSTANCE ABUSE SERVICES.—The Legislature finds that children in the care of the state's dependency system need appropriate health care services, that the impact of substance abuse on health indicates the need for health care services to include substance abuse services to children and parents where appropriate, and that it is in the state's best interest that such children be provided the services they need to enable them to become and remain independent of state care. In order to provide these services, the state's dependency system must have the ability to identify and provide appropriate intervention and treatment for children with personal or family-related substance abuse problems. It is therefore the purpose of the Legislature to provide authority for the state to contract with community substance abuse treatment providers for the development and operation of specialized support and overlay services for the dependency system, which will be fully implemented and utilized as resources permit.

(5) PARENTAL, CUSTODIAL, AND GUARDIAN RESPONSIBILITIES.—Parents, custodians, and guardians are deemed by the state to be responsible for providing their children with sufficient support, guidance, and supervision. The state further recognizes that the ability of parents, custodians, and guardians to fulfill those responsibilities can be greatly impaired by economic, social, behavioral, emotional, and related problems. It is therefore the policy of the Legislature that it is the state's responsibility to ensure that factors impeding the ability of caregivers to fulfill their responsibilities are identified through the dependency process and that appropriate recommendations and services to address those problems are considered in any judicial or nonjudicial proceeding.

(6) LEGISLATIVE INTENT FOR THE PREVENTION OF ABUSE, ABANDONMENT, AND NEGLECT OF CHILDREN.—The incidence of known child abuse, abandonment, and neglect has increased rapidly over the past 5 years. The impact that abuse, abandonment, or neglect has on the victimized child, siblings, family structure, and inevitably on all citizens of the state has caused the Legislature to determine that the prevention of child abuse, abandonment, and neglect shall be a priority of this state. To further this end, it is the intent of the Legislature that a comprehensive approach for the prevention of abuse, abandonment, and neglect of children be developed for the state and that this planned, comprehensive approach be used as a basis for funding.

(7) PLAN FOR COMPREHENSIVE APPROACH.—

(a) The department shall develop a state plan for the prevention of abuse, abandonment, and neglect of children and shall submit the plan to the Speaker of the House of Representatives, the President of the Senate, and the Governor no later than January 1, 1983. The Department of Education and the Division of Children's Medical Services of the Department of Health shall participate and fully cooperate in the development of the state plan at both the state and local levels. Furthermore, appropriate local agencies and organizations shall be provided an opportunity to

participate in the development of the state plan at the local level. Appropriate local groups and organizations shall include, but not be limited to, community mental health centers; guardian ad litem programs for children under the circuit court; the school boards of the local school districts; the district human rights advocacy committees; private or public organizations or programs with recognized expertise in working with children who are sexually abused, physically abused, emotionally abused, abandoned, or neglected and with expertise in working with the families of such children; private or public programs or organizations with expertise in maternal and infant health care; multidisciplinary child protection teams; child day care centers; law enforcement agencies, and the circuit courts, when guardian ad litem programs are not available in the local area. The state plan to be provided to the Legislature and the Governor shall include, as a minimum, the information required of the various groups in paragraph (b).

(b) The development of the comprehensive state plan shall be accomplished in the following manner:

1. The department shall establish an interprogram task force comprised of the Assistant Secretary for Children and Family Services, or a designee, a representative from the Children and Families Program Office, a representative from the Alcohol, Drug Abuse, and Mental Health Program Office, a representative from the Developmental Services Program Office, a representative from the Office of Standards and Evaluation, and a representative from the Division of Children's Medical Services of the Department of Health. Representatives of the Department of Law Enforcement and of the Department of Education shall serve as ex officio members of the interprogram task force. The interprogram task force shall be responsible for:

a. Developing a plan of action for better coordination and integration of the goals, activities, and funding pertaining to the prevention of child abuse, abandonment, and neglect conducted by the department in order to maximize staff and resources at the state level. The plan of action shall be included in the state plan.

b. Providing a basic format to be utilized by the districts in the preparation of local plans of action in order to provide for uniformity in the district plans and to provide for greater ease in compiling information for the state plan.

c. Providing the districts with technical assistance in the development of local plans of action, if requested.

d. Examining the local plans to determine if all the requirements of the local plans have been met and, if they have not, informing the districts of the deficiencies and requesting the additional information needed.

e. Preparing the state plan for submission to the Legislature and the Governor. Such preparation shall include the collapsing of information obtained from the local plans, the cooperative plans with the Department of Education, and the plan of action for coordination and integration of departmental activities into one comprehensive plan. The comprehensive plan shall include a section reflecting general conditions and needs, an analysis of variations based on population or geographic areas, identified problems, and recommendations for change. In essence, the plan shall provide an analysis and summary of each element of the local plans to provide a statewide perspective. The plan shall also include each separate local plan of action.

f. Working with the specified state agency in fulfilling the requirements of subparagraphs 2., 3., 4., and 5.

2. The department, the Department of Education, and the Department of Health shall work together in developing ways to inform and instruct parents of school children and appropriate district school personnel in all school districts in the detection of child abuse, abandonment, and neglect and in the proper action that should be taken in a suspected case of child abuse, abandonment, or neglect, and in caring for a child's needs after a report is made. The plan for accomplishing this end shall be included in the state plan.

3. The department, the Department of Law Enforcement, and the Department of Health shall work together in developing ways to inform and instruct appropriate local law enforcement personnel in the detection of child abuse, abandonment, and neglect and in the proper action that should be taken in a suspected case of child abuse, abandonment, or neglect.

4. Within existing appropriations, the department shall work with other appropriate public and private agencies to emphasize efforts to educate the general public about the problem of and ways to detect child abuse, abandonment, and neglect and in the proper action that should be taken in a suspected case of child abuse, abandonment, or neglect. The plan for accomplishing this end shall be included in the state plan.

5. The department, the Department of Education, and the Department of Health shall work together on the enhancement or adaptation of curriculum materials to assist instructional personnel in providing instruction through a multidisciplinary approach on the identification, intervention, and prevention of child abuse, abandonment, and neglect. The curriculum materials shall be geared toward a sequential program of instruction at the four progressional levels, K-3, 4-6, 7-9, and 10-12. Strategies for encouraging all school districts to utilize the curriculum are to be included in the comprehensive state plan for the prevention of child abuse, abandonment, and neglect.

6. Each district of the department shall develop a plan for its specific geographical area. The plan developed at the district level shall be submitted to the interprogram task force for utilization in preparing the state plan. The district local plan of action shall be prepared with the involvement and assistance of the local agencies and organizations listed in paragraph (a), as well as representatives from those departmental district offices participating in the treatment and prevention of child abuse, abandonment, and neglect. In order to accomplish this, the district administrator in each district shall establish a task force on the prevention of child abuse, abandonment, and neglect. The district administrator shall appoint the members of the task force in accordance with the membership requirements of this section. In addition, the district administrator shall ensure that each subdistrict is represented on the task force; and, if the district does not have subdistricts, the district administrator shall ensure that both urban and rural areas are represented on the task force. The task force shall develop a written statement clearly identifying its operating procedures, purpose, overall responsibilities, and method of meeting responsibilities. The district plan of action to be prepared by the task force shall include, but shall not be limited to:

a. Documentation of the magnitude of the problems of child abuse, including sexual abuse, physical abuse, and emotional abuse, and child abandonment and neglect in its geographical area.

b. A description of programs currently serving abused, abandoned, and neglected children and their families and a description of programs for the prevention of child abuse, abandonment, and neglect, including information on the impact, cost-effectiveness, and sources of funding of such programs.

c. A continuum of programs and services necessary for a comprehensive approach to the prevention of all types of child abuse, abandonment, and neglect as well as a brief description of such programs and services.

d. A description, documentation, and priority ranking of local needs related to child abuse, abandonment, and neglect prevention based upon the continuum of programs and services.

e. A plan for steps to be taken in meeting identified needs, including the coordination and integration of services to avoid unnecessary duplication and cost, and for alternative funding strategies for meeting needs through the reallocation of existing resources, utilization of volunteers, contracting with local universities for services, and local government or private agency funding.

f. A description of barriers to the accomplishment of a comprehensive approach to the prevention of child abuse, abandonment, and neglect.

g. Recommendations for changes that can be accomplished only at the state program level or by legislative action.

(8) FUNDING AND SUBSEQUENT PLANS.—

(a) All budget requests submitted by the department, the Department of Education, or any other agency to the Legislature for funding of efforts for the prevention of child abuse, abandonment, and neglect shall be based on the state plan developed pursuant to this section.

(b) The department at the state and district levels and the other agencies listed in paragraph (7)(a) shall readdress the plan and make necessary revisions every 5 years, at a minimum. Such revisions shall be

submitted to the Speaker of the House of Representatives and the President of the Senate no later than June 30 of each year divisible by 5. An annual progress report shall be submitted to update the plan in the years between the 5-year intervals. In order to avoid duplication of effort, these required plans may be made a part of or merged with other plans required by either the state or Federal Government, so long as the portions of the other state or Federal Government plan that constitute the state plan for the prevention of child abuse, abandonment, and neglect are clearly identified as such and are provided to the Speaker of the House of Representatives and the President of the Senate as required above.

(9)~~(3)~~ *LIBERAL CONSTRUCTION.*—It is the intent of the Legislature that this chapter be liberally interpreted and construed in conformity with its declared purposes.

Section 3. Section 415.5015, Florida Statutes, is renumbered as section 39.0015, Florida Statutes, and amended to read:

39.0015 ~~415.5015~~ Child abuse prevention training in the district school system.—

(1) SHORT TITLE.—This section may be cited as the "Child Abuse Prevention Training Act of 1985."

(2) LEGISLATIVE INTENT.—It is the intent of the Legislature that primary prevention training for all children in kindergarten through grade 12 be encouraged in the district school system through the training of school teachers, guidance counselors, parents, and children.

(3) DEFINITIONS.—As used in this section:

(a) "Department" means the Department of Education.

(b) "Child abuse" means those acts as defined in ss. 39.01~~, 415.503,~~ and 827.04.

(c) "Primary prevention and training program" means a training and educational program for children, parents, and teachers which is directed toward preventing the occurrence of child abuse, including sexual abuse, physical abuse, *child abandonment,* child neglect, and drug and alcohol abuse, and toward reducing the vulnerability of children through training of children and through including coordination with, and training for, parents and school personnel.

(d) "Prevention training center" means a center as described in subsection (5).

(4) PRIMARY PREVENTION AND TRAINING PROGRAM.—A primary prevention and training program shall include all of the following, as appropriate for the persons being trained:

(a) Information provided in a clear and nonthreatening manner, describing the problem of sexual abuse, physical abuse, *abandonment,* neglect, and alcohol and drug abuse, and the possible solutions.

(b) Information and training designed to counteract common stereotypes about victims and offenders.

(c) Crisis counseling techniques.

(d) Available community resources and ways to access those resources.

(e) Physical and behavioral indicators of abuse.

(f) Rights and responsibilities regarding reporting.

(g) School district procedures to facilitate reporting.

(h) Caring for a child's needs after a report is made.

(i) How to disclose incidents of abuse.

(j) Child safety training and age-appropriate self-defense techniques.

(k) The right of every child to live free of abuse.

(l) The relationship of child abuse to handicaps in young children.

(m) Parenting, including communication skills.

(n) Normal and abnormal child development.

(o) Information on recognizing and alleviating family stress caused by the demands required in caring for a high-risk or handicapped child.

(p) Supports needed by school-age parents in caring for a young child.

(5) PREVENTION TRAINING CENTERS; FUNCTIONS; SELECTION PROCESS; MONITORING AND EVALUATION.—

(a) Each training center shall perform the following functions:

1. Act as a clearinghouse to provide information on prevention curricula which meet the requirements of this section and the requirements of ss. *39.001,* 231.17, *and* 236.0811~~, and 415.501~~.

2. Assist the local school district in selecting a prevention program model which meets the needs of the local community.

3. At the request of the local school district, design and administer training sessions to develop or expand local primary prevention and training programs.

4. Provide assistance to local school districts, including, but not limited to, all of the following: administration, management, program development, multicultural staffing, and community education, in order to better meet the requirements of this section and of ss. *39.001,* 231.17, *and* 236.0811~~, and 415.501~~.

5. At the request of the department ~~of Education~~ or the local school district, provide ongoing program development and training to achieve all of the following:

a. Meet the special needs of children, including, but not limited to, the needs of disabled and high-risk children.

b. Conduct an outreach program to inform the surrounding communities of the existence of primary prevention and training programs and of funds to conduct such programs.

6. Serve as a resource to the Department of Children and Family Services and its districts.

(b) The department, in consultation with the Department of *Children and Family* ~~Health and Rehabilitative~~ Services, shall select and award grants by January 1, 1986, for the establishment of three private, nonprofit prevention training centers: one located in and serving South Florida, one located in and serving Central Florida, and one located in and serving North Florida. The department, in consultation with the Department of *Children and Family* ~~Health and Rehabilitative~~ Services, shall select an agency or agencies to establish three training centers which can fulfill the requirements of this section and meet the following requirements:

1. Have demonstrated experience in child abuse prevention training.

2. Have shown capacity for training primary prevention and training programs as *provided for in subsections (3) and* ~~defined in subsection~~ (4).

3. Have provided training and organizing technical assistance to the greatest number of private prevention and training programs.

4. Have employed the greatest number of trainers with experience in private child abuse prevention and training programs.

5. Have employed trainers which represent the cultural diversity of the area.

6. Have established broad community support.

(c) The department shall monitor and evaluate primary prevention and training programs utilized in the local school districts and shall monitor and evaluate the impact of the prevention training centers on the implementation of primary prevention programs and their ability to meet the required responsibilities of a center as described in this section.

(6) The department ~~of Education~~ shall administer this *section* ~~act~~ and in so doing is authorized to adopt rules and standards necessary to implement the specific provisions of this *section* ~~act~~.

Section 4. Section 39.01, Florida Statutes, as amended by chapter 97-276, Laws of Florida, is amended to read:

39.01 Definitions.—When used in this chapter, *unless the context otherwise requires*:

(1) "Abandoned" means a situation in which the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the *caregiver* ~~person~~ responsible for the child's welfare, while being able, makes no provision for the child's support and makes no effort to communicate with the child, which situation is sufficient to evince a willful rejection of parental obligations. If the efforts of such parent or legal custodian, or *caregiver* ~~person~~ primarily responsible for the child's welfare, to support and communicate with the child are, in the opinion of the court, only marginal efforts that do not evince a settled purpose to assume all parental duties, the court may declare the child to be abandoned. The term "abandoned" does not include a "child in need of services" as defined in chapter 984 or a "family in need of services" as defined in chapter 984. The incarceration of a parent, legal custodian, or *caregiver* ~~person~~ responsible for a child's welfare *may support* ~~does not constitute a bar to~~ a finding of abandonment.

(2) "Abuse" means any willful act *or threatened act* that results in any physical, mental, or sexual injury *or harm* that causes or is likely to cause the child's physical, mental, or emotional health to be significantly impaired. *For the purpose of protective investigations, abuse of a child includes the acts or omissions of the parent, legal custodian, caregiver, or other person responsible for the child's welfare.* Corporal discipline of a child by a parent, *legal custodian,* or *caregiver* ~~guardian~~ for disciplinary purposes does not in itself constitute abuse when it does not result in harm to the child ~~as defined in s. 415.503~~.

(3) "Addictions receiving facility" means a substance abuse service provider as defined in chapter 397.

(4) "Adjudicatory hearing" means a hearing for the court to determine whether or not the facts support the allegations stated in the petition ~~as is provided for under s. 39.408(2),~~ in dependency cases~~,~~ or ~~s. 39.467,~~ in termination of parental rights cases.

(5) "Adult" means any natural person other than a child.

(6) "Adoption" means the act of creating the legal relationship between parent and child where it did not exist, thereby declaring the child to be legally the child of the adoptive parents and their heir at law, and entitled to all the rights and privileges and subject to all the obligations of a child born to such adoptive parents in lawful wedlock.

(7) "Alleged juvenile sexual offender" means:

(a) A child 12 years of age or younger who is alleged to have committed a violation of chapter 794, chapter 796, chapter 800, s. 827.071, or s. 847.0133; or

(b) A child who is alleged to have committed any violation of law or delinquent act involving juvenile sexual abuse. "Juvenile sexual abuse" means any sexual behavior that occurs without consent, without equality, or as a result of coercion. For purposes of this paragraph, the following definitions apply:

1. "Coercion" means the exploitation of authority or the use of bribes, threats of force, or intimidation to gain cooperation or compliance.

2. "Equality" means two participants operating with the same level of power in a relationship, neither being controlled nor coerced by the other.

3. "Consent" means an agreement, including all of the following:

a. Understanding what is proposed based on age, maturity, developmental level, functioning, and experience.

b. Knowledge of societal standards for what is being proposed.

c. Awareness of potential consequences and alternatives.

d. Assumption that agreement or disagreement will be accepted equally.

e. Voluntary decision.

f. Mental competence.

Juvenile sexual offender behavior ranges from noncontact sexual behavior such as making obscene phone calls, exhibitionism, voyeurism, and the showing or taking of lewd photographs to varying degrees of direct sexual contact, such as frottage, fondling, digital penetration, rape, fellatio, sodomy, and various other sexually aggressive acts.

(8)~~(6)~~ "Arbitration" means a process whereby a neutral third person or panel, called an arbitrator or an arbitration panel, considers the facts and arguments presented by the parties and renders a decision which may be binding or nonbinding.

(9)~~(7)~~ "Authorized agent" or "designee" of the department means *an employee, volunteer, or other person or agency determined by the state to be eligible for state-funded risk management coverage, which is* ~~a person or agency~~ assigned or designated by the department ~~of Juvenile Justice or the Department of Children and Family Services, as appropriate,~~ to perform duties or exercise powers pursuant to this chapter ~~and includes contract providers and their employees for purposes of providing services to and managing cases of children in need of services and families in need of services~~.

(10) "Caregiver" means the parent, legal custodian, adult household member, or other person responsible for a child's welfare as defined in subsection (47).

~~(8) "Caretaker/homemaker" means an authorized agent of the Department of Children and Family Services who shall remain in the child's home with the child until a parent, legal guardian, or relative of the child enters the home and is capable of assuming and agrees to assume charge of the child.~~

(11)~~(9)~~ "Case plan" or "plan" means a document, as described in s. *39.601* ~~39.4031~~, prepared by the department *with input from all parties, including parents, guardians ad litem, legal custodians, caregivers, and the child. The case plan*~~, that~~ follows the child from the provision of voluntary services through any dependency, foster care, or termination of parental rights proceeding or related activity or process.

(12)~~(10)~~ "Child" or ~~"juvenile" or~~ "youth" means any unmarried person under the age of 18 *years* who has not been emancipated by order of the court and who has been *alleged or* found ~~or alleged~~ to be dependent~~,~~ ~~in need of services, or from a family in need of services; or any married or unmarried person who is charged with a violation of law occurring prior to the time that person reached the age of 18 years~~.

(13) "Child protection team" means a team of professionals established by the department to receive referrals from the protective investigators and protective supervision staff of the department and to provide specialized and supportive services to the program in processing child abuse, abandonment, or neglect cases. A child protection team shall provide consultation to other programs of the department and other persons regarding child abuse, abandonment, or neglect cases.

(14)~~(11)~~ "Child who is found to be dependent" means a child who, pursuant to this chapter, is found by the court:

(a) To have been abandoned, abused, or neglected by the child's *parent or* parents, *legal custodians, or caregivers;* ~~or other custodians.~~

(b) To have been surrendered to the department ~~of Children and Family Services~~, the former Department of Health and Rehabilitative Services, or a licensed child-placing agency for purpose of adoption;~~.~~

(c) To have been voluntarily placed with a licensed child-caring agency, a licensed child-placing agency, an adult relative, the department ~~of Children and Family Services~~, or the former Department of Health and Rehabilitative Services, after which placement, under the requirements of ~~part II of~~ this chapter, a case plan has expired and the parent or parents, *legal custodians, or caregivers* have failed to substantially comply with the requirements of the plan;~~.~~

(d) To have been voluntarily placed with a licensed child-placing agency for the purposes of subsequent adoption, and a natural parent or parents *has* signed a consent pursuant to the Florida Rules of Juvenile Procedure;~~.~~

(e) To have no parent, legal custodian, or *caregiver* ~~responsible adult relative~~ to provide supervision and care*; or*~~.~~

(f) To be at substantial risk of imminent abuse*, abandonment,* or neglect by the parent or parents*, legal custodians, or caregivers* ~~or the custodian~~.

(15)~~(12)~~ "Child support" means a court-ordered obligation, enforced under chapter 61 and ss. 409.2551-409.2597, for monetary support for the care, maintenance, training, and education of a child.

(16)~~(13)~~ "Circuit" means any of the 20 judicial circuits as set forth in s. 26.021.

(17)~~(14)~~ "Comprehensive assessment" or "assessment" means the gathering of information for the evaluation of ~~a juvenile offender's or~~ a child's *and caregiver's* physical*, psychiatric,* psychological *or mental health*, educational, vocational, and social condition and family environment as they relate to the child's *and caregiver's* need for rehabilitative and treatment services, including substance abuse treatment services, mental health services, developmental services, literacy services, medical services, family services, and other specialized services, as appropriate.

(18)~~(15)~~ "Court," unless otherwise expressly stated, means the circuit court assigned to exercise jurisdiction under this chapter.

(19)~~(16)~~ "Department~~,~~" ~~as used in this chapter,~~ means the Department of Children and Family Services.

(20)~~(17)~~ "Diligent efforts by a parent*, legal custodian, or caregiver*" means a course of conduct which results in a reduction in risk to the child in the child's home that would allow the child to be safely placed permanently back in the home as set forth in the case plan.

(21)~~(18)~~ "Diligent efforts of social service agency" means reasonable efforts to provide social services or reunification services made by any social service agency ~~as defined in this section~~ that is a party to a case plan.

(22)~~(19)~~ "Diligent search" means the efforts of a social service agency to locate a parent or prospective parent whose identity or location is unknown, ~~or a relative made known to the social services agency by the parent or custodian of a child. When the search is for a parent, prospective parent, or relative of a child in the custody of the department, this search must be~~ initiated as soon as the *social service* agency is made aware of the existence of such parent*, with the search progress reported at each court hearing until the parent is either identified and located or the court excuses further search.* ~~prospective parent, or relative. A diligent search shall include interviews with persons who are likely to have information about the identity or location of the person being sought, comprehensive database searches, and records searches, including searches of employment, residence, utilities, Armed Forces, vehicle registration, child support enforcement, law enforcement, and corrections records, and any other records likely to result in identifying and locating the person being sought. The initial diligent search must be completed within 90 days after a child is taken into custody. After the completion of the initial diligent search, the department, unless excused by the court, shall have a continuing duty to search for relatives with whom it may be appropriate to place the child, until such relatives are found or until the child is placed for adoption.~~

(23)~~(20)~~ "Disposition hearing" means a hearing in which the court determines the most appropriate *family support* ~~dispositional~~ services in the least restrictive available setting ~~provided for under s. 39.408(3),~~ in dependency cases~~,~~ or ~~s. 39.469,~~ in termination of parental rights cases.

(24) "District" means any one of the 15 service districts of the department established pursuant to s. 20.19.

(25)~~(21)~~ "District administrator" means the chief operating officer of each service district of the department ~~of Children and Family Services~~ as defined in s. 20.19*(7)*~~(6)~~ and, where appropriate, includes *any* ~~each~~ district administrator whose service district falls within the boundaries of a judicial circuit.

(26) "Expedited termination of parental rights" means proceedings wherein a case plan with the goal of reunification is not being offered.

(27) "False report" means a report of abuse, neglect, or abandonment of a child to the central abuse hotline, which report is maliciously made for the purpose of:

(a) Harassing, embarrassing, or harming another person;

(b) Personal financial gain for the reporting person;

(c) Acquiring custody of a child; or

(d) Personal benefit for the reporting person in any other private dispute involving a child.

The term "false report" does not include a report of abuse, neglect, or abandonment of a child made in good faith to the central abuse hotline.

(28)~~(22)~~ "Family" means a collective body of persons, consisting of a child and a parent*, legal* ~~guardian, adult~~ custodian*, caregiver,* or adult relative, in which:

(a) The persons reside in the same house or living unit; or

(b) The parent*, legal* ~~guardian, adult~~ custodian*, caregiver*, or adult relative has a legal responsibility by blood, marriage, or court order to support or care for the child.

(29)~~(23)~~ "Foster care" means care provided a child in a foster family or boarding home, group home, agency boarding home, child care institution, or any combination thereof.

(30) "Harm" to a child's health or welfare can occur when the parent, legal custodian, or caregiver responsible for the child's welfare:

(a) Inflicts or allows to be inflicted upon the child physical, mental, or emotional injury. In determining whether harm has occurred, the following factors must be considered in evaluating any physical, mental, or emotional injury to a child: the age of the child; any prior history of injuries to the child; the location of the injury on the body of the child; the multiplicity of the injury; and the type of trauma inflicted. Such injury includes, but is not limited to:

1. Willful acts that produce the following specific injuries:

a. Sprains, dislocations, or cartilage damage.

b. Bone or skull fractures.

c. Brain or spinal cord damage.

d. Intracranial hemorrhage or injury to other internal organs.

e. Asphyxiation, suffocation, or drowning.

f. Injury resulting from the use of a deadly weapon.

g. Burns or scalding.

h. Cuts, lacerations, punctures, or bites.

i. Permanent or temporary disfigurement.

j. Permanent or temporary loss or impairment of a body part or function.

As used in this subparagraph, the term "willful" refers to the intent to perform an action, not to the intent to achieve a result or to cause an injury.

2. Purposely giving a child poison, alcohol, drugs, or other substances that substantially affect the child's behavior, motor coordination, or judgment or that result in sickness or internal injury. For the purposes of this subparagraph, the term "drugs" means prescription drugs not prescribed for the child or not administered as prescribed, and controlled substances as outlined in Schedule I or Schedule II of s. 893.03.

3. Leaving a child without adult supervision or arrangement appropriate for the child's age or mental or physical condition, so that the child is unable to care for the child's own needs or another's basic needs or is unable to exercise good judgment in responding to any kind of physical or emotional crisis.

4. Inappropriate or excessively harsh disciplinary action that is likely to result in physical injury, mental injury as defined in this section, or emotional injury. The significance of any injury must be evaluated in light of the following factors: the age of the child; any prior history of injuries to the child; the location of the injury on the body of the child; the multiplicity of the injury; and the type of trauma inflicted. Corporal discipline may be considered excessive or abusive when it results in any of the following or other similar injuries:

a. Sprains, dislocations, or cartilage damage.

b. Bone or skull fractures.

c. Brain or spinal cord damage.

d. Intracranial hemorrhage or injury to other internal organs.

e. Asphyxiation, suffocation, or drowning.

f. Injury resulting from the use of a deadly weapon.

g. Burns or scalding.

h. Cuts, lacerations, punctures, or bites.

i. Permanent or temporary disfigurement.

j. Permanent or temporary loss or impairment of a body part or function.

k. Significant bruises or welts.

(b) Commits, or allows to be committed, sexual battery, as defined in chapter 794, or lewd or lascivious acts, as defined in chapter 800, against the child.

(c) Allows, encourages, or forces the sexual exploitation of a child, which includes allowing, encouraging, or forcing a child to:

1. Solicit for or engage in prostitution; or

2. Engage in a sexual performance, as defined by chapter 827.

(d) Exploits a child, or allows a child to be exploited, as provided in s. 450.151.

(e) Abandons the child. Within the context of the definition of "harm," the term "abandons the child" means that the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the person responsible for the child's welfare, while being able, makes no provision for the child's support and makes no effort to communicate with the child, which situation is sufficient to evince a willful rejection of parental obligation. If the efforts of such a parent or legal custodian or person primarily responsible for the child's welfare to support and communicate with the child are only marginal efforts that do not evince a settled purpose to assume all parental duties, the child may be determined to have been abandoned.

(f) Neglects the child. Within the context of the definition of "harm," the term "neglects the child" means that the parent or other person responsible for the child's welfare fails to supply the child with adequate food, clothing, shelter, or health care, although financially able to do so or although offered financial or other means to do so. However, a parent, legal custodian, or caregiver who, by reason of the legitimate practice of religious beliefs, does not provide specified medical treatment for a child may not be considered abusive or neglectful for that reason alone, but such an exception does not:

1. Eliminate the requirement that such a case be reported to the department;

2. Prevent the department from investigating such a case; or

3. Preclude a court from ordering, when the health of the child requires it, the provision of medical services by a physician, as defined in this section, or treatment by a duly accredited practitioner who relies solely on spiritual means for healing in accordance with the tenets and practices of a well-recognized church or religious organization.

(g) Exposes a child to a controlled substance or alcohol. Exposure to a controlled substance or alcohol is established by:

1. Use by the mother of a controlled substance or alcohol during pregnancy when the child, at birth, is demonstrably adversely affected by such usage; or

2. Continued chronic and severe use of a controlled substance or alcohol by a parent when the child is demonstrably adversely affected by such usage.

As used in this paragraph, the term "controlled substance" means prescription drugs not prescribed for the parent or not administered as prescribed and controlled substances as outlined in Schedule I or Schedule II of s. 893.03.

(h) Uses mechanical devices, unreasonable restraints, or extended periods of isolation to control a child.

(i) Engages in violent behavior that demonstrates a wanton disregard for the presence of a child and could reasonably result in serious injury to the child.

(j) Negligently fails to protect a child in his or her care from inflicted physical, mental, or sexual injury caused by the acts of another.

(k) Has allowed a child's sibling to die as a result of abuse, abandonment, or neglect.

(31)~~(24)~~ "Health and human services board" means the body created in each service district of the department ~~of Children and Family Services~~ pursuant to the provisions of s. 20.19*(8)*~~(7)~~.

(32) "Institutional child abuse or neglect" means situations of known or suspected child abuse or neglect in which the person allegedly perpetrating the child abuse or neglect is an employee of a private school, public or private day care center, residential home, institution, facility, or agency or any other person at such institution responsible for the child's care.

(33)~~(25)~~ "Judge" means the circuit judge exercising jurisdiction pursuant to this chapter.

(34)~~(26)~~ "Legal custody" means a legal status created by court order or letter of guardianship which vests in a custodian of the person or guardian, whether an agency or an individual, the right to have physical custody of the child and the right and duty to protect, train, and discipline the child and to provide him or her with food, shelter, education, and ordinary medical, dental, psychiatric, and psychological care. *The legal custodian is the person or entity in whom the legal right to custody is vested.*

(35) "Legal guardianship" means a judicially created relationship between the child and caregiver which is intended to be permanent and self-sustaining and is provided pursuant to the procedures in chapter 744.

(36)~~(27)~~ "Licensed child-caring agency" means a person, society, association, or agency licensed by the department ~~of Children and Family Services~~ to care for, receive, and board children.

(37)~~(28)~~ "Licensed child-placing agency" means a person, society, association, or institution licensed by the department ~~of Children and Family Services~~ to care for, receive, or board children and to place children in a licensed child-caring institution or a foster or adoptive home.

(38)~~(29)~~ "Licensed health care professional" means a physician licensed under chapter 458, an osteopathic physician licensed under chapter 459, a nurse licensed under chapter 464, a physician assistant certified under chapter 458 *or chapter 459*, or a dentist licensed under chapter 466.

(39)~~(30)~~ "Likely to injure oneself" means that, as evidenced by violent or other actively self-destructive behavior, it is more likely than not that within a 24-hour period the child will attempt to commit suicide or inflict serious bodily harm on himself or herself.

(40)~~(31)~~ "Likely to injure others" means that it is more likely than not that within a 24-hour period the child will inflict serious and unjustified bodily harm on another person.

(41)~~(32)~~ "Long-term relative custodian" means an adult *relative* who is a party to a long-term custodial relationship created by a court order pursuant to *this chapter* ~~s. 39.41(2)(a)5~~.

(42)~~(33)~~ "Long-term relative custody" or "long-term custodial relationship" means the relationship that a juvenile court order creates between a child and an adult relative of the child or *other caregiver* ~~an adult nonrelative~~ approved by the court when the child cannot be placed in the custody of a natural parent and termination of parental rights is not deemed to be in the best interest of the child. Long-term relative custody confers upon the long-term relative or *other caregiver* ~~nonrelative custodian~~ the right to physical custody of the child, a right which will not be disturbed by the court except upon request of the *caregiver* ~~custodian~~ or upon a showing that a material change in circumstances necessitates a change of custody for the best interest of the child. A long-term relative or *other caregiver* ~~nonrelative custodian~~ shall have all of the rights *and duties* of a natural parent, including, but not limited to, the right and duty to protect, train, and discipline the child and to provide the child with food, shelter, and education, and ordinary medical, dental, psychiatric, and psychological care, unless these rights and duties are otherwise enlarged or limited by the court order establishing the long-term custodial relationship.

(43)~~(34)~~ "Mediation" means a process whereby a neutral third person called a mediator acts to encourage and facilitate the resolution of a dispute between two or more parties. It is an informal and nonadversarial process with the objective of helping the disputing parties reach a mutually acceptable and voluntary agreement. ~~In mediation, decision-making authority rests with the parties.~~ The role of the mediator includes, but is not limited to, assisting the parties in identifying issues, fostering joint problem solving, and exploring settlement alternatives.

(44) "Mental injury" means an injury to the intellectual or psychological capacity of a child as evidenced by a discernible and substantial impairment in the ability to function within the normal range of performance and behavior.

(45)~~(35)~~ "Necessary medical treatment" means care which is necessary within a reasonable degree of medical certainty to prevent the deterioration of a child's condition or to alleviate immediate pain of a child.

(46)~~(36)~~ "Neglect" occurs when the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the *caregiver* ~~person primarily responsible for the child's welfare~~ deprives a child of, or allows a child to be deprived of, necessary food, clothing, shelter, or medical treatment or permits a child to live in an environment when such deprivation or environment causes the child's physical, mental, or emotional health to be significantly impaired or to be in danger of being significantly impaired. The foregoing circumstances shall not be considered neglect if caused primarily by financial inability unless actual services for relief have been offered to and rejected by such person. A parent, *legal custodian,* or *caregiver* ~~guardian~~ legitimately practicing religious beliefs in accordance with a recognized church or religious organization who thereby does not provide specific medical treatment for a child shall not, for that reason alone, be considered a negligent parent, *legal custodian,* or *caregiver* ~~guardian~~; however, such an exception does not preclude a court from ordering the following services to be provided, when the health of the child so requires:

(a) Medical services from a licensed physician, dentist, optometrist, podiatrist, or other qualified health care provider; or

(b) Treatment by a duly accredited practitioner who relies solely on spiritual means for healing in accordance with the tenets and practices of a well-recognized church or religious organization.

For the purpose of protective investigations, neglect of a child includes the acts or omissions of the parent, legal custodian, or caregiver.

(47) "Other person responsible for a child's welfare" includes the child's legal guardian, legal custodian, or foster parent; an employee of a private school, public or private child day care center, residential home, institution, facility, or agency; or any other person legally responsible for the child's welfare in a residential setting; and also includes an adult sitter or relative entrusted with a child's care. For the purpose of departmental investigative jurisdiction, this definition does not include law enforcement officers, or employees of municipal or county detention facilities or the Department of Corrections, while acting in an official capacity.

(48)~~(37)~~ "Next of kin" means an adult relative of a child who is the child's brother, sister, grandparent, aunt, uncle, or first cousin.

(49)~~(38)~~ "Parent" means a woman who gives birth to a child and a man whose consent to the adoption of the child would be required under s. 63.062(1)(b). If a child has been legally adopted, the term "parent" means the adoptive mother or father of the child. The term does not include an individual whose parental relationship to the child has been legally terminated, or an alleged or prospective parent, unless the parental status falls within the terms of ~~either s. 39.4051(7) or~~ s. 63.062(1)(b).

(50)~~(39)~~ "Participant," for purposes of a shelter proceeding, dependency proceeding, or termination of parental rights proceeding, means any person who is not a party but who should receive notice of hearings involving the child, including foster parents *or caregivers,* identified prospective parents, grandparents entitled to priority for adoption consideration under s. 63.0425, actual custodians of the child, and any other person whose participation may be in the best interest of the child. Participants may be granted leave by the court to be heard without the necessity of filing a motion to intervene.

(51)~~(40)~~ "Party~~,~~" ~~for purposes of a shelter proceeding, dependency proceeding, or termination of parental rights proceeding,~~ means the parent *or legal custodian* of the child, the petitioner, the department, the guardian ad litem *or the representative of the guardian ad litem program* when *the program* ~~one~~ has been appointed, and the child. The presence of the child may be excused by order of the court when presence would not be in the child's best interest. Notice to the child may be excused by order of the court when the age, capacity, or other condition of the child is such that the notice would be meaningless or detrimental to the child.

(52) "Physical injury" means death, permanent or temporary disfigurement, or impairment of any bodily part.

(53) "Physician" means any licensed physician, dentist, podiatrist, or optometrist and includes any intern or resident.

(54)~~(41)~~ "Preliminary screening" means the gathering of preliminary information to be used in determining a child's need for further evaluation or assessment or for referral for other substance abuse services through means such as psychosocial interviews; urine and breathalyzer screenings; and reviews of available educational, delinquency, and dependency records of the child.

(55)~~(42)~~ "Preventive services" means social services and other supportive and rehabilitative services provided to the parent of the child, the legal *custodian* ~~guardian~~ of the child, or the *caregiver* ~~custodian~~ of the child and to the child for the purpose of averting the removal of the child from the home or disruption of a family which will or could result in the placement of a child in foster care. Social services and other supportive and rehabilitative services shall promote the child's need for *physical, mental, and emotional health and* a safe, ~~continuous,~~ stable, living environment, ~~and~~ shall promote family autonomy, and shall strengthen family life, ~~as the first priority~~ whenever possible.

(56)~~(43)~~ "Prospective parent" means a person who claims to be, or has been identified as, a person who may be a mother or a father of a child.

(57)~~(44)~~ "Protective investigation" means the acceptance of a report alleging child abuse, *abandonment,* or neglect, as defined in *this chapter* ~~s. 415.503~~, by the central abuse hotline or the acceptance of a report of other dependency by the *department* ~~local children, youth, and families office of the Department of Children and Family Services~~; the investigation ~~and classification~~ of each report; the determination of whether action by the court is warranted; the determination of the disposition of each report without court or public agency action when appropriate; *and* the referral of a child to another public or private agency when appropriate~~; and the recommendation by the protective investigator of court action when appropriate~~.

(58)~~(45)~~ "Protective investigator" means an authorized agent of the department ~~of Children and Family Services~~ who receives *and,* ~~investigates, and classifies~~ reports of child abuse, *abandonment,* or neglect ~~as defined in s. 415.503~~; who, as a result of the investigation, may recommend that a dependency petition be filed for the child ~~under the criteria of paragraph (11)(a)~~; and who performs other duties necessary to carry out the required actions of the protective investigation function.

(59)~~(46)~~ "Protective supervision" means a legal status in dependency cases~~, child-in-need-of-services cases, or family-in-need-of-services cases~~ which permits the child to remain *safely* in his or her own home or other

placement under the supervision of an agent of the *department and which must be reviewed by* ~~Department of Juvenile Justice or the Department of Children and Family Services, subject to being returned to~~ the court during the period of supervision.

~~(47) "Protective supervision case plan" means a document that is prepared by the protective supervision counselor of the Department of Children and Family Services, is based upon the voluntary protective supervision of a case pursuant to s. 39.403(2)(b), or a disposition order entered pursuant to s. 39.41(2)(a)3., and that:~~

~~(a) Is developed in conference with the parent, guardian, or custodian of the child and, if appropriate, the child and any court-appointed guardian ad litem.~~

~~(b) Is written simply and clearly in the principal language, to the extent possible, of the parent, guardian, or custodian of the child and in English.~~

~~(c) Is subject to modification based on changing circumstances and negotiations among the parties to the plan and includes, at a minimum:~~

~~1. All services and activities ordered by the court.~~

~~2. Goals and specific activities to be achieved by all parties to the plan.~~

~~3. Anticipated dates for achieving each goal and activity.~~

~~4. Signatures of all parties to the plan.~~

~~(d) Is submitted to the court in cases where a dispositional order has been entered pursuant to s. 39.41(2)(a)3.~~

(60)~~(48)~~ "Relative" means a grandparent, great-grandparent, sibling, first cousin, aunt, uncle, great-aunt, great-uncle, niece, or nephew, whether related by the whole or half blood, by affinity, or by adoption. The term does not include a stepparent.

(61)~~(49)~~ "Reunification services" means social services and other supportive and rehabilitative services provided to the parent of the child, the legal *custodian* ~~guardian~~ of the child, or the *caregiver* ~~custodian~~ of the child, whichever is applicable, *to* the child, and where appropriate *to* the foster parents of the child, for the purpose of enabling a child who has been placed in *out-of-home* ~~foster~~ care to *safely* return to his or her family at the earliest possible time. *The health and safety of the child shall be the paramount goal of* social services and other supportive and rehabilitative services. *Such services* shall promote the child's need for *physical, mental, and emotional health and* a safe, ~~continuous,~~ stable, living environment, ~~and~~ shall promote family autonomy, and *shall* strengthen family life, ~~as a first priority~~ whenever possible.

(62) "Secretary" means the Secretary of Children and Family Services.

(63) "Sexual abuse of a child" means one or more of the following acts:

(a) Any penetration, however slight, of the vagina or anal opening of one person by the penis of another person, whether or not there is the emission of semen.

(b) Any sexual contact between the genitals or anal opening of one person and the mouth or tongue of another person.

(c) Any intrusion by one person into the genitals or anal opening of another person, including the use of any object for this purpose, except that this does not include any act intended for a valid medical purpose.

(d) The intentional touching of the genitals or intimate parts, including the breasts, genital area, groin, inner thighs, and buttocks, or the clothing covering them, of either the child or the perpetrator, except that this does not include:

1. Any act which may reasonably be construed to be a normal caregiver responsibility, any interaction with, or affection for a child; or

2. Any act intended for a valid medical purpose.

(e) The intentional masturbation of the perpetrator's genitals in the presence of a child.

(f) The intentional exposure of the perpetrator's genitals in the presence of a child, or any other sexual act intentionally perpetrated in the presence of a child, if such exposure or sexual act is for the purpose of sexual arousal or gratification, aggression, degradation, or other similar purpose.

(g) The sexual exploitation of a child, which includes allowing, encouraging, or forcing a child to:

1. Solicit for or engage in prostitution; or

2. Engage in a sexual performance, as defined by chapter 827.

(64)~~(50)~~ "Shelter" means a place for the temporary care of a child who is alleged to be or who has been found to be dependent, ~~a child from a family in need of services, or a child in need of services,~~ pending court disposition before or after adjudication. ~~or after execution of a court order. "Shelter" may include a facility which provides 24-hour continual supervision for the temporary care of a child who is placed pursuant to s. 984.14.~~

(65)~~(51)~~ "Shelter hearing" means a hearing *in which the court determines whether probable cause exists to keep a child in shelter status pending further investigation of the case* ~~provided for under s. 984.14 in family-in-need-of-services cases or child-in-need-of-services cases~~.

(66)~~(52)~~ "Social service agency" means the department ~~of Children and Family Services~~, a licensed child-caring agency, or a licensed child-placing agency.

~~(53) "Staff-secure shelter" means a facility in which a child is supervised 24 hours a day by staff members who are awake while on duty. The facility is for the temporary care and assessment of a child who has been found to be dependent, who has violated a court order and been found in contempt of court, or whom the Department of Children and Family Services is unable to properly assess or place for assistance within the continuum of services provided for dependent children.~~

(67)~~(54)~~ "Substance abuse" means using, without medical reason, any psychoactive or mood-altering drug, including alcohol, in such a manner as to induce impairment resulting in dysfunctional social behavior.

(68)~~(55)~~ "Substantial compliance" means that the circumstances which caused the *creation of the case plan* ~~placement in foster care~~ have been significantly remedied to the extent that the well-being and safety of the child will not be endangered upon the child's *remaining with or* being returned to the child's parent, *legal custodian, or caregiver* ~~or guardian~~.

(69)~~(56)~~ "Taken into custody" means the status of a child immediately when temporary physical control over the child is attained by a person authorized by law, pending the child's release *or placement*~~, detention, placement, or other disposition as authorized by law~~.

(70)~~(57)~~ "Temporary legal custody" means the relationship that a juvenile court creates between a child and an adult relative of the child, *legal custodian, or caregiver* ~~adult nonrelative~~ approved by the court, or other person until a more permanent arrangement is ordered. Temporary legal custody confers upon the custodian the right to have temporary physical custody of the child and the right and duty to protect, train, and discipline the child and to provide the child with food, shelter, and education, and ordinary medical, dental, psychiatric, and psychological care, unless these rights and duties are otherwise enlarged or limited by the court order establishing the temporary legal custody relationship.

(71) "Victim" means any child who has sustained or is threatened with physical, mental, or emotional injury identified in a report involving child abuse, neglect, or abandonment, or child-on-child sexual abuse.

Section 5. Section 39.455, Florida Statutes, is renumbered as section 39.011, Florida Statutes, and amended to read:

39.011 ~~39.455~~ Immunity from liability.—

(1) In no case shall employees or agents of the *department or a* social service agency acting in good faith be liable for damages as a result of failing to provide services agreed to under the case plan ~~or permanent placement plan~~ unless the failure to provide such services occurs as a

result of bad faith or malicious purpose or occurs in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

(2) The inability or failure of the *department or of a* social service agency or the employees or agents of the social service agency to provide the services agreed to under the case plan ~~or permanent placement plan~~ shall not render the state or the social service agency liable for damages unless such failure to provide services occurs in a manner exhibiting wanton or willful disregard of human rights, safety, or property.

(3) A member or agent of a citizen review panel acting in good faith is not liable for damages as a result of any review or recommendation with regard to a foster care or shelter care matter unless such member or agent exhibits wanton and willful disregard of human rights or safety, or property.

Section 6. Section 39.012, Florida Statutes, is amended to read:

39.012 Rules for implementation.—The department ~~of Children and Family Services~~ shall adopt rules for the efficient and effective management of all programs, services, facilities, and functions necessary for implementing this chapter. *Such rules may not conflict with the Florida Rules of Juvenile Procedure. All rules and policies must conform to accepted standards of care and treatment.*

Section 7. Section 39.0121, Florida Statutes, is created to read:

39.0121 Specific rulemaking authority.—Pursuant to the requirements of s. 120.536, the department is specifically authorized to adopt, amend, and repeal administrative rules that implement or interpret law or policy, or describe the procedure and practice requirements necessary to implement this chapter, including, but not limited to, the following:

(1) Background screening of department employees and applicants; criminal records checks of prospective foster and adoptive parents; and drug testing of protective investigators.

(2) Reporting of child abuse, neglect, and abandonment; reporting of child-on-child sexual abuse; false reporting; child protective investigations; taking a child into protective custody; and shelter procedures.

(3) Confidentiality and retention of department records; access to records; and record requests.

(4) Department and client trust funds.

(5) Child protection teams and services, and eligible cases.

(6) Consent to and provision of medical care and treatment for children in the care of the department.

(7) Federal funding requirements and procedures; foster care and adoption subsidies; subsidized independent living; and subsidized child care.

(8) Agreements with law enforcement and other state agencies; access to the National Crime Information Center (NCIC); and access to the parent locator service.

(9) Licensing, registration, and certification of child day care providers, shelter and foster homes, and residential child-caring and child-placing agencies.

(10) The Family Builders Program, the Intensive Crisis Counseling Program, and any other early-intervention programs and kinship care assistance programs.

(11) Department contracts, pilot programs, and demonstration projects.

(12) Legal and casework procedures, including, but not limited to, mediation, diligent search, stipulations, consents, surrenders, and default, with respect to dependency, termination of parental rights, adoption, guardianship, and kinship care proceedings.

(13) Legal and casework management of cases involving in-home supervision and out-of-home care, including judicial reviews, administrative reviews, case plans, and any other documentation or procedures required by federal or state law.

(14) Injunctions and other protective orders, domestic-violence-related cases, and certification of domestic violence centers.

Section 8. Section 39.40, Florida Statutes, is renumbered as section 39.013, Florida Statutes, and amended to read:

39.013 ~~39.40~~ Procedures and jurisdiction*; right to counsel.*—

(1) All procedures, including petitions, pleadings, subpoenas, summonses, and hearings, in *this chapter* ~~dependency cases~~ shall be according to the Florida Rules of Juvenile Procedure unless otherwise provided by law. Parents must be informed by the court of their right to counsel in dependency proceedings at each stage of the dependency proceedings. Parents who are unable to afford counsel and who are threatened with criminal charges based on the facts underlying the dependency petition or a permanent loss of custody of their children must be appointed counsel.

(2) The circuit court shall have exclusive original jurisdiction of all proceedings under ~~parts III, IV, V, and VI of~~ this chapter, of a child voluntarily placed with a licensed child-caring agency, a licensed child-placing agency, or the department, *and of the adoption of children whose parental rights have been terminated pursuant to this chapter*. Jurisdiction attaches when the initial shelter petition, dependency petition, or termination *of parental rights* petition is filed or when a child is taken into the custody of the department. The circuit court may assume jurisdiction over any such proceeding regardless of whether the child was in the physical custody of both parents, was in the sole legal or physical custody of only one parent, *caregiver*, or ~~of~~ some other person, or was in the physical or legal custody of no person when the event or condition occurred that brought the child to the attention of the court. When the *court obtains* jurisdiction of any child who has been found to be dependent ~~is obtained~~, the court shall retain jurisdiction, unless relinquished by its order, until the child reaches 18 years of age.

(3) When a child is under the jurisdiction of the circuit court pursuant to the provisions of this chapter, the juvenile court, as a division of the circuit court, may exercise the general and equitable jurisdiction over guardianship proceedings pursuant to the provisions of chapter 744, and proceedings for temporary custody of minor children by extended family pursuant to the provisions of chapter 751.

(4)~~(3)~~ The court shall expedite the resolution of the placement issue in cases involving a child *who* ~~under 4 years of age when the child~~ has been removed from the family and placed in a shelter.

(5)~~(4)~~ The court shall expedite the judicial handling of all cases when the child has been removed from the family and placed in a shelter~~, and of all cases involving a child under 4 years of age~~.

(6)~~(5) It is the intent of the Legislature that~~ Children removed from their homes *shall* be provided equal treatment with respect to goals, objectives, services, and case plans, without regard to the location of their placement.~~, and that placement shall be in a safe environment where drugs and alcohol are not abused. It is the further intent of the Legislature that, when children are removed from their homes, disruption to their education be minimized to the extent possible.~~

(7) For any child who remains in the custody or under the supervision of the department, the court shall, within the 6-month period before the child's 18th birthday, hold a hearing to review the progress of the child while in the custody or under the supervision of the department.

(8)(a) At each stage of the proceedings under this chapter, the court shall advise the parent, legal custodian, or caregiver of the right to counsel. The court shall appoint counsel for indigent persons. The court shall ascertain whether the right to counsel is understood. When right to counsel is waived, the court shall determine whether the waiver is knowing and intelligent. The court shall enter its findings in writing with respect to the appointment or waiver of counsel for indigent parties or the waiver of counsel by nonindigent parties.

(b) Once counsel has entered an appearance or been appointed by the court to represent the parent of the child, the attorney shall continue to represent the parent throughout the proceedings. If the attorney-client relationship is discontinued, the court shall advise the parent of the right to have new counsel retained or appointed for the remainder of the proceedings.

(c)1. No waiver of counsel may be accepted if it appears that the parent, legal custodian, or caregiver is unable to make an intelligent and understanding choice because of mental condition, age, education, experience, the nature or complexity of the case, or other factors.

2. A waiver of counsel made in court must be of record.

3. If a waiver of counsel is accepted at any hearing or proceeding, the offer of assistance of counsel must be renewed by the court at each subsequent stage of the proceedings at which the parent, legal custodian, or caregiver appears without counsel.

(d) This subsection does not apply to any parent who has voluntarily executed a written surrender of the child and consents to the entry of a court order terminating parental rights.

(9) The time limitations in this chapter do not include:

(a) Periods of delay resulting from a continuance granted at the request or with the consent of the child's counsel or the child's guardian ad litem, if one has been appointed by the court, or, if the child is of sufficient capacity to express reasonable consent, at the request or with the consent of the child.

(b) Periods of delay resulting from a continuance granted at the request of the attorney for the department, if the continuance is granted:

1. Because of an unavailability of evidence material to the case when the attorney for the department has exercised due diligence to obtain such evidence and there are substantial grounds for believing that such evidence will be available within 30 days. However, if the department is not prepared to present its case within 30 days, the parent or guardian may move for issuance of an order to show cause or the court on its own motion may impose appropriate sanctions, which may include dismissal of the petition.

2. To allow the attorney for the department additional time to prepare the case and additional time is justified because of an exceptional circumstance.

(c) Reasonable periods of delay necessary to accomplish notice of the hearing to the child's parents; however, the petitioner shall continue regular efforts to provide notice to the parents during such periods of delay.

(d) Reasonable periods of delay resulting from a continuance granted at the request of the parent or legal custodian of a subject child.

(10) Court-appointed counsel representing indigent parents or legal guardians at shelter hearings shall be paid from state funds appropriated by general law.

Section 9. *Section 39.4057, Florida Statutes, is renumbered as section 39.0131, Florida Statutes.*

Section 10. Section 39.411, Florida Statutes, is renumbered as section 39.0132, Florida Statutes, and amended to read:

39.0132 ~~39.411~~ Oaths, records, and confidential information.—

(1) The judge, clerks or deputy clerks, or authorized agents of the department shall each have the power to administer oaths and affirmations.

(2) The court shall make and keep records of all cases brought before it pursuant to this chapter and shall preserve the records pertaining to a dependent child until 10 years after the last entry was made, or until the child is 18 years of age, whichever date is first reached, and may then destroy them, except that records of cases where orders were entered permanently depriving a parent of the custody of a juvenile shall be preserved permanently. The court shall make official records, consisting of all petitions and orders filed in a case arising pursuant to this part and any other pleadings, certificates, proofs of publication, summonses, warrants, and other writs which may be filed therein.

(3) The clerk shall keep all court records required by this part separate from other records of the circuit court. All court records required by this part shall not be open to inspection by the public. All records shall be inspected only upon order of the court by persons deemed by the court to have a proper interest therein, except that, subject to the provisions of s. 63.162, a child and the parents, ~~or~~ legal custodians, *or caregivers* of the child and their attorneys, *guardian ad litem,* law enforcement agencies, and the department and its designees shall always have the right to inspect and copy any official record pertaining to the child. The court may permit authorized representatives of recognized organizations compiling statistics for proper purposes to inspect and make abstracts from official records, under whatever conditions upon their use and disposition the court may deem proper, and may punish by contempt proceedings any violation of those conditions.

(4) All information obtained pursuant to this part in the discharge of official duty by any judge, employee of the court, authorized agent of the department, correctional probation officer, or law enforcement agent shall be confidential and exempt from the provisions of s. 119.07(1) and shall not be disclosed to anyone other than the authorized personnel of the court, the department and its designees, correctional probation officers, law enforcement agents, *guardian ad litem,* and others entitled under this chapter to receive that information, except upon order of the court.

(5) All orders of the court entered pursuant to this chapter shall be in writing and signed by the judge, except that the clerk or deputy clerk may sign a summons or notice to appear.

(6) No court record of proceedings under this chapter shall be admissible in evidence in any other civil or criminal proceeding, except that:

(a) Orders permanently terminating the rights of a parent and committing the child to a licensed child-placing agency or the department for adoption shall be admissible in evidence in subsequent adoption proceedings relating to the child.

(b) Records of proceedings under this part forming a part of the record on appeal shall be used in the appellate court in the manner hereinafter provided.

(c) Records necessary therefor shall be admissible in evidence in any case in which a person is being tried upon a charge of having committed perjury.

(d) Records of proceedings under this part may be used to prove disqualification pursuant to s. 435.06 and for proof regarding such disqualification in a chapter 120 proceeding.

Section 11. *Section 39.414, Florida Statutes, is renumbered as section 39.0133, Florida Statutes.*

Section 12. Section 39.415, Florida Statutes, is renumbered as section 39.0134, Florida Statutes, and amended to read:

39.0134 ~~39.415~~ Appointed counsel; compensation.—

(1) If counsel is entitled to receive compensation for representation pursuant to *a* court appointment in a dependency proceeding *pursuant to this chapter,* such compensation shall *be established by each county* ~~not exceed $1,000 at the trial level and $2,500 at the appellate level~~.

(2) If counsel is entitled to receive compensation for representation pursuant to court appointment in a termination of parental rights proceeding, such compensation shall not exceed $1,000 at the trial level and $2,500 at the appellate level.

Section 13. Section 39.418, Florida Statutes, is renumbered as section 39.0135, Florida Statutes, and amended to read:

39.0135 ~~39.418~~ Operations and Maintenance Trust Fund.~~—Effective July 1, 1996,~~ The department ~~of Children and Family Services~~ shall deposit all child support payments made to the department pursuant to *this chapter* ~~s. 39.41(2)~~ into the Operations and Maintenance Trust Fund. The purpose of this funding is to care for children who are committed to the temporary legal custody of the department ~~pursuant to s. 39.41(2)(a)8~~.

Section 14. Part II of chapter 39, Florida Statutes, consisting of sections 39.201, 39.202, 39.203, 39.204, 39.205, and 39.206, Florida Statutes, shall be entitled to read:

PART II
REPORTING CHILD ABUSE

Section 15. Section 415.504, Florida Statutes, is renumbered as section 39.201, Florida Statutes, and amended to read:

39.201 ~~415.504~~ Mandatory reports of child abuse, *abandonment,* or neglect; mandatory reports of death; central abuse hotline.—

(1) Any person, including, but not limited to, any:

(a) Physician, osteopathic physician, medical examiner, chiropractor, nurse, or hospital personnel engaged in the admission, examination, care, or treatment of persons;

(b) Health or mental health professional other than one listed in paragraph (a);

(c) Practitioner who relies solely on spiritual means for healing;

(d) School teacher or other school official or personnel;

(e) Social worker, day care center worker, or other professional child care, foster care, residential, or institutional worker; or

(f) Law enforcement officer,

who knows, or has reasonable cause to suspect, that a child is an abused, abandoned, or neglected child shall report such knowledge or suspicion to the department in the manner prescribed in subsection (2).

(2)(a) Each report of known or suspected child abuse, *abandonment*, or neglect pursuant to this section, except those solely under s. 827.04*(3)*~~(4)~~, shall be made immediately to the department's central abuse hotline on the single statewide toll-free telephone number, and, if the report is of an instance of known or suspected child abuse by a noncaretaker, the call shall be immediately electronically transferred to the appropriate county sheriff's office by the central abuse hotline. If the report is of an instance of known or suspected child abuse involving impregnation of a child under 16 years of age by a person 21 years of age or older solely under s. 827.04*(3)*~~(4)~~, the report shall be made immediately to the appropriate county sheriff's office or other appropriate law enforcement agency. If the report is of an instance of known or suspected child abuse solely under s. 827.04*(3)*~~(4)~~, the reporting provisions of this subsection do not apply to health care professionals or other persons who provide medical or counseling services to pregnant children when such reporting would interfere with the provision of medical services.

(b) Reporters in occupation categories designated in subsection (1) are required to provide their names to the hotline staff. The names of reporters shall be entered into the record of the report, but shall be held confidential as provided in s. *39.202* ~~415.51~~.

(c) Reports involving known or suspected institutional child abuse or neglect shall be made and received in the same manner as all other reports made pursuant to this section.

(d) Reports involving a known or suspected juvenile sexual offender shall be made and received by the department.

1. The department shall determine the age of the alleged juvenile sexual offender if known.

2. When the alleged juvenile sexual offender is 12 years of age or younger, the department shall proceed with an investigation of the report pursuant to *this* part ~~III~~, immediately electronically transfer the call to the appropriate law enforcement agency office by the central abuse hotline, and send a written report of the allegation to the appropriate county sheriff's office within 48 hours after the initial report is made to the central abuse hotline.

3. When the alleged juvenile sexual offender is 13 years of age or older, the department shall immediately electronically transfer the call to the appropriate county sheriff's office by the central abuse hotline, and send a written report to the appropriate county sheriff's office within 48 hours after the initial report to the central abuse hotline.

(e) Hotline counselors shall receive periodic training in encouraging reporters to provide their names when reporting abuse, *abandonment, or neglect*. Callers shall be advised of the confidentiality provisions of s. *39.202* ~~415.51~~. The department shall secure and install electronic equipment that automatically provides to the hotline the number from which the call is placed. This number shall be entered into the report of abuse, *abandonment, or neglect* and become a part of the record of the report, but shall enjoy the same confidentiality as provided to the identity of the caller pursuant to s. *39.202* ~~415.51~~.

(3) Any person required to report or investigate cases of suspected child abuse, *abandonment*, or neglect who has reasonable cause to suspect that a child died as a result of child abuse, *abandonment*, or neglect shall report his or her suspicion to the appropriate medical examiner. The medical examiner shall accept the report for investigation ~~pursuant to s. 406.11~~ and shall report his or her findings, in writing, to the local law enforcement agency, the appropriate state attorney, and the department. Autopsy reports maintained by the medical examiner are not subject to the confidentiality requirements provided for in s. *39.202* ~~415.51~~.

(4)~~(a)~~ The department shall establish and maintain a central abuse hotline to receive all reports made pursuant to this section in writing or through a single statewide toll-free telephone number, which any person may use to report known or suspected child abuse, abandonment, or neglect at any hour of the day or night, any day of the week. The central abuse hotline shall be operated in such a manner as to enable the department to:

(a)~~1.~~ Immediately identify and locate prior reports or cases of child abuse, *abandonment*, or neglect through utilization of the department's automated tracking system.

(b)~~2.~~ Monitor and evaluate the effectiveness of the department's program for reporting and investigating suspected abuse, *abandonment*, or neglect of children through the development and analysis of statistical and other information.

(c)~~3.~~ Track critical steps in the investigative process to ensure compliance with all requirements for any report of abuse, *abandonment*, or neglect.

(d)~~4.~~ Maintain and produce aggregate statistical reports monitoring patterns of ~~both~~ child abuse, *child abandonment*, and child neglect. The department shall collect and analyze child-on-child sexual abuse reports and include the information in aggregate statistical reports.

(e)~~5.~~ Serve as a resource for the evaluation, management, and planning of preventive and remedial services for children who have been subject to abuse, *abandonment*, or neglect.

(f)~~6.~~ Initiate and enter into agreements with other states for the purpose of gathering and sharing information contained in reports on child maltreatment to further enhance programs for the protection of children.

~~(b) Upon receiving an oral or written report of known or suspected child abuse or neglect, the central abuse hotline shall determine if the report requires an immediate onsite protective investigation. For reports requiring an immediate onsite protective investigation, the central abuse hotline shall immediately notify the department's designated children and families district staff responsible for protective investigations to ensure that an onsite investigation is promptly initiated. For reports not requiring an immediate onsite protective investigation, the central abuse hotline shall notify the department's designated children and families district staff responsible for protective investigations in sufficient time to allow for an investigation, or if the district determines appropriate, a family services response system approach to be commenced within 24 hours. When a district decides to respond to a report of child abuse or neglect with a family services response system approach, the provisions of part III apply. If, in the course of assessing risk and services or at any other appropriate time, responsible district staff determines that the risk to the child requires a child protective investigation, then the department shall suspend its family services response system activities and shall proceed with an investigation as delineated in this part. At the time of notification of district staff with respect to the report, the central abuse hotline shall also provide information on any previous report concerning a subject of the present report or any pertinent information relative to the present report or any noted earlier reports.~~

~~(c) Upon commencing an investigation under this part, the child protective investigator shall inform any subject of the investigation of the following:~~

~~1. The names of the investigators and identifying credentials from the department.~~

~~2. The purpose of the investigation.~~

~~3. The right to obtain his or her own attorney and ways that the information provided by the subject may be used.~~

~~(d) The department shall make and keep records of all cases brought before it pursuant to this part and shall preserve the records pertaining to a child and family until 7 years after the last entry was made or until the child is 18 years of age. The department shall then destroy the records, except where the child has been placed under the protective supervision of the department, the court has made a finding of dependency, or a criminal conviction has resulted from the facts associated with the report and there is a likelihood that future services of the department may be required.~~

(5) The department shall be capable of receiving and investigating reports of known or suspected child abuse, abandonment, or neglect 24 hours a day, 7 days a week. If it appears that the immediate safety or well-being of a child is endangered, that the family may flee or the child will be unavailable for purposes of conducting a child protective investigation, or that the facts otherwise so warrant, the department shall commence an investigation immediately, regardless of the time of day or night. In all other child abuse, abandonment, or neglect cases, a child protective investigation shall be commenced within 24 hours after receipt of the report. In an institutional investigation, the alleged perpetrator may be represented by an attorney, at his or her own expense, or accompanied by another person, if the person or the attorney executes an affidavit of understanding with the department and agrees to comply with the confidentiality provisions of s. 39.202. The absence of an attorney or other person does not prevent the department from proceeding with other aspects of the investigation, including interviews with other persons. In institutional child abuse cases when the institution is not operating and the child cannot otherwise be located, the investigation shall commence immediately upon the resumption of operation. If requested by a state attorney or local law enforcement agency, the department shall furnish all investigative reports to that agency.

(6)~~(e)~~ Information in the central abuse hotline may not be used for employment screening *except as provided in s. 39.202(2)(a) and (h). Information in the central abuse hotline and the department's automated abuse information system may be used by the department, its authorized agents or contract providers, the Department of Health, or county agencies as part of the licensure or registration process pursuant to ss. 402.301-402.319 and ss. 409.175-409.176.* ~~Access to the information shall only be granted as set forth in s. 415.51.~~

(7)~~(5)~~ This section does not require a professional who is hired by or enters into a contract with the department for the purpose of treating or counseling any person, as a result of a report of child abuse, *abandonment,* or neglect, to again report to the central abuse hotline the abuse, *abandonment,* or neglect that was the subject of the referral for treatment.

Section 16. Section 415.511, Florida Statutes, is renumbered as section 39.203, Florida Statutes, and amended to read:

39.203 ~~415.511~~ Immunity from liability in cases of child abuse, *abandonment,* or neglect.—

(1)(a) Any person, official, or institution participating in good faith in any act authorized or required by *this chapter* ~~ss. 415.502-415.514~~, or reporting in good faith any instance of child abuse, *abandonment, or neglect* to any law enforcement agency, shall be immune from any civil or criminal liability which might otherwise result by reason of such action.

(b) Except as provided in *this chapter* ~~s. 415.503(10)(f)~~, nothing contained in this section shall be deemed to grant immunity, civil or criminal, to any person suspected of having abused, *abandoned,* or neglected a child, or committed any illegal act upon or against a child.

(2)(a) No resident or employee of a facility serving children may be subjected to reprisal or discharge because of his or her actions in reporting abuse, *abandonment,* or neglect pursuant to the requirements of this section.

(b) Any person making a report under this section shall have a civil cause of action for appropriate compensatory and punitive damages against any person who causes detrimental changes in the employment status of such reporting party by reason of his or her making such report. Any detrimental change made in the residency or employment status of such person, including, but not limited to, discharge, termination, demotion, transfer, or reduction in pay or benefits or work privileges, or negative evaluations within a prescribed period of time shall establish a rebuttable presumption that such action was retaliatory.

Section 17. Section 415.512, Florida Statutes, is renumbered as section 39.204, Florida Statutes, and amended to read:

39.204 ~~415.512~~ Abrogation of privileged communications in cases involving child abuse, *abandonment,* or neglect.—The privileged quality of communication between husband and wife and between any professional person and his or her patient or client, and any other privileged communication except that between attorney and client or the privilege provided in s. 90.505, as such communication relates both to the competency of the witness and to the exclusion of confidential communications, shall not apply to any communication involving the perpetrator or alleged perpetrator in any situation involving known or suspected child abuse, *abandonment,* or neglect and shall not constitute grounds for failure to report as required by s. *39.201* ~~415.504~~ regardless of the source of the information requiring the report, failure to cooperate with the department in its activities pursuant to *this chapter* ~~ss. 415.502-415.514~~, or failure to give evidence in any judicial proceeding relating to child abuse, *abandonment,* or neglect.

Section 18. Section 415.513, Florida Statutes, is renumbered as section 39.205, Florida Statutes, and amended to read:

39.205 ~~415.513~~ Penalties relating to ~~abuse~~ reporting *of child abuse, abandonment, or neglect.*—

(1) A person who is required ~~by s. 415.504~~ to report known or suspected child abuse, *abandonment,* or neglect and who knowingly and willfully fails to do so, or who knowingly and willfully prevents another person from doing so, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(2) A person who knowingly and willfully makes public or discloses any confidential information contained in the central abuse *hotline* ~~registry and tracking system~~ or in the records of any child abuse, *abandonment,* or neglect case, except as provided in *this chapter* ~~ss. 415.502-415.514~~, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(3) The department shall establish procedures for determining whether a false report of child abuse, *abandonment,* or neglect has been made and for submitting all identifying information relating to such a report to the appropriate law enforcement agency and the state attorney for prosecution.

(4) A person who knowingly and willfully makes a false report of child abuse, *abandonment,* or neglect, or who advises another to make a false report, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Anyone making a report who is acting in good faith is immune from any liability under this subsection.

(5) Each state attorney shall establish procedures to facilitate the prosecution of persons under this section.

Section 19. Section 415.5131, Florida Statutes, is renumbered as section 39.206, Florida Statutes, and amended to read:

39.206 ~~415.5131~~ Administrative fines for false report of abuse, *abandonment,* or neglect of a child.—

(1) In addition to any other penalty authorized by this section, chapter 120, or other law, the department may impose a fine, not to exceed *$10,000* ~~$1,000~~ for each violation, upon a person who knowingly and willfully makes a false report of abuse, *abandonment,* or neglect of a child, or a person who counsels another to make a false report.

(2) If the department alleges that a person has filed a false report with the central abuse *hotline* ~~registry and tracking system~~, the department must file a Notice of Intent which alleges the name, age, and address of the individual, the facts constituting the allegation that the individual made a false report, and the administrative fine the department proposes to impose on the person. Each time that a false report is made constitutes a separate violation.

(3) The Notice of Intent to impose the administrative fine must be served upon the person alleged to have filed the false report and the

person's legal counsel, if any. Such Notice of Intent must be given by certified mail, return receipt requested.

(4) Any person alleged to have filed the false report is entitled to an administrative hearing, pursuant to chapter 120, before the imposition of the fine becomes final. The person must request an administrative hearing within 60 days after receipt of the Notice of Intent by filing a request with the department. Failure to request an administrative hearing within 60 days after receipt of the Notice of Intent constitutes a waiver of the right to a hearing, making the administrative fine final.

(5) At the hearing, the department must prove by clear and convincing evidence that the person filed a false report with the central abuse *hotline* ~~registry and tracking system~~. The court shall advise any person against whom a fine may be imposed of that person's right to be represented by counsel at the hearing.

(6) In determining the amount of fine to be imposed, if any, the following factors shall be considered:

(a) The gravity of the violation, including the probability that serious physical or emotional harm to any person will result or has resulted, the severity of the actual or potential harm, and the nature of the false allegation.

(b) Actions taken by the false reporter to retract the false report as an element of mitigation, or, in contrast, to encourage an investigation on the basis of false information.

(c) Any previous false reports filed by the same individual.

(7) A decision by the department, following the administrative hearing, to impose an administrative fine for filing a false report constitutes final agency action within the meaning of chapter 120. Notice of the imposition of the administrative fine must be served upon the person and the person's legal counsel, by certified mail, return receipt requested, and must state that the person may seek judicial review of the administrative fine pursuant to s. 120.68.

(8) All amounts collected under this section shall be deposited into an appropriate trust fund of the department.

(9) A person who is determined to have filed a false report of abuse, *abandonment,* or neglect is not entitled to confidentiality. Subsequent to the conclusion of all administrative or other judicial proceedings concerning the filing of a false report, the name of the false reporter and the nature of the false report shall be made public, pursuant to s. 119.01(1). Such information shall be admissible in any civil or criminal proceeding.

(10) Any person making a report who is acting in good faith is immune from any liability under this section and shall continue to be entitled to have the confidentiality of their identity maintained.

Section 20. Part III of chapter 39, Florida Statutes, consisting of sections 39.301, 39.302, 39.303, 39.3035, 39.304, 39.305, 39.306, and 39.307, Florida Statutes, shall be entitled to read:

PART III
PROTECTIVE INVESTIGATIONS

Section 21. Section 39.301, Florida Statutes, is created to read:

39.301 Initiation of protective investigations.—

(1) Upon receiving an oral or written report of known or suspected child abuse, abandonment, or neglect, the central abuse hotline shall determine if the report requires an immediate onsite protective investigation. For reports requiring an immediate onsite protective investigation, the central abuse hotline shall immediately notify the department's designated children and families district staff responsible for protective investigations to ensure that an onsite investigation is promptly initiated. For reports not requiring an immediate onsite protective investigation, the central abuse hotline shall notify the department's designated children and families district staff responsible for protective investigations in sufficient time to allow for an investigation. At the time of notification of district staff with respect to the report, the central abuse hotline shall also provide information on any previous report concerning a subject of the present report or any pertinent information relative to the present report or any noted earlier reports.

(2)(a) Upon commencing an investigation under this part, the child protective investigator shall inform any subject of the investigation of the following:

1. The names of the investigators and identifying credentials from the department.

2. The purpose of the investigation.

3. The right to obtain his or her own attorney and ways that the information provided by the subject may be used.

4. The possible outcomes and services of the department's response shall be explained to the caregiver.

5. The right of the parent, legal custodian, or caregiver to be involved to the fullest extent possible in determining the nature of the allegation and the nature of any identified problem.

(b) The department's training program shall ensure that protective investigators know how to fully inform parents, guardians, and caregivers of their rights and options, including opportunities for audio or video recording of investigators' interviews with parents, guardians, caretakers, or children.

(3) An assessment of risk and the perceived needs of the child and family shall be conducted in a manner that is sensitive to the social, economic, and cultural environment of the family.

(4) Protective investigations shall be performed by the department or its agent.

(5) The person responsible for the investigation shall make a preliminary determination as to whether the report or complaint is complete, consulting with the attorney for the department when necessary. In any case in which the person responsible for the investigation finds that the report or complaint is incomplete, he or she shall return it without delay to the person or agency originating the report or complaint or having knowledge of the facts, or to the appropriate law enforcement agency having investigative jurisdiction, and request additional information in order to complete the report or complaint; however, the confidentiality of any report filed in accordance with this chapter shall not be violated.

(a) If it is determined that the report or complaint is complete, after determining that such action would be in the best interests of the child, the attorney for the department shall file a petition for dependency.

(b) If it is determined that the report or complaint is complete, but the interests of the child and the public will be best served by providing the child care or other treatment voluntarily accepted by the child and the parents, caregivers, or legal custodians, the protective investigator may refer the child for such care or other treatment.

(c) If the person conducting the investigation refuses to request that the attorney for the department file a petition for dependency, the complainant shall be advised of the right to file a petition pursuant to this part.

(6) For each report it receives, the department shall perform an onsite child protective investigation to:

(a) Determine the composition of the family or household, including the name, address, date of birth, social security number, sex, and race of each child named in the report; any siblings or other children in the same household or in the care of the same adults; the parents, legal custodians, or caregivers; and any other adults in the same household.

(b) Determine whether there is indication that any child in the family or household has been abused, abandoned, or neglected; the nature and extent of present or prior injuries, abuse, or neglect, and any evidence thereof; and a determination as to the person or persons apparently responsible for the abuse, abandonment, or neglect, including the name, address, date of birth, social security number, sex, and race of each such person.

(c) Determine the immediate and long-term risk to each child by conducting state and federal records checks on the parents, legal custodians, or caregivers, and any other persons in the same household. This information shall be used solely for purposes supporting the detection, apprehension, prosecution, pretrial release, post-trial release, or rehabilitation

of criminal offenders or persons accused of the crimes of child abuse, abandonment, or neglect and shall not be further disseminated or used for any other purpose. The department's child protection investigators are hereby designated a criminal justice agency for the purpose of accessing criminal justice information to be used for enforcing this state's laws concerning the crimes of child abuse, abandonment, and neglect.

(d) Determine the immediate and long-term risk to each child through utilization of standardized risk-assessment instruments.

(e) Based on the information obtained from the caregiver, complete the risk-assessment instrument within 48 hours after the initial contact and, if needed, develop a case plan.

(f) Determine the protective, treatment, and ameliorative services necessary to safeguard and ensure the child's safety and well-being and development, and cause the delivery of those services through the early intervention of the department or its agent.

(7) If the department or its agent is denied reasonable access to a child by the parents, legal custodians, or caregivers and the department deems that the best interests of the child so require, it shall seek an appropriate court order or other legal authority prior to examining and interviewing the child. The department must show cause to the court that it is necessary to examine and interview the child. If the department interviews a child, the interview must be audio recorded or videotaped, unless the court orders otherwise for good cause. The court shall consider the best interests and safety of the child in making such a determination. If the department interviews a child, the interview must be audio recorded or videotaped.

(8) If the department or its agent determines that a child requires immediate or long-term protection through:

(a) Medical or other health care;

(b) Homemaker care, day care, protective supervision, or other services to stabilize the home environment, including intensive family preservation services through the Family Builders Program, the Intensive Crisis Counseling Program, or both; or

(c) Foster care, shelter care, or other substitute care to remove the child from the custody of the parents, legal guardians, or caregivers,

such services shall first be offered for voluntary acceptance unless there are high-risk factors that may impact the ability of the parents, legal guardians, or caregivers to exercise judgment. Such factors may include the parents', legal guardians', or caregivers' young age or history of substance abuse or domestic violence. The parents, legal custodians, or caregivers shall be informed of the right to refuse services, as well as the responsibility of the department to protect the child regardless of the acceptance or refusal of services. If the services are refused and the department deems that the child's need for protection so requires, the department shall take the child into protective custody or petition the court as provided in this chapter.

(9) When a child is taken into custody pursuant to this section, the authorized agent of the department shall request that the child's parent, caregiver, or legal custodian disclose the names, relationships, and addresses of all parents and prospective parents and all next of kin, so far as are known.

(10) No later than 30 days after receiving the initial report, the local office of the department shall complete its investigation.

(11) Immediately upon receipt of a report alleging, or immediately upon learning during the course of an investigation, that:

(a) The immediate safety or well-being of a child is endangered;

(b) The family is likely to flee;

(c) A child has died as a result of abuse, abandonment, or neglect;

(d) A child is a victim of aggravated child abuse as defined in s. 827.03; or

(e) A child is a victim of sexual battery or of sexual abuse,

the department shall orally notify the jurisdictionally responsible state attorney and county sheriff's office or local police department and, as soon as practicable, transmit the report to those agencies. The law enforcement agency shall review the report and determine whether a criminal investigation needs to be conducted and shall assume lead responsibility for all criminal fact-finding activities. A criminal investigation shall be coordinated, whenever possible, with the child protective investigation of the department. Any interested person who has information regarding an offense described in this subsection may forward a statement to the state attorney as to whether prosecution is warranted and appropriate.

(12) In a child protective investigation or a criminal investigation, when the initial interview with the child is conducted at school, the department or the law enforcement agency may allow, notwithstanding the provisions of s. 39.0132(4), a school instructional staff member who is known by the child to be present during the initial interview if:

(a) The department or law enforcement agency believes that the school instructional staff member could enhance the success of the interview by his or her presence; and

(b) The child requests or consents to the presence of the school instructional staff member at the interview.

School instructional staff may be present only when authorized by this subsection. Information received during the interview or from any other source regarding the alleged abuse or neglect of the child shall be confidential and exempt from the provisions of s. 119.07(1), except as otherwise provided by court order. A separate record of the investigation of the abuse, abandonment, or neglect shall not be maintained by the school or school instructional staff member. Violation of this subsection constitutes a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(13) Within 15 days after the completion of the investigation of cases reported to him or her pursuant to this section, the state attorney shall report his or her findings to the department and shall include in such report a determination of whether or not prosecution is justified and appropriate in view of the circumstances of the specific case.

Section 22. Section 39.302, Florida Statutes, is created to read:

39.302 Protective investigations of institutional child abuse, abandonment, or neglect.—

(1) The department shall conduct a child protective investigation of each report of institutional child abuse, abandonment, or neglect. Upon receipt of a report that alleges that an employee or agent of the department, or any other entity or person covered by s. 39.01(32) or (47), acting in an official capacity, has committed an act of child abuse, abandonment, or neglect, the department shall immediately initiate a child protective investigation and orally notify the appropriate state attorney, law enforcement agency, and licensing agency. These agencies shall immediately conduct a joint investigation, unless independent investigations are more feasible. When a facility is exempt from licensing, the department shall inform the owner or operator of the facility of the report. Each agency conducting a joint investigation shall be entitled to full access to the information gathered by the department in the course of the investigation. In all cases, the department shall make a full written report to the state attorney within 3 days after making the oral report. A criminal investigation shall be coordinated, whenever possible, with the child protective investigation of the department. Any interested person who has information regarding the offenses described in this subsection may forward a statement to the state attorney as to whether prosecution is warranted and appropriate. Within 15 days after the completion of the investigation, the state attorney shall report the findings to the department and shall include in such report a determination of whether or not prosecution is justified and appropriate in view of the circumstances of the specific case.

(2)(a) If in the course of the child protective investigation, the department finds that a subject of a report, by continued contact with children in care, constitutes a threatened harm to the physical health, mental health, or welfare of the children, the department may restrict the subject's access to the children pending the outcome of the investigation. The department or its agent shall employ the least restrictive means necessary to safeguard the physical health, mental health, and welfare of the children in care. This authority shall apply only to child protective investigations in which there is some evidence that child abuse, abandonment, or neglect has occurred. A subject of a report whose access to children in care has been restricted is entitled to petition the circuit court for judicial

review. The court shall enter written findings of fact based upon the preponderance of evidence that child abuse, abandonment, or neglect did occur and that the department's restrictive action against a subject of the report was justified in order to safeguard the physical health, mental health, and welfare of the children in care. The restrictive action of the department shall be effective for no more than 90 days without a judicial finding supporting the actions of the department.

(b) Upon completion of the department's child protective investigation, the department may make application to the circuit court for continued restrictive action against any person necessary to safeguard the physical health, mental health, and welfare of the children in care.

(3) Pursuant to the restrictive actions described in subsection (2), in cases of institutional abuse, abandonment, or neglect in which the removal of a subject of a report will result in the closure of the facility, and when requested by the owner of the facility, the department may provide appropriate personnel to assist in maintaining the operation of the facility. The department may provide assistance when it can be demonstrated by the owner that there are no reasonable alternatives to such action. The length of the assistance shall be agreed upon by the owner and the department; however, the assistance shall not be for longer than the course of the restrictive action imposed pursuant to subsection (2). The owner shall reimburse the department for the assistance of personnel provided.

(4) The department shall notify the human rights advocacy committee in the appropriate district of the department as to every report of institutional child abuse, abandonment, or neglect in the district in which a client of the department is alleged or shown to have been abused, abandoned, or neglected, which notification shall be made within 48 hours after the department commences its investigation.

(5) The department shall notify the state attorney and the appropriate law enforcement agency of any other child abuse, abandonment, or neglect case in which a criminal investigation is deemed appropriate by the department.

(6) In cases of institutional child abuse, abandonment, or neglect in which the multiplicity of reports of abuse, abandonment, or neglect or the severity of the allegations indicates the need for specialized investigation by the department in order to afford greater safeguards for the physical health, mental health, and welfare of the children in care, the department shall provide a team of persons specially trained in the areas of child abuse, abandonment, and neglect investigations, diagnosis, and treatment to assist the local office of the department in expediting its investigation and in making recommendations for restrictive actions and to assist in other ways deemed necessary by the department in order to carry out the provisions of this section. The specially trained team shall also provide assistance to any investigation of the allegations by local law enforcement and the Department of Law Enforcement.

Section 23. Section 415.5055, Florida Statutes, is renumbered as section 39.303, Florida Statutes, and amended to read:

39.303 ~~415.5055~~ Child protection teams; services; eligible cases.—The department shall develop, maintain, and coordinate the services of one or more multidisciplinary child protection teams in each of the service districts of the department. Such teams may be composed of representatives of appropriate health, mental health, social service, legal service, and law enforcement agencies. The Legislature finds that optimal coordination of child protection teams and sexual abuse treatment programs requires collaboration between the Department of Health and the Department of Children and Family Services. The two departments shall maintain an interagency agreement that establishes protocols for oversight and operations of child protection teams and sexual abuse treatment programs. The Secretary of Health and the Director of the Division of Children's Medical Services, in consultation with the Secretary of Children and Family Services, shall maintain the responsibility for the screening, employment, and, if necessary, the termination of child protection team medical directors, at headquarters and in the 15 districts. Child protection team medical directors shall be responsible for oversight of the teams in the districts.

(1) The department shall utilize and convene the teams to supplement the assessment and protective supervision activities of ~~the children, youth, and families program of~~ the department. Nothing in this section shall be construed to remove or reduce the duty and responsibility of any person to report pursuant to *this chapter* ~~s. 415.504~~ all suspected or actual cases of child abuse, *abandonment,* or neglect or sexual abuse of a child. The role of the teams shall be to support activities of the program and to provide services deemed by the teams to be necessary and appropriate to abused, *abandoned,* and neglected children upon referral. The specialized diagnostic assessment, evaluation, coordination, consultation, and other supportive services that a child protection team shall be capable of providing include, but are not limited to, the following:

(a) Medical diagnosis and evaluation services, including provision or interpretation of X rays and laboratory tests, and related services, as needed, and documentation of findings relative thereto.

(b) Telephone consultation services in emergencies and in other situations.

(c) Medical evaluation related to abuse, *abandonment,* or neglect, as defined by department policy or rule.

(d) Such psychological and psychiatric diagnosis and evaluation services for the child or the child's parent or parents, *legal custodian or custodians* ~~guardian or guardians~~, or other caregivers, or any other individual involved in a child abuse, *abandonment,* or neglect case, as the team may determine to be needed.

(e) Short-term psychological treatment. It is the intent of the Legislature that short-term psychological treatment be limited to no more than 6 months' duration after treatment is initiated, except that the appropriate district administrator may authorize such treatment for individual children beyond this limitation if the administrator deems it appropriate.

(f) Expert medical, psychological, and related professional testimony in court cases.

(g) Case staffings to develop, implement, and monitor treatment plans for children whose cases have been referred to the team. A child protection team may provide consultation with respect to a child who has not been referred to the team, but who is alleged or is shown to be abused, *abandoned, or neglected,* which consultation shall be provided at the request of a representative of the children, youth, and families program or at the request of any other professional involved with a child or the child's parent or parents, *legal custodian or custodians* ~~guardian or guardians~~, or other caregivers. In every such child protection team case staffing, consultation, or staff activity involving a child, a children, youth, and families program representative shall attend and participate.

(h) Case service coordination and assistance, including the location of services available from other public and private agencies in the community.

(i) Such training services for program and other department employees as is deemed appropriate to enable them to develop and maintain their professional skills and abilities in handling child abuse, *abandonment,* and neglect cases.

(j) Educational and community awareness campaigns on child abuse, *abandonment,* and neglect in an effort to enable citizens more successfully to prevent, identify, and treat child abuse, *abandonment,* and neglect in the community.

(2) The child abuse, *abandonment,* and neglect cases that are appropriate for referral by the children, youth, and families program to child protection teams for support services as set forth in subsection (1) include, but are not limited to, cases involving:

(a) Bruises, burns, or fractures in a child under the age of 3 years or in a nonambulatory child of any age.

(b) Unexplained or implausibly explained bruises, burns, fractures, or other injuries in a child of any age.

(c) Sexual abuse of a child in which vaginal or anal penetration is alleged or in which other unlawful sexual conduct has been determined to have occurred.

(d) Venereal disease, or any other sexually transmitted disease, in a prepubescent child.

(e) Reported malnutrition of a child and failure of a child to thrive.

(f) Reported medical, physical, or emotional neglect of a child.

(g) Any family in which one or more children have been pronounced dead on arrival at a hospital or other health care facility, or have been injured and later died, as a result of suspected abuse, *abandonment,* or neglect, when any sibling or other child remains in the home.

(h) Symptoms of serious emotional problems in a child when emotional or other abuse, *abandonment,* or neglect is suspected.

~~(3) All records and reports of the child protection team are confidential and exempt from the provisions of ss. 119.07(1) and 455.241, and shall not be disclosed, except, upon request, to the state attorney, law enforcement, the department, and necessary professionals, in furtherance of the treatment or additional evaluative needs of the child or by order of the court.~~

(3) In all instances in which a child protection team is providing certain services to abused, *abandoned,* or neglected children, other offices and units of the department shall avoid duplicating the provision of those services.

Section 24. Section 39.3035, Florida Statutes, is created to read:

39.3035 Child advocacy centers; standards; state funding.—

(1) In order to become eligible for a full membership in the Florida Network of Children's Advocacy Centers, Inc., a child advocacy center in this state shall:

(a) Be a private, nonprofit incorporated agency or a governmental entity.

(b) Be a child protection team with established community protocols that meet all of the requirements of the National Network of Children's Advocacy Centers, Inc.

(c) Have a neutral, child-focused facility where joint department and law enforcement interviews take place with children in appropriate cases of suspected child sexual abuse or physical abuse. All multidisciplinary agencies shall have a place to interact with the child as investigative or treatment needs require.

(d) Have a minimum designated staff that is supervised and approved by the local board of directors or governmental entity.

(e) Have a multidisciplinary case review team that meets on a regularly scheduled basis or as the caseload of the community requires. The team shall consist of representatives from the Office of the State Attorney, the department, the child protection team, mental health services, law enforcement, and the child advocacy center staff. Medical personnel and a victim's advocate may be part of the team.

(f) Provide case tracking of child abuse cases seen through the center. A center shall also collect data on the number of child abuse cases seen at the center, by sex, race, age, and other relevant data; the number of cases referred for prosecution; and the number of cases referred for mental health therapy. Case records shall be subject to the confidentiality provisions of s. 39.202.

(g) Provide referrals for medical exams and mental health therapy. The center shall provide followup on cases referred for mental health therapy.

(h) Provide training for various disciplines in the community that deal with child abuse.

(i) Have an interagency commitment, in writing, covering those aspects of agency participation in a multidisciplinary approach to the handling of child sexual abuse and serious physical abuse cases.

(2) Provide assurance that child advocacy center employees and volunteers at the center are trained and screened in accordance with s. 39.001(2).

(3) Any child advocacy center within this state that meets the standards of subsection (1) and is certified by the Florida Network of Children's Advocacy Centers, Inc., as being a full member in the organization shall be eligible to receive state funds that are appropriated by the Legislature.

Section 25. Section 415.507, Florida Statutes, is renumbered as section 39.304, Florida Statutes, and amended to read:

39.304 ~~415.507~~ Photographs, medical examinations, X rays, and medical treatment of abused, *abandoned,* or neglected child.—

(1) Any person required to investigate cases of suspected child abuse, *abandonment,* or neglect may take or cause to be taken photographs of the areas of trauma visible on a child who is the subject of a report. If the areas of trauma visible on a child indicate a need for a medical examination, or if the child verbally complains or otherwise exhibits distress as a result of injury through suspected child abuse, *abandonment,* or neglect, or is alleged to have been sexually abused, the person required to investigate may cause the child to be referred for diagnosis to a licensed physician or an emergency department in a hospital without the consent of the child's parents, *caregiver* ~~legal guardian~~, or legal custodian. Such examination may be performed by an advanced registered nurse practitioner licensed pursuant to chapter 464. Any licensed physician, or advanced registered nurse practitioner licensed pursuant to chapter 464, who has reasonable cause to suspect that an injury was the result of child abuse, *abandonment, or neglect* may authorize a radiological examination to be performed on the child without the consent of the child's parent, *caregiver* ~~legal guardian~~, or legal custodian.

(2) Consent for any medical treatment shall be obtained in the following manner.

(a)1. Consent to medical treatment shall be obtained from a parent or *legal custodian* ~~guardian~~ of the child; or

2. A court order for such treatment shall be obtained.

(b) If a parent or *legal custodian* ~~guardian~~ of the child is unavailable and his or her whereabouts cannot be reasonably ascertained, and it is after normal working hours so that a court order cannot reasonably be obtained, an authorized agent of the department shall have the authority to consent to necessary medical treatment for the child. The authority of the department to consent to medical treatment in this circumstance shall be limited to the time reasonably necessary to obtain court authorization.

(c) If a parent or *legal custodian* ~~guardian~~ of the child is available but refuses to consent to the necessary treatment, a court order shall be required unless the situation meets the definition of an emergency in s. 743.064 or the treatment needed is related to suspected abuse, *abandonment,* or neglect of the child by a parent or *legal custodian* ~~guardian~~. In such case, the department shall have the authority to consent to necessary medical treatment. This authority is limited to the time reasonably necessary to obtain court authorization.

In no case shall the department consent to sterilization, abortion, or termination of life support.

(3) Any facility licensed under chapter 395 shall provide to the department, its agent, or a child protection team that contracts with the department any photograph or report on examinations made or X rays taken pursuant to this section, or copies thereof, for the purpose of investigation or assessment of cases of abuse, abandonment, neglect, or exploitation of children.

(4)~~(3)~~ Any photograph or report on examinations made or X rays taken pursuant to this section, or copies thereof, shall be sent to the department as soon as possible.

(5)~~(4)~~ The county in which the child is a resident shall bear the initial costs of the examination of the allegedly abused, *abandoned, or neglected* child; however, the parents, *caregiver* ~~legal guardian~~, or legal custodian of the child shall be required to reimburse the county for the costs of such examination, other than an initial forensic physical examination as provided in s. 960.28, and to reimburse the department ~~of Children and Family Services~~ for the cost of the photographs taken pursuant to this section. A medical provider may not bill a child victim, directly or indirectly, for the cost of an initial forensic physical examination.

~~(5) The court shall order a defendant or juvenile offender who pleads guilty or nolo contendere to, or who is convicted of or adjudicated delinquent for, a violation of chapter 794 or chapter 800 to make restitution to the Crimes Compensation Trust Fund or to the county, whichever paid for the initial forensic physical examination, in an amount equal to~~

~~the compensation paid to the medical provider for the cost of the initial forensic physical examination. The order may be enforced by the department in the same manner as a judgment in a civil action.~~

Section 26. Section 415.5095, Florida Statutes, is renumbered as section 39.305, Florida Statutes, and amended to read:

39.305 ~~415.5095~~ Intervention and treatment in sexual abuse cases; model plan.—

~~(1) The impact of sexual abuse on the child and family has caused the Legislature to determine that special intervention and treatment must be offered in certain cases so that the child can be protected from further abuse, the family can be kept together, and the abuser can benefit from treatment. To further this end, it is the intent of the Legislature that special funding shall be available in those communities where agencies and professionals are able to work cooperatively to effectuate intervention and treatment in intrafamily sexual abuse cases.~~

~~(2)~~ The department ~~of Children and Family Services~~ shall develop a model plan for community intervention and treatment of intrafamily sexual abuse in conjunction with the Department of Law Enforcement, *the Department of Health*, the Department of Education, the Attorney General, the state Guardian Ad Litem Program, the Department of Corrections, representatives of the judiciary, and professionals and advocates from the mental health and child welfare community.

Section 27. Section 39.306, Florida Statutes, is created to read:

39.306 Child protective investigations; working agreements with local law enforcement.—The department shall enter into agreements with the jurisdictionally responsible county sheriffs' offices and local police departments that will assume the lead in conducting any potential criminal investigations arising from allegations of child abuse, abandonment, or neglect. The written agreement must specify how the requirements of this chapter will be met. For the purposes of such agreement, the jurisdictionally responsible law enforcement entity is authorized to share Florida criminal history information that is not otherwise exempt from s. 119.07(1) with the district personnel, authorized agent, or contract provider directly responsible for the child protective investigation and emergency child placement. The agencies entering into such agreement must comply with s. 943.0525. Criminal justice information provided by such law enforcement entity shall be used only for the purposes specified in the agreement and shall be provided at no charge. Notwithstanding any other provision of law, the Department of Law Enforcement shall provide to the department electronic access to Florida criminal justice information that is lawfully available and not exempt from s. 119.07(1), only for the purpose of child protective investigations and emergency child placement. As a condition of access to such information, the department shall be required to execute an appropriate user agreement addressing the access, use, dissemination, and destruction of such information and to comply with all applicable laws and regulations and with rules of the Department of Law Enforcement.

Section 28. Section 415.50171, Florida Statutes, is renumbered as section 39.307, Florida Statutes, and amended to read:

39.307 ~~415.50171 Family services response system;~~ Reports of child-on-child sexual abuse.—

(1) ~~Subject to specific appropriation,~~ Upon receiving a report alleging juvenile sexual abuse as defined in s. *39.01(7)(b), the department shall assist the family in receiving appropriate services* ~~415.50165(7), district staff shall, unless caregiver abuse or neglect is involved, use a family services response system approach~~ to address the allegations of the report.

(2) District staff, at a minimum, shall adhere to the following procedures:

(a) The purpose of the response to a report alleging juvenile sexual abuse behavior shall be explained to the caregiver.

1. The purpose of the response shall be explained in a manner consistent with legislative purpose and intent provided in this *chapter* ~~part~~.

2. The name and office telephone number of the person responding shall be provided to the caregiver of the alleged juvenile sexual offender and victim's caregiver.

3. The possible consequences of the department's response, including outcomes and services, shall be explained to the caregiver of the alleged juvenile sexual offender and the victim's family or caregiver.

(b) The caregiver of the alleged juvenile sexual offender and the caregiver of the victim shall be involved to the fullest extent possible in determining the nature of the allegation and the nature of any problem or risk to other children.

(c) The assessment of risk and the perceived treatment needs of the alleged juvenile sexual offender, the victim, and respective caregivers shall be conducted by the district staff, the child protection team, and other providers under contract with the department to provide services to the caregiver of the alleged offender, the victim, and the victim's caregiver.

(d) The assessment shall be conducted in a manner that is sensitive to the social, economic, and cultural environment of the family.

(e) When necessary, the child protection team shall conduct an evidence-gathering physical examination of the victim.

(f) Based on the information obtained from the alleged juvenile sexual offender, the alleged juvenile sexual offender's caregiver, the victim, and the victim's caregiver, an assessment service and treatment needs report must be completed within 7 days and, if needed, a case plan developed within 30 days.

(g) The department shall classify the outcome of its initial assessment of the report as follows:

1. Report closed. Services were not offered to the alleged juvenile sexual offender because the department determined that there was no basis for intervention.

2. Services accepted by alleged offender. Services were offered to the alleged juvenile sexual offender and accepted by the caregiver.

3. Report closed. Services were offered to the alleged juvenile sexual offender, but were rejected by the caregiver.

4. Notification to law enforcement. Either the risk to the victim's safety and well-being cannot be reduced by the provision of services or the family rejected services, and notification of the alleged delinquent act or violation of law to the appropriate law enforcement agency was initiated.

5. Services accepted by victim. Services were offered to the victim of the alleged juvenile sexual offender and accepted by the caregiver.

6. Report closed. Services were offered to the victim of the alleged juvenile sexual offender, but were rejected by the caregiver.

(3) When services have been accepted by the alleged juvenile sexual offender, victim, and respective caregivers or family, the department shall designate a case manager and develop a specific case plan.

(a) Upon receipt of the plan, the caregiver or family shall indicate its acceptance of the plan in writing.

(b) The case manager shall periodically review the progress toward achieving the objectives of the plan in order to:

1. Make adjustments to the plan or take additional action as provided in this part; or

2. Terminate the case when indicated by successful or substantial achievement of the objectives of the plan.

(4) In the event the family or caregiver of the alleged juvenile sexual offender fails to adequately participate or allow for the adequate participation of the juvenile sexual offender in the services or treatment delineated in the case plan, the case manager may recommend that the department:

(a) Close the case;

(b) Refer the case to mediation or arbitration, if available; or

(c) Notify the appropriate law enforcement agency of failure to comply.

(5) Services to the alleged juvenile sexual offender, the victim, and respective caregivers or family under this section shall be voluntary and of necessary duration.

(6) At any time, as a result of additional information, findings of facts, or changing conditions, the department may pursue a child protective investigation as provided in *this chapter* ~~part IV~~.

(7) The department is authorized to develop rules and other policy directives necessary to implement the provisions of this section.

Section 29. Part IV of chapter 39, Florida Statutes, consisting of sections 39.311, 39.312, 39.313, 39.314, 39.315, 39.316, 39.317, and 39.318, Florida Statutes, shall be entitled to read:

PART IV
FAMILY BUILDERS PROGRAM

Section 30. Section 415.515, Florida Statutes, is renumbered as section 39.311, Florida Statutes, and amended to read:

39.311 ~~415.515~~ Establishment of Family Builders Program.—

(1) Any Family Builders Program that is established by the department ~~of Children and Family Services or the Department of Juvenile Justice~~ shall provide family preservation services to families whose children are at risk of imminent out-of-home placement because they are dependent ~~or delinquent or are children in need of services~~, to reunite families whose children have been removed and placed in foster care, and to maintain adoptive families intact who are at risk of fragmentation. The Family Builders Program shall provide programs to achieve long-term changes within families that will allow children to remain with their families as an alternative to the more expensive and potentially psychologically damaging program of out-of-home placement.

(2) The department ~~of Children and Family Services and the Department of Juvenile Justice~~ may adopt rules to implement the Family Builders Program.

Section 31. Section 415.516, Florida Statutes, is renumbered as section 39.312, Florida Statutes, and amended to read:

39.312 ~~415.516~~ Goals.—The goals of any Family Builders Program shall be to:

(1) Ensure child health and safety while working with the family.

(2)~~(1)~~ Help parents to improve their relationships with their children and to provide better care, nutrition, hygiene, discipline, protection, instruction, and supervision.

(3)~~(2)~~ Help parents to provide a better household environment for their children by improving household maintenance, budgeting, and purchasing.

(4)~~(3)~~ Provide part-time child care when parents are unable to do so or need temporary relief.

(5)~~(4)~~ Perform household maintenance, budgeting, and purchasing when parents are unable to do so on their own or need temporary relief.

(6)~~(5)~~ Assist parents and children to manage and resolve conflicts.

(7)~~(6)~~ Assist parents to meet the special physical, mental, or emotional needs of their children and help parents to deal with their own special physical, mental, or emotional needs that interfere with their ability to care for their children and to manage their households.

(8)~~(7)~~ Help families to discover and gain access to community resources to which the family or children might be entitled and which would assist the family in meeting its needs and the needs of the children, including the needs for food, clothing, housing, utilities, transportation, appropriate educational opportunities, employment, respite care, and recreational and social activities.

(9)~~(8)~~ Help families by providing cash or in-kind assistance to meet their needs for food, clothing, housing, or transportation when such needs prevent or threaten to prevent parents from caring for their children, and when such needs are not met by other sources in the community in a timely fashion.

~~(9) Emphasize parental responsibility and facilitate counseling for children at high risk of delinquent behavior and their parents.~~

(10) Provide such additional reasonable services for the prevention of maltreatment and unnecessary foster care as may be needed in order to strengthen a family at risk.

Section 32. Section 415.517, Florida Statutes, is renumbered as section 39.313, Florida Statutes, and amended to read:

39.313 ~~415.517~~ Contracting of services.—The department may contract for the delivery of Family Builders Program services by professionally qualified persons or local governments when it determines that it is in the family's best interest. The service provider or program operator must submit to the department monthly activity reports covering any services rendered. These activity reports must include project evaluation in relation to individual families being served, as well as statistical data concerning families referred for services who are not served due to the unavailability of resources. The costs of program evaluation are an allowable cost consideration in any service contract negotiated in accordance with this *section* ~~subsection~~.

Section 33. Section 415.518, Florida Statutes, is renumbered as section 39.314, Florida Statutes, and amended to read:

39.314 ~~415.518~~ Eligibility for Family Builders Program services.—Family Builders Program services must be made available to a family at risk on a voluntary basis, provided the family meets the eligibility requirements as established by rule and there is space available in the program. All members of the families who accept such services are responsible for cooperating fully with the family preservation plan developed for each family under *s. 39.315* ~~this section~~. Families in which children are at imminent risk of sexual abuse or physical endangerment perpetrated by a member of their immediate household are not eligible to receive family preservation services unless the perpetrator is in, or has agreed to enter, a program for treatment and the safety of the children may be enhanced through participation in the Family Builders Program.

Section 34. *Section 415.519, Florida Statutes, is renumbered as section 39.315, Florida Statutes.*

Section 35. Section 415.520, Florida Statutes, is renumbered as section 39.316, Florida Statutes, and amended to read:

39.316 ~~415.520~~ Qualifications of Family Builders Program workers.—

(1) A public or private agency staff member who provides direct service to an eligible family must possess a bachelor's degree in a human-service-related field and 2 years' experience providing direct services to children, youth, or their families or possess a master's degree in a human-service-related field with 1 year of experience. A person who supervises caseworkers who provide direct services to eligible families must possess a master's degree in a human-service-related field and have at least 2 years of experience in social work or counseling or must possess a bachelor's degree in a human-service-related field and have at least 3 years' experience in social work or counseling.

(2) A person who provides paraprofessional aide services to families must possess a valid high school diploma or a Graduate Equivalency Diploma and must have a minimum of 2 years' experience in working with families with children. Experience in a volunteer capacity while working with families may be included in the 2 years of required experience.

(3) Caseworkers must successfully complete at least 40 hours of intensive training prior to providing direct *services* ~~service~~ under this program. Paraprofessional aides and supervisors must, within 90 days after hiring, complete a training program prescribed by the department on child abuse, *abandonment,* and neglect and an overview of the children, youth, and families program components and service delivery system. Program supervisors and caseworkers must thereafter complete at least 40 hours of additional training each year in accordance with standards established by the department.

Section 36. *Section 415.521, Florida Statutes, is renumbered as section 39.317, Florida Statutes.*

Section 37. Section 415.522, Florida Statutes, is renumbered as section 39.318, Florida Statutes, and amended to read:

39.318 ~~415.522~~ Funding.—The department is authorized to use appropriate state, federal, and private funds within its budget for operating the Family Builders Program. For each child served, the cost of providing home-based services described in this *part* ~~act~~ must not exceed the costs of out-of-home care which otherwise would be incurred.

Section 38. Part V of chapter 39, Florida Statutes, consisting of sections 39.395, 39.401, 39.402, 39.407, and 39.4075, Florida Statutes, shall be entitled to read:

PART V
TAKING CHILDREN INTO CUSTODY
AND SHELTER HEARINGS

Section 39. Section 39.395, Florida Statutes, is created to read:

39.395 Taking a child into protective custody; medical or hospital personnel.—Any person in charge of a hospital or similar institution or any physician or licensed health care professional treating a child may keep that child in his or her custody without the consent of the parents, caregiver, or legal custodian, whether or not additional medical treatment is required, if the circumstances are such, or if the condition of the child is such, that continuing the child in the child's place of residence or in the care or custody of the parents, caregiver, or legal custodian presents an imminent danger to the child's life or physical or mental health. Any such person taking a child into protective custody shall immediately notify the department, whereupon the department shall immediately begin a child protective investigation in accordance with the provisions of this chapter and shall make every reasonable effort to immediately notify the parents, caregiver, or legal custodian that such child has been taken into protective custody. If the department determines, according to the criteria set forth in this chapter, that the child should remain in protective custody longer than 24 hours, it shall petition the court for an order authorizing such custody in the same manner as if the child were placed in a shelter. The department shall attempt to avoid the placement of a child in an institution whenever possible.

Section 40. Section 39.401, Florida Statutes, as amended by chapter 97-276, Laws of Florida, is amended to read:

39.401 Taking a child alleged to be dependent into custody*; law enforcement officers and authorized agents of the department.*—

(1) A child may only be taken into custody:

(a) Pursuant to an order of the circuit court issued pursuant to the provisions of this part, based upon sworn testimony, either before or after a petition is filed*; or*~~.~~

(b) By a law enforcement officer, or an authorized agent of the department, if the officer or *authorized* agent has probable cause to support a finding of reasonable grounds for removal and that removal is necessary to protect the child. Reasonable grounds for removal are as follows:

1. That the child has been abused, neglected, or abandoned, or is suffering from or is in imminent danger of illness or injury as a result of abuse, neglect, or abandonment;

2. That the *parent, legal custodian, caregiver, or responsible adult relative* ~~custodian~~ of the child has materially violated a condition of placement imposed by the court; or

3. That the child has no parent, legal custodian, *caregiver,* or responsible adult relative immediately known and available to provide supervision and care.

(2) If the *law enforcement officer takes* ~~person taking~~ the child into custody ~~is not an authorized agent of the department~~, that *officer* ~~person~~ shall:

(a) Release the child to*:*

1. The parent, *caregiver, or* ~~guardian,~~ legal custodian *of the child;*~~,~~

2. A responsible adult approved by the court when limited to temporary emergency situations;~~,~~

3. A responsible adult relative who shall be given priority consideration over a nonrelative placement *when this is in the best interests of the child;*~~,~~ or

4. A responsible adult approved by the department; ~~within 3 days following such release, the person taking the child into custody shall make a full written report to the department for cases involving allegations of abandonment, abuse, or neglect or other dependency cases;~~ or

(b) Deliver the child to an authorized agent of the department, stating the facts by reason of which the child was taken into custody and sufficient information to establish probable cause that the child is abandoned, abused, or neglected, or otherwise dependent ~~and make a full written report to the department within 3 days~~.

For cases involving allegations of abandonment, abuse, or neglect, or other dependency cases, within 3 days after such release or within 3 days after delivering the child to an authorized agent of the department, the law enforcement officer who took the child into custody shall make a full written report to the department.

(3) If the child is taken into custody by, or is delivered to, an authorized agent of the department, the authorized agent shall review the facts supporting the removal with *an attorney representing the* department ~~legal staff prior to the emergency shelter hearing~~. The purpose of this review shall be to determine whether probable cause exists for the filing of *a* ~~an emergency~~ shelter petition ~~pursuant to s. 39.402(1)~~. If the facts are not sufficient to support the filing of a *shelter* petition, the child shall immediately be returned to the custody of the parent*, caregiver,* or legal custodian. If the facts are sufficient to support the filing of the *shelter* petition, and the child has not been returned to the custody of the parent*, caregiver,* or legal custodian, the department shall file the *shelter* petition and schedule a *shelter* hearing ~~pursuant to s. 39.402(1)~~, such hearing to be held within 24 hours after the removal of the child. While awaiting the ~~emergency~~ shelter hearing, the authorized agent of the department may place the child in licensed shelter care or may release the child to a parent, ~~guardian,~~ legal custodian, *caregiver, or* responsible adult relative who shall be given priority consideration over a *licensed* ~~nonrelative~~ placement, or responsible adult approved by the department *when this is in the best interests of the child. Any placement of a child which is not in a licensed shelter must be preceded by a local and state criminal records check, as well as a search of the department's automated abuse information system, on all members of the household, to assess the child's safety within the home.* In addition, the department may authorize placement of a housekeeper/homemaker in the home of a child alleged to be dependent until the parent or legal custodian assumes care of the child.

(4) When a child is taken into custody pursuant to this section, the department ~~of Children and Family Services~~ shall request that the child's parent*, caregiver,* or *legal* custodian disclose the names, relationships, and addresses of all parents and prospective parents and all next of kin of the child, so far as are known.

Section 41. Section 39.402, Florida Statutes, as amended by chapter 97-276, Laws of Florida, is amended to read:

39.402 Placement in a shelter.—

(1) Unless ordered by the court under this chapter, a child taken into custody shall not be placed in a shelter prior to a court hearing unless there are reasonable grounds for removal and removal is necessary to protect the child. Reasonable grounds for removal are as follows:

(a) The child has been abused, neglected, or abandoned, or is suffering from or is in imminent danger of illness or injury as a result of abuse, neglect, or abandonment;

(b) The custodian of the child has materially violated a condition of placement imposed by the court; or

(c) The child has no parent, legal custodian, *caregiver,* or responsible adult relative immediately known and available to provide supervision and care.

(2) A child taken into custody may be placed or continued in a shelter only if one or more of the criteria in subsection (1) applies and the court has made a specific finding of fact regarding the necessity for removal of the child from the home and has made a determination that the

provision of appropriate and available services will not eliminate the need for placement.

(3) Whenever a child is taken into custody, the department shall immediately notify the parents or legal custodians, shall provide the parents or legal custodians with a statement setting forth a summary of procedures involved in dependency cases, and shall notify them of their right to obtain their own attorney.

(4) If the department determines that placement in a shelter is necessary under subsections (1) and (2), the authorized agent of the department shall authorize placement of the child in a shelter.

(5)(a) The parents or legal custodians of the child shall be given actual notice of the date, time, and location of the ~~emergency~~ shelter hearing. If the parents *or legal custodians* are outside the jurisdiction of the court, are not known, or cannot be located or refuse or evade service, they shall be given such notice as best ensures their actual knowledge of the date, time, and location of the ~~emergency~~ shelter hearing. The person providing or attempting to provide notice to the parents or legal custodians shall, if the parents or legal custodians are not present at the hearing, advise the court either in person or by sworn affidavit, of the attempts made to provide notice and the results of those attempts.

(b) The parents or legal custodians shall be given written notice that:

~~(b) At the emergency shelter hearing, the department must establish probable cause that reasonable grounds for removal exist and that the provision of appropriate and available services will not eliminate the need for placement.~~

1.~~(c)~~ *They will* ~~The parents or legal custodians shall~~ be given an opportunity to be heard and to present evidence at the ~~emergency~~ shelter hearing*; and*~~.~~

2. They have the right to be represented by counsel, and, if indigent, the right to be represented by appointed counsel, at the shelter hearing and at each subsequent hearing or proceeding, pursuant to the procedures set forth in s. 39.013.

(6)~~(5)~~(a) The circuit court, or the county court~~,~~ if previously designated by the chief judge of the circuit court for such purpose, shall hold the shelter hearing.

(b) The shelter petition filed with the court must address each condition required to be determined by the court in *paragraphs (8)(a) and (b)* ~~subsection (7)~~.

(7)~~(6)~~ A child may not be removed from the home or continued out of the home pending disposition if, with the provision of appropriate and available *early-intervention or preventive* services, including services provided in the home, the child could safely remain at home. If the child's safety and well-being are in danger, the child shall be removed from danger and continue to be removed until the danger has passed. If the child has been removed from the home and the reasons for his or her removal have been remedied, the child may be returned to the home. If the court finds that the prevention or reunification efforts of the department will allow the child to remain safely at home, the court shall allow the child to remain in the home.

(8)~~(7)~~(a) A child may not be held in a shelter longer than 24 hours unless an order so directing is entered by the court after *a* ~~an emergency~~ shelter hearing. *In the interval until the shelter hearing is held, the decision to place the child in a shelter or release the child from a shelter lies with the protective investigator.* ~~At the emergency shelter hearing, the court shall appoint a guardian ad litem to represent the child unless the court finds that such representation is unnecessary.~~

(b) The parents or legal custodians of the child shall be given such notice as best ensures their actual knowledge of the time and place of the *shelter* hearing ~~and shall be given an opportunity to be heard and to present evidence at the emergency shelter hearing~~. *The failure to provide notice to a party or participant does not invalidate an order placing a child in a shelter if the court finds that the petitioner has made a good-faith effort to provide such notice.* The court shall require the parents or *legal* custodians present at the hearing to provide to the court on the record the names, addresses, and relationships of all parents, prospective parents, and next of kin of the child, so far as are known.

(c) At the shelter hearing, the court shall:

1. Appoint a guardian ad litem to represent the child, unless the court finds that such representation is unnecessary;

2. Inform the parents or legal custodians of their right to counsel to represent them at the shelter hearing and at each subsequent hearing or proceeding, and the right of the parents to appointed counsel, pursuant to the procedures set forth in s. 39.013; and

3. Give the parents or legal custodians an opportunity to be heard and to present evidence.

(d) At the shelter hearing, the department must establish probable cause that reasonable grounds for removal exist and that the provision of appropriate and available services will not eliminate the need for placement.

(e) At the shelter hearing, each party shall provide to the court a permanent mailing address. The court shall advise each party that this address will be used by the court and the petitioner for notice purposes unless and until the party notifies the court and the petitioner in writing of a new mailing address.

(f)~~(b)~~ The order for placement of a child in shelter care must identify the parties present at the hearing and must contain written findings:

1. That placement in shelter care is necessary based on the criteria in subsections (1) and (2).

2. That placement in shelter care is in the best interest of the child.

3. That continuation of the child in the home is contrary to the welfare of the child because the home situation presents a substantial and immediate danger to the *child's physical, mental, or emotional health or safety* ~~child~~ which cannot be mitigated by the provision of preventive services.

4. That based upon the allegations of the petition for placement in shelter care, there is probable cause to believe that the child is dependent.

5. That the department has made reasonable efforts to prevent or eliminate the need for removal of the child from the home. A finding of reasonable effort by the department to prevent or eliminate the need for removal may be made and the department is deemed to have made reasonable efforts to prevent or eliminate the need for removal if:

a. The first contact of the department with the family occurs during an emergency.

b. The appraisal of the home situation by the department indicates that the home situation presents a substantial and immediate danger to the *child's physical, mental, or emotional health or safety* ~~child~~ which cannot be mitigated by the provision of preventive services.

c. The child cannot safely remain at home, either because there are no preventive services that can ensure the *health and* safety of the child or because, even with appropriate and available services being provided, the *health and* safety of the child cannot be ensured.

6. That the court notified the parents or legal custodians of the subsequent dependency proceedings, including scheduled hearings, and of the importance of the active participation of the parents or legal custodians in those subsequent proceedings and hearings.

7. That the court notified the parents or legal custodians of their right to counsel to represent them at the shelter hearing and at each subsequent hearing or proceeding, and the right of the parents to appointed counsel, pursuant to the procedures set forth in s. 39.013.

~~(c) The failure to provide notice to a party or participant does not invalidate an order placing a child in a shelter if the court finds that the petitioner has made a good faith effort to provide such notice.~~

~~(d) In the interval until the shelter hearing is held under paragraph (a), the decision to place the child in a shelter or release the child from a shelter lies with the protective investigator in accordance with subsection (3).~~

(9) At any shelter hearing, the court shall determine visitation rights absent a clear and convincing showing that visitation is not in the best interest of the child.

(10) The shelter hearing order shall contain a written determination as to whether the department has made a reasonable effort to prevent or eliminate the need for removal or continued removal of the child from the home. If the department has not made such an effort, the court shall order the department to provide appropriate and available services to ensure the protection of the child in the home when such services are necessary for the child's health and safety.

~~(8) A child may not be held in a shelter under an order so directing for more than 21 days unless an order of adjudication for the case has been entered by the court. The parent, guardian, or custodian of the child must be notified of any order directing placement of the child in an emergency shelter and, upon request, must be afforded a hearing within 48 hours, excluding Sundays and legal holidays, to review the necessity for continued placement in the shelter for any time periods as provided in this section. At any arraignment hearing or determination of emergency shelter care, the court shall determine visitation rights absent a clear and convincing showing that visitation is not in the best interest of the child, and the court shall make a written determination as to whether the department has made a reasonable effort to prevent or eliminate the need for removal or continued removal of the child from the home. If the department has not made such an effort, the court shall order the department to provide appropriate and available services to assure the protection of the child in the home when such services are necessary for the child's safety. Within 7 days after the child is taken into custody, a petition alleging dependency must be filed and, within 14 days after the child is taken into custody, an arraignment hearing must be held for the child's parent, guardian, or custodian to admit, deny, or consent to the findings of dependency alleged in the petition.~~

(11)~~(12)~~ *If a* ~~When any~~ child is placed in a shelter *pursuant to* ~~under~~ a court order following a shelter hearing, the court shall *prepare a shelter hearing* order *requiring* the parents of the child, or the guardian of the child's estate, if possessed of assets which under law may be disbursed for the care, support, and maintenance of the child, to pay, to the department or institution having custody of the child, fees as established by the department. When the order affects the guardianship estate, a certified copy of the order shall be delivered to the judge having jurisdiction of the guardianship estate.

(12) In the event the shelter hearing is conducted by a judge other than the juvenile court judge, the juvenile court judge shall hold a shelter review on the status of the child within 2 working days after the shelter hearing.

(13)~~(9)~~ *A child may not be held in a shelter under an order so directing for more than 60 days without an adjudication of dependency.* A child may not be held in a shelter for more than 30 days after the entry of an order of adjudication unless an order of disposition ~~under s. 39.41~~ has been entered by the court.

(14)~~(10)~~ The time limitations in *this section* ~~subsection (8)~~ do not include:

(a) Periods of delay resulting from a continuance granted at the request or with the consent of the child's counsel or the child's guardian ad litem, if one has been appointed by the court, or, if the child is of sufficient capacity to express reasonable consent, at the request or with the consent of the child's attorney or the child's guardian ad litem, if one has been appointed by the court, and the child.

(b) Periods of delay resulting from a continuance granted at the request of the attorney for the department, if the continuance is granted:

1. Because of an unavailability of evidence material to the case when the attorney for the department has exercised due diligence to obtain such evidence and there are substantial grounds to believe that such evidence will be available within 30 days. However, if the department is not prepared to present its case within 30 days, the parent or *legal custodian* ~~guardian~~ may move for issuance of an order to show cause or the court on its own motion may impose appropriate sanctions, which may include dismissal of the petition.

2. To allow the attorney for the department additional time to prepare the case and additional time is justified because of an exceptional circumstance.

(c) Reasonable periods of delay necessary to accomplish notice of the hearing to the child's parents *or legal custodians*; however, the petitioner shall continue regular efforts to provide notice to the parents *or legal custodians* during such periods of delay.

(d) Reasonable periods of delay resulting from a continuance granted at the request of the parent or legal custodian of a subject child.

(15) At the conclusion of a shelter hearing, the court shall notify all parties in writing of the next scheduled hearing to review the shelter placement. Such hearing shall be held no later than 30 days after placement of the child in shelter status, in conjunction with the arraignment hearing.

~~(11) The court shall review the necessity for a child's continued placement in a shelter in the same manner as the initial placement decision was made and shall make a determination regarding the continued placement:~~

~~(a) Within 24 hours after any violation of the time requirements for the filing of a petition or the holding of an arraignment hearing as prescribed in subsection (8); or~~

~~(b) Prior to the court's granting any delay as specified in subsection (10).~~

Section 42. Section 39.407, Florida Statutes, is amended to read:

39.407 Medical, psychiatric, and psychological examination and treatment of child; physical or mental examination of parent~~, guardian,~~ or person requesting custody of child.—

(1) When any child is taken into custody and is to be detained in shelter care, the department is authorized to have a medical screening performed on the child without authorization from the court and without consent from a parent or *legal custodian* ~~guardian~~. Such medical screening shall be performed by a licensed health care professional and shall be to examine the child for injury, illness, and communicable diseases and to determine the need for immunization. The department shall by rule establish the invasiveness of the medical procedures authorized to be performed under this subsection. In no case does this subsection authorize the department to consent to medical treatment for such children.

(2) When the department has performed the medical screening authorized by subsection (1), or when it is otherwise determined by a licensed health care professional that a child who is in the custody of the department, but who has not been committed to the department ~~pursuant to s. 39.41~~, is in need of medical treatment, including the need for immunization, consent for medical treatment shall be obtained in the following manner:

(a)1. Consent to medical treatment shall be obtained from a parent or *legal custodian* ~~guardian~~ of the child; or

2. A court order for such treatment shall be obtained.

(b) If a parent or *legal custodian* ~~guardian~~ of the child is unavailable and his or her whereabouts cannot be reasonably ascertained, and it is after normal working hours so that a court order cannot reasonably be obtained, an authorized agent of the department shall have the authority to consent to necessary medical treatment, including immunization, for the child. The authority of the department to consent to medical treatment in this circumstance shall be limited to the time reasonably necessary to obtain court authorization.

(c) If a parent or *legal custodian* ~~guardian~~ of the child is available but refuses to consent to the necessary treatment, including immunization, a court order shall be required unless the situation meets the definition of an emergency in s. 743.064 or the treatment needed is related to suspected abuse, *abandonment,* or neglect of the child by a parent, *caregiver, or legal custodian* ~~or guardian~~. In such case, the department shall have the authority to consent to necessary medical treatment. This authority is limited to the time reasonably necessary to obtain court authorization.

In no case shall the department consent to sterilization, abortion, or termination of life support.

(3) A judge may order a child in the physical custody of the department to be examined by a licensed health care professional. The judge may also order such child to be evaluated by a psychiatrist or a psychologist, by a district school board educational needs assessment team, or, if a developmental disability is suspected or alleged, by the developmental disability diagnostic and evaluation team of the department. If it is necessary to place a child in a residential facility for such evaluation, then the criteria and procedure established in s. 394.463(2) or chapter 393 shall be used, whichever is applicable. The educational needs assessment provided by the district school board educational needs assessment team shall include, but not be limited to, reports of intelligence and achievement tests, screening for learning disabilities and other handicaps, and screening for the need for alternative education as defined in s. *230.23* ~~230.2315(2)~~.

(4) A judge may order a child in the physical custody of the department to be treated by a licensed health care professional based on evidence that the child should receive treatment. The judge may also order such child to receive mental health or retardation services from a psychiatrist, psychologist, or other appropriate service provider. If it is necessary to place the child in a residential facility for such services, then the procedures and criteria established in s. 394.467 or chapter 393 shall be used, whichever is applicable. A child may be provided mental health or retardation services in emergency situations, pursuant to the procedures and criteria contained in s. 394.463(1) or chapter 393, whichever is applicable.

(5) When a child is in the physical custody of the department, a licensed health care professional shall be immediately called if there are indications of physical injury or illness, or the child shall be taken to the nearest available hospital for emergency care.

(6) Except as otherwise provided herein, nothing in this section shall be deemed to eliminate the right of a parent, *legal custodian* ~~guardian~~, or the child to consent to examination or treatment for the child.

(7) Except as otherwise provided herein, nothing in this section shall be deemed to alter the provisions of s. 743.064.

(8) A court shall not be precluded from ordering services or treatment to be provided to the child by a duly accredited practitioner who relies solely on spiritual means for healing in accordance with the tenets and practices of a church or religious organization, when required by the child's health and when requested by the child.

(9) Nothing in this section shall be construed to authorize the permanent sterilization of the child unless such sterilization is the result of or incidental to medically necessary treatment to protect or preserve the life of the child.

(10) For the purpose of obtaining an evaluation or examination, or receiving treatment as authorized pursuant to this *section* ~~subsection~~, no child alleged to be or found to be dependent shall be placed in a detention home or other program used primarily for the care and custody of children alleged or found to have committed delinquent acts.

(11) The parents or *legal custodian* ~~guardian~~ of a child in the physical custody of the department remain financially responsible for the cost of medical treatment provided to the child even if either one or both of the parents or if the *legal custodian* ~~guardian~~ did not consent to the medical treatment. After a hearing, the court may order the parents or *legal custodian* ~~guardian~~, if found able to do so, to reimburse the department or other provider of medical services for treatment provided.

(12) Nothing in this section alters the authority of the department to consent to medical treatment for a dependent child when the child has been committed to the department ~~pursuant to s. 39.41,~~ and the department has become the legal custodian of the child.

(13) At any time after the filing of a *shelter petition or* petition for dependency, when the mental or physical condition, including the blood group, of a parent, *caregiver, legal custodian* ~~guardian~~, or other person requesting custody of a child is in controversy, the court may order the person to submit to a physical or mental examination by a qualified professional. The order may be made only upon good cause shown and pursuant to notice and procedures as set forth by the Florida Rules of Juvenile Procedure.

Section 43. Section 39.4033, Florida Statutes, is renumbered as section 39.4075, Florida Statutes, and amended to read:

39.4075 ~~39.4033~~ Referral of a dependency case to mediation.—

(1) At any stage in a dependency proceeding, ~~the case staffing committee or~~ any party may request the court to refer the parties to mediation in accordance with chapter 44 and rules and procedures developed by the Supreme Court.

(2) A court may refer the parties to mediation. *When such services are available, the court must determine whether it is in the best interests of the child to refer the parties to mediation.*

(3) The department shall advise the *parties* ~~parents or legal guardians~~ that they are responsible for contributing to the cost of the *dependency* ~~family~~ mediation to the extent of their ability to pay.

(4) This section applies only to courts in counties in which dependency mediation programs have been established and does not require the establishment of such programs in any county.

Section 44. Part VI of chapter 39, Florida Statutes, consisting of sections 39.501, 39.502, 39.503, 39.504, 39.505, 39.506, 39.507, 39.508, 39.5085, 39.509, and 39.5101, Florida Statutes, shall be entitled to read:

PART VI
PETITION, ARRAIGNMENT, ADJUDICATION, AND DISPOSITION

Section 45. Section 39.404, Florida Statutes, is renumbered as section 39.501, Florida Statutes, and amended to read:

39.501 ~~39.404~~ Petition for dependency.—

(1) All proceedings seeking an adjudication that a child is dependent shall be initiated by the filing of a petition by an attorney for the department, or any other person who has knowledge of the facts alleged or is informed of them and believes that they are true.

(2) The purpose of a petition seeking the adjudication of a child as a dependent child is the protection of the child and not the punishment of the person creating the condition of dependency.

(3)(a) The petition shall be in writing, shall identify and list all parents, if known, and all current *caregivers or legal* custodians of the child, and shall be signed by the petitioner under oath stating the petitioner's good faith in filing the petition. When the petition is filed by the department, it shall be signed by an attorney for the department.

(b) The form of the petition and its contents shall be determined by rules of *juvenile* procedure adopted by the Supreme Court.

(c) The petition must specifically set forth the acts or omissions upon which the petition is based and the identity of the person or persons alleged to have committed the acts or omissions, if known. The petition need not contain allegations of acts or omissions by both parents.

(d) The petitioner must state in the petition, if known, whether:

1. A parent, legal custodian, or *caregiver* ~~person responsible for the child's welfare~~ named in the petition has *previously* unsuccessfully participated in voluntary services offered by the department;

2. A parent *or*~~,~~ legal custodian~~, or person responsible for the child's welfare~~ named in the petition has participated in mediation and whether a mediation agreement exists;

3. A parent *or*~~,~~ legal custodian~~, or person responsible for the child's welfare~~ has rejected the voluntary services offered by the department; or

4. The department has determined that voluntary services are not appropriate for this family and the reasons for such determination.

(4) When *a child has been placed in shelter status by order of the court* ~~the child has been taken into custody~~, a petition alleging dependency must be filed within 7 days *upon demand of a party, but no later than 21 days after the shelter hearing* ~~after the date the child is taken into custody~~. In all other cases, the petition must be filed within a

reasonable time after the date the child was referred to protective investigation ~~under s. 39.403~~. *The child's parent, guardian, or custodian must be served with a copy of the petition at least 72 hours before the arraignment hearing.*

(5) A petition for termination of parental rights ~~under s. 39.464~~ may be filed at any time.

Section 46. Section 39.405, Florida Statutes, as amended by chapter 97-276, Laws of Florida, is renumbered as section 39.502, Florida Statutes, and amended to read:

39.502 ~~39.405~~ Notice, process, and service.—

(1) Unless parental rights have been terminated, all parents *and legal custodians* must be notified of all proceedings *or hearings* involving the child. Notice in cases involving shelter hearings and hearings resulting from medical emergencies must be that most likely to result in actual notice to the parents *and legal custodians*. In all other dependency proceedings, notice must be provided in accordance with subsections (4) through (9).

(2) Personal appearance of any person in a hearing before the court obviates the necessity of serving process on that person.

(3) Upon the filing of a petition containing allegations of facts which, if true, would establish that the child is a dependent child, and upon the request of the petitioner, the clerk or deputy clerk shall issue a summons.

(4) The summons shall require the person on whom it is served to appear for a hearing at a time and place specified, not less than 24 hours after service of the summons. A copy of the petition shall be attached to the summons.

(5) The summons shall be directed to, and shall be served upon, all parties other than the petitioner.

(6) It is the duty of the petitioner or moving party to notify all participants and parties known to the petitioner or moving party of all hearings subsequent to the initial hearing unless notice is contained in prior court orders and these orders were provided to the participant or party. Proof of notice or provision of orders may be provided by certified mail with a signed return receipt.

(7) Service of the summons and service of pleadings, papers, and notices subsequent to the summons on persons outside this state must be made pursuant to s. 61.1312.

(8) It is not necessary to the validity of a proceeding covered by this part that the parents, *caregivers,* or legal custodians be present if their identity or residence is unknown after a diligent search has been made, *but in this event the petitioner shall file an affidavit of diligent search prepared by the person who made the search and inquiry, and the court may appoint a guardian ad litem for the child.*

(9) When an affidavit of diligent search has been filed under subsection (8), the petitioner shall continue to search for and attempt to serve the person sought until excused from further search by the court. The petitioner shall report on the results of the search at each court hearing until the person is identified or located or further search is excused by the court.

(10)~~(9)~~ Service by publication shall not be required for dependency hearings and the failure to serve a party or give notice to a participant shall not affect the validity of an order of adjudication or disposition if the court finds that the petitioner has completed a diligent search for that party or participant.

(11)~~(10)~~ Upon the application of a party or the petitioner, the clerk or deputy clerk shall issue, and the court on its own motion may issue, subpoenas requiring attendance and testimony of witnesses and production of records, documents, and other tangible objects at any hearing.

(12)~~(11)~~ All process and orders issued by the court shall be served or executed as other process and orders of the circuit court and, in addition, may be served or executed by authorized agents of the department or the guardian ad litem.

(13)~~(12)~~ Subpoenas may be served within the state by any person over 18 years of age who is not a party to the proceeding and, in addition, may be served by authorized agents of the department.

(14)~~(13)~~ No fee shall be paid for service of any process or other papers by an agent of the department or the guardian ad litem. If any process, orders, or any other papers are served or executed by any sheriff, the sheriff's fees shall be paid by the county.

~~(14) Failure of a person served with notice to respond or appear at the arraignment hearing constitutes the person's consent to a dependency adjudication. The document containing the notice to respond or appear must contain, in type at least as large as the balance of the document, the following or substantially similar language: "FAILURE TO RESPOND TO THIS NOTICE OR TO APPEAR AT THIS HEARING CONSTITUTES CONSENT TO THE ADJUDICATION OF THIS CHILD (OR THESE CHILDREN) AS DEPENDENT CHILDREN AND MAY ULTIMATELY RESULT IN LOSS OF CUSTODY OF THIS CHILD."~~

(15) A party who is identified as a *person with mental illness or with a developmental disability* ~~developmentally disabled person~~ must be informed by the court of the availability of advocacy services through the department, the Association for Retarded Citizens, or other appropriate *mental health or developmental disability* advocacy groups and encouraged to seek such services.

(16) If the party to whom an order is directed is present or represented at the final hearing, service of the order is not required.

(17) The parent or legal custodian of the child, the attorney for the department, the guardian ad litem, and all other parties and participants shall be given reasonable notice of all hearings provided for under this part.

(18) In all proceedings under this chapter, the court shall provide to the parent or legal custodian of the child, at the conclusion of any hearing, a written notice containing the date of the next scheduled hearing. The court shall also include the date of the next hearing in any order issued by the court.

Section 47. Section 39.4051, Florida Statutes, as amended by chapter 97-276, Laws of Florida, is renumbered as section 39.503, Florida Statutes, and amended to read:

39.503 ~~39.4051~~ Identity or location of parent *or legal custodian* unknown; special procedures.—

(1) If the identity or location of a parent *or legal custodian* is unknown and a petition for dependency or shelter is filed, the court shall conduct the following inquiry of the parent *or legal custodian* who is available, or, if no parent *or legal custodian* is available, of any relative or custodian of the child who is present at the hearing and likely to have the information:

(a) Whether the mother of the child was married at the probable time of conception of the child or at the time of birth of the child.

(b) Whether the mother was cohabiting with a male at the probable time of conception of the child.

(c) Whether the mother has received payments or promises of support with respect to the child or because of her pregnancy from a man who claims to be the father.

(d) Whether the mother has named any man as the father on the birth certificate of the child or in connection with applying for or receiving public assistance.

(e) Whether any man has acknowledged or claimed paternity of the child in a jurisdiction in which the mother resided at the time of or since conception of the child, or in which the child has resided or resides.

(2) The information required in subsection (1) may be supplied to the court or the department in the form of a sworn affidavit by a person having personal knowledge of the facts.

(3) If the inquiry under subsection (1) identifies any person as a parent or prospective parent, the court shall require notice of the hearing to be provided to that person.

(4) If the inquiry under subsection (1) fails to identify any person as a parent or prospective parent, the court shall so find and may proceed without further notice.

(5) If the inquiry under subsection (1) identifies a parent or prospective parent, and that person's location is unknown, the *court shall direct the* department *to* ~~shall~~ conduct a diligent search for that person before ~~the~~ scheduling ~~of~~ a disposition hearing regarding the dependency of the child unless the court finds that the best interest of the child requires proceeding without notice to the person whose location is unknown.

(6) The diligent search required by subsection (5) must include, at a minimum, inquiries of all relatives of the parent or prospective parent made known to the petitioner, inquiries of all offices of program areas of the department likely to have information about the parent or prospective parent, inquiries of other state and federal agencies likely to have information about the parent or prospective parent, inquiries of appropriate utility and postal providers, and inquiries of appropriate law enforcement agencies. *Pursuant to s. 453 of the Social Security Act, 42 U.S.C. 653(c)(B)(4), the department, as the state agency administering Titles IV-B and IV-E of the act, shall be provided access to the federal and state parent locator service for diligent search activities.*

(7) Any agency contacted by a petitioner with a request for information pursuant to subsection (6) shall release the requested information to the petitioner without the necessity of a subpoena or court order.

(8) If the inquiry and diligent search identifies a prospective parent, that person must be given the opportunity to become a party to the proceedings by completing a sworn affidavit of parenthood and filing it with the court or the department. A prospective parent who files a sworn affidavit of parenthood while the child is a dependent child but no later than at the time of or prior to the adjudicatory hearing in any termination of parental rights proceeding for the child shall be considered a parent for all purposes under this section unless the other parent contests the determination of parenthood. If the known parent contests the recognition of the prospective parent as a parent, the prospective parent shall not be recognized as a parent until proceedings under chapter 742 have been concluded. However, the prospective parent shall continue to receive notice of hearings as a participant pending results of the chapter 742 proceedings.

Section 48. Section 39.4055, Florida Statutes, is renumbered as section 39.504, Florida Statutes, and amended to read:

39.504 ~~39.4055~~ Injunction pending disposition of petition ~~for detention~~ or dependency; penalty.—

(1)(a) When a petition for detention or a petition for dependency has been filed or when a child has been taken into custody and reasonable cause, as defined in paragraph (b), exists, the court, upon the request of the department, a law enforcement officer, the state attorney, or other responsible person, or upon its own motion, shall have the authority to issue an injunction to prevent any act of child abuse or any unlawful sexual offense involving a child.

(b) Reasonable cause for the issuance of an injunction exists if there is evidence of child abuse or an unlawful sexual offense involving a child or if there is a reasonable likelihood of such abuse or offense occurring based upon a recent overt act or failure to act.

(2)~~(a)~~ Notice shall be provided to the parties as set forth in the Florida Rules of Juvenile Procedure, unless the child is reported to be in imminent danger, in which case the court may issue an injunction immediately. *A judge may issue an emergency injunction pursuant to this section without notice at times when the court is closed for the transaction of judicial business.* When such an immediate injunction is issued, the court shall hold a hearing on the next day of judicial business either to dissolve the injunction or to continue or modify it in accordance with the other provisions of this section.

~~(b) A judge may issue an emergency injunction pursuant to this section at times when the court is closed for the transaction of judicial business. The court shall hold a hearing on the next day of judicial business either to dissolve the emergency injunction or to continue or modify it in accordance with the other provisions of this section.~~

(3)(a) In every instance in which an injunction is issued under this section, the purpose of the injunction shall be primarily to protect and promote the best interests of the child, taking the preservation of the child's immediate family into consideration. The effective period of the injunction shall be determined by the court, except that the injunction will expire at the time of the disposition of the petition for detention or dependency.

(b) The injunction shall apply to the alleged or actual offender in a case of child abuse or an unlawful sexual offense involving a child. The conditions of the injunction shall be determined by the court, which conditions may include ordering the alleged or actual offender to:

1. Refrain from further abuse or unlawful sexual activity involving a child.

2. Participate in a specialized treatment program.

3. Limit contact or communication with the child victim, other children in the home, or any other child.

4. Refrain from contacting the child at home, school, work, or wherever the child may be found.

5. Have limited or supervised visitation with the child.

6. Pay temporary support for the child or other family members; the costs of medical, psychiatric, and psychological treatment for the child victim incurred as a result of the offenses; and similar costs for other family members.

7. Vacate the home in which the child resides.

(c) At any time prior to the disposition of the petition, the alleged or actual offender may offer the court evidence of changed circumstances as a ground to dissolve or modify the injunction.

(4) A copy of any injunction issued pursuant to this section shall be delivered to the protected party, or a parent *or caregiver* or ~~an~~ individual acting in the place of a parent who is not the respondent, and to any law enforcement agency having jurisdiction to enforce such injunction. Upon delivery of the injunction to the appropriate law enforcement agency, the agency shall have the duty and responsibility to enforce the injunction.

(5) Any person who fails to comply with an injunction issued pursuant to this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 49. Section 39.406, Florida Statutes, is renumbered as section 39.505, Florida Statutes, and amended to read:

39.505 ~~39.406~~ No answer required.—No answer to the petition or any other pleading need be filed by any child, parent, or legal custodian, but any matters which might be set forth in an answer or other pleading may be pleaded orally before the court or filed in writing as any such person may choose. Notwithstanding the filing of an answer or any pleading, the *respondent* ~~child or parent~~ shall, prior to an adjudicatory hearing, be advised by the court of the right to counsel and shall be given an opportunity to deny the allegations in the petition for dependency or to enter a plea to allegations in the petition before the court.

Section 50. Section 39.408, Florida Statutes, is renumbered as section 39.506, Florida Statutes, and amended to read:

39.506 ~~39.408~~ *Arraignment* hearings ~~for dependency cases~~.—

(1) ~~ARRAIGNMENT HEARING.—~~

~~(a)~~ When a child has been detained by order of the court, an arraignment hearing must be held, within *7 days after the date of filing of the dependency petition* ~~14 days from the date the child is taken into custody~~, for the parent~~, guardian,~~ or *legal* custodian to admit, deny, or consent to findings of dependency alleged in the petition. If the parent~~, guardian,~~ or *legal* custodian admits or consents to the findings in the petition, the court shall proceed as set forth in the Florida Rules of Juvenile Procedure. However, if the parent~~, guardian,~~ or *legal* custodian denies any of the allegations of the petition, the court shall hold an adjudicatory hearing within *30 days after* ~~7 days from~~ the date of the arraignment hearing unless a continuance is granted pursuant to *this chapter* ~~s. 39.402(11)~~.

(2)~~(b)~~ When a child is in the custody of the parent~~, guardian,~~ or *legal* custodian, upon the filing of a petition the clerk shall set a date for an

arraignment hearing within a reasonable time after the date of the filing. If the parent~~, guardian,~~ or *legal* custodian admits or consents to an adjudication, the court shall proceed as set forth in the Florida Rules of Juvenile Procedure. However, if the parent~~, guardian,~~ or *legal* custodian denies any of the allegations of dependency, the court shall hold an adjudicatory hearing within a reasonable time after the date of the arraignment hearing.

(3) Failure of a person served with notice to respond or appear at the arraignment hearing constitutes the person's consent to a dependency adjudication. The document containing the notice to respond or appear must contain, in type at least as large as the balance of the document, the following or substantially similar language: "FAILURE TO RESPOND TO THIS NOTICE OR TO PERSONALLY APPEAR AT THE ARRAIGNMENT HEARING CONSTITUTES CONSENT TO THE ADJUDICATION OF THIS CHILD (OR CHILDREN) AS A DEPENDENT CHILD (OR CHILDREN) AND MAY ULTIMATELY RESULT IN LOSS OF CUSTODY OF THIS CHILD (OR CHILDREN)."

(4) At the arraignment hearing, each party shall provide to the court a permanent mailing address. The court shall advise each party that this address will be used by the court and the petitioner for notice purposes unless and until the party notifies the court and the petitioner in writing of a new mailing address.

(5)~~(c)~~ If at the arraignment hearing the parent~~, guardian,~~ or *legal* custodian consents or admits to the allegations in the petition, the court shall proceed to hold a dispositional hearing *no more than 15 days after the date of the arraignment hearing unless a continuance is necessary* ~~at the earliest practicable time that will allow for the completion of a predisposition study~~.

(6) At any arraignment hearing, the court shall order visitation rights absent a clear and convincing showing that visitation is not in the best interest of the child.

(7) The court shall review whether the department has made a reasonable effort to prevent or eliminate the need for removal or continued removal of the child from the home. If the court determines that the department has not made such an effort, the court shall order the department to provide appropriate and available services to assure the protection of the child in the home when such services are necessary for the child's physical, mental, or emotional health and safety.

(8) At the arraignment hearing, and no more than 15 days thereafter, the court shall review the necessity for the child's continued placement in the shelter. The court shall also make a written determination regarding the child's continued placement in the shelter within 24 hours after any violation of the time requirements for the filing of a petition or prior to the court's granting any continuance as specified in subsection (5).

(9) At the conclusion of the arraignment hearing, all parties shall be notified in writing by the court of the date, time, and location for the next scheduled hearing.

~~(2) ADJUDICATORY HEARING.—~~

~~(a) The adjudicatory hearing shall be held as soon as practicable after the petition for dependency is filed and in accordance with the Florida Rules of Juvenile Procedure, but reasonable delay for the purpose of investigation, discovery, or procuring counsel or witnesses shall, whenever practicable, be granted. If the child is in custody, the time limitations provided in s. 39.402 and subsection (1) of this section apply.~~

~~(b) Adjudicatory hearings shall be conducted by the judge without a jury, applying the rules of evidence in use in civil cases and adjourning the hearings from time to time as necessary. In a hearing on a petition in which it is alleged that the child is dependent, a preponderance of evidence will be required to establish the state of dependency. Any evidence presented in the dependency hearing which was obtained as the result of an anonymous call must be independently corroborated. In no instance shall allegations made in an anonymous report of abuse be sufficient to support an adjudication of dependency in the absence of corroborating evidence.~~

~~(c) All hearings, except as provided in this section, shall be open to the public, and a person may not be excluded except on special order of the judge, who may close any hearing to the public upon determining that the public interest or the welfare of the child is best served by so doing. However, the parents shall be allowed to obtain discovery pursuant to the Florida Rules of Juvenile Procedure. However, nothing in this paragraph shall be construed to affect the provisions of s. 415.51(9). Hearings involving more than one child may be held simultaneously when the children involved are related to each other or were involved in the same case. The child and the parents or legal custodians of the child may be examined separately and apart from each other.~~

~~(3) DISPOSITION HEARING.—At the disposition hearing, if the court finds that the facts alleged in the petition for dependency were proven in the adjudicatory hearing, or if the parents have consented to the finding of dependency or admitted the allegations in the petition, have failed to appear for the arraignment hearing after proper notice, or have not been located despite a diligent search having been conducted, the court shall receive and consider a predisposition study, which must be in writing and presented by an authorized agent of the department.~~

~~(a) The predisposition study shall cover for any dependent child all factors specified in s. 61.13(3), and must also provide the court with the following documented information:~~

~~1. An assessment defining the dangers and risks of returning the child home, including a description of the changes in and resolutions to the initial risks.~~

~~2. A description of what risks are still present and what resources are available and will be provided for the protection and safety of the child.~~

~~3. A description of the benefits of returning the child home.~~

~~4. A description of all unresolved issues.~~

~~5. An abuse registry history for all caretakers, family members, and individuals residing within the household.~~

~~6. The complete child protection team report and recommendation or, if no report exists, a statement reflecting that no report has been made.~~

~~7. All opinions or recommendations from other professionals or agencies that provide evaluative, social, reunification, or other services to the family.~~

~~8. The availability of appropriate prevention and reunification services for the family to prevent the removal of the child from the home or to reunify the child with the family after removal, including the availability of family preservation services through the Family Builders Program, the Intensive Crisis Counseling Program, or both.~~

~~9. The inappropriateness of other prevention and reunification services that were available.~~

~~10. The efforts by the department to prevent out-of-home placement of the child or, when applicable, to reunify the family if appropriate services were available, including the application of intensive family preservation services through the Family Builders Program, the Intensive Crisis Counseling Program, or both.~~

~~11. Whether the services were provided to the family and child.~~

~~12. If the services were provided, whether they were sufficient to meet the needs of the child and the family and to enable the child to remain at home or to be returned home.~~

~~13. If the services were not provided, the reasons for such lack of action.~~

~~14. The need for, or appropriateness of, continuing the services if the child remains in the custody of the family or if the child is placed outside the home.~~

~~15. Whether family mediation was provided.~~

~~16. Whether a multidisciplinary case staffing was conducted and, if so, the results.~~

~~17. If the child has been removed from the home and there is a parent who may be considered for custody pursuant to s. 39.41(1), a~~

~~recommendation as to whether placement of the child with that parent would be detrimental to the child.~~

~~(b) If placement of the child with anyone other than the child's parent or custodian is being considered, the study shall include the designation of a specific length of time as to when custody by the parent or custodian will be reconsidered.~~

~~(c) A copy of the predisposition study must be furnished to all parties no later than 48 hours before the disposition hearing.~~

~~(d) The predisposition study may not be made before the adjudication of dependency unless the parents or custodians of the child consent.~~

~~Any other relevant and material evidence, including other written or oral reports, may be received by the court in its effort to determine the action to be taken with regard to the child and may be relied upon to the extent of its probative value, even though not competent in an adjudicatory hearing. Except as provided in paragraph (2)(c), nothing in this section prohibits the publication of proceedings in a hearing.~~

~~(4) NOTICE OF HEARINGS.—The parent or legal custodian of the child, the attorney for the department, the guardian ad litem, and all other parties and participants shall be given reasonable notice of all hearings provided for under this section.~~

Section 51. Section 39.409, Florida Statutes, is renumbered as section 39.507, Florida Statutes, and amended to read:

39.507 ~~39.409~~ *Adjudicatory hearings;* orders of adjudication.—

(1)(a) The adjudicatory hearing shall be held as soon as practicable after the petition for dependency is filed and in accordance with the Florida Rules of Juvenile Procedure, but no later than 30 days after the arraignment.

(b) Adjudicatory hearings shall be conducted by the judge without a jury, applying the rules of evidence in use in civil cases and adjourning the hearings from time to time as necessary. In a hearing on a petition in which it is alleged that the child is dependent, a preponderance of evidence will be required to establish the state of dependency. Any evidence presented in the dependency hearing which was obtained as the result of an anonymous call must be independently corroborated. In no instance shall allegations made in an anonymous report of abuse, abandonment, or neglect be sufficient to support an adjudication of dependency in the absence of corroborating evidence.

(2) All hearings, except as provided in this section, shall be open to the public, and a person may not be excluded except on special order of the judge, who may close any hearing to the public upon determining that the public interest or the welfare of the child is best served by so doing. However, the parents shall be allowed to obtain discovery pursuant to the Florida Rules of Juvenile Procedure. However, nothing in this subsection shall be construed to affect the provisions of s. 39.202. Hearings involving more than one child may be held simultaneously when the children involved are related to each other or were involved in the same case. The child and the parents, caregivers, or legal custodians of the child may be examined separately and apart from each other.

(3) Except as otherwise specifically provided, nothing in this section prohibits the publication of the proceedings in a hearing.

(4)~~(1)~~ If the court finds *at the adjudicatory hearing* that the child named in a petition is not dependent, it shall enter an order so finding and dismissing the case.

(5)~~(2)~~ If the court finds that the child named in the petition is dependent, but finds that no action other than supervision in the child's home is required, it may enter an order briefly stating the facts upon which its finding is based, but withholding an order of adjudication and placing the child's home under the supervision of the department. If the court later finds that the *parents, caregivers, or legal* custodians of the child have not complied with the conditions of supervision imposed, the court may, after a hearing to establish the noncompliance, but without further evidence of the state of dependency, enter an order of adjudication and shall thereafter have full authority under this chapter to provide for the child as adjudicated.

(6)~~(3)~~ If the court finds that the child named in a petition is dependent, but shall elect not to proceed under subsection *(5)* ~~(2)~~, it shall incorporate that finding in an order of adjudication entered in the case, briefly stating the facts upon which the finding is made, and the court shall thereafter have full authority under this chapter to provide for the child as adjudicated.

(7) At the conclusion of the adjudicatory hearing, if the child named in the petition is found dependent, the court shall schedule the disposition hearing within 30 days after the filing of the adjudicatory order. All parties shall be notified in writing by the court of the date, time, and location of the disposition hearing.

(8)~~(4)~~ An order of adjudication by a court that a child is dependent shall not be deemed a conviction, nor shall the child be deemed to have been found guilty or to be a criminal by reason of that adjudication, nor shall that adjudication operate to impose upon the child any of the civil disabilities ordinarily imposed by or resulting from conviction or disqualify or prejudice the child in any civil service application or appointment.

Section 52. Section 39.41, Florida Statutes, as amended by chapter 97-276, Laws of Florida, is renumbered as section 39.508, Florida Statutes, and amended to read:

39.508 ~~39.41~~ Powers of disposition.—

(1) At the disposition hearing, if the court finds that the facts alleged in the petition for dependency were proven in the adjudicatory hearing, or if the parents, caregivers, or legal custodians have consented to the finding of dependency or admitted the allegations in the petition, have failed to appear for the arraignment hearing after proper notice, or have not been located despite a diligent search having been conducted, the court shall receive and consider a case plan and a predisposition study, which must be in writing and presented by an authorized agent of the department.

(2) The predisposition study shall cover for any dependent child all factors specified in s. 61.13(3), and must also provide the court with the following documented information:

(a) An assessment defining the dangers and risks of returning the child home, including a description of the changes in and resolutions to the initial risks.

(b) A description of what risks are still present and what resources are available and will be provided for the protection and safety of the child.

(c) A description of the benefits of returning the child home.

(d) A description of all unresolved issues.

(e) An abuse registry history and criminal records check for all caregivers, family members, and individuals residing within the household.

(f) The complete child protection team report and recommendation or, if no report exists, a statement reflecting that no report has been made.

(g) All opinions or recommendations from other professionals or agencies that provide evaluative, social, reunification, or other services to the family.

(h) The availability of appropriate prevention and reunification services for the family to prevent the removal of the child from the home or to reunify the child with the family after removal, including the availability of family preservation services through the Family Builders Program, the Intensive Crisis Counseling Program, or both.

(i) The inappropriateness of other prevention and reunification services that were available.

(j) The efforts by the department to prevent out-of-home placement of the child or, when applicable, to reunify the family if appropriate services were available, including the application of intensive family preservation services through the Family Builders Program, the Intensive Crisis Counseling Program, or both.

(k) Whether the services were provided to the family and child.

(l) If the services were provided, whether they were sufficient to meet the needs of the child and the family and to enable the child to remain safely at home or to be returned home.

(m) If the services were not provided, the reasons for such lack of action.

(n) The need for, or appropriateness of, continuing the services if the child remains in the custody of the family or if the child is placed outside the home.

(o) Whether family mediation was provided.

(p) If the child has been removed from the home and there is a parent, caregiver, or legal custodian who may be considered for custody pursuant to this section, a recommendation as to whether placement of the child with that parent, caregiver, or legal custodian would be detrimental to the child.

(q) If the child has been removed from the home and will be remaining with a relative or caregiver, a home study report shall be included in the predisposition report.

Any other relevant and material evidence, including other written or oral reports, may be received by the court in its effort to determine the action to be taken with regard to the child and may be relied upon to the extent of its probative value, even though not competent in an adjudicatory hearing. Except as otherwise specifically provided, nothing in this section prohibits the publication of proceedings in a hearing.

(3)(a) Prior to recommending to the court any out-of-home placement for a child other than placement in a licensed shelter or foster home, the department shall conduct a study of the home of the proposed caregivers, which must include, at a minimum:

1. An interview with the proposed adult caregivers to assess their ongoing commitment and ability to care for the child.

2. Records checks through the department's automated abuse information system, and local and statewide criminal and juvenile records checks through the Department of Law Enforcement, on all household members 12 years of age or older and any other persons made known to the department who are frequent visitors in the home.

3. An assessment of the physical environment of the home.

4. A determination of the financial security of the proposed caregivers.

5. A determination of suitable child care arrangements if the proposed caregivers are employed outside of the home.

6. Documentation of counseling and information provided to the proposed caregivers regarding the dependency process and possible outcomes.

7. Documentation that information regarding support services available in the community has been provided to the caregivers.

(b) The department shall not place the child or continue the placement of the child in the home of the proposed caregivers if the results of the home study are unfavorable.

(4) If placement of the child with anyone other than the child's parent, caregiver, or legal custodian is being considered, the predisposition study shall include the designation of a specific length of time as to when custody by the parent, caregiver, or legal custodian will be reconsidered.

(5) The predisposition study may not be made before the adjudication of dependency unless the parents, *caregivers,* or *legal* custodians of the child consent.

(6) A case plan and predisposition study must be filed with the court and served upon the parents, caregivers, or legal custodians of the child, provided to the representative of the guardian ad litem program, if the program has been appointed, and provided to all other parties not less than 72 hours before the disposition hearing. All such case plans must be approved by the court. If the court does not approve the case plan at the disposition hearing, the court must set a hearing within 30 days after the disposition hearing to review and approve the case plan.

(7) The initial judicial review must be held no later than 90 days after the date of the disposition hearing or after the date of the hearing at which the court approves the case plan, but in no event shall the review be held later than 6 months after the date of the child's removal from the home.

(8)~~(1)~~ When any child is adjudicated by a court to be dependent, and the court finds that removal of the child from the custody of a parent, *legal custodian, or caregiver* is necessary, the court shall first determine whether there is a parent with whom the child was not residing at the time the events or conditions arose that brought the child within the jurisdiction of the court who desires to assume custody of the child and, if such parent requests custody, the court shall place the child with the parent unless it finds that such placement would endanger the safety, ~~and~~ well-being, *or physical, mental, or emotional health* of the child. Any party with knowledge of the facts may present to the court evidence regarding whether the placement will endanger the safety, ~~and~~ well-being, *or physical, mental, or emotional health* of the child. If the court places the child with such parent, it may do either of the following:

(a) Order that the parent become the legal and physical custodian of the child. The court may also provide for reasonable visitation by the noncustodial parent. The court shall then terminate its jurisdiction over the child. The custody order shall continue unless modified by a subsequent order of the court. The order of the juvenile court shall be filed in any dissolution or other custody action or proceeding between the parents.

(b) Order that the parent assume custody subject to the jurisdiction of the juvenile court. The court may order that reunification services be provided to the parent, *caregiver, or legal custodian* ~~or guardian~~ from whom the child has been removed, that services be provided solely to the parent who is assuming physical custody in order to allow that parent to retain later custody without court jurisdiction, or that services be provided to both parents, in which case the court shall determine at *every* review hearing~~s held every 6 months~~ which parent, if either, shall have custody of the child. The standard for changing custody of the child from one parent to another *or to a relative or caregiver must meet the home study criteria and court approval pursuant to this chapter* ~~at the review hearings shall be the same standard as applies to changing custody of the child in a custody hearing following a decree of dissolution of marriage~~.

(9)~~(2)~~(a) When any child is adjudicated by a court to be dependent, the court having jurisdiction of the child has the power, by order, to:

1. Require the parent, *caregiver, or legal* ~~guardian, or~~ custodian, and the child when appropriate, to participate in treatment and services identified as necessary.

2. Require the parent, *caregiver, or legal* ~~guardian, or~~ custodian, and the child when appropriate, to participate in mediation if the parent, *caregiver, or legal* ~~guardian, or~~ custodian refused to participate in mediation ~~under s. 39.4033~~.

3. Place the child under the protective supervision of an authorized agent of the department, either in the child's own home or, the prospective custodian being willing, in the home of a relative of the child or of *a caregiver* ~~an adult nonrelative~~ approved by the court, or in some other suitable place under such reasonable conditions as the court may direct. ~~Whenever the child is placed under protective supervision pursuant to this section, the department shall prepare a case plan and shall file it with the court.~~ Protective supervision continues until the court terminates it or until the child reaches the age of 18, whichever date is first. Protective supervision *shall* ~~may~~ be terminated by the court whenever the court determines that *permanency has been achieved for the child* ~~the child's placement~~, whether with a parent, another relative, *a legal custodian, or a caregiver*, ~~or a nonrelative, is stable~~ and that protective supervision is no longer needed. The termination of supervision may be with or without retaining jurisdiction, at the court's discretion, and shall in either case be considered a permanency option for the child. The order terminating supervision by the department ~~of Children and Family Services~~ shall set forth the powers of the custodian of the child and shall include the powers ordinarily granted to a guardian of the person of a minor unless otherwise specified.

4. Place the child in the temporary legal custody of an adult relative or *caregiver* ~~an adult nonrelative~~ approved by the court who is willing to care for the child.

5.a. When the parents have failed to comply with a case plan and the court determines at a judicial review hearing, *or at an adjudication*

hearing held pursuant to ~~s. 39.453, or at a hearing held pursuant to subparagraph (1)(a)7. of~~ this section, that neither reunification, termination of parental rights, nor adoption is in the best interest of the child, the court may place the child in the long-term custody of an adult relative or *caregiver* ~~adult nonrelative~~ approved by the court willing to care for the child, if the following conditions are met:

(I) A case plan describing the responsibilities of the relative or *caregiver* ~~nonrelative~~, the department, and any other party must have been submitted to the court.

(II) The case plan for the child does not include reunification with the parents or adoption by the relative *or caregiver*.

(III) The child and the relative or *caregiver* ~~nonrelative custodian~~ are determined not to need protective supervision or preventive services to ensure the stability of the long-term custodial relationship, or the department assures the court that protective supervision or preventive services will be provided in order to ensure the stability of the long-term custodial relationship.

(IV) Each party to the proceeding agrees that a long-term custodial relationship does not preclude the possibility of the child returning to the custody of the parent at a later date.

(V) The court has considered the reasonable preference of the child if the court has found the child to be of sufficient intelligence, understanding, and experience to express a preference.

(VI) The court has considered the recommendation of the guardian ad litem if one has been appointed.

b. The court shall retain jurisdiction over the case, and the child shall remain in the long-term custody of the relative or *caregiver* ~~nonrelative~~ approved by the court until the order creating the long-term custodial relationship is modified by the court. The court may relieve the department of the responsibility for supervising the placement of the child whenever the court determines that the placement is stable and that such supervision is no longer needed. Notwithstanding the retention of jurisdiction, the placement shall be considered a permanency option for the child when the court relieves the department of the responsibility for supervising the placement. The order terminating supervision by the department ~~of Children and Family Services~~ shall set forth the powers of the custodian of the child and shall include the powers ordinarily granted to a guardian of the person of a minor unless otherwise specified. The court may modify the order terminating supervision of the long-term relative or *caregiver* ~~nonrelative~~ placement if it finds that a party to the proceeding has shown a material change in circumstances which causes the long-term relative or *caregiver* ~~nonrelative~~ placement to be no longer in the best interest of the child.

6.a. Approve placement of the child in long-term *out-of-home* ~~foster~~ care, when the following conditions are met:

(I) The foster child is 16 years of age or older, unless the court determines that the history or condition of a younger child makes long-term *out-of-home* ~~foster~~ care the most appropriate placement.

(II) The child demonstrates no desire to be placed in an independent living arrangement pursuant to this subsection.

(III) The department's social services study pursuant to *part VIII* ~~s. 39.453(6)(a)~~ recommends long-term *out-of-home* ~~foster~~ care.

b. Long-term *out-of-home* ~~foster~~ care under the above conditions shall not be considered a permanency option.

c. The court may approve placement of the child in long-term *out-of-home* ~~foster~~ care, as a permanency option, when all of the following conditions are met:

(I) The child is 14 years of age or older,

(II) The child is living in a licensed home and the foster parents desire to provide care for the child on a permanent basis and the foster parents and the child do not desire adoption,

(III) The foster family has made a commitment to provide for the child until he or she reaches the age of majority and to prepare the child for adulthood and independence, and

(IV) The child has remained in the home for a continuous period of no less than 12 months.

(V) The foster parents and the child view one another as family and consider living together as the best place for the child to be on a permanent basis.

(VI) The department's social services study recommends such placement and finds the child's well-being has been promoted through living with the foster parents.

d. Notwithstanding the retention of jurisdiction and supervision by the department, long-term *out-of-home* ~~foster~~ care placements made pursuant to ~~sub-subparagraph (2)(a)6.c. of~~ this section shall be considered a permanency option for the child. For purposes of this subsection, supervision by the department shall be defined as a minimum of semiannual visits. The order placing the child in long-term *out-of-home* ~~foster~~ care as a permanency option shall set forth the powers of the custodian of the child and shall include the powers ordinarily granted to a guardian of the person of a minor unless otherwise specified. The court may modify the permanency option of long-term *out-of-home* ~~foster~~ care if it finds that a party to the proceeding has shown a material change in circumstances which causes the placement to be no longer in the best interests of the child.

e. Approve placement of the child in an independent living arrangement for any foster child 16 years of age or older, if it can be clearly established that this type of alternate care arrangement is the most appropriate plan and that the health, safety, and well-being of the child will not be jeopardized by such an arrangement. While in independent living situations, children whose legal custody has been awarded to the department or a licensed child-caring or child-placing agency, or who have been voluntarily placed with such an agency by a parent, guardian, relative, or adult nonrelative approved by the court, continue to be subject to court review provisions.

~~7. Commit the child to a licensed child-caring agency willing to receive the child. Continued commitment to the licensed child-caring agency, as well as all other proceedings under this section pertaining to the child, are also governed by part V of this chapter.~~

7.~~8.~~ Commit the child to the temporary legal custody of the department. Such commitment invests in the department all rights and responsibilities of a legal custodian. The department shall not return any child to the physical care and custody of the person from whom the child was removed, except for short visitation periods, without the approval of the court. The term of such commitment continues until terminated by the court or until the child reaches the age of 18. After the child is committed to the temporary custody of the department, all further proceedings under this section are also governed by ~~part V of~~ this chapter.

8.~~9.~~a. Change the temporary legal custody or the conditions of protective supervision at a postdisposition hearing subsequent to the initial detention hearing, without the necessity of another adjudicatory hearing. A child who has been placed in the child's own home under the protective supervision of an authorized agent of the department, in the home of a relative, in the home of a *legal custodian or caregiver* ~~nonrelative~~, or in some other place may be brought before the court by the agent of the department who is supervising the placement or by any other interested person, upon the filing of a petition alleging a need for a change in the conditions of protective supervision or the placement. If the parents or other custodians deny the need for a change, the court shall hear all parties in person or by counsel, or both. Upon the admission of a need for a change or after such hearing, the court shall enter an order changing the placement, modifying the conditions of protective supervision, or continuing the conditions of protective supervision as ordered. *The standard for changing custody of the child from one parent to another or to a relative or caregiver must meet the home study criteria and court approval pursuant to this chapter.*

b. In cases where the issue before the court is whether a child should be reunited with a parent, the court shall determine whether the parent has substantially complied with the terms of the case plan to the extent that the ~~well-being and~~ safety, *well-being, and physical, mental, and emotional health* of the child is not endangered by the return of the child to the home.

~~10. Approve placement of the child in an independent living arrangement for any foster child 16 years of age or older, if it can be clearly~~

~~established that this type of alternate care arrangement is the most appropriate plan and that the safety and welfare of the child will not be jeopardized by such an arrangement. While in independent living situations, children whose legal custody has been awarded to the department or a licensed child-caring or child-placing agency, or who have been voluntarily placed with such an agency by a parent, guardian, relative, or adult nonrelative approved by the court, continue to be subject to the court review provisions of s. 39.453.~~

(b) The court shall, in its written order of disposition, include all of the following:

1. The placement or custody of the child as provided in paragraph (a).

2. Special conditions of placement and visitation.

3. Evaluation, counseling, treatment activities, and other actions to be taken by the parties, if ordered.

4. The persons or entities responsible for supervising or monitoring services to the child and family.

5. Continuation or discharge of the guardian ad litem, as appropriate.

6. *The date, time, and location of the next scheduled review hearing, which must occur within 90 days after the disposition hearing or within the earlier of:*

a. Six months after the date of the last review hearing; or

b. Six months after the date of the child's removal from his or her home, if no review hearing has been held since the child's removal from the home. ~~The period of time or date for any subsequent case review required by law.~~

7. Other requirements necessary to protect the health, safety, and well-being of the child, *to preserve the stability of the child's educational placement,* and to promote family preservation or reunification whenever possible.

(c) If the court finds that the prevention or reunification efforts of the department will allow the child to remain safely at home or be safely returned to the home, the court shall allow the child to remain in or return to the home after making a specific finding of fact that the reasons for removal have been remedied to the extent that the child's safety, ~~and~~ well-being, *and physical, mental, and emotional health* will not be endangered.

(d)~~(5)(a)~~ If the court commits the child to the temporary legal custody of the department, the disposition order must include a written determination that the child cannot *safely* remain at home with reunification or family preservation services and that removal of the child is necessary to protect the child. If the child has been removed before the disposition hearing, the order must also include a written determination as to whether, after removal, the department has made a reasonable effort to reunify the family. The department has the burden of demonstrating that it has made reasonable efforts under this *paragraph* ~~subsection~~.

1.~~(b)~~ For the purposes of this *paragraph* ~~subsection~~, the term "reasonable effort" means the exercise of reasonable diligence and care by the department to provide the services delineated in the case plan.

2.~~(c)~~ In support of its determination as to whether reasonable efforts have been made, the court shall:

a.~~1.~~ Enter written findings as to whether or not prevention or reunification efforts were indicated.

b.~~2.~~ If prevention or reunification efforts were indicated, include a brief written description of what appropriate and available prevention and reunification efforts were made.

c.~~3.~~ Indicate in writing why further efforts could or could not have prevented or shortened the separation of the family.

3.~~(d)~~ A court may find that the department has made a reasonable effort to prevent or eliminate the need for removal if:

a.~~1.~~ The first contact of the department with the family occurs during an emergency.

b.~~2.~~ The appraisal by the department of the home situation indicates that it presents a substantial and immediate danger to the *child's safety or physical, mental, or emotional health* ~~child~~ which cannot be mitigated by the provision of preventive services.

c.~~3.~~ The child cannot safely remain at home, either because there are no preventive services that can ensure the *health and* safety of the child or, even with appropriate and available services being provided, the *health and* safety of the child cannot be ensured.

4.~~(e)~~ A reasonable effort by the department for reunification of the family has been made if the appraisal of the home situation by the department indicates that the severity of the conditions of dependency is such that reunification efforts are inappropriate. The department has the burden of demonstrating to the court that reunification efforts were inappropriate.

5.~~(f)~~ If the court finds that the prevention or reunification effort of the department would not have permitted the child to remain safely at home, the court may commit the child to the temporary legal custody of the department or take any other action authorized by this *chapter* ~~part~~.

(10)~~(3)~~(a) When any child is adjudicated by the court to be dependent and temporary legal custody of the child has been placed with an adult relative, *legal custodian, or caregiver* ~~or adult nonrelative~~ approved by the court ~~willing to care for the child~~, a licensed child-caring agency, or the department, the court shall, unless a parent has voluntarily executed a written surrender for purposes of adoption, order the parents, or the guardian of the child's estate if possessed of assets which under law may be disbursed for the care, support, and maintenance of the child, to pay child support to the adult relative, *legal custodian, or caregiver* ~~or nonrelative~~ caring for the child, the licensed child-caring agency, or the department. The court may exercise jurisdiction over all child support matters, shall adjudicate the financial obligation, including health insurance, of the child's parents or guardian, and shall enforce the financial obligation as provided in chapter 61. The state's child support enforcement agency shall enforce child support orders under this section in the same manner as child support orders under chapter 61.

(b) Placement of the child pursuant to subsection *(8)* ~~(1)~~ shall not be contingent upon issuance of a support order.

(11)~~(4)~~(a) If the court does not commit the child to the temporary legal custody of an adult relative, *legal custodian, or caregiver* ~~or adult nonrelative~~ approved by the court, the disposition order shall include the reasons for such a decision and shall include a determination as to whether diligent efforts were made by the department to locate an adult relative, *legal custodian, or caregiver* willing to care for the child in order to present that placement option to the court instead of placement with the department.

(b) If *diligent efforts are* ~~a diligent search is~~ made to locate an adult relative willing and able to care for the child but, because no suitable relative is found, the child is placed with the department or a *legal custodian or caregiver* ~~nonrelative custodian~~, both the department and the court shall consider transferring temporary legal custody to *an* ~~a willing~~ adult relative ~~or adult nonrelative~~ approved by the court at a later date, but neither the department nor the court is obligated to so place the child if it is in the child's best interest to remain in the current placement. *For the purposes of this paragraph, "diligent efforts to locate an adult relative" means a search similar to the diligent search for a parent, but without the continuing obligation to search after an initial adequate search is completed.*

(12)~~(6)~~ An agency granted legal custody shall have the right to determine where and with whom the child shall live, but an individual granted legal custody shall exercise all rights and duties personally unless otherwise ordered by the court.

(13)~~(7)~~ In carrying out the provisions of this chapter, the court may order the natural parents, *caregivers,* or legal *custodians* ~~guardian~~ of a child who is found to be dependent to participate in family counseling and other professional counseling activities deemed necessary for the rehabilitation of the child.

(14)~~(8)~~ With respect to a child who is the subject in proceedings under ~~part V of~~ this chapter, the court shall *issue to the department an order to show cause why it should not* return the child to the custody of the natural parents, *legal custodians, or caregivers* upon expiration of the case plan, or sooner if the parents, *legal custodians, or caregivers* have substantially complied with the case plan.

(15)~~(9)~~ The court may at any time enter an order ending its jurisdiction over any child, except that, when a child has been returned to the parents under subsection *(14)* ~~(8)~~, the court shall not terminate its jurisdiction over the child until 6 months after the *child's* return. Based on a report of the department or agency *or the child's guardian ad litem*, and any other relevant factors, the court shall then determine whether its jurisdiction should be continued or terminated in such a case; if its jurisdiction is to be terminated, the court shall enter an order to that effect.

Section 53. Section 39.5085, Florida Statutes, is created to read:

39.5085 Relative-Caregiver Program.—

(1) It is the intent of the Legislature in enacting this section to:

(a) Recognize family relationships in which a grandparent or other relative is the head of a household that includes a child otherwise at risk of foster care placement.

(b) Enhance family preservation and stability by recognizing that most children in such placements with grandparents and other relatives do not need intensive supervision of the placement by the courts or by the department.

(c) Provide additional placement options and incentives that will achieve permanency and stability for many children who are otherwise at risk of foster care placement because of abuse, abandonment, or neglect, but who may successfully be able to be placed by the dependency court in the care of such relatives.

(d) Reserve the limited casework and supervisory resources of the courts and the department for those cases in which children do not have the option for safe, stable care within the family.

(2)(a) The Department of Children and Family Services shall establish and operate the Relative-Caregiver Program pursuant to eligibility guidelines established in this section as further implemented by rule of the department. The Relative-Caregiver Program shall, within the limits of available funding, provide financial assistance to relatives who are within the fifth degree by blood or marriage to the parent or stepparent of a child and who are caring full-time for that child in the role of substitute parent as a result of a departmental determination of child abuse, neglect, or abandonment and subsequent placement with the relative pursuant to chapter 39. Such placement may be either court-ordered temporary legal custody to the relative pursuant to s. 39.508(9) or court-ordered placement in the home of a relative under protective supervision of the department pursuant to s. 39.508(9). The Relative-Caregiver Program shall offer financial assistance to caregivers who are relatives and who would be unable to serve in that capacity without the relative-caregiver payment because of financial burden, thus exposing the child to the trauma of placement in a shelter or in foster care.

(b) Caregivers who are relatives and who receive assistance under this section must be capable, as determined by a home study, of providing a physically safe environment and a stable, supportive home for the children under their care, and must assure that the children's well-being is met, including, but not limited to, the provision of immunizations, education, and mental health services as needed.

(c) Relatives who qualify for and participate in the Relative-Caregiver Program are not required to meet foster care licensing requirements under s. 409.175.

(d) Relatives who are caring for children placed with them by the child protection system shall receive a special monthly relative-caregiver benefit established by rule of the department. The amount of the special benefit payment shall be based on the child's age within a payment schedule established by rule of the department and subject to availability of funding. The statewide average monthly rate for children judicially placed with relatives who are not licensed as foster homes may not exceed 82 percent of the statewide average foster care rate, nor may the cost of providing the assistance described in this section to any relative-caregiver exceed the cost of providing out-of-home care in emergency shelter or foster care.

(e) Children receiving cash benefits under this section are not eligible to simultaneously receive WAGES cash benefits under chapter 414.

(f) Within available funding, the Relative-Caregiver Program shall provide relative-caregivers with family support and preservation services, flexible funds in accordance with s. 409.165, subsidized child care, and other available services in order to support the child's safety, growth, and healthy development. Children living with relative-caregivers who are receiving assistance under this section shall be eligible for medicaid coverage.

(g) The department may use appropriate available state, federal, and private funds to operate the Relative-Caregiver Program.

Section 54. Section 39.4105, Florida Statutes, is renumbered as section 39.509, Florida Statutes, and amended to read:

39.509 ~~39.4105~~ Grandparents rights.—Notwithstanding any other provision of law, a maternal or paternal grandparent as well as a step-grandparent is entitled to reasonable visitation with his or her grandchild who has been adjudicated a dependent child and taken from the physical custody of *the* ~~his or her~~ parent, custodian, legal guardian, or caregiver unless the court finds that such visitation is not in the best interest of the child or that such visitation would interfere with the goals of the case plan ~~pursuant to s. 39.451~~. Reasonable visitation may be unsupervised and, where appropriate and feasible, may be frequent and continuing.

(1) Grandparent visitation may take place in the home of the grandparent unless there is a compelling reason for denying such a visitation. The department's caseworker shall arrange the visitation to which a grandparent is entitled pursuant to this section. The state shall not charge a fee for any costs associated with arranging the visitation. However, the grandparent shall pay for the child's cost of transportation when the visitation is to take place in the grandparent's home. The caseworker shall document the reasons for any decision to restrict a grandparent's visitation.

(2) A grandparent entitled to visitation pursuant to this section shall not be restricted from appropriate displays of affection to the child, such as appropriately hugging or kissing his or her grandchild. Gifts, cards, and letters from the grandparent and other family members shall not be denied to a child who has been adjudicated a dependent child.

(3) Any attempt by a grandparent to facilitate a meeting between the child who has been adjudicated a dependent child and the child's parent, *custodian, legal guardian, or caregiver* in violation of a court order shall automatically terminate future visitation rights of the grandparent.

(4) When the child has been returned to the physical custody of his or her parent or permanent custodian, legal guardian, or caregiver, the visitation rights granted pursuant to this section shall terminate.

(5) The termination of parental rights does not affect the rights of grandparents unless the court finds that such visitation is not in the best interest of the child or that such visitation would interfere with the goals of permanency planning for the child.

(6)~~(5)~~ In determining whether grandparental visitation is not in the child's best interest, consideration may be given to the finding of guilt, regardless of adjudication, or entry or plea of guilty or nolo contendere to charges under the following statutes, or similar statutes of other jurisdictions: s. 787.04, relating to removing minors from the state or concealing minors contrary to court order; s. 794.011, relating to sexual battery; s. 798.02, relating to lewd and lascivious behavior; chapter 800, relating to lewdness and indecent exposure; or chapter 827, relating to the abuse of children. Consideration may also be given to a finding of confirmed abuse, *abandonment, or neglect* under ss. 415.101-415.113 *or this chapter* ~~and ss. 415.502-415.514~~.

Section 55. Section 39.413, Florida Statutes, is renumbered as section 39.5101, Florida Statutes, and subsection (1) of said section is amended to read:

39.5101 ~~39.413~~ Appeal.—

(1) Any child, ~~any~~ parent, guardian ad litem, *caregiver,* or legal custodian of any child, any other party to the proceeding who is affected by an order of the court, or the department may appeal to the appropriate district court of appeal within the time and in the manner prescribed by the Florida Rules of Appellate Procedure. Appointed counsel shall be compensated as provided in *this chapter* ~~s. 39.415~~.

Section 56. Part VII of chapter 39, Florida Statutes, consisting of sections 39.601, 39.602, and 39.603, Florida Statutes, shall be entitled to read:

PART VII
CASE PLANS

Section 57. Section 39.4031, Florida Statutes, are renumbered as section 39.601, Florida Statutes, and amended to read:

39.601 ~~39.4031~~ Case plan requirements.—

(1) The department or agent of the department shall develop a case plan for each child or child's family receiving services *pursuant to this chapter* ~~who is a party to any dependency proceeding, activity, or process under this part~~. A parent, *caregiver, or legal* ~~guardian, or~~ custodian of a child may not be required *or* ~~nor~~ coerced through threat of loss of custody or parental rights to admit in the case plan to abusing, neglecting, or abandoning a child. *Where dependency mediation services are available and appropriate to the best interests of the child, the court may refer the case to mediation for development of a case plan.* This section does not change the provisions of s. *39.807* ~~39.464~~.

~~(2) The case plan must be:~~

(a) *The case plan must be* developed in conference with the parent, *caregiver, or legal* ~~guardian, or~~ custodian of the child ~~and, if appropriate, the child~~ and any court-appointed guardian ad litem *and, if appropriate, the child.* ~~Any parent who believes that his or her perspective has not been considered in the development of a case plan may request referral to mediation pursuant to s. 39.4033 when such services are available.~~

(b) *The case plan must be* written simply and clearly in English and, if English is not the principal language of the child's parent, *caregiver, or legal* ~~guardian, or~~ custodian, to the extent possible in such principal language.

(c) The case plan must describe the minimum number of face-to-face meetings to be held each month between the parents, caregivers, or legal custodians and the department's caseworkers to review progress of the plan, to eliminate barriers to progress, and to resolve conflicts or disagreements.

(d)~~(c)~~ *The case plan must be* subject to modification based on changing circumstances.

(e)~~(d)~~ *The case plan must be* signed by all parties.

(f)~~(e)~~ *The case plan must be* reasonable, accurate, and in compliance with the requirements of other court orders.

(2)~~(3)~~ When the child *or family* is receiving services ~~in the child's home~~, the case plan must ~~be developed within 30 days from the date of the department's initial contact with the child, or within 30 days of the date of a disposition order placing the child under the protective supervision of the department in the child's own home, and must~~ include, in addition to the requirements in subsection *(1)* ~~(2)~~, at a minimum:

(a) A description of the problem being addressed that includes the behavior or act of a parent, *legal custodian, or caregiver* resulting in risk to the child and the reason for the department's intervention.

(b) A description of the services to be provided to the family and child specifically addressing the identified problem, including:

1. Type of services or treatment.

2. Frequency of services or treatment.

3. Location of the delivery of the services.

4. The accountable department staff or service provider.

~~5. The need for a multidisciplinary case staffing under s. 39.4032.~~

(c) A description of the measurable objectives, including timeframes for achieving objectives, addressing the identified problem.

(3)~~(4)~~ When the child is receiving services in a placement outside the child's home or in foster care, the case plan must be *submitted to the court for approval at the disposition hearing* ~~prepared within 30 days after placement and also be approved by the court~~ and must include, in addition to the requirements in subsections *(1) and* (2) ~~and (3)~~, at a minimum:

(a) A description of the permanency goal for the child, including the type of placement. *Reasonable efforts to place a child for adoption or with a legal guardian may be made concurrently with reasonable efforts to prevent removal of the child from the home or make it possible for the child to return safely home.*

(b) A description of the type of home or institution in which the child is to be placed.

(c) A description of the financial support obligation to the child, including health insurance, of the child's parent, parents, *caregiver, or legal custodian* ~~or guardian~~.

(d) A description of the visitation rights and obligations of the parent or parents, *caregiver, or legal custodian* during the period the child is in care.

(e) A discussion of the *safety and* appropriateness of the child's placement, which placement is intended to be *safe,* ~~in~~ the least restrictive and most family-like setting available consistent with the best interest and special needs of the child, and in as close proximity as possible to the child's home. *The plan must also establish the role for the foster parents or custodians in the development of the services that are to be provided to the child, foster parents, or legal custodians. It must also address the child's need for services while under the jurisdiction of the court and implementation of these services in the case plan.*

(f) A description of the efforts to be undertaken to maintain the stability of the child's educational placement.

(g)~~(f)~~ A discussion of the department's plans to carry out the judicial determination made by the court, with respect to the child, in accordance with this chapter and applicable federal regulations.

(h)~~(g)~~ A description of the plan for assuring that services outlined in the case plan are provided to the child and the child's parent or parents, *legal custodians, or caregivers,* to improve the conditions in the family home and facilitate either the *safe* return of the child to the home or the permanent placement of the child.

(i)~~(h)~~ A description of the plan for assuring that services as outlined in the case plan are provided to the child and the child's parent or parents, *legal custodians, or caregivers,* to address the needs of the child and a discussion of the appropriateness of the services.

(j)~~(i)~~ A description of the plan for assuring that services are provided to the child and foster parents to address the needs of the child while in foster care, *which shall include an itemized list of costs to be borne by the parent or caregiver associated with any services or treatment that the parent and child are expected to receive.*

(k)~~(j)~~ A written notice to the parent that failure of the parent to substantially comply with the case plan may result in the termination of parental rights, and that a material failure to substantially comply may result in the filing of a petition for termination of parental rights sooner than the compliance periods set forth in the case plan itself. The child protection team shall coordinate its effort with the case staffing committee.

(l) In the case of a child for whom the permanency plan is adoption or placement in another permanent home, documentation of the steps the agency is taking to find an adoptive family or other permanent living arrangement for the child; to place the child with an adoptive family, with a fit and willing relative, with a legal guardian, or in another planned permanent living arrangement; and to finalize the adoption or legal guardianship. At a minimum, such documentation shall include child-specific recruitment efforts such as the use of state, regional, and national adoption exchanges, including electronic exchange systems.

(4)~~(5)~~ In the event that the parents, *legal custodians, or caregivers* are unwilling or unable to participate in the development of a case plan, the department shall document that unwillingness or inability *to participate. Such documentation must be provided* ~~and provide~~ in writing to the parent, *legal custodians, or caregivers* when available for the court record, and then the department shall prepare a case plan conforming as nearly as possible with the requirements set forth in this section. The unwillingness or inability of the parents, *legal custodians, or caregivers* to participate in the development of a case plan shall not in itself bar the filing of a petition for dependency or for termination of parental rights. The parents, *legal custodians, or caregivers*, if available, must be provided a copy of the case plan and be advised that they may, at any time prior to the filing of *a* petition for termination of parental rights, enter into a case plan and that they may request judicial review of any provision of the case plan with which they disagree at any court review hearing set for the child.

(5)~~(6)~~ The services delineated in the case plan must be designed to improve the conditions in the family home and aid in maintaining the child in the home, to facilitate the *safe* return of the child to the family home, or to facilitate the permanent placement of the child. The service intervention must be the least intrusive possible into the life of the family, must focus on clearly defined objectives, and must provide the most efficient path to quick reunification or permanent placement, *with the child's health and safety being paramount*. To the extent possible, the service intervention must be grounded in outcome evaluation results that demonstrate success in the reunification or permanent placement process. In designing service interventions, generally recognized standards of the professions involved in the process must be taken into consideration.

(6) After jurisdiction attaches, all case plans must be filed with the court and a copy provided to the parents, caregivers, or legal custodians of the child, to the representative of the guardian ad litem program if the program has been appointed, and to all other parties, not less than 72 hours before the disposition hearing. All such case plans must be approved by the court. The department shall also file with the court all case plans prepared before jurisdiction of the court attached. If the court does not accept the case plan, the court shall require the parties to make necessary modifications to the plan. An amended plan must be submitted to the court for review and approval within 30 days after the hearing on the case plan.

(7) The case plan must be limited to as short a period as possible for the accomplishment of its provisions. Unless extended, the plan expires no later than 12 months after the date the child was initially removed from the home or the date the case plan was accepted by the court, whichever comes first.

(8) The case plan must meet applicable federal and state requirements.

(9)(a) In each case in which the custody of a child has been vested, either voluntarily or involuntarily, in the department and the child has been placed in out-of-home care, a case plan must be prepared within 60 days after the department removes the child from the home, and shall be submitted to the court before the disposition hearing, for the court to review and accept. If the preparation of a case plan, in conference with the parents and other pertinent parties, cannot be completed before the disposition hearing, for good cause shown, the court may grant an extension not to exceed 30 days and set a hearing to review and accept the case plan.

(b) The parent or parents, *legal custodians, or caregivers* may receive assistance from any person~~,~~ or social service agency in the preparation of the case plan.

(c) The social service agency, *the department*, and the court, when applicable, shall inform the parent or parents, *legal custodians, or caregivers* of the right to receive such assistance, including the right to assistance of counsel.

(d) Before the signing of the case plan, the authorized agent of the department shall explain it to all persons involved in its implementation, including, when appropriate, the child.

(e) After the case plan has been agreed upon and signed by the parties involved, a copy of the plan must be given immediately to the parents, the department or agency, the foster parents or caregivers, the legal custodian, the caregiver, the representative of the guardian ad litem program if the program is appointed, and any other parties identified by the court, including the child, if appropriate.

(f) The case plan may be amended at any time if all parties are in agreement regarding the revisions to the plan and the plan is submitted to the court with a memorandum of explanation. The case plan may also be amended by the court or upon motion of any party at a hearing, based on competent evidence demonstrating the need for the amendment. A copy of the amended plan must be immediately given to the parties specified in paragraph (e).

(10) A case plan must be prepared, but need not be submitted to the court, for a child who will be in care no longer than 30 days unless that child is placed in out-of-home care a second time within a 12-month period.

Section 58. Section 39.452, Florida Statutes, is renumbered as section 39.602, Florida Statutes, and amended to read:

39.602 ~~39.452~~ Case planning when parents, *legal custodians, or caregivers* do not participate and the child is in *out-of-home* ~~foster~~ care.—

(1)~~(a)~~ In the event the parents, *legal custodians, or caregivers* will not or cannot participate in preparation of a case plan, the department shall submit a full explanation of the circumstances and ~~a plan for the permanent placement of the child to the court within 30 days after the child has been removed from the home and placed in temporary foster care and schedule a court hearing within 30 days after submission of the plan to the court to review and accept or modify the plan. If preparation cannot be accomplished within 30 days, for good cause shown, the court may grant extensions not to exceed 15 days each for the filing, the granting of which shall be for similar reason to that contained in s. 39.451(4)(a).~~

~~(b) In the full explanation of the circumstances submitted to the court, the department shall~~ state the nature of its efforts to secure *such persons'* ~~parental~~ participation in the preparation of a case plan.

(2) In a case in which the physical, emotional, or mental condition or physical location of the parent is the basis for the parent's nonparticipation, it is the burden of the department to provide substantial evidence to the court that such condition or location has rendered the parent unable or unwilling to participate in the preparation of a case plan, either pro se or through counsel. The supporting documentation must be submitted to the court at the time the plan is filed.

(3) The plan must include, but need not be limited to, the specific services to be provided by the department, the goals and plans for the child, and the time for accomplishing the provisions of the plan and for accomplishing permanence for the child.

(4)(a) *At least 72* ~~Seventy-two~~ hours prior to the filing of a plan, *all parties* ~~each parent~~ must be provided with a copy of the plan developed by the department. If the location of one or both parents is unknown, this must be documented in writing and included in the plan submitted to the court. After the filing of the plan, if the location of an absent parent becomes known, that parent must be served with a copy of the plan.

(b) Before the filing of the plan, the department shall advise each parent, both orally and in writing, that the failure of the parents to substantially comply with a plan ~~which has reunification as its primary goal~~ may result in the termination of parental rights, but only after notice and hearing as provided in *this chapter* ~~part VI~~. If, after the plan has been submitted to the court, an absent parent is located, the department shall advise the parent, both orally and in writing, that the failure of the parents to substantially comply with a plan ~~which has reunification as its goal~~ may result in termination of parental rights, but only after notice and hearing as provided in *this chapter* ~~part VI~~. Proof of written notification must be filed with the court.

~~(5)(a) The court shall set a hearing, with notice to all parties, on the plan or any provisions of the plan, within 30 days after the plan has been received by the court. If the location of a parent is unknown, the notice must be directed to the last permanent address of record.~~

~~(b) At the hearing on the plan, the court shall determine:~~

~~1. All parties who were notified and are in attendance at the hearing, either in person or through a legal representative. The court shall appoint a guardian ad litem under Rule 1.210, Florida Rules of Civil Procedure, to represent the interests of any parent, if the location of the parent is known but the parent is not present at the hearing and the development of the plan is based upon the physical, emotional, or mental condition or physical location of the parent.~~

~~2. If the plan is consistent with previous orders of the court placing the child in care.~~

~~3. If the plan is consistent with the requirements for the content of a plan as specified in subsection (3).~~

~~4. In involuntary placements, whether each parent was notified of the right to counsel at each stage of the dependency proceedings, in accordance with the Florida Rules of Juvenile Procedure.~~

~~5. Whether each parent whose location was known was notified of the right to participate in the preparation of a case plan and of the right to receive assistance from any other person in the preparation of the case plan.~~

~~6. Whether the plan is meaningful and designed to address facts and circumstances upon which the court based the finding of dependency in involuntary placements or the plan is meaningful and designed to address facts and circumstances upon which the child was placed in foster care voluntarily.~~

~~(c) When the court determines any of the elements considered at the hearing related to the plan have not been met, the court shall require the parties to make necessary amendments to the plan. The amended plan must be submitted to the court for review and approval within a time certain specified by the court. A copy of the amended plan must also be provided to each parent, if the location of the parent is known.~~

~~(d) A parent who has not participated in the development of a case plan must be served with a copy of the plan developed by the department if the parent can be located at least 72 hours prior to the court hearing. Any parent is entitled to, and may seek, a court review of the plan prior to the initial 6 months' review and must be informed of this right by the department at the time the department serves the parent with a copy of the plan. If the location of an absent parent becomes known to the department, the department shall inform the parent of the right to a court review at the time the department serves the parent with a copy of the case plan.~~

Section 59. Section 39.603, Florida Statutes, is created to read:

39.603 Court approvals of case planning.

(1) At the hearing on the plan, which shall occur in conjunction with the disposition hearing unless otherwise directed by the court, the court shall determine:

(a) All parties who were notified and are in attendance at the hearing, either in person or through a legal representative. The court shall appoint a guardian ad litem under Rule 1.210, Florida Rules of Civil Procedure, to represent the interests of any parent, if the location of the parent is known but the parent is not present at the hearing and the development of the plan is based upon the physical, emotional, or mental condition or physical location of the parent.

(b) If the plan is consistent with previous orders of the court placing the child in care.

(c) If the plan is consistent with the requirements for the content of a plan as specified in this chapter.

(d) In involuntary placements, whether each parent was notified of the right to counsel at each stage of the dependency proceedings, in accordance with the Florida Rules of Juvenile Procedure.

(e) Whether each parent whose location was known was notified of the right to participate in the preparation of a case plan and of the right to receive assistance from any other person in the preparation of the case plan.

(f) Whether the plan is meaningful and designed to address facts and circumstances upon which the court based the finding of dependency in involuntary placements or the plan is meaningful and designed to address facts and circumstances upon which the child was placed in out-of-home care voluntarily.

(2) When the court determines any of the elements considered at the hearing related to the plan have not been met, the court shall require the parties to make necessary amendments to the plan. The amended plan must be submitted to the court for review and approval within a time certain specified by the court. A copy of the amended plan must also be provided to each parent, if the location of the parent is known.

(3) A parent who has not participated in the development of a case plan must be served with a copy of the plan developed by the department, if the parent can be located, at least 48 hours prior to the court hearing. Any parent is entitled to, and may seek, a court review of the plan prior to the initial review and must be informed of this right by the department at the time the department serves the parent with a copy of the plan. If the location of an absent parent becomes known to the department, the department shall inform the parent of the right to a court review at the time the department serves the parent with a copy of the case plan.

Section 60. Part VIII of chapter 39, Florida Statutes, consisting of sections 39.701, 39.702, 39.703, and 39.704, Florida Statutes, shall be entitled to read:

PART VIII
JUDICIAL REVIEWS

Section 61. Section 39.453, Florida Statutes, is renumbered as section 39.701, Florida Statutes, and amended to read:

39.701 ~~39.453~~ Judicial review.—

(1)(a) The court shall have continuing jurisdiction in accordance with this section and shall review the status of the child as required by this subsection or more frequently if the court deems it necessary or desirable.

(b) The court shall retain jurisdiction over a child returned to its parents, *caregivers,* or legal guardians for a period of 6 months, but, at that time, based on a report of the social service agency *and the guardian ad litem, if one has been appointed,* and any other relevant factors, the court shall make a determination as to whether its jurisdiction shall continue or be terminated.

~~(c) After termination of parental rights, the court shall retain jurisdiction over any child for whom custody is given to a social service agency until the child is adopted. The jurisdiction of the court after termination of parental rights and custody is given to the agency is for the purpose of reviewing the status of the child and the progress being made toward permanent adoptive placement. As part of this continuing jurisdiction, for good cause shown by the guardian ad litem for the child, the court may review the appropriateness of the adoptive placement of the child.~~

(2)*(a)* The court shall review the status of the child and shall hold a hearing as provided in *this part* ~~subsection (7)~~. The court may dispense with the attendance of the child at the hearing, but may not dispense with the hearing or the presence of other parties to the review unless before the review a hearing is held before a citizen review panel.

(b) Citizen review panels may ~~be established under s. 39.4531 to~~ conduct *hearings to* ~~a~~ review ~~of~~ the status of a child. *The court shall select the cases appropriate for referral to the citizen review panels and may order the attendance of the parties at the review panel hearings. However, any party may object to the referral of a case to a citizen review panel. Whenever such an objection has been filed with the court, the court shall review the substance of the objection and may conduct the review itself or refer the review to a citizen review panel. All parties retain the right to take exception to the findings or recommended orders of a citizen review panel in accordance with Rule 1.490(h), Florida Rules of Civil Procedure.*

(c) Notice of a hearing by a citizen review panel must be provided as set forth in subsection (5). At the conclusion of a citizen review panel hearing, each party may propose a recommended order to the chairperson of the panel. Thereafter, the citizen review panel shall submit its report, *copies of the proposed recommended orders,* and *a copy of the panel's* recommended order to the court. The citizen review panel's recommended order must be limited to the dispositional options available

to the court in subsection (8). Each party may file exceptions to the report and recommended order of the citizen review panel in accordance with Rule 1.490, Florida Rules of Civil Procedure.

(3)(a) The initial judicial review must be held no later than *90 days after the date of the disposition hearing or after the date of the hearing at which the court approves the case plan, but in no event shall the review be held later than* 6 months after the date the child was removed from the home. *Citizen review panels shall not conduct more than two consecutive reviews without the child and the parties coming before the court for a judicial review.* ~~If the child remains in shelter or foster care, subsequent judicial reviews must be held at least every 6 months after the date of the most recent judicial review until the child is 13 years old and has been in foster care at least 18 months.~~

(b) If the court extends *any* ~~the~~ case plan beyond *12* ~~18~~ months, judicial reviews must be held at least every 6 months ~~for children under the age of 13 and at least annually for children age 13 and older~~.

(c) If the child is placed in the custody of the department or a licensed child-placing agency for the purpose of adoptive placement, judicial reviews must be held at least every 6 months until adoptive placement, to determine *the appropriateness of the current placement and* the progress made toward adoptive placement.

(d) If the department and the court have established a formal agreement that includes specific authorization for particular cases, the department may conduct administrative reviews instead of the judicial reviews for children in *out-of-home* ~~foster~~ care. Notices of such administrative reviews must be provided to all parties. However, an administrative review may not be substituted for the first judicial review, and in every case the court must conduct a judicial review at least every *6* ~~12~~ months. Any party dissatisfied with the results of an administrative review may petition for a judicial review.

(e) The clerk of the circuit court shall schedule judicial review hearings in order to comply with the mandated times cited in *this section* ~~paragraphs (a)-(d)~~.

(f) In each case in which a child has been voluntarily placed with the licensed child-placing agency, the agency shall notify the clerk of the court in the circuit where the child resides of such placement within 5 working days. Notification of the court is not required for any child who will be in *out-of-home* ~~foster~~ care no longer than 30 days unless that child is placed in *out-of-home* ~~foster~~ care a second time within a 12-month period. If the child is returned to the custody of the parents, *caregiver, or legal custodian* ~~or guardian~~ before the scheduled review hearing or if the child is placed for adoption, the child-placing agency shall notify the court of the child's return or placement within 5 working days, and the clerk of the court shall cancel the review hearing.

(4) *The court shall schedule the date, time, and location of the next judicial review in the judicial review order.* ~~The social service agency shall file a petition for review with the court within 10 calendar days after the judicial review hearing. The petition must include a statement of the dispositional alternatives available to the court. The petition must accompany the notice of the hearing served upon persons specified in subsection (5).~~

(5) Notice of *a judicial review hearing or a citizen review panel* ~~the~~ hearing, and a copy of the *motion for judicial review* ~~petition~~, including a statement of the dispositional alternatives available to the court, must be served by the court upon:

(a) The social service agency charged with the supervision of care, custody, or guardianship of the child, if that agency is not the *movant* ~~petitioner~~.

(b) The foster parent or parents or *caregivers* ~~caretakers~~ in whose home the child resides.

(c) The parent, *caregiver, or legal custodian* ~~guardian, or relative~~ from whom the care and custody of the child have been transferred.

(d) The guardian ad litem for the child, *or the representative of the guardian ad litem program* if *the program* ~~one~~ has been appointed.

(e) Any preadoptive parent.

(f)~~(e)~~ Such other persons as the court may in its discretion direct.

(6)(a) *Prior to every judicial review hearing or citizen review panel hearing,* the social service agency shall make an investigation and social study concerning all pertinent details relating to the child and shall furnish to the court or citizen review panel a written report that includes, but is not limited to:

1. A description of the type of placement the child is in at the time of the hearing, *including the safety of the child and the continuing necessity for and appropriateness of the placement.*

2. Documentation of the diligent efforts made by all parties to the case plan to comply with each applicable provision of the plan.

3. The amount of fees assessed and collected during the period of time being reported.

4. The services provided to the foster family or *caregivers* ~~caretakers~~ in an effort to address the needs of the child as indicated in the case plan.

5. A statement *that* ~~concerning whether~~ the parent or *legal custodian* ~~guardian~~, though able to do so, did not comply substantially with the provisions of the case plan and the agency recommendations or a statement that the parent or *legal custodian* ~~guardian~~ did substantially comply with such provisions.

6. A statement from the foster parent or parents or *caregivers* ~~caretakers~~ providing any material evidence concerning the return of the child to the parent or parents *or legal custodians.*

7. A statement concerning the frequency, duration, and results of the parent-child visitation, if any, and the agency recommendations for an expansion or restriction of future visitation.

8. The number of times a child has been removed from his or her home and placed elsewhere, the number and types of placements that have occurred, and the reason for the changes in placement.

9. The number of times a child's educational placement has been changed, the number and types of educational placements that have occurred, and the reason for any change in placement.

(b) A copy of the *social service agency's* written report must be provided to the attorney of record of the parent, parents, or *legal custodians* ~~guardian~~; to the parent, parents, or *legal custodians* ~~guardian~~; to the foster parents or *caregivers* ~~caretakers~~; to each citizen review panel ~~established under s. 39.4531~~; and to the guardian ad litem for the child, *or the representative of the guardian ad litem program* if *the program* ~~one~~ has been appointed by the court, at least 48 hours before the judicial review hearing~~,~~ or citizen review panel hearing ~~if such a panel has been established under s. 39.4531~~. The requirement for providing parents or *legal custodians* ~~guardians~~ with a copy of the written report does not apply to those parents or *legal custodians* ~~guardians~~ who have voluntarily surrendered their child for adoption.

(c) In a case in which the child has been permanently placed with the social service agency, the agency shall furnish to the court a written report concerning the progress being made to place the child for adoption. If~~, as stated in s. 39.451(1),~~ the child cannot be placed for adoption, a report on the progress made by the child in alternative permanency goals or placements, including, but not limited to, long-term foster care, independent living, custody to a relative or *caregiver* ~~adult nonrelative~~ approved by the court on a permanent basis with or without legal guardianship, or custody to a foster parent *or caregiver* on a permanent basis with or without legal guardianship, must be submitted to the court. The report must be submitted to the court at least 48 hours before each scheduled judicial review.

(d) In addition to or in lieu of any written statement provided to the court, the foster parent or *caregivers, or any preadoptive parent,* ~~caretakers~~ shall be given the opportunity to address the court with any information relevant to the best interests of the child at any judicial review hearing.

(7) The court~~,~~ and any citizen review panel ~~established under s. 39.4531,~~ shall take into consideration the information contained in the social services study and investigation and all medical, psychological, and educational records that support the terms of the case plan; testi-

mony by the social services agency, the parent or *legal custodian* ~~guardian~~, the foster parent or *caregivers* ~~caretakers~~, the guardian ad litem if one has been appointed for the child, and any other person deemed appropriate; and any relevant and material evidence submitted to the court, including written and oral reports to the extent of their probative value. In its deliberations, the court~~,~~ and any citizen review panel ~~established under s. 39.4531,~~ shall seek to determine:

(a) If the parent or *legal custodian* ~~guardian~~ was advised of the right to receive assistance from any person or social service agency in the preparation of the case plan.

(b) If the parent or *legal custodian* ~~guardian~~ has been advised of the right to have counsel present at the judicial review or citizen review hearings. If not so advised, the court or citizen review panel shall advise the parent or *legal custodian* ~~guardian~~ of such right.

(c) If a guardian ad litem needs to be appointed for the child in a case in which a guardian ad litem has not previously been appointed or if there is a need to continue a guardian ad litem in a case in which a guardian ad litem has been appointed.

(d) The compliance or lack of compliance of all parties with applicable items of the case plan, including the parents' compliance with child support orders.

(e) The compliance or lack of compliance with a visitation contract between the parent, *caregiver, or legal custodian* ~~or guardian~~ and the social service agency for contact with the child, including the *frequency, duration, and results of the parent-child visitation and the* reason for any noncompliance.

(f) The compliance or lack of compliance of the parent, *caregiver, or legal custodian* ~~or guardian~~ in meeting specified financial obligations pertaining to the care of the child, including the reason for failure to comply if such is the case.

(g) The appropriateness of the child's current placement, including whether the child is in a setting which is as family-like and as close to the parent's home as possible, consistent with the child's best interests and special needs, *and including maintaining stability in the child's educational placement.*

(h) A projected date likely for the child's return home or other permanent placement.

(i) When appropriate, the basis for the unwillingness or inability of the parent, *caregiver, or legal custodian* ~~or guardian~~ to become a party to a case plan. The court and the citizen review panel shall determine if ~~the nature of the location or the condition of the parent and~~ the efforts of the social service agency to secure *party* ~~parental~~ participation in a case plan were sufficient.

(8)(a) Based upon the criteria set forth in subsection (7) and the recommended order of the citizen review panel, if *any* ~~established under s. 39.4531~~, the court shall determine whether or not the social service agency shall initiate proceedings to have a child declared a dependent child, return the child to the parent, *legal custodian, or caregiver,* continue the child in *out-of-home* ~~foster~~ care for a specified period of time, or initiate termination of parental rights proceedings for subsequent placement in an adoptive home. Modifications to the plan must be handled as prescribed in s. *39.601* ~~39.451~~. If the court finds that the prevention or reunification efforts of the department will allow the child to remain safely at home or be safely returned to the home, the court shall allow the child to remain in or return to the home after making a specific finding of fact that the reasons for removal have been remedied to the extent that the child's safety, ~~and~~ well-being, *and physical, mental, and emotional health* will not be endangered.

(b) The court shall return the child to the custody of the parents, *legal custodians, or caregivers* at any time it determines that they have substantially complied with the plan, if the court is satisfied that reunification will not be detrimental to the child's safety, ~~and~~ well-being, *and physical, mental, and emotional health.*

(c) If, in the opinion of the court, the social service agency has not complied with its obligations as specified in the written case plan, the court may find the social service agency in contempt, shall order the social service agency to submit its plans for compliance with the agreement, and shall require the social service agency to show why the child *could* ~~should~~ not *safely* be returned ~~immediately~~ to the home of the parents*, legal custodians, or caregivers* ~~or legal guardian~~.

(d) The court may extend the time limitation of the case plan, or may modify the terms of the plan, based upon information provided by the social service agency, *and the guardian ad litem, if one has been appointed,* the ~~natural~~ parent or parents, and the foster parents, and any other competent information on record demonstrating the need for the amendment. *If the court extends the time limitation of the case plan, the court must make specific findings concerning the frequency of past parent-child visitation, if any, and the court may authorize the expansion or restriction of future visitation.* Modifications to the plan must be handled as prescribed in s. *39.601* ~~39.451~~. Any extension of a case plan must comply with the time requirements and other requirements specified by this *chapter* ~~part~~.

(e) If, at any judicial review, the court finds that the parents have failed to substantially comply with the case plan to the degree that further reunification efforts are without merit and not in the best interest of the child, it may authorize the filing of a petition for termination of parental rights, whether or not the time period as contained in the case plan for substantial compliance has elapsed.

(f) *No later than 12 months after the date that the child was placed in shelter care, the court shall conduct a judicial review. At this hearing, if the child is not returned to the physical custody of the parents, caregivers, or legal custodians, the case plan may be extended with the same goals only if the court finds that the situation of the child is so extraordinary that the plan should be extended. The case plan must document steps the department is taking to find an adoptive parent or other permanent living arrangement for the child.* ~~If, at the time of the 18-month judicial review or citizen review, the child is not returned to the physical custody of the natural parents, the case plan may be extended only if, at the time of the judicial review or citizen review, the court finds that the situation of the child is so extraordinary that the plan should be extended. The extension must be in accordance with subsection (3).~~

(g) The court may issue a protective order in assistance, or as a condition, of any other order made under this part. In addition to the requirements included in the case plan, the protective order may set forth requirements relating to reasonable conditions of behavior to be observed for a specified period of time by a person or agency who is before the court; and such order may require any such person or agency to make periodic reports to the court containing such information as the court in its discretion may prescribe.

Section 62. Section 39.4531, Florida Statutes, is renumbered as section 39.702, Florida Statutes, and amended to read:

39.702 ~~39.4531~~ Citizen review panels.—

(1) Citizen review panels may be established in each judicial circuit and shall be authorized by an administrative order executed by the chief judge of each circuit. The court shall administer an oath of office to each citizen review panel member which shall authorize the panel member to participate in citizen review panels and make recommendations to the court pursuant to the provisions of this section.

(2) Citizen review panels shall be administered by an independent not-for-profit agency. For the purpose of this section, an organization that has filed for nonprofit status under the provisions of s. 501(c)(3) of the United States Internal Revenue Code is an independent not-for-profit agency for a period of 1 year after the date of filing. At the end of that 1-year period, in order to continue conducting citizen reviews, the organization must have qualified for nonprofit status under s. 501(c)(3) of the United States Internal Revenue Code and must submit to the chief judge of the circuit court a consumer's certificate of exemption that was issued to the organization by the Florida Department of Revenue and a report of the organization's progress. If the agency has not qualified for nonprofit status, the court must rescind its administrative order that authorizes the agency to conduct citizen reviews. All independent not-for-profit agencies conducting citizen reviews must submit citizen review annual reports to the court.

(3) For the purpose of this section, a citizen review panel shall be composed of five volunteer members and shall conform with the requirements of this *chapter* ~~section~~. The presence of three members at a panel hearing shall constitute a quorum. Panel members shall serve without compensation.

(4)~~(3)~~ Based on the information provided to each citizen review panel pursuant to s. *39.701* ~~39.453~~, each citizen review panel shall provide the court with a report and recommendations regarding the placement and dispositional alternatives the court shall consider before issuing a judicial review order.

(5)~~(4)~~ *The* ~~An~~ independent not-for-profit agency authorized to administer each citizen review panel shall:

(a) In collaboration with the department, develop policies to assure that citizen review panels comply with all applicable state and federal laws.

(b) Establish policies for the recruitment, selection, retention, and terms of volunteer panel members. Final selection of citizen review panel members shall, to the extent possible, reflect the multicultural composition of the community which they serve. A criminal background check and personal reference check shall be conducted on each citizen review panel member prior to the member serving on a citizen review panel.

(c) In collaboration with the department, develop, implement, and maintain a training program for citizen review volunteers and provide training for each panel member prior to that member serving on a review panel. Such training may include, but shall not be limited to, instruction on dependency laws, departmental policies, and judicial procedures.

(d) Ensure that all citizen review panel members have read, understood, and signed an oath of confidentiality relating to ~~the citizen review hearings and~~ written or verbal information provided to the panel members *for review hearings*.

(e) Establish policies to avoid actual or perceived conflicts of interest by panel members during the review process and to ensure accurate, fair reviews of each child dependency case.

(f) Establish policies to ensure ongoing communication with the department and the court.

(g) Establish policies to ensure adequate communication with the parent, *caregiver, or legal custodian* ~~or guardian~~, the foster parent *or caregiver*, the guardian ad litem, and any other person deemed appropriate.

(h) Establish procedures that encourage attendance *and participation* of interested persons *and parties, including the biological parents, foster parents or caregivers, or a relative or nonrelative with whom the child is placed,* at *citizen* review hearings.

(i) Coordinate with existing citizen review panels to ensure consistency of operating procedures, data collection, ~~and~~ analysis, and report generation.

(j) Make recommendations as necessary to the court concerning attendance of essential persons at the review and other issues pertinent to an effective review process.

(k) Ensure consistent methods of identifying barriers to the permanent placement of the child and delineation of findings and recommendations to the court.

(6)~~(5)~~ The department and agents of the department shall submit information to the citizen review panel when requested and shall address questions asked by the citizen review panel to identify barriers to the permanent placement of each child.

Section 63. Section 39.454, Florida Statutes, is renumbered as section 39.703, Florida Statutes, and amended to read:

39.703 ~~39.454~~ Initiation of termination of parental rights proceedings.—

(1) If, in preparation for any judicial review hearing under this *chapter* ~~part~~, it is the opinion of the social service agency that the parents ~~or legal guardian~~ of the child have not complied with their responsibilities as specified in the written case plan although able to do so, the social service agency shall state its intent to initiate proceedings to terminate parental rights, unless the social service agency can demonstrate to the court that such a recommendation would not be in the child's best interests. If it is the intent of the department or licensed child-placing agency to initiate proceedings to terminate parental rights, the department or licensed child-placing agency shall file a petition for termination of parental rights no later than 3 months after the date of the previous judicial review hearing. If the petition cannot be filed within 3 months, the department or licensed child-placing agency shall provide a written report to the court outlining the reasons for delay, the progress made in the termination of parental rights process, and the anticipated date of completion of the process.

(2) If, at the time of the *12-month* ~~18-month~~ judicial review hearing, a child is not returned to the physical custody of the ~~natural~~ parents, *caregivers, or legal custodians*, the social service agency shall initiate termination of parental rights proceedings under ~~part VI of~~ this chapter within 30 days. Only if the court finds that the situation of the child is so extraordinary and that the best interests of the child will be met by such action at the time of the judicial review may the case plan be extended. If the court decides to extend the plan, the court shall enter detailed findings justifying the decision to extend, as well as the length of the extension. *A termination of parental rights petition need not be filed if: the child is being cared for by a relative who chooses not to adopt the child; the court determines that filing such a petition would not be in the best interests of the child; or the state has not provided the child's family, when reasonable efforts to return a child are required, consistent with the time period in the state's case plan, such services as the state deems necessary for the safe return of the child to his or her home.* Failure to initiate termination of parental rights proceedings at the time of the *12-month* ~~18-month~~ judicial review or within 30 days after such review does not prohibit initiating termination of parental rights proceedings at any other time.

Section 64. Section 39.456, Florida Statutes, is renumbered as section 39.704, Florida Statutes, and amended to read:

39.704 ~~39.456~~ Exemptions *from judicial review.—Judicial review* ~~This part~~ does not apply to:

(1) Minors who have been placed in adoptive homes by the department or by a licensed child-placing agency; *or*

(2) Minors who are refugees or entrants to whom federal regulations apply and who are in the care of a social service agency.~~; or~~

~~(3) Minors who are the subjects of termination of parental rights cases pursuant to s. 39.464.~~

Section 65. Part IX of chapter 39, Florida Statutes, consisting of sections 39.801, 39.802, 39.803, 39.804, 39.805, 39.806, 39.807, 39.808, 39.809, 39.810, 39.811, 39.812, 39.813, 39.814, 39.815, 39.816, and 39.817, Florida Statutes, shall be entitled to read:

PART IX
TERMINATION OF PARENTAL RIGHTS

Section 66. Section 39.46, Florida Statutes, is renumbered as section 39.801, Florida Statutes, and amended to read:

39.801 ~~39.46~~ Procedures and jurisdiction*; notice; service of process.*—

(1) All procedures, including petitions, pleadings, subpoenas, summonses, and hearings, in termination of parental rights proceedings shall be according to the Florida Rules of Juvenile Procedure unless otherwise provided by law.

(2) The circuit court shall have exclusive original jurisdiction of a proceeding involving termination of parental rights.

(3) Before the court may terminate parental rights, in addition to the other requirements set forth in this part, the following requirements must be met:

(a) Notice of the date, time, and place of the advisory hearing for the petition to terminate parental rights and a copy of the petition must be personally served upon the following persons, specifically notifying them that a petition has been filed:

1. The parents of the child.

2. The caregivers or legal custodians of the child.

3. If the parents who would be entitled to notice are dead or unknown, a living relative of the child, unless upon diligent search and inquiry no such relative can be found.

4. Any person who has physical custody of the child.

5. Any grandparent entitled to priority for adoption under s. 63.0425.

6. Any prospective parent who has been identified under s. 39.503 or s. 39.803.

7. The guardian ad litem for the child or the representative of the guardian ad litem program, if the program has been appointed.

The document containing the notice to respond or appear must contain, in type at least as large as the type in the balance of the document, the following or substantially similar language: "FAILURE TO PERSONALLY APPEAR AT THIS ADVISORY HEARING CONSTITUTES CONSENT TO THE TERMINATION OF PARENTAL RIGHTS OF THIS CHILD (OR CHILDREN)."

(b) If a person required to be served with notice as prescribed in paragraph (a) cannot be served, notice of hearings must be given as prescribed by the rules of civil procedure, and service of process must be made as specified by law or civil actions.

(c) Notice as prescribed by this section may be waived, in the discretion of the judge, with regard to any person to whom notice must be given under this subsection if the person executes, before two witnesses and a notary public or other officer authorized to take acknowledgments, a written surrender of the child to a licensed child-placing agency or the department.

(d) If the person served with notice under this section fails to appear at the advisory hearing, the failure to appear shall constitute consent for termination of parental rights by the person given notice.

(4) Upon the application of any party, the clerk or deputy clerk shall issue, and the court on its own motion may issue, subpoenas requiring the attendance and testimony of witnesses and the production of records, documents, or other tangible objects at any hearing.

(5) All process and orders issued by the court must be served or executed as other process and orders of the circuit court and, in addition, may be served or executed by authorized agents of the department or the guardian ad litem.

(6) Subpoenas may be served within the state by any person over 18 years of age who is not a party to the proceeding.

(7) A fee may not be paid for service of any process or other papers by an agent of the department or the guardian ad litem. If any process, orders, or other papers are served or executed by any sheriff, the sheriff's fees must be paid by the county.

Section 67. Section 39.461, Florida Statutes, is renumbered as section 39.802, Florida Statutes, and amended to read:

39.802 ~~39.461~~ Petition for termination of parental rights*; filing; elements.*—

(1) All proceedings seeking an adjudication to terminate parental rights pursuant to this chapter must be initiated by the filing of an original petition by the department, the guardian ad litem, ~~or a licensed child-placing agency~~ or ~~by~~ any other person who has knowledge of the facts alleged or is informed of them and believes that they are true.

(2) The form of the petition is governed by the Florida Rules of Juvenile Procedure. The petition must be in writing and signed by the petitioner *or, if the department is the petitioner, by an employee of the department,* under oath stating the petitioner's good faith in filing the petition.

(3) When a petition for termination of parental rights has been filed, the clerk of the court shall set the case before the court for an advisory hearing.

(4) A petition for termination of parental rights filed under this chapter must contain facts supporting the following allegations:

(a) That at least one of the grounds listed in s. 39.806 has been met.

(b) That the parents of the child were informed of their right to counsel at all hearings that they attend and that a dispositional order adjudicating the child dependent was entered in any prior dependency proceeding relied upon in offering a parent a case plan as described in s. 39.806.

(c) That the manifest best interests of the child, in accordance with s. 39.810, would be served by the granting of the petition.

(5) When a petition for termination of parental rights is filed under s. 39.806(1), a separate petition for dependency need not be filed and the department need not offer the parents a case plan with a goal of reunification, but may instead file with the court a case plan with a goal of termination of parental rights to allow continuation of services until the termination is granted or until further orders of the court are issued.

(6) The fact that a child has been previously adjudicated dependent as alleged in a petition for termination of parental rights may be proved by the introduction of a certified copy of the order of adjudication or the order of disposition of dependency.

(7) The fact that the parent of a child was informed of the right to counsel in any prior dependency proceeding as alleged in a petition for termination of parental rights may be proved by the introduction of a certified copy of the order of adjudication or the order of disposition of dependency containing a finding of fact that the parent was so advised.

(8) Whenever the department has entered into a case plan with a parent with the goal of reunification, and a petition for termination of parental rights based on the same facts as are covered in the case plan is filed prior to the time agreed upon in the case plan for the performance of the case plan, the petitioner must allege and prove by clear and convincing evidence that the parent has materially breached the provisions of the case plan.

Section 68. Section 39.803, Florida Statutes, is created to read:

39.803 Identity or location of parent unknown after filing of termination of parental rights petition; special procedures.—

(1) If the identity or location of a parent is unknown and a petition for termination of parental rights is filed, the court shall conduct the following inquiry of the parent who is available, or, if no parent is available, of any relative, caregiver, or legal custodian of the child who is present at the hearing and likely to have the information:

(a) Whether the mother of the child was married at the probable time of conception of the child or at the time of birth of the child.

(b) Whether the mother was cohabiting with a male at the probable time of conception of the child.

(c) Whether the mother has received payments or promises of support with respect to the child or because of her pregnancy from a man who claims to be the father.

(d) Whether the mother has named any man as the father on the birth certificate of the child or in connection with applying for or receiving public assistance.

(e) Whether any man has acknowledged or claimed paternity of the child in a jurisdiction in which the mother resided at the time of or since conception of the child, or in which the child has resided or resides.

(2) The information required in subsection (1) may be supplied to the court or the department in the form of a sworn affidavit by a person having personal knowledge of the facts.

(3) If the inquiry under subsection (1) identifies any person as a parent or prospective parent, the court shall require notice of the hearing to be provided to that person.

(4) If the inquiry under subsection (1) fails to identify any person as a parent or prospective parent, the court shall so find and may proceed without further notice.

(5) If the inquiry under subsection (1) identifies a parent or prospective parent, and that person's location is unknown, the court shall direct

the department to conduct a diligent search for that person before scheduling an adjudicatory hearing regarding the dependency of the child unless the court finds that the best interest of the child requires proceeding without actual notice to the person whose location is unknown.

(6) The diligent search required by subsection (5) must include, at a minimum, inquiries of all known relatives of the parent or prospective parent, inquiries of all offices of program areas of the department likely to have information about the parent or prospective parent, inquiries of other state and federal agencies likely to have information about the parent or prospective parent, inquiries of appropriate utility and postal providers, and inquiries of appropriate law enforcement agencies.

(7) Any agency contacted by a petitioner with a request for information pursuant to subsection (6) shall release the requested information to the petitioner without the necessity of a subpoena or court order.

(8) If the inquiry and diligent search identifies a prospective parent, that person must be given the opportunity to become a party to the proceedings by completing a sworn affidavit of parenthood and filing it with the court or the department. A prospective parent who files a sworn affidavit of parenthood while the child is a dependent child but no later than at the time of or prior to the adjudicatory hearing in the termination of parental rights proceeding for the child shall be considered a parent for all purposes under this section.

Section 69. *Section 39.4627, Florida Statutes, is renumbered as section 39.804, Florida Statutes.*

Section 70. Section 39.463, Florida Statutes, is renumbered as section 39.805, Florida Statutes, and amended to read:

39.805 ~~39.463~~ No answer required.—No answer to the petition or any other pleading need be filed by any child, parent, *caregiver,* or legal custodian, but any matters which might be set forth in an answer or other pleading may be pleaded orally before the court or filed in writing as any such person may choose. Notwithstanding the filing of any answer or any pleading, the child or parent shall, prior to the adjudicatory hearing, be advised by the court of the right to counsel and shall be given an opportunity to deny the allegations in the petition for termination of parental rights or to enter a plea to allegations in the petition before the court.

Section 71. Section 39.464, Florida Statutes, as amended by chapter 97-276, Laws of Florida, is renumbered as section 39.806, Florida Statutes, and amended to read:

39.806 ~~39.464~~ Grounds for termination of parental rights.—

(1) The department, the guardian ad litem, ~~a licensed child-placing agency,~~ or any person *related to the child* who has knowledge of the facts alleged or who is informed of said facts and believes that they are true, may petition for the termination of parental rights under any of the following circumstances:

(a) When the parent or parents voluntarily executed a written surrender of the child and consented to the entry of an order giving custody of the child to the department ~~or to a licensed child-placing agency~~ for subsequent adoption and the department ~~or licensed child-placing agency~~ is willing to accept custody of the child.

1. The surrender document must be executed before two witnesses and a notary public or other person authorized to take acknowledgments.

2. The surrender and consent may be withdrawn after acceptance by the department ~~or licensed child-placing agency~~ only after a finding by the court that the surrender and consent were obtained by fraud or duress.

(b) When the identity or location of the parent or parents is unknown and~~, if the court requires a diligent search pursuant to s. 39.4625,~~ cannot be ascertained by diligent search ~~as provided in s. 39.4625~~ within 90 days.

(c) When the parent or parents engaged in conduct toward the child or toward other children that demonstrates that the continuing involvement of the parent or parents in the parent-child relationship threatens the life, *safety* ~~or~~ well-being, *or physical, mental, or emotional health* of the child irrespective of the provision of services. Provision of services *may be* ~~is~~ evidenced by proof that services were provided through a previous plan or offered as a case plan from a child welfare agency.

(d) When the parent of a child is incarcerated in a state or federal correctional institution and:

1. The period of time for which the parent is expected to be incarcerated will constitute a substantial portion of the period of time before the child will attain the age of 18 years;

2. The incarcerated parent has been determined by the court to be a violent career criminal as defined in s. 775.084, a habitual violent felony offender as defined in s. 775.084, or a sexual predator as defined in s. 775.21; has been convicted of first degree or second degree murder in violation of s. 782.04 or a sexual battery that constitutes a capital, life, or first degree felony violation of s. 794.011; or has been convicted of an offense in another jurisdiction which is substantially similar to one of the offenses listed in this paragraph. As used in this section, the term "substantially similar offense" means any offense that is substantially similar in elements and penalties to one of those listed in this paragraph, and that is in violation of a law of any other jurisdiction, whether that of another state, the District of Columbia, the United States or any possession or territory thereof, or any foreign jurisdiction; and

3. The court determines by clear and convincing evidence that continuing the parental relationship with the incarcerated parent would be harmful to the child and, for this reason, that termination of the parental rights of the incarcerated parent is in the best interest of the child.

(e)~~(f)~~ A petition for termination of parental rights may also be filed when a child has been adjudicated dependent, a case plan has been filed with the court, and the child continues to be abused, neglected, or abandoned by the parents. In this case, the failure of the parents to substantially comply for a period of 12 months after an adjudication of the child as a dependent child constitutes evidence of continuing abuse, neglect, or abandonment unless the failure to substantially comply with the case plan was due either to the lack of financial resources of the parents or to the failure of the department to make reasonable efforts to reunify the family. Such 12-month period may begin to run only after the entry of a disposition order placing the custody of the child with the department or a person other than the parent and the *approval by* ~~subsequent filing with~~ the court of a case plan with a goal of reunification with the parent.

(f)~~(e)~~ When the parent or parents engaged in egregious conduct *or had the opportunity and capability to prevent and knowingly failed to prevent egregious conduct threatening the life, safety, or physical, mental, or emotional health* ~~that endangers the life, health, or safety~~ of the child or the child's sibling ~~or had the opportunity and capability to prevent egregious conduct that threatened the life, health, or safety of the child or the child's sibling and knowingly failed to do so~~.

1. As used in this subsection, the term "sibling" means another child who resides with or is cared for by the parent or parents regardless of whether the child is related legally or by consanguinity.

2. As used in this subsection, the term "egregious *conduct* ~~abuse~~" means *abuse, abandonment, neglect, or any other* conduct of the parent or parents that is deplorable, flagrant, or outrageous by a normal standard of conduct. Egregious *conduct* ~~abuse~~ may include an act or omission that occurred only once but was of such intensity, magnitude, or severity as to endanger the life of the child.

(g) When the parent or parents have subjected the child to aggravated child abuse as defined in s. 827.03, sexual battery or sexual abuse as defined in s. 39.01, or chronic abuse.

(h) When the parent or parents have committed murder or voluntary manslaughter of another child of the parent, or a felony assault that results in serious bodily injury to the child or another child of the parent, or aided or abetted, attempted, conspired, or solicited to commit such a murder or voluntary manslaughter or felony assault.

(i) When the parental rights of the parent to a sibling have been terminated involuntarily.

(2) Reasonable efforts to preserve and reunify families shall not be required if a court of competent jurisdiction has determined that any of the events described in paragraphs (1)(e)-(i) have occurred.

(3)~~(2)~~ When a petition for termination of parental rights is filed under subsection (1), a separate petition for dependency need not be filed and the department need not offer the parents a case plan with a goal of reunification, but may instead file with the court a case plan with a goal of termination of parental rights *to allow continuation of services until the termination is granted or until further orders of the court are issued*.

(4) When an expedited termination of parental rights petition is filed, reasonable efforts shall be made to place the child in a timely manner in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child.

Section 72. Section 39.465, Florida Statutes, is renumbered as section 39.807, Florida Statutes, and amended to read:

39.807 ~~39.465~~ Right to counsel; guardian ad litem.—

(1)(a) At each stage of the proceeding under this part, the court shall advise the parent~~, guardian, or custodian~~ of the right to have counsel present. The court shall appoint counsel for *indigent* ~~insolvent~~ persons. The court shall ascertain whether the right to counsel is understood and, where appropriate, is knowingly and intelligently waived. The court shall enter its findings in writing with respect to the appointment or waiver of counsel for *indigent* ~~insolvent~~ parties.

(b) Once counsel has been retained or, in appropriate circumstances, appointed to represent the parent of the child, the attorney shall continue to represent the parent throughout the proceedings or until the court has approved discontinuing the attorney-client relationship. If the attorney-client relationship is discontinued, the court shall advise the parent of the right to have new counsel retained or appointed for the remainder of the proceedings.

(c)~~(b)~~1. No waiver of counsel may be accepted if it appears that the parent~~, guardian, or custodian~~ is unable to make an intelligent and understanding choice because of mental condition, age, education, experience, the nature or complexity of the case, or other factors.

2. A waiver of counsel made in court must be of record. A waiver made out of court must be in writing with not less than two attesting witnesses and must be filed with the court. The witnesses shall attest to the voluntary execution of the waiver.

3. If a waiver of counsel is accepted at any stage of the proceedings, the offer of assistance of counsel must be renewed by the court at each subsequent stage of the proceedings at which the parent~~, guardian, or custodian~~ appears without counsel.

(d)~~(c)~~ This subsection does not apply to any parent who has voluntarily executed a written surrender of the child and consent to the entry of a court order therefor and who does not deny the allegations of the petition.

(2)(a) The court shall appoint a guardian ad litem to represent the child in any termination of parental rights proceedings and shall ascertain at each stage of the proceedings whether a guardian ad litem has been appointed.

(b) The guardian ad litem has the following responsibilities:

1. To investigate the allegations of the petition and any subsequent matters arising in the case and, unless excused by the court, to file a written report. This report must include a statement of the wishes of the child and the recommendations of the guardian ad litem and must be provided to all parties and the court at least 48 hours before the disposition hearing.

2. To be present at all court hearings unless excused by the court.

3. To represent the interests of the child until the jurisdiction of the court over the child terminates or until excused by the court.

~~4. To perform such other duties and undertake such other responsibilities as the court may direct.~~

(c) A guardian ad litem is not required to post bond but shall file an acceptance of the office.

(d) A guardian ad litem is entitled to receive service of pleadings and papers as provided by the Florida Rules of Juvenile Procedure.

(e) This subsection does not apply to any voluntary relinquishment of parental rights proceeding.

Section 73. Section 39.466, Florida Statutes, is renumbered as section 39.808, Florida Statutes, and amended to read:

39.808 ~~39.466~~ Advisory hearing*; pretrial status conference*.—

(1) An advisory hearing on the petition to terminate parental rights must be held as soon as possible after all parties have been served with a copy of the petition and a notice of the date, time, and place of the advisory hearing for the petition.

(2) At the hearing the court shall inform the parties of their rights under s. *39.807* ~~39.465~~, shall appoint counsel for the parties in accordance with legal requirements, and shall appoint a guardian ad litem to represent the interests of the child if one has not already been appointed.

(3) The court shall set a date for an adjudicatory hearing to be held within 45 days after the advisory hearing, unless all of the necessary parties agree to some other hearing date.

(4) An advisory hearing may not be held if a petition is filed seeking an adjudication voluntarily to terminate parental rights. Adjudicatory hearings for petitions for voluntary termination must be held within 21 days after the filing of the petition. Notice of the use of this subsection must be filed with the court at the same time as the filing of the petition to terminate parental rights.

(5) Not less than 10 days before the adjudicatory hearing, the court shall conduct a prehearing status conference to determine the order in which each party may present witnesses or evidence, the order in which cross-examination and argument shall occur, and any other matters that may aid in the conduct of the adjudicatory hearing, to prevent any undue delay in the conduct of the adjudicatory hearing.

Section 74. Section 39.467, Florida Statutes, is renumbered as section 39.809, Florida Statutes, and amended to read:

39.809 ~~39.467~~ Adjudicatory hearing.—

(1) In a hearing on a petition for termination of parental rights, the court shall consider the elements required for termination ~~as set forth in s. 39.4611~~. Each of these elements must be established by clear and convincing evidence before the petition is granted.

(2) The adjudicatory hearing must be held within 45 days after the advisory hearing, but reasonable continuances for the purpose of investigation, discovery, or procuring counsel or witnesses may, when necessary, be granted.

(3) The adjudicatory hearing must be conducted by the judge without a jury, applying the rules of evidence in use in civil cases and adjourning the case from time to time as necessary. For purposes of the adjudicatory hearing, to avoid unnecessary duplication of expense, the judge may consider in-court testimony previously given at any properly noticed hearing, without regard to the availability or unavailability of the witness at the time of the actual adjudicatory hearing, if the recorded testimony itself is made available to the judge. Consideration of such testimony does not preclude the witness being subpoenaed to answer supplemental questions.

(4) All hearings involving termination of parental rights are confidential and closed to the public. Hearings involving more than one child may be held simultaneously when the children involved are related to each other or were involved in the same case. The child and the parents ~~or legal custodians~~ may be examined separately and apart from each other.

(5) The judge shall enter a written order with the findings of fact and conclusions of law.

Section 75. Section 39.4612, Florida Statutes, is renumbered as section 39.810, Florida Statutes, is amended to read:

39.810 ~~39.4612~~ Manifest best interests of the child. In a hearing on a petition for termination of parental rights, the court shall consider the

manifest best interests of the child. This consideration shall not include a comparison between the attributes of the parents and those of any persons providing a present or potential placement for the child. For the purpose of determining the manifest best interests of the child, the court shall consider and evaluate all relevant factors, including, but not limited to:

(1) Any suitable permanent custody arrangement with a relative of the child.

(2) The ability and disposition of the parent or parents to provide the child with food, clothing, medical care or other remedial care recognized and permitted under state law instead of medical care, and other material needs of the child.

(3) The capacity of the parent or parents to care for the child to the extent that the child's *safety, well-being, and physical, mental, and emotional* health ~~and well-being~~ will not be endangered upon the child's return home.

(4) The present mental and physical health needs of the child and such future needs of the child to the extent that such future needs can be ascertained based on the present condition of the child.

(5) The love, affection, and other emotional ties existing between the child and the child's parent or parents, siblings, and other relatives, and the degree of harm to the child that would arise from the termination of parental rights and duties.

(6) The likelihood of an older child remaining in long-term foster care upon termination of parental rights, due to emotional or behavioral problems or any special needs of the child.

(7) The child's ability to form a significant relationship with a parental substitute and the likelihood that the child will enter into a more stable and permanent family relationship as a result of permanent termination of parental rights and duties.

(8) The length of time that the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity.

(9) The depth of the relationship existing between the child and the present custodian.

(10) The reasonable preferences and wishes of the child, if the court deems the child to be of sufficient intelligence, understanding, and experience to express a preference.

(11) The recommendations for the child provided by the child's guardian ad litem or legal representative.

Section 76. Section 39.469, Florida Statutes, is renumbered as section 39.811, Florida Statutes, and amended to read:

39.811 ~~39.469~~ Powers of disposition; order of disposition.—

(1) If the court finds that the grounds for termination of parental rights have not been established by clear and convincing evidence, the court shall:

(a) If grounds for dependency have been established, adjudicate or readjudicate the child dependent and:

1. Enter an order placing or continuing the child in *out-of-home* ~~foster~~ care under a case plan; or

2. Enter an order returning the child to the parent or parents. The court shall retain jurisdiction over a child returned to the *parent or* parents ~~or legal guardians~~ for a period of 6 months, but, at that time, based on a report of the social service agency and any other relevant factors, the court shall make a determination as to whether its jurisdiction shall continue or be terminated.

(b) If grounds for dependency have not been established, dismiss the petition.

(2) If the child is in *out-of-home* ~~foster~~ care custody of the department and the court finds that the grounds for termination of parental rights have been established by clear and convincing evidence, the court shall, by order, place the child in the custody of the department for the purpose of adoption ~~or place the child in the custody of a licensed child-placing agency for the purpose of adoption~~.

(3) If the child is in the custody of one parent and the court finds that the grounds for termination of parental rights have been established for the remaining parent by clear and convincing evidence, the court shall enter an order terminating the rights of the parent for whom the grounds have been established and placing the child in the custody of the remaining parent, granting that parent sole parental responsibility for the child.

(4) If the child is neither in the custody of the department ~~of Children and Family Services~~ nor in the custody of a parent and the court finds that the grounds for termination of parental rights have been established for either or both parents, the court shall enter an order terminating parental rights for the parent or parents for whom the grounds for termination have been established and placing the child with an appropriate custodian. If the parental rights of both parents have been terminated, or if the parental rights of only one parent have been terminated and the court makes specific findings based on evidence presented that placement with the remaining parent is likely to be harmful to the child, the court may order that the child be placed with a custodian other than the department after hearing evidence of the suitability of such intended placement. Suitability of the intended placement includes the fitness *and capabilities* of the *proposed* ~~intended placement, with primary consideration being given to the welfare of the child; the fitness and capabilities of the proposed~~ custodian to function as the primary *caregiver* ~~caretaker~~ for a particular child; and the compatibility of the child with the home in which the child is intended to be placed. If the court orders that a child be placed with a custodian under this subsection, the court shall appoint such custodian as the guardian for the child as provided in s. 744.3021. The court may modify the order placing the child in the custody of the custodian and revoke the guardianship established under s. 744.3021 if the court subsequently finds that a party to the proceeding other than a parent whose rights have been terminated has shown a material change in circumstances which causes the placement to be no longer in the best interest of the child.

(5) If the court terminates parental rights, the court shall enter a written order of disposition briefly stating the facts upon which its decision to terminate the parental rights is made. An order of termination of parental rights, whether based on parental consent or after notice served as prescribed in this part, permanently deprives the parents ~~or legal guardian~~ of any right to the child.

(6) The parental rights of one parent may be severed without severing the parental rights of the other parent only under the following circumstances:

(a) If the child has only one surviving parent;

(b) If the identity of a prospective parent has been established as unknown after sworn testimony;

(c) If the parent whose rights are being terminated became a parent through a single-parent adoption;

(d) If the protection of the child demands termination of the rights of a single parent; or

(e) If the parent whose rights are being terminated meets the criteria specified in s. *39.806(1)(d)* ~~39.464(1)(d)~~.

(7)*(a) The termination of parental rights does not affect the rights of grandparents unless the court finds that continued visitation is not in the best interests of the child or that such visitation would interfere with the goals of permanency planning for the child.*

(b) If the court terminates parental rights, it may order that the parents or relatives of the parent whose rights are terminated be allowed to maintain some contact with the child pending adoption if the best interests of the child support this continued contact, *except as provided in paragraph (a).* If the court orders such continued contact, the nature and frequency of the contact must be set forth in written order and may be reviewed upon motion of any party, including a prospective adoptive parent if a child has been placed for adoption. If a child is placed for adoption, the nature and frequency of the contact must be reviewed by the court at the time the child is adopted.

(8) If the court terminates parental rights, it shall, in its order of disposition, provide for a hearing, to be scheduled no later than 30 days after the date of disposition, in which the department ~~or the licensed child-placing agency~~ shall provide to the court a plan for permanency for the child. *Reasonable efforts must be made to place the child in a timely manner in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child.* Thereafter, until the adoption of the child is finalized or the child reaches the age of 18 years, whichever occurs first, the court shall hold hearings at 6-month intervals to review the progress being made toward permanency for the child.

(9) After termination of parental rights, the court shall retain jurisdiction over any child for whom custody is given to a social service agency until the child is adopted. The court shall review the status of the child's placement and the progress being made toward permanent adoptive placement. As part of this continuing jurisdiction, for good cause shown by the guardian ad litem for the child, the court may review the appropriateness of the adoptive placement of the child.

Section 77. Section 39.47, Florida Statutes, is renumbered as section 39.812, Florida Statutes, and amended to read:

39.812 ~~39.47~~ *Postdisposition* ~~Post disposition~~ relief.—

(1) ~~A licensed child-placing agency or~~ The department *that* ~~which~~ is given custody of a child for subsequent adoption in accordance with this chapter may place the child in a family home for prospective subsequent adoption and *the licensed child-placing agency or the department* may thereafter become a party to any proceeding for the legal adoption of the child and appear in any court where the adoption proceeding is pending and consent to the adoption; and that consent alone shall in all cases be sufficient.

(2) In any subsequent adoption proceeding, the parents *are* ~~and legal guardian shall~~ not ~~be~~ entitled to ~~any~~ notice *of the proceeding and are not* ~~thereof, nor shall they be~~ entitled to knowledge at any time after the order terminating parental rights is entered of the whereabouts of the child or of the identity or location of any person having the custody of or having adopted the child, except as provided by order of the court pursuant to this chapter or chapter 63; and in any habeas corpus or other proceeding involving the child brought by any parent ~~or legal guardian~~ of the child, *an* ~~no~~ agent *or contract provider* of the ~~licensed child-placing agency or~~ department *may not* ~~shall~~ be compelled to divulge that information, but may be compelled to produce the child before a court of competent jurisdiction if the child is still subject to the guardianship of the ~~licensed child-placing agency or~~ department.

(3) The entry of the custody order to the department *does* ~~or licensed child-placing agency shall~~ not entitle the ~~licensed child-placing agency or~~ department to guardianship of the estate or property of the child, but the ~~licensed child-placing agency or~~ department shall be the guardian of the person of the child.

(4) The court shall retain jurisdiction over any child for whom custody is given to ~~a licensed child-placing agency or to~~ the department until the child is adopted. After custody of a child for subsequent adoption has been given to ~~an agency or~~ the department, the court has jurisdiction for the purpose of reviewing the status of the child and the progress being made toward permanent adoptive placement. As part of this continuing jurisdiction, for good cause shown by the guardian ad litem for the child, the court may review the appropriateness of the adoptive placement of the child. *The petition for adoption must be filed in the division of the circuit court which issued the judgment terminating parental rights. A copy of the consent required under s. 63.062(4) and executed by the department must be attached to the petition for adoption. The petition for adoption must be accompanied by a form created by the department which details the social and medical history of each birth parent and includes the social security number and date of birth for each birth parent, if such information is available or readily obtainable. The person seeking to adopt the minor may not file a petition for adoption until the order terminating parental rights becomes final. An adoption proceeding under this subsection is governed by chapter 63, as limited under s. 63.037.*

~~(5) The Legislature finds that children are most likely to realize their potential when they have the ability provided by good permanent families rather than spending long periods of time in temporary placements or unnecessary institutions. It is the intent of the Legislature that decisions be consistent with the child's best interests and that the department make proper adoptive placements as expeditiously as possible following a final judgment terminating parental rights.~~

Section 78. Section 63.022, Florida Statutes, is amended to read:

63.022 Legislative intent.—

(1) It is the intent of the Legislature to protect and promote the well-being of persons being adopted and their birth and adoptive parents and to provide to all children who can benefit by it a permanent family life, and, whenever possible, to maintain sibling groups.

(2) The basic safeguards intended to be provided by this *chapter* ~~act~~ are that:

(a) The *minor* ~~child~~ is legally free for adoption.

(b) The required persons consent to the adoption or the parent-child relationship is terminated by judgment of the court.

(c) The required social studies are completed and the court considers the reports of these studies prior to judgment on adoption petitions.

(d) All placements of minors for adoption are reported to the Department of Children and Family Services.

(e) A sufficient period of time elapses during which the *minor* ~~child~~ has lived within the proposed adoptive home under the guidance of the department or a licensed child-placing agency.

(f) All expenditures by *adoption entities* ~~intermediaries~~ placing, and persons independently adopting, a minor are reported to the court and become a permanent record in the file of the adoption proceedings.

(g) Social and medical information concerning the *minor* child and the birth parents is furnished by the birth parent when available and filed with the *court before a final hearing on a petition to terminate parental rights pending adoption* ~~consent to the adoption when a minor is placed by an intermediary~~.

(h) A new birth certificate is issued after entry of the adoption judgment.

(i) At the time of the hearing, the court *may* ~~is authorized to~~ order temporary substitute care when it determines that the minor is in an unsuitable home.

(j) The records of all proceedings concerning custody and adoption of *minor* children are confidential and exempt from ~~the provisions of~~ s. 119.07(1), except as provided in s. 63.162.

(k) The birth parent, the adoptive parent, and the *minor* child receive the same or similar safeguards, guidance, counseling, and supervision in an intermediary adoption as they receive in an agency or department adoption.

(l) In all matters coming before the court pursuant to this *chapter* ~~act~~, the court shall enter such orders as it deems necessary and suitable to promote and protect the best interests of the person to be adopted.

Section 79. Section 63.032, Florida Statutes, is amended to read:

63.032 Definitions.—As used in this *chapter* ~~act~~, ~~unless the context otherwise requires,~~ the term:

(1) "Department" means the Department of Children and Family Services.

(2) "Child" means a son or daughter, whether by birth or adoption.

(3) "Court" means any circuit court of this state and, when the context requires, the court of any state that is empowered to grant petitions for adoption.

(4) "Minor" means a person under the age of 18 years.

(5) "Adult" means a person who is not a minor.

(6) "Person" includes a natural person, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, or association, and any other legal entity.

(7) "Agency" means any child-placing agency licensed by the department pursuant to s. 63.202 to place minors for adoption.

(8) "Intermediary" means an attorney ~~or physician~~ who is licensed or authorized to practice in this state *and who has reported the intended placement of a minor for adoption under s. 63.092* or, for the purpose of adoptive placements of children from out of state with citizens of this state, a child-placing agency licensed in another state that is qualified by the department.

(9) "To place" or "placement" means the process of a person giving a child up for adoption and the prospective parents receiving and adopting the child, and includes all actions by any person or agency participating in the process.

(10) "Adoption" means the act of creating the legal relationship between parent and child where it did not exist, thereby declaring the child to be legally the child of the adoptive parents and their heir at law and entitled to all the rights and privileges and subject to all the obligations of a child born to such adoptive parents in lawful wedlock.

(11) "Suitability of the intended placement" includes the fitness of the intended placement, with primary consideration being given to the welfare of the child; the fitness and capabilities of the adoptive parent or parents to function as parent or parents for a particular child; *any familial relationship between the child and the prospective placement;* and the compatibility of the child with the home in which the child is intended to be placed.

(12) "Primary residence and place of employment in Florida" means a person lives and works in this state at least 6 months of the year and intends to do so for the foreseeable future or military personnel who designate Florida as their place of residence in accordance with the Soldiers' and Sailors' Civil Relief Act of 1940 or employees of the United States Department of State living in a foreign country who designate Florida as their place of residence.

(13) "Primarily lives and works outside Florida" means anyone who does not meet the definition of "primary residence and place of employment in Florida."

(14) "Abandoned" means a situation in which the parent or legal custodian of a child, while being able, makes no provision for the child's support and makes no effort to communicate with the child, which situation is sufficient to evince a willful rejection of parental obligations. If, in the opinion of the court, the efforts of such parent or legal custodian to support and communicate with the child are only marginal efforts that do not evince a settled purpose to assume all parental duties, the court may declare the child to be abandoned. In making this decision, the court may consider the conduct of a father towards the child's mother during her pregnancy.

(15) "Adoption entity" means the department under chapter 39; an agency under chapter 63 or, at the request of the department, under chapter 39; or an intermediary under chapter 63, placing a person for adoption.

Section 80. Section 63.037, Florida Statutes, is created to read:

63.037 Proceedings applicable to cases resulting from a termination of parental rights under chapter 39.—A case in which a minor becomes available for adoption after the parental rights of each parent have been terminated by a court order issued pursuant to chapter 39 will be governed by s. 39.47 and this chapter. Adoption proceedings filed under chapter 39 are exempt from the following provisions of this chapter: disclosure requirements for the adoption entity provided in s. 63.085; general provisions governing termination of parental rights pending adoption provided in s. 63.087; notice and service provisions governing termination of parental rights pending adoption provided in s. 63.088; and procedures for terminating parental rights pending adoption provided in s. 63.089.

Section 81. Section 63.038, Florida Statutes, is created to read:

63.038 Prohibited acts.—A person who knowingly and willfully provides false information under this chapter or who, with the intent to defraud, accepts benefits related to the same pregnancy from more than one agency or intermediary without disclosing that fact to each entity commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. In addition to any other penalty or liability allowed by law, a person who knowingly and willfully provides false information under this chapter or who, with intent to defraud, accepts benefits related to the same pregnancy from more than one agency or intermediary without disclosing that fact to each entity and to any prospective adoptive parent providing sums for the payment of the benefits is liable for sums paid by anyone who paid sums permitted under this chapter in anticipation of or in connection with an adoption. A person seeking to collect moneys under this section may do so by filing a civil action or may be awarded restitution in a criminal prosecution.

Section 82. Section 63.039, Florida Statutes, is created to read:

63.039 Duty of adoption entity to prospective adoptive parents; sanctions.—

(1) An adoption entity placing a minor for adoption has an affirmative duty to follow the requirements of this chapter, specifically the following provisions, which protect and promote the well-being of persons being adopted and their birth and adoptive parents by promoting certainty, finality, and permanency for such persons:

(a) Provide written initial disclosure to the adoptive parent at the time and in the manner required under s. 63.085(1);

(b) Obtain a written statement by the adoptive parent acknowledging receipt of the written initial disclosure and distribute copies of that acknowledgment at the time and in the manner required under s. 63.085(3);

(c) Provide written initial and postbirth disclosure to the birth parent at the time and in the manner required under s. 63.085;

(d) Obtain a written statement by the birth parent acknowledging receipt of the written initial and postbirth disclosure and distribute copies of that acknowledgment at the time and in the manner required under s. 63.085(3);

(e) When a written consent for adoption is obtained, obtain the consent at the time and in the manner required under s. 63.082;

(f) When a written consent or affidavit of nonpaternity for adoption is obtained, obtain a consent or affidavit of nonpaternity that contains the language required under s. 63.062 or s. 63.082;

(g) Include in the petition to terminate parental rights pending adoption all information required under s. 63.087(6)(e);

(h) Obtain and file the affidavit of inquiry required under s. 63.088(3);

(i) When the identity of a person whose consent to adoption is necessary under this chapter is known but the location of such a person is unknown, conduct the due-diligence search and file the affidavit required under s. 63.088(4);

(j) Serve the petition and notice of hearing to terminate parental rights pending adoption at the time and in the manner required by s. 63.088; and

(k) Hold the hearings required under this chapter no sooner than permitted by this chapter.

(2) An adoption entity that materially fails to meet a duty specified in subsection (1), may be liable to the prospective adoptive parents for all sums paid by the prospective adoptive parents or on their behalf in anticipation of or in connection with an adoption.

(3) If a court finds that a consent taken under this chapter was obtained by fraud or duress attributable to the adoption entity, the court must award all sums paid by the prospective adoptive parents or on their behalf in anticipation of or in connection with the adoption. The court may also award reasonable attorney's fees and costs incurred by the prospective adoptive parents in connection with the adoption and any litigation related to placement or adoption of a minor. An award under this subsection must be paid directly to the prospective adoptive parents by the adoption entity.

(4) If a person whose consent to an adoption is necessary under s. 63.062 prevails in an action to set aside a consent to adoption, a judgment terminating parental rights pending adoption, or a judgment of adoption, the court must award a reasonable attorney's fee to the prevailing party. An award under this subsection is to be paid by the adoption entity if the court finds that the acts or omissions of the entity were the basis for the court's order granting relief to the prevailing party.

(5) The court must provide to The Florida Bar any order that imposes sanctions under this section against an attorney, whether acting as an adoption agency or as an intermediary. The court must provide to the Department of Children and Family Services any order that imposes sanctions under this section against an agency. The order must be provided within 30 days after the date that the order was issued.

Section 83. Section 63.052, Florida Statutes, is amended to read:

63.052 Guardians designated; proof of commitment.—

(1) For minors who have been placed for adoption with and permanently committed to an agency, the agency shall be the guardian of the person of the *minor* ~~child~~; for those who have been placed for adoption with and permanently committed to the department, the department shall be the guardian of the person of the *minor* ~~child~~.

(2) For minors who have been voluntarily surrendered to an intermediary through an execution of consent to adoption, the intermediary shall be responsible for the child until the time a court orders preliminary approval of placement of the child in the prospective adoptive home, at which time the prospective adoptive parents become guardians pending finalization of adoption. *Until a court has terminated parental rights pending adoption and has ordered preliminary approval of placement of the minor in the adoptive home, the minor must be placed in the care of a birth relative, placed in foster care, or placed in the care of a prospective adoptive home that has received a favorable home study by a licensed child placing agency, a licensed professional, or an agency described in s. 61.20(2) within 1 year before such placement of the minor with the prospective adoptive parents. The fact that a minor is temporarily placed with the prospective adoptive parents does not give rise to a presumption that the parental rights of the birth parents will subsequently be terminated.*

~~(2)~~ For minors who have been placed for adoption with or voluntarily surrendered to an agency, but have not been permanently committed to the agency, the agency shall have the responsibility and authority to provide for the needs and welfare for such minors. For those minors placed for adoption with or voluntarily surrendered to the department, but not permanently committed to the department, the department shall have the responsibility and authority to provide for the needs and welfare for such minors. The *adoption entity may* ~~department, an intermediary, or a licensed child-placing agency has the authority to~~ authorize all appropriate medical care for *a minor* ~~the children~~ who *has* ~~have~~ been placed for adoption with or voluntarily surrendered to them. The provisions of s. 627.6578 shall remain in effect notwithstanding the guardianship provisions in this section.

(3) If a minor is surrendered to an intermediary for subsequent adoption and a suitable prospective adoptive home is not available *under s. 63.092 at the time the minor is surrendered to the intermediary or, if the minor is a newborn admitted to a licensed hospital or birth center, at the time the minor is discharged from the hospital or birth center the minor must be placed in licensed foster care*~~, the intermediary shall be responsible for the child~~ until a suitable prospective adoptive home is available *under s. 63.092.*

(4) If a *minor* ~~child~~ is voluntarily surrendered to an intermediary for subsequent adoption and the adoption does not become final within 180 days, the intermediary must report to the court on the status of the *minor* ~~child~~ and the court may at that time proceed under s. 39.453 or take action reasonably necessary to protect the best interest of the *minor* ~~child~~.

(5) The recital in the written consent given by the department that the *minor* ~~child~~ sought to be adopted has been permanently committed to the department shall be prima facie proof of such commitment. The recital in the written consent given by a licensed child-placing agency or the declaration in an answer or recommendation filed by a licensed child-placing agency that the *minor* ~~child~~ has been permanently committed and the child-placing agency is duly licensed by the department shall be prima facie proof of such commitment and of such license.

(6) Unless otherwise authorized by law, the department is not responsible for expenses incurred by licensed child-placing agencies or intermediaries participating in placement of a *minor* ~~child~~ for the purposes of adoption.

(7) The court retains jurisdiction over a minor who has been placed for adoption until the adoption is final. After a minor is placed with an adoption entity or prospective adoptive parent, the court has jurisdiction for the purpose of reviewing the status of the minor and the progress being made toward permanent adoptive placement. As part of this continuing jurisdiction, for good cause shown by a person whose consent to an adoption is required under s. 63.062, by a party to any proceeding involving the minor, or upon the court's own motion, the court may review the appropriateness of the adoptive placement of the minor.

Section 84. Section 63.062, Florida Statutes, is amended to read:

63.062 Persons required to consent to adoption.—

(1) Unless *supported by one or more of the grounds enumerated under s. 63.089(3)* ~~consent is excused by the court~~, a petition to *terminate parental rights pending adoption* ~~adopt a minor~~ may be granted only if written consent has been executed *as provided in s. 63.082* after the birth of the minor *or notice has been served under s. 63.088 to* ~~by~~:

(a) The mother of the minor.

(b) The father of the minor, if:

1. The minor was conceived or born while the father was married to the mother;~~.~~

2. The minor is his child by adoption;~~.~~

3. The minor has been established by court proceeding to be his child.

(c) If there is no father as set forth in subsection (b), any man for whom the minor has been established to be his child by scientific tests that are generally acceptable within the scientific community to show a probability of paternity.

(d) If there is no father as set forth in subsection (b) or subsection (c), any man who:

1.~~4.~~ ~~He~~ Has acknowledged in writing, signed in the presence of a competent witness, that he is the father of the minor and has filed such acknowledgment with the Office of Vital Statistics of the Department of Health;~~.~~

2.~~5.~~ ~~He~~ Has provided the child *or the mother during her pregnancy* with support in a repetitive, customary manner;~~.~~

3. Has been identified by the birth mother as a person she has reason to believe may be the father of the minor in an action to terminate parental rights pending adoption pursuant to this chapter; or

4. Is a party in any pending proceeding in which paternity, custody, or termination of parental rights regarding the minor is at issue.

(e)~~(c)~~ The minor, if more than 12 years of age, unless the court in the best interest of the minor dispenses with the minor's consent.

(2) Any person whose consent is required under paragraph (1)(b), paragraph (1)(c), or paragraph (1)(d) may execute an affidavit of nonpaternity in lieu of a consent under this section and by doing so waives notice to all court proceedings after the date of execution. An affidavit of nonpaternity must be executed under s. 63.082 and the person executing the affidavit must receive disclosure under s. 63.085 prior to signing the affidavit. An affidavit of nonpaternity must be in substantially the following form:

AFFIDAVIT OF NONPATERNITY

1. I have personal knowledge of the facts stated herein.

2. I have been told that . . . . . has a child. I shall not establish or claim paternity for this child.

3. The child noted herein was not conceived or born while the birth mother was married to me. I AM NOT MARRIED TO THE BIRTH MOTHER, nor do I intend to marry the birth mother.

4. I have not provided the birth mother with child support or pre-birth support; I have not provided her with prenatal care nor assisted her with medical expenses; I have not provided the birth mother or her child or unborn child with support of any kind, nor do I intend to do so.

5. I have no interest in assuming the responsibilities of parenthood for this child. I will not acknowledge in writing to be the father of this child nor institute court proceedings to establish the child to be mine.

6. I do not object to any decision or arrangements ... makes regarding this child, including adoption.

I WAIVE NOTICE OF ANY AND ALL PROCEEDINGS TO TERMINATE PARENTAL RIGHTS OR FINALIZE AN ADOPTION UNDER THIS CHAPTER.

(3)~~(2)~~ The court may require that consent be executed by:

(a) Any person lawfully entitled to custody of the minor; or

(b) The court having jurisdiction to determine custody of the minor, if the person having physical custody of the minor has no authority to consent to the adoption.

(4)~~(3)~~ The petitioner must make good faith and diligent efforts *as provided under s. 63.088* to notify, and obtain written consent from, the persons required to consent to adoption *under s. 63.062* ~~within 60 days after filing the petition~~. ~~These efforts may include conducting interviews and record searches to locate those persons, including verifying information related to location of residence, employment, service in the Armed Forces, vehicle registration in this state, and corrections records.~~

(5)~~(4)~~ If parental rights to the minor have previously been terminated, a licensed child-placing agency or the department with which the *minor* ~~child~~ has been placed for subsequent adoption may provide consent to the adoption. In such case, no other consent is required.

(6)~~(5)~~ A petition to adopt an adult may be granted if:

(a) Written consent to adoption has been executed by the adult and the adult's spouse, if any.

(b) Written consent to adoption has been executed by the birth parents, if any, or proof of service of process has been filed, showing notice has been served on the parents as provided in this *chapter* ~~section~~.

Section 85. Section 63.082, Florida Statutes, is amended to read:

63.082 Execution of consent *or affidavit of nonpaternity*; family medical history; withdrawal of consent.—

(1) Consent *or an affidavit of nonpaternity* shall be executed as follows:

(a) If by the person to be adopted, by oral or written statement in the presence of the court or by being acknowledged before a notary public.

(b) If by an agency, by affidavit from its authorized representative.

(c) If by any other person, in the presence of the court or by affidavit.

(d) If by a court, by an appropriate order or certificate of the court.

(2) A consent that does not name or otherwise identify the adopting parent is valid if the consent contains a statement by the person consenting that the consent was voluntarily executed and that identification of the adopting parent is not required for granting the consent.

(3)(a) The department must provide a consent form and a family *social and* medical history form to an *adoption entity that* ~~intermediary who~~ intends to place a child for adoption. The forms completed by the birth parents must be attached to the petition *to terminate parental rights pending adoption* and must contain such biological and sociological information, or such information as to the family medical history, regarding the *minor* ~~child~~ and the birth parents as is required by the department. The information must be incorporated into the final home investigation report specified in s. 63.125. The ~~court may also require that the~~ birth mother *and birth father must* be interviewed by a representative of the department, a licensed child-placing agency, or a professional pursuant to s. 63.092 *before the consent is executed, unless the birth parent is found to be an unlocated parent or an unidentified parent. A summary of each interview, or a statement that the parent is unlocated or unidentified, must be filed with the petition to terminate parental rights pending adoption and included in the final home study filed under s. 63.125.*

(b) Consent executed by ~~the department, by a licensed child-placing agency, or by~~ an appropriate order or certificate of the court *under s. 63.062(3)(b)* must be attached to the petition *to terminate parental rights pending adoption* ~~and must be accompanied by a family medical history that includes such information concerning the medical history of the child and the birth parents as is available or readily obtainable~~.

(c) If any executed consent or social and medical history is unavailable because the person whose consent is required is unlocated or unidentified, the petition must be accompanied by the affidavit of due diligence required under s. 63.088.

(4)*(a)* The consent *to an adoption or affidavit of nonpaternity shall not* ~~for voluntary surrender must~~ be executed *before* ~~after~~ the birth of the *minor.*

(b) A consent to adoption of a minor who is to be placed for adoption under s. 63.052 upon the minor's release following birth from a licensed hospital or birth center, shall not be executed sooner than:

1. 48 hours from the time of the minor's birth; or

2. The day the birth mother is determined in writing, either on a patient chart or in release paperwork to be fit for release from a licensed hospital or birth center; whichever is sooner.

A consent executed under this paragraph is valid upon execution and thereafter may only be withdrawn when the court finds that it was obtained by fraud or under duress.

(c) When the minor to be adopted is not placed under s. 63.052 upon the minor's release following birth from a licensed hospital or birth center, the consent may be executed at any time after the birth of the minor. While such consent is valid upon execution, it is subject to a 3-day revocation period under subsection (7).

(d) The consent or affidavit of nonpaternity must be signed ~~child,~~ in the presence of two witnesses, and be acknowledged before a notary public *who is not signing as one of the witnesses. The notary public must legibly note on the consent or affidavit of nonpaternity the date and time the consent or affidavit of nonpaternity was executed.* The witnesses' names must be typed or printed underneath their signatures. *The witnesses'* ~~, and their~~ home or business addresses and social security numbers, *driver's license numbers, or state identification card numbers* must be included. The absence of a social security number, *driver's license number, or state identification card number* shall not be deemed to invalidate the consent. *The person who signs the consent or affidavit has the right to have at least one of the witnesses be an individual who does not have a partnership, employment, agency, or other professional or personal relationship with the adoption entity or the prospective adoptive parents. The person who signs the consent or affidavit of nonpaternity must be given reasonable notice of the right to select a witness of his or her own choosing. The person who signs the consent or affidavit of nonpaternity must acknowledge in writing on the consent or affidavit that such notice was given and indicate the witness, if any, who was selected by the person signing the consent or affidavit. A consent to adoption must contain, in at least 16-point boldfaced type, an acknowledgement of the birth parent's rights in substantially the following form:*

YOU DO NOT HAVE TO SIGN THIS CONSENT FORM. YOU HAVE THE RIGHT TO DO ANY OF THE FOLLOWING INSTEAD OF SIGNING THIS CONSENT OR BEFORE SIGNING THIS CONSENT:

(A) CONSULT WITH AN ATTORNEY;

(B) HOLD, CARE FOR, AND FEED THE CHILD;

(C) PLACE THE CHILD IN FOSTER CARE OR WITH ANY FRIEND OR FAMILY MEMBER YOU CHOOSE WHO IS WILLING TO CARE FOR YOUR CHILD;

(D) TAKE THE CHILD HOME; AND

(E) FIND OUT ABOUT THE COMMUNITY RESOURCES THAT ARE AVAILABLE TO YOU IF YOU DO NOT GO THROUGH WITH THE ADOPTION.

IF YOU DO SIGN THIS CONSENT, YOU ARE RELINQUISHING ALL RIGHTS TO YOUR CHILD. YOUR CONSENT IS VALID AND BINDING UNLESS WITHDRAWN AS PERMITTED BY LAW. WHEN RELINQUISHING YOUR RIGHTS TO A CHILD WHO IS TO BE PLACED FOR ADOPTION UNDER S. 63.052, F.S., UPON THE MINOR'S RELEASE FOLLOWING BIRTH FROM A LICENSED HOSPITAL OR BIRTH CENTER, A WAITING PERIOD WILL BE IMPOSED BEFORE YOU MAY SIGN THE CONSENT FOR ADOPTION. YOU WILL BE REQUIRED TO WAIT 48 HOURS FROM THE TIME OF BIRTH, OR UNTIL THE BIRTH MOTHER HAS BEEN NOTIFIED IN WRITING, EITHER ON HER CHART OR IN RELEASE PAPERS THAT SHE IS FIT TO BE RELEASED FROM A LICENSED HOSPITAL OR BIRTHING CENTER, WHICHEVER IS SOONER, BEFORE YOU MAY SIGN THE CONSENT FOR ADOPTION. ONCE YOU HAVE SIGNED THE CONSENT, IT IS VALID AND BINDING AND CANNOT BE WITHDRAWN UNLESS A COURT FINDS THAT IT WAS OBTAINED THROUGH FRAUD OR UNDER DURESS. IF YOU ARE RELINQUISHING YOUR RIGHTS TO A CHILD WHO IS NOT PLACED UNDER S. 63.052, F.S., UPON THE MINOR'S RELEASE FOLLOWING BIRTH FROM A LICENSED HOSPITAL OR BIRTH CENTER, THE CONSENT MAY BE EXECUTED AT ANY TIME AFTER THE BIRTH OF THE MINOR. WHILE SUCH CONSENT IS VALID UPON EXECUTION, IT IS SUBJECT TO A 3-DAY REVOCATION PERIOD.

WHEN THE REVOCATION PERIOD APPLIES, YOU MAY WITHDRAW YOUR CONSENT FOR ANY REASON IF YOU DO SO WITHIN 3 BUSINESS DAYS AFTER THE DATE YOU SIGNED THE CONSENT OR 1 BUSINESS DAY AFTER THE DATE OF THE BIRTH MOTHER'S DISCHARGE FROM A LICENSED HOSPITAL OR BIRTH CENTER, WHICHEVER IS LATER.

YOU MAY DO THIS BY NOTIFYING THE ADOPTION ENTITY IN WRITING THAT YOU ARE WITHDRAWING YOUR CONSENT. YOU MAY DO THIS BY PRESENTING A LETTER AT A UNITED STATES POST OFFICE AND ASKING THAT THE LETTER BE SENT BY CERTIFIED UNITED STATES MAIL WITH RETURN RECEIPT REQUESTED WITHIN 3 BUSINESS DAYS AFTER THE DATE YOU SIGNED THE CONSENT OR 1 BUSINESS DAY AFTER THE DATE OF THE BIRTH MOTHER'S DISCHARGE FROM A LICENSED HOSPITAL OR BIRTH CENTER, WHICHEVER IS LATER. AS USED IN THIS SECTION, THE TERM "BUSINESS DAY" MEANS A DAY ON WHICH THE UNITED STATES POST OFFICE ACCEPTS CERTIFIED MAIL FOR DELIVERY. THE COST OF THIS MUST BE PAID AT THE TIME OF MAILING AND THE RECEIPT SHOULD BE RETAINED AS PROOF THAT CONSENT WAS WITHDRAWN IN A TIMELY MANNER.

THE ADOPTION ENTITY YOU SHOULD NOTIFY IS: (Name of Adoption Entity) , (Address of Adoption Entity) , (Phone Number of Adoption Entity) . FOLLOWING 3 BUSINESS DAYS AFTER THE DATE YOU SIGNED THE CONSENT OR 1 BUSINESS DAY AFTER THE DATE OF THE BIRTH MOTHER'S DISCHARGE FROM A LICENSED HOSPITAL OR BIRTH CENTER, WHICHEVER IS LATER, YOU MAY WITHDRAW YOUR CONSENT ONLY IF YOU CAN PROVE IN COURT THAT CONSENT WAS OBTAINED BY FRAUD OR DURESS.

(5) Before any consent to adoption or affidavit of nonpaternity is executed by a birth parent, but after the birth of the child, all requirements of disclosure under s. 63.085 must be met.

(6) A copy of each consent signed in an action for termination of parental rights pending adoption must be provided to each person whose consent is required under s. 63.062. A copy of each consent must be hand delivered, with a written acknowledgement of receipt signed by the person whose consent is required, or mailed by first class United States mail to the address of record in the court file. If a copy of a consent cannot be provided as required in this section, the adoption entity must execute an acknowledgement that states the reason the copy of the consent is undeliverable. The original consent and acknowledgment of receipt, or the acknowledgment of mailing by the adoption entity, must be filed with the petition for termination of parental rights pending adoption.

(7)~~(5)~~ *Consent executed under subsection (4) paragraph (c) may be withdrawn for any reason by notifying the adoption entity in writing by certified United States mail, return receipt requested, not later than 3 business days after execution of the consent or 1 business day after the date of the birth mother's discharge from a licensed hospital or birth center, whichever occurs later. As used in this subsection, the term "business day" means a day on which the United States Post Office accepts certified mail for delivery. Upon receiving written notice from a person of that person's desire to withdraw consent, the adoption entity must contact the prospective adoptive parent to arrange a time certain for the adoption entity to regain physical custody of the child, unless upon motion for emergency hearing by the adoption entity, the court determines in written findings that placement of the minor with the person withdrawing consent may endanger the minor. If the court finds that such placement may endanger the minor, the court must enter an order regarding continued placement of the child. The order shall include, but not be limited to, whether temporary placement in foster care is appropriate, whether an investigation by the Department of Children and Families is recommended, and whether a relative within the third degree is available for the temporary placement. In addition, if the person withdrawing consent claims to be the father of the minor but has not been established to be the father by marriage, court order, or scientific testing, the court may order scientific paternity testing and reserve ruling on removal of the child until the results of such testing have been filed with the court. The adoption entity must return the minor within 3 days to the physical custody of the person withdrawing consent. Thereafter,* consent may be withdrawn only when the court finds that the consent was obtained by fraud or duress. *An affidavit of nonpaternity may be withdrawn only if the court finds that the affidavit of nonpaternity was obtained by fraud. The adoption entity must include its name, address, and telephone number on the consent form.*

Section 86. Section 63.085, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 63.085, F.S., for present text.)

63.085 Disclosure by adoption entity.—

(1) DISCLOSURE REQUIRED TO BIRTH PARENTS AND PROSPECTIVE ADOPTIVE PARENTS.—Not later than 7 days after a person seeking to adopt a minor or a person seeking to place a minor for adoption contacts an adoption entity in person or provides the adoption entity with a mailing address, the entity must provide a written disclosure statement to that person. If a birth parent did not initially contact the adoption entity, the written disclosure must be provided within 7 days after that birth parent is identified and located. The written disclosure statement must be in substantially the following form:

ADOPTION DISCLOSURE

THE STATE OF FLORIDA REQUIRES THAT THIS FORM BE PROVIDED TO ALL PERSONS CONSIDERING ADOPTION TO ADVISE THEM OF THE FOLLOWING FACTS REGARDING ADOPTION UNDER FLORIDA LAW:

1. Under section 63.212, Florida Statutes, the existence of a placement or adoption contract signed by the birth parent or adoptive parent, prior approval of that contract by the court, or payment of any expenses permitted under Florida law does not obligate anyone to sign a consent or ultimately place a minor for adoption.

2. Under section 63.092, Florida Statutes, a favorable preliminary home study and a home investigation of the prospective adoptive home must be completed as required by chapter 63, Florida Statutes, before the minor may be placed in that home.

3. Under section 63.082, Florida Statutes, a consent for adoption or affidavit of nonpaternity may not be signed until after the birth of the minor. The consent or affidavit of nonpaternity is valid and binding upon execution unless withdrawn as permitted under section 63.082, Florida Statutes. If the minor is to be placed for adoption

upon leaving the hospital, the consent may not be signed until 48 hours after birth or the day the birth mother is released from the hospital. If the minor is not placed for adoption upon leaving the hospital, a 3-day revocation period applies. Consent may be withdrawn for any reason by notifying the adoption entity in writing. In order to withdraw consent, the written withdrawal of consent must be mailed no later than 3 business days after execution of the consent or 1 business day after the date of the birth mother's discharge from a licensed hospital or birth center, whichever occurs later. The letter must be mailed certified mail, return receipt requested. This is done by presenting it at any United States Post Office, and asking that the letter be sent by certified United States mail with return receipt requested. The cost of this must be paid at the time of mailing and the receipt should be retained as proof that consent was withdrawn in a timely manner. For purposes of this chapter, the term "business day" means a day on which the United States Post Office accepts certified mail for delivery. Upon receiving written notice from a person of that person's desire to withdraw consent, the adoption entity must contact the prospective adoptive parent to arrange a time certain to regain physical custody of the child. The adoption entity must return the minor within 3 days to the physical custody of the person withdrawing consent. Thereafter, consent may be withdrawn only if the court finds that consent was obtained by fraud. An affidavit of nonpaternity, once executed, may be withdrawn only if the court finds that it was obtained by fraud.

4. Under section 63.082, Florida Statutes, a person who signs a consent or affidavit of nonpaternity for adoption must be given reasonable notice of his or her right to select a person who does not have a partnership, employment, agency, or other professional or personal relationship with the adoption entity or the prospective adoptive parents to be present when the consent or affidavit of nonpaternity is executed and to sign the consent or affidavit as a witness.

5. Under section 63.088, Florida Statutes, specific and extensive efforts are required by law to attempt to obtain the consents required under section 63.062, Florida Statutes. If these efforts are unsuccessful, an order terminating parental rights pending adoption may not be issued by the court until those requirements have been met and an affidavit of service has been filed with the court.

6. Under Florida law, an intermediary may represent the legal interests of only the adoptive parents, not of any birth parent. Each person whose consent to an adoption is required under section 63.062, Florida Statutes, including each birth parent, is entitled to seek independent legal advice and representation before signing any document or surrendering parental rights.

7. Under section 63.089, Florida Statutes, the termination of parental rights will occur simultaneously with the entry of a judgment terminating parental rights pending adoption.

8. Under section 63.182, Florida Statutes, an action or proceeding of any kind to vacate, set aside, or otherwise nullify an order of adoption or an underlying order terminating parental rights pending adoption on any ground, including fraud or duress, must be filed within 1 year after entry of the order terminating parental rights pending adoption.

9. Under section 63.182, Florida Statutes, for 1 year after the entry of a judgment of adoption, any irregularity or procedural defect in the adoption proceeding may be the subject of an appeal contesting the validity of the judgment.

10. Under section 63.089, Florida Statutes, a judgment terminating parental rights pending adoption is voidable and any later judgment of adoption of that minor is voidable if, upon the motion of a birth parent, the court finds that any person knowingly gave false information that prevented the birth parent from timely making known his or her desire to assume parental responsibilities toward the minor or meeting the requirements under chapter 63, Florida Statutes, to exercise his or her parental rights. A motion under section 63.089, Florida Statutes, must be filed with the court originally entering the judgment. The motion must be filed within a reasonable time, but not later than 1 year after the date the judgment to which the motion is directed was entered.

11. Under section 63.165, Florida Statutes, the State of Florida maintains a registry of adoption information. Information about the registry is available from the Department of Children and Family Services.

12. Under section 63.032, Florida Statutes, a court may find that a birth parent has abandoned his or her child based on conduct during the pregnancy or based on conduct after the child is born. In addition, under section 63.089, Florida Statutes, the failure of a birth parent to respond to notices of proceedings involving his or her child shall result in termination of parental rights of a birth parent. A lawyer can explain what a birth parent must do to protect his or her parental rights. Any birth parent wishing to protect his or her parental rights should act IMMEDIATELY.

13. Each birth parent and adoptive parent is entitled to independent legal advice and representation. Attorney information may be obtained from the yellow pages, The Florida Bar's lawyer referral service, and local legal aid offices and bar associations.

14. There are counseling services available in the community to assist in making a parenting decision. Consult the yellow pages of the telephone directory.

15. Medical and social services support is available if the birth parent wishes to retain parental rights and responsibilities. Consult the Department of Children and Family Services.

(2) ACKNOWLEDGMENT OF DISCLOSURE.—The adoption entity must obtain a written statement acknowledging receipt of the disclosure required under subsection (1) and signed by the persons receiving the disclosure or, if it is not possible to obtain such an acknowledgement, the adoption entity must execute an affidavit stating why an acknowledgement could not be obtained. A copy of the acknowledgement of receipt of the disclosure must be provided to the person signing it. A copy of the acknowledgement or affidavit executed by the adoption entity in lieu of the acknowledgement must be maintained in the file of the adoption entity. The original acknowledgement or affidavit must be filed with the court. In the case of a disclosure provided under subsection (1), the original acknowledgement or affidavit must be included in the preliminary home study required in s. 63.092(3).

(3) POST-BIRTH DISCLOSURE TO BIRTH PARENTS.—Before execution of any consent to adoption by a birth parent, but after the birth of the minor, all requirements of subsections (1) and (2) for making certain disclosures to a birth parent and obtaining a written acknowledgment of receipt must be repeated.

Section 87. Section 63.087, Florida Statutes, is created to read:

63.087 Proceeding to terminate parental rights pending adoption; general provisions.—

(1) INTENT.—It is the intent of the Legislature to provide a proceeding in which the court determines whether a minor is legally available for adoption through a separate proceeding to address termination of parental rights prior to the filing of a petition for adoption.

(2) GOVERNING RULES.—The Florida Family Law Rules of Procedure govern a proceeding to terminate parental rights pending adoption unless otherwise provided by law.

(3) JURISDICTION.—A court of this state which is competent to decide child welfare or custody matters has jurisdiction to hear all matters arising from a proceeding to terminate parental rights pending adoption. All subsequent proceedings for the adoption of the minor, if the petition for termination is granted, must be conducted by the same judge as these proceedings whenever possible.

(4) VENUE.—A petition to terminate parental rights pending adoption must be filed in the county where the child resided for the prior 6 months or, if the child is younger than 6 months of age, in the county where the birth mother or birth father resided at the time of the execution of the consent to adoption or the affidavit of nonpaternity, or, if there is no consent or affidavit of nonpaternity executed by a birth parent, in the county where the birth mother resides.

(5) PREREQUISITE FOR ADOPTION.—A petition for adoption may not be filed until 30 days after the date the judge signed the judgment terminating parental rights pending adoption under this chapter, unless the adoptee is an adult or the minor has been the subject of a judgment terminating parental rights under chapter 39.

(6) PETITION.—

(a) A proceeding seeking to terminate parental rights pending adoption pursuant to this chapter must be commenced by the filing of an original petition after the birth of the minor.

(b) The petition may be filed by a birth parent or legal guardian of the minor.

(c) The petition must be entitled: "In the Matter of the Proposed Adoption of a Minor Child."

(d) If a petition for a declaratory statement under s. 63.102 has previously been filed, a subsequent petition to terminate parental rights pending adoption may, at the request of any party or on the court's own motion, be consolidated with that previous action. If the petition to terminate parental rights pending adoption is consolidated with a prior petition filed under this chapter for which a filing fee has been paid, the petitioner may not be charged a subsequent or additional filing fee.

(e) The petition to terminate parental rights pending adoption must be in writing and signed by the petitioner under oath stating the petitioner's good faith in filing the petition. A written consent, affidavit of nonpaternity, or affidavit of due diligence under s. 63.088, for each person whose consent is required under s. 63.062, must be attached.

(f) The petition must include:

1. The minor's name, gender, date of birth, and place of birth. The petition must contain all names by which the minor is or has been known, including the minor's legal name at the time of the filing of the petition, to allow interested parties to the action, including birth parents, legal guardians, persons with custodial or visitation rights to the minor, and persons entitled to notice pursuant to the Uniform Child Custody Jurisdiction Act or the Indian Child Welfare Act, to identify their own interest in the action.

2. If the petition is filed before the day the minor is 6 months old and if the identity or location of the birth father is unknown, each city in which the birth mother resided or traveled during the 12 months prior to the minor's birth, including the county and state in which that city is located.

3. Unless the consent of each person whose consent is required under s. 63.062 or an affidavit of nonpaternity is attached to the petition, the name and address or, if a specific address is unknown, the city, including the county and state in which that city is located, of:

a. The minor's mother;

b. Any man whom the mother reasonably believes may be the minor's father; and

c. Any legal custodian of the minor.

If a required name or address is not known, the petition must so state.

4. All information required by the Uniform Child Custody Jurisdiction Act and the Indian Child Welfare Act.

5. A statement of the grounds under s. 63.089 upon which the petition is based.

6. The name, address, and telephone number of any adoption entity seeking to place the minor for adoption.

7. The name, address, and phone number of the division of the circuit in which the petition is to be filed.

(7) ANSWER NOT REQUIRED.—An answer to the petition or any pleading need not be filed by any minor, parent, or legal custodian, but any matter that might be set forth in an answer or other pleading may be pleaded orally before the court or filed in writing as any such person may choose. Notwithstanding the filing of any answer or any pleading, any person present at the hearing to terminate parental rights pending adoption whose consent to adoption is required under s. 63.062 must:

(a) Be advised by the court that he or she has a right to ask that the hearing be reset for a later date so that the person may consult with an attorney;

(b) Be given an opportunity to deny the allegations in the petition; and

(c) Be given the opportunity to challenge the validity of any consents or affidavits of nonpaternity signed by any person.

Section 88. Section 63.088, Florida Statutes, is created to read:

63.088 Proceeding to terminate parental rights pending adoption; notice and service.—

(1) INITIATE LOCATION AND IDENTIFICATION PROCEDURES.—When the location or identity of a person whose consent to an adoption is required but is not known, the adoption entity must begin the inquiry and diligent search process required by this section not later than 7 days after the date on which the person seeking to place a minor for adoption has evidenced in writing to the entity a desire to place the minor for adoption with that entity or not later than 7 days after the date any money is provided as permitted under this chapter by the adoption entity for the benefit of the person seeking to place a minor for adoption.

(2) LOCATION AND IDENTITY KNOWN.—Before the court may determine that a minor is available for adoption, and in addition to the other requirements set forth in this chapter, each person whose consent is required under s. 63.062, who has not executed an affidavit of nonpaternity, and whose location and identity has been determined by compliance with the procedures in this section must be personally served, pursuant to chapter 48, at least 30 days before the hearing with a copy of the petition to terminate parental rights pending adoption and with notice in substantially the following form:

NOTICE OF PETITION AND HEARING
TO TERMINATE PARENTAL RIGHTS PENDING ADOPTION

A petition to terminate parental rights pending adoption has been filed. A copy of the petition is being served with this notice. There will be a hearing on the petition to terminate parental rights pending adoption on ... (date) ... at ... (time) ... before ... (judge) ... at ... (location, including complete name and street address of the courthouse) .... The court has set aside ... (amount of time) ... for this hearing.

UNDER SECTION 63.089, FLORIDA STATUTES, FAILURE TO FILE A WRITTEN RESPONSE TO THIS NOTICE WITH THE COURT OR TO APPEAR AT THIS HEARING CONSTITUTES GROUNDS UPON WHICH THE COURT SHALL END ANY PARENTAL RIGHTS YOU MAY HAVE REGARDING THE MINOR CHILD.

(3) REQUIRED INQUIRY.—In all cases filed under this section, the court must conduct the following inquiry of the person who is placing the minor for adoption and of any relative or custodian of the minor who is present at the hearing and likely to have the following information:

(a) Whether the mother of the minor was married at any time when conception of the minor may have occurred or at the time of the birth of the minor;

(b) Whether the mother was cohabiting with a male at any time when conception of the minor may have occurred;

(c) Whether the mother has received payments or promises of support with respect to the minor or, because of her pregnancy, from any person she has reason to believe may be the father;

(d) Whether the mother has named any person as the father on the birth certificate of the minor or in connection with applying for or receiving public assistance;

(e) Whether any person has acknowledged or claimed paternity of the minor; and

(f) Whether the mother knows the identity of any person whom she has reason to believe may be the father.

The information required under this subsection may be provided to the court in the form of a sworn affidavit by a person having personal knowledge of the facts, addressing each inquiry enumerated in this subsection. The inquiry required under this subsection may be conducted before the birth of the minor.

(4) LOCATION UNKNOWN; IDENTITY DETERMINED.—If the inquiry by the court under subsection (3) identifies any person whose consent is required under s. 63.062 and who has not executed an affidavit

of nonpaternity, and the location of the person from whom consent is required is unknown, the adoption entity must conduct a diligent search for that person which must include the following inquiries:

(a) The person's current address, or any previous address, through an inquiry of the United States Post Office through the Freedom of Information Act;

(b) The last known employment of the person, including the name and address of the person's employer. Inquiry should be made of the last known employer as to any address to which wage and earnings statements (W-2 forms) of the person have been mailed. Inquiry should be made of the last known employer as to whether the person is eligible for a pension or profit-sharing plan and any address to which pension or other funds have been mailed;

(c) Union memberships the person may have held or unions that governed the person's particular trade or craft in the area where the person last resided;

(d) Regulatory agencies, including those regulating licensing in the area where the person last resided;

(e) Names and addresses of relatives to the extent such can be reasonably obtained from the petitioner or other sources, contacts with those relatives, and inquiry as to the person's last known address. The petitioner shall pursue any leads of any addresses where the person may have moved. Relatives include, but are not limited to, parents, brothers, sisters, aunts, uncles, cousins, nieces, nephews, grandparents, great grandparents, former in-laws, stepparents, and stepchildren;

(f) Information as to whether or not the person may have died, and if so, the date and location;

(g) Telephone listings in the area where the person last resided;

(h) Inquiries of law enforcement agencies in the area where the person last resided;

(i) Highway patrol records in the state where the person last resided;

(j) Department of Corrections records in the state where the person last resided;

(k) Hospitals in the area where the person last resided;

(l) Records of utility companies, including water, sewer, cable TV, and electric companies in the area where the person last resided;

(m) Records of the Armed Forces of the United States as to whether there is any information as to the person;

(n) Records of the tax assessor and tax collector in the area where the person last resided; and

(o) Search of one Internet data bank locator service.

Any person contacted by a petitioner who is requesting information pursuant to this subsection must release the requested information to the petitioner, except when prohibited by law, without the necessity of a subpoena or court order. An affidavit of diligent search executed by the petitioner and the adoption entity must be filed with the court confirming completion of each aspect of the diligent search enumerated in this subsection and specifying the results. The diligent search required under this subsection may be conducted before the birth of the minor.

(5) LOCATION NOT DETERMINED OR IDENTITY UNKNOWN.—This subsection only applies if, as to any person whose consent is required under s. 63.062 and who has not executed an affidavit of nonpaternity, the location or identity of the person is unknown and the inquiry under subsection (3) fails to identify the person or the due diligence search under subsection (4) fails to locate the person. The unlocated or unidentified person must be served notice under s. 63.088(2), of the petition and hearing to terminate parental rights pending adoption by constructive service in the manner provided in chapter 49 in each county identified in the petition, as provided in s. 63.087(6). The notice, in addition to all information required in the petition under s. 63.087(6) and chapter 49, must contain a physical description, including, but not limited to, age, race, hair and eye color, and approximate height and weight of the minor's mother and of any person the mother reasonably believes may be the father; the minor's date of birth; and any date and city, including the county and state in which the city is located, in which conception may have occurred. If any of the facts that must be included in the petition under this subsection are unknown and cannot be reasonably ascertained, the petition must so state.

Section 89. Section 63.089, Florida Statutes, is created to read:

63.089 Proceeding to terminate parental rights pending adoption.—

(1) HEARING.—The court may terminate parental rights pending adoption only after a full evidentiary hearing.

(2) HEARING PREREQUISITES.—The court may hold the hearing only when:

(a) For each person whose consent is required under s. 63.062:

1. A consent under s. 63.082 has been executed and filed within the court;

2. An affidavit of nonpaternity under s. 63.082 has been executed and filed with the court; or

3. Notice has been provided under ss. 63.087 and 63.088;

(b) For each notice and petition that must be served under ss. 63.087 and 63.088:

1. At least 30 days have elapsed since the date of personal service and an affidavit of service has been filed with the court;

2. At least 60 days have elapsed since the first date of publication of constructive service and an affidavit of service has been filed with the court; or

3. An affidavit of nonpaternity which affirmatively waives service has been executed and filed with the court;

(c) The minor named in the petition has been born; and

(d) The petition contains all information required under s. 63.087 and all affidavits of inquiry, due diligence, and service required under s. 63.088 have been obtained and filed with the court.

(3) GROUNDS FOR TERMINATING PARENTAL RIGHTS PENDING ADOPTION.—The court may issue a judgment terminating parental rights pending adoption if the court determines by clear and convincing evidence that each person whose consent to an adoption is required under s. 63.062:

(a) Has executed a valid consent that has not been withdrawn under s. 63.082 and the consent was obtained according to the requirements of this chapter;

(b) Has executed an affidavit of nonpaternity and the affidavit was obtained according to the requirements of this chapter;

(c) Has been properly served notice of the proceeding in accordance with the requirements of this chapter and has failed to file a written answer or appear at the evidentiary hearing resulting in the order terminating parental rights pending adoption;

(d) Has abandoned the minor as abandonment is defined in s. 63.032(14);

(e) Is a parent of the person to be adopted, which parent has been judicially declared incapacitated with restoration of competency found to be medically improbable;

(f) Is a legal guardian or lawful custodian of the person to be adopted, other than a parent, who has failed to respond in writing to a request for consent for a period of 60 days or, after examination of his or her written reasons for withholding consent, is found by the court to be withholding his or her consent unreasonably; or

(g) Is the spouse of the person to be adopted who has failed to consent, and the failure of the spouse to consent to the adoption is excused by reason of prolonged and unexplained absence, unavailability, incapacity, or circumstances that are found by the court to constitute unreasonable withholding of consent.

(4) FINDING OF ABANDONMENT.—A finding of abandonment resulting in a termination of parental rights must be based upon clear and convincing evidence. A finding of abandonment may not be based upon a lack of emotional support to a birth mother during her pregnancy.

(a) In making a determination of abandonment the court must consider:

1. Whether the actions alleged to constitute abandonment demonstrate a willful disregard for the safety of the child or unborn child;

2. Whether other persons prevented the person alleged to have abandoned the child from making the efforts referenced in this subsection;

3. Whether the person alleged to have abandoned the child, while being able, refused to provide financial support when such support was requested by the child's legal guardian or custodian;

4. Whether the person alleged to have abandoned the child, while being able, refused to pay for medical treatment when such payment was requested by the child's legal guardian or custodian and those expenses were not covered by insurance or other available sources;

5. Whether the amount of support provided or medical expenses paid was appropriate, taking into consideration the needs of the child and relative means and resources available to the person alleged to have abandoned the child and available to the child's legal guardian or custodian during the period the child allegedly was abandoned; and

6. Whether the child's legal guardian or custodian made the child's whereabouts known to the person alleged to have abandoned the child; advised that person of the needs of the child or the needs of the mother of an unborn child with regard to the pregnancy; or informed that person of events such as medical appointments and tests relating to the child or, if unborn, the pregnancy.

(b) The child has been abandoned when the parent of a child is incarcerated on or after October 1, 1998, in a state or federal correctional institution and sentenced to a term of incarceration of 8 years or longer, regardless of how long the person is actually incarcerated under that sentence or how long the person will be incarcerated after October 1, 1998, and:

1. The period of time for which the parent is expected to be incarcerated will constitute a substantial portion of the period of time before the child will attain the age of 18 years;

2. The incarcerated parent has been determined by the court to be a violent career criminal as defined in s. 775.084, a habitual violent felony offender as defined in s. 775.084, or a sexual predator as defined in s. 775.21; has been convicted of first degree or second degree murder in violation of s. 782.04 or a sexual battery that constitutes a capital, life, or first degree felony violation of s. 794.011; or has been convicted of an offense in another jurisdiction which is substantially similar to one of the offenses listed in this paragraph. As used in this section, the term "substantially similar offense" means any offense that is substantially similar in elements and penalties to one of those listed in this paragraph, and that is in violation of a law of any other jurisdiction, whether that of another state, the District of Columbia, the United States or any possession or territory thereof, or any foreign jurisdiction; and

3. The court determines by clear and convincing evidence that continuing the parental relationship with the incarcerated parent would be harmful to the child and, for this reason, that termination of the parental rights of the incarcerated parent is in the best interest of the child.

(c) The only conduct of a father toward a mother during pregnancy that the court may consider in determining whether the child has been abandoned is conduct that occurred after reasonable and diligent efforts have been made to inform the father that he is, or may be, the father of the child.

(5) DISMISSAL OF CASE WITH PREJUDICE.—If the court does not find by clear and convincing evidence that parental rights of a birth parent should be terminated pending adoption, the court must dismiss the case with prejudice and that birth parent's parental rights remain in full force under the law. Parental rights may not be terminated based upon a consent that the court finds has been timely withdrawn under s. 63.082 or a consent or affidavit of nonpaternity that the court finds was obtained by fraud. The court must enter an order based upon written findings providing for the placement of the minor. The court may order scientific testing to determine the paternity of the minor at any time during which the court has jurisdiction over the minor. Further proceedings, if any, regarding the minor must be brought in a separate custody action under chapter 61, a dependency action under chapter 39, or a paternity action under chapter 742.

(6) A JUDGMENT TERMINATING PARENTAL RIGHTS PENDING ADOPTION.—

(a) The judgment terminating parental rights pending adoption must be in writing and contain findings of fact as to the grounds for terminating parental rights pending adoption.

(b) The clerk of the court shall mail a copy of the judgment within 24 hours after filing to the department, the petitioner, and the respondent. The clerk shall execute a certificate of each mailing.

(c) A judgment terminating parental rights pending adoption is voidable and any later judgment of adoption of that minor is voidable if, upon the motion of a birth parent, the court finds that a person knowingly gave false information that prevented the birth parent from timely making known his or her desire to assume parental responsibilities toward the minor or meeting the requirements under this chapter to exercise his or her parental rights. A motion under this paragraph must be filed with the court originally entering the judgment. The motion must be filed within a reasonable time, but not later than 1 year after the date the termination of parental rights final order was entered.

(d) Not later than 30 days after the filing of a motion under this subsection, the court must conduct a preliminary hearing to determine what contact, if any, shall be permitted between a birth parent and the child pending resolution of the motion. Such contact shall only be considered if it is requested by a birth parent who has appeared at the hearing. If the court orders contact between a birth parent and child, the order must be issued in writing as expeditiously as possible and must state with specificity any provisions regarding contact with persons other than those with whom the child resides.

(e) At the preliminary hearing, the court, upon the motion of any party or its own motion, may order scientific testing to determine the paternity of the minor if the person seeking to set aside the judgment is alleging to be the child's birth father and that fact has not previously been determined by legitimacy or scientific testing. The court may order supervised visitation with a person from whom scientific testing for paternity has been ordered conditional upon the filing of those test results with the court and such results establish that person's paternity of the minor.

(f) No later than 45 days after the preliminary hearing, the court must conduct a final hearing on the motion to set aside the judgment and issue its written order as expeditiously as possible thereafter.

(7) RECORDS; CONFIDENTIAL INFORMATION.—All records pertaining to a petition to terminate parental rights pending adoption are records related to the subsequent adoption of the minor and are subject to the provisions of s. 63.162, as such provisions apply to records of an adoption proceeding. The confidentiality provisions of this chapter do not apply to the extent information regarding persons or proceedings must be made available as specified under s. 63.088.

Section 90. Section 63.092, Florida Statutes, is amended to read:

63.092 Report to the court of intended placement by an intermediary; preliminary study.—

(1) REPORT TO THE COURT.—The *adoption entity* ~~intermediary~~ must report any intended placement of a minor for adoption with any person not related within the third degree or a stepparent if the *adoption entity* ~~intermediary~~ has knowledge of, or participates in, such intended placement. The report must be made to the court before the minor is placed in the home.

(2) AT-RISK PLACEMENT.—If the minor is placed in the prospective adoptive home before the parental rights of the minor's birth parents are terminated under s. 63.089, the placement is an at-risk placement. If the placement is an at-risk placement, the prospective adoptive parents must acknowledge in writing before the minor may be placed in the prospective adoptive home that the placement is at risk and that the

minor is subject to removal from the prospective adoptive home by the adoption entity or by court order.

(3)~~(2)~~ PRELIMINARY HOME STUDY.—Before placing the minor in the intended adoptive home, a preliminary home study must be performed by a licensed child-placing agency, a licensed professional, or agency described in s. 61.20(2), unless the petitioner is a stepparent, a spouse of the birth parent, or a relative. The preliminary study shall be completed within 30 days after the receipt by the court of the *adoption entity's* ~~intermediary's~~ report, but in no event may the *minor* ~~child~~ be placed in the prospective adoptive home prior to the completion of the preliminary study unless ordered by the court. If the petitioner is a stepparent, a spouse of the birth parent, or a relative, the preliminary home study may be required by the court for good cause shown. The department is required to perform the preliminary home study only if there is no licensed child-placing agency, licensed professional, or agency described in s. 61.20(2), in the county where the prospective adoptive parents reside. The preliminary home study must be made to determine the suitability of the intended adoptive parents and may be completed prior to identification of a prospective adoptive *minor* ~~child~~. A favorable preliminary home study is valid for 1 year after the date of its completion. A *minor may* ~~child must~~ not be placed in an intended adoptive home before a favorable preliminary home study is completed unless the adoptive home is also a licensed foster home under s. 409.175. The preliminary home study must include, at a minimum:

(a) An interview with the intended adoptive parents;

(b) Records checks of the department's central abuse registry under chapter 415 and statewide criminal records correspondence checks through the Department of Law Enforcement on the intended adoptive parents;

(c) An assessment of the physical environment of the home;

(d) A determination of the financial security of the intended adoptive parents;

(e) Documentation of counseling and education of the intended adoptive parents on adoptive parenting;

(f) Documentation that information on adoption and the adoption process has been provided to the intended adoptive parents;

(g) Documentation that information on support services available in the community has been provided to the intended adoptive parents; *and*

(h) A copy of *each* ~~the~~ signed *acknowledgement* ~~statement~~ required by s. 63.085~~; and~~

~~(i) A copy of the written acknowledgment required by s. 63.085(1).~~

If the preliminary home study is favorable, a minor may be placed in the home pending entry of the judgment of adoption. A minor may not be placed in the home if the preliminary home study is unfavorable. If the preliminary home study is unfavorable, the intermediary or petitioner may, within 20 days after receipt of a copy of the written recommendation, petition the court to determine the suitability of the intended adoptive home. A determination as to suitability under this subsection does not act as a presumption of suitability at the final hearing. In determining the suitability of the intended adoptive home, the court must consider the totality of the circumstances in the home.

Section 91. Section 63.097, Florida Statutes, is amended to read:

63.097 Fees.—

(1) The following fees, costs, and expenses may be assessed by the adoption entity or paid by the adoption entity on behalf of the prospective adoptive parents:

(a) Reasonable living expenses of the birth mother which the birth mother is unable to pay due to involuntary unemployment, medical disability due to the pregnancy which is certified by a medical professional who has examined the birth mother, or any other disability defined in s. 110.215. Reasonable living expenses are rent, utilities, basic telephone service, food, necessary clothing, transportation, and items included in the affidavit filed under s. 63.132 and found by the court to be necessary for the health of the unborn child.

(b) Reasonable and necessary medical expenses.

(c) Expenses necessary to comply with the requirements of this chapter including, but not limited to, service of process under s. 63.088, a due diligence search under s. 63.088, a preliminary home study under s. 63.092, and a final home study under s. 63.125.

(d) Court filing expenses, court costs, and other litigation expenses.

(e) Costs associated with advertising under s. 63.212(1)(h).

(f) The following professional fees:

1. A reasonable hourly fee necessary to provide legal representation to the adoptive parents in a proceeding filed under this chapter.

2. A reasonable hourly fee for contact with the birth parent related to the adoption. In determining a reasonable hourly fee under this subparagraph, the court must consider if the tasks done were clerical or of such a nature that the matter could have been handled by support staff at a lesser rate than the rate for legal representation charged under subparagraph 1. This includes, but need not be limited to, tasks such as transportation, transmitting funds, arranging appointments, and securing accommodations. This does not include obtaining a birth parent's signature on any document.

3. A reasonable hourly fee for counseling services provided to a birth parent or adoptive parent by a psychologist licensed under chapter 490 or a clinical social worker, marriage and family therapist, or mental health counselor licensed under chapter 491.

(2) Prior approval of the court is not required until the cumulative total of amounts permitted under subsection (1) exceeds:

(a) $2,500 in legal or other fees;

(b) $500 in court costs; or

(c) $3,000 in expenditures.

(3) Any fees, costs, or expenditures not included in subsection (1) or prohibited under subsection (4) require court approval prior to payment and must be based on a finding of extraordinary circumstances.

(4) The following fees, costs, and expenses are prohibited:

1. Any fee or expense that constitutes payment for locating a minor for adoption.

2. Cumulative expenses in excess of a total of $500 related to the minor, the pregnancy, a birth parent, or adoption proceeding which are incurred prior to the date the prospective adoptive parent retains the adoption entity.

3. Any lump-sum payment to the entity which is nonrefundable directly to the payor or which is not itemized on the affidavit filed under s. 63.132.

4. Any fee on the affidavit which does not specify the service that was provided and for which the fee is being charged, such as a fee for facilitation, acquisition, or other similar service, or which does not identify the date the service was provided, the time required to provide the service, the person or entity providing the service, and the hourly fee charged.

~~(1) APPROVAL OF FEES TO INTERMEDIARIES.—Any fee over $1,000 and those costs as set out in s. 63.212(1)(d) over $2,500, paid to an intermediary other than actual, documented medical costs, court costs, and hospital costs must be approved by the court prior to assessment of the fee by the intermediary and upon a showing of justification for the larger fee.~~

(5)~~(2) FEES FOR AGENCIES OR THE DEPARTMENT.—~~When an intermediary uses the services of a licensed child-placing agency, a professional, any other person or agency pursuant to s. 63.092, or, if necessary, the department, the person seeking to adopt the child must pay the licensed child-placing agency, professional, other person or agency, or the department an amount equal to the cost of all services performed, including, but not limited to, the cost of conducting the preliminary home study, counseling, and the final home investigation. The court, upon a finding that the person seeking to adopt the child is financially

unable to pay that amount, may order that such person pay a lesser amount.

Section 92. Section 63.102, Florida Statutes, is amended to read:

63.102 Filing of petition; venue; proceeding for approval of fees and costs.—

(1) *After a court order terminating parental rights has been issued,* a proceeding for adoption *may* ~~shall~~ be commenced by filing a petition entitled, "In the Matter of the Adoption of . . . . " in the circuit court. The person to be adopted shall be designated in the caption in the name by which he or she is to be known if the petition is granted. ~~If the child is placed for adoption by an agency,~~ Any name by which the *minor* ~~child~~ was previously known *may* ~~shall~~ not be disclosed in the petition, the notice of hearing, or the judgment of adoption.

(2) A petition for adoption or for a declaratory statement as to the adoption contract shall be filed in the county where the petitioner or petitioners or the *minor* ~~child~~ resides or where the agency *or intermediary with* ~~in~~ which the *minor* ~~child~~ has been placed is located.

(3) Except for adoptions involving placement of a *minor* ~~child~~ with a relative within the third degree of consanguinity, a petition for adoption in an adoption handled by an intermediary shall be filed within 30 working days after placement of a *minor* ~~child~~ with a parent seeking to adopt the *minor* ~~child~~. If no petition is filed within 30 days, any interested party, including the state, may file an action challenging the prospective adoptive parent's physical custody of the *minor* ~~child~~.

(4) If the filing of the petition for adoption or for a declaratory statement as to the adoption contract in the county where the petitioner or *minor* ~~child~~ resides would tend to endanger the privacy of the petitioner or *minor* ~~child~~, the petition for adoption may be filed in a different county, provided the substantive rights of any person will not thereby be affected.

(5) A proceeding for prior approval of fees and costs may be commenced any time after an agreement is reached between the birth mother and the adoptive parents by filing a petition for declaratory statement on the agreement entitled "In the Matter of the Proposed Adoption of a Minor Child" in the circuit court.

(a) The petition must be filed jointly by the adoption entity and each person who enters into the agreement.

(b) A contract for the payment of fees, costs, and expenditures permitted under this chapter must be in writing, and any person who enters into the contract has 3 business days in which to cancel the contract. To cancel the contract, the person must notify the adoption entity in writing by certified United States mail, return receipt requested, no later than 3 business days after signing the contract. For the purposes of this subsection, the term "business day" means a day on which the United States Post Office accepts certified mail for delivery. If the contract is canceled within the first 3 business days, the person who cancels the contract does not owe any legal, intermediary, or other fees, but may be responsible for the adoption entity's actual costs during that time.

(c) The court may grant prior approval only of fees and expenditures permitted under s. 63.097. A prior approval of prospective fees and costs does not create a presumption that these items will subsequently be approved by the court under s. 63.132 unless such a finding is supported by the evidence submitted at that time. The court retains jurisdiction to order an adoption entity to refund to the person who enters into the contract any sum or portion of a sum preapproved under this subsection if, upon submission of a complete accounting of fees, costs, and expenses in an affidavit required under s. 63.132, the court finds the fees, costs, and expenses actually incurred to be less than the sums approved prospectively under this subsection.

(d) The contract may not require, and the court may not approve, any lump-sum payment to the entity which is nonrefundable to the payor or any amount that constitutes payment for locating a minor for adoption.

(e) If a petition for adoption is filed under this section subsequent to the filing of a petition for a declaratory statement or a petition to terminate parental rights pending adoption, the previous petition may, at the request of any party or on the court's own motion, be consolidated with the petition for adoption. If the petition for adoption is consolidated with a prior petition filed under this chapter for which a filing fee has been paid, the petitioner may not be charged any subsequent or additional filing fee.

(f) Prior approval of fees and costs by the court does not obligate the birth parent to ultimately relinquish the minor for adoption. ~~If a petition for adoption is subsequently filed, the petition for declaratory statement and the petition for adoption must be consolidated into one case.~~

Section 93. Section 63.112, Florida Statutes, is amended to read:

63.112 Petition for adoption; description; report or recommendation, exceptions; mailing.—

(1) A sufficient number of copies of the petition for adoption shall be signed and verified by the petitioner and filed with the clerk of the court so that service may be made under subsection (4) and shall state:

(a) The date and place of birth of the person to be adopted, if known;

(b) The name to be given to the person to be adopted;

(c) The date petitioner acquired custody of the minor and the name of the person placing the minor;

(d) The full name, age, and place and duration of residence of the petitioner;

(e) The marital status of the petitioner, including the date and place of marriage, if married, and divorces, if any;

(f) The facilities and resources of the petitioner, including those under a subsidy agreement, available to provide for the care of the minor to be adopted;

(g) A description and estimate of the value of any property of the person to be adopted;

(h) The *case style and date of entry of the order terminating parental rights or the judgment declaring a minor available for adoption* ~~name and address, if known, of any person whose consent to the adoption is required, but who has not consented, and facts or circumstances that excuse the lack of consent~~; and

(i) The reasons why the petitioner desires to adopt the person.

(2) The following documents are required to be filed with the clerk of the court at the time the petition is filed:

(a) *A certified copy of the court order terminating parental rights under chapter 39 or the judgment declaring a minor available for adoption under this chapter* ~~The required consents, unless consent is excused by the court~~.

(b) The favorable preliminary home study of the department, licensed child-placing agency, or professional pursuant to s. 63.092, as to the suitability of the home in which the minor has been placed.

(c) The surrender document must include documentation that *an interview was* ~~interviews were~~ held with~~:~~

~~1. The birth mother, if parental rights have not been terminated;~~

~~2. The birth father, if his consent to the adoption is required and parental rights have not been terminated; and~~

~~3.~~ the *minor* ~~child~~, if older than 12 years of age, unless the court, in the best interest of the *minor* ~~child~~, dispenses with the *minor's* ~~child's~~ consent under s. *63.062(1)(e)* ~~63.062(1)(c)~~.

~~The court may waive the requirement for an interview with the birth mother or birth father in the investigation for good cause shown.~~

(3) Unless ordered by the court, no report or recommendation is required when the placement is a stepparent adoption or when the *minor* ~~child~~ is related to one of the adoptive parents within the third degree.

(4) The clerk of the court shall mail a copy of the petition within 24 hours after filing, and execute a certificate of mailing, to the department and the agency placing the minor, if any.

Section 94. Section 63.122, Florida Statutes, is amended to read:

63.122 Notice of hearing on petition.—

(1) After the petition to adopt a minor is filed, the court must establish a time and place for hearing the petition. The hearing *may* ~~must~~ not be held sooner than *30 days after the date the judgment terminating parental rights was entered or sooner than* 90 days after *the date the minor was placed* ~~the placing of the minor~~ in the physical custody of the petitioner. The minor must remain under the supervision of the department, an intermediary, or a licensed child-placing agency until the adoption becomes final. When the petitioner is a spouse of the birth parent, the hearing may be held immediately after the filing of the petition.

(2) Notice of hearing must be given as prescribed by the rules of civil procedure, and service of process must be made as specified by law for civil actions.

(3) Upon a showing by the petitioner that the privacy of the petitioner or *minor* ~~child~~ may be endangered, the court may order the names of the petitioner or *minor* ~~child~~, or both, to be deleted from the notice of hearing and from the copy of the petition attached thereto, provided the substantive rights of any person will not thereby be affected.

(4) Notice of the hearing must be given by the petitioner to *the adoption entity that places the minor.* ~~:~~

~~(a) The department or any licensed child-placing agency placing the minor.~~

~~(b) The intermediary.~~

~~(c) Any person whose consent to the adoption is required by this act who has not consented, unless such person's consent is excused by the court.~~

~~(d) Any person who is seeking to withdraw consent.~~

(5) After filing the petition to adopt an adult, a notice of the time and place of the hearing must be given to any person whose consent to the adoption is required but who has not consented. The court may order an appropriate investigation to assist in determining whether the adoption is in the best interest of the persons involved.

Section 95. Section 63.125, Florida Statutes, is amended to read:

63.125 Final home investigation.—

(1) The final home investigation must be conducted before the adoption becomes final. The investigation may be conducted by a licensed child-placing agency or a professional in the same manner as provided in s. 63.092 to ascertain whether the adoptive home is a suitable home for the minor and whether the proposed adoption is in the best interest of the minor. Unless directed by the court, an investigation and recommendation are not required if the petitioner is a stepparent or if the *minor* ~~child~~ is related to one of the adoptive parents within the third degree of consanguinity. The department is required to perform the home investigation only if there is no licensed child-placing agency or professional pursuant to s. 63.092 in the county in which the prospective adoptive parent resides.

(2) The department, the licensed child-placing agency, or the professional that performs the investigation must file a written report of the investigation with the court and the petitioner within 90 days after the date the petition is filed.

(3) The report of the investigation must contain an evaluation of the placement with a recommendation on the granting of the petition for adoption and any other information the court requires regarding the petitioner or the minor.

(4) The department, the licensed child-placing agency, or the professional making the required investigation may request other state agencies or child-placing agencies within or outside this state to make investigations of designated parts of the inquiry and to make a written report to the department, the professional, or other person or agency.

(5) The final home investigation must include:

(a) The information from the preliminary home study.

(b) After the *minor* ~~child~~ is placed in the intended adoptive home, two scheduled visits with the *minor* ~~child~~ and the *minor's* ~~child's~~ adoptive parent or parents, one of which visits must be in the home, to determine the suitability of the placement.

(c) The family *social and* medical history as provided in s. 63.082.

(d) Any other information relevant to the suitability of the intended adoptive home.

(e) Any other relevant information, as provided in rules that the department may adopt.

Section 96. Section 63.132, Florida Statutes, is amended to read:

63.132 *Affidavit* ~~Report~~ of expenditures and receipts.—

(1) At least 10 days before the hearing *on the petition for adoption*, the petitioner and any *adoption entity* ~~intermediary~~ must file two copies of an affidavit *under this section.*

(a) The affidavit must be signed by the adoption entity and the prospective adoptive parents. A copy of the affidavit must be provided to the adoptive parents at the time the affidavit is executed.

(b) The affidavit must itemize ~~containing a full accounting of~~ all disbursements and receipts of anything of value, including professional *and legal* fees, made or agreed to be made by or on behalf of the petitioner and any *adoption entity* ~~intermediary~~ in connection with the adoption *or in connection with any prior proceeding to terminate parental rights which involved the minor who is the subject of the petition for adoption. The affidavit must also include, for each fee itemized, the service provided for which the fee is being charged, the date the service was provided, the time required to provide the service, the person or entity that provided the service, and the hourly fee charged.*

(c) The clerk of the court shall forward a copy of the affidavit to the department. *The department must retain these records for 5 years. Copies of affidavits received by the department under this subsection must be provided upon the request of any person. The department must redact all identifying references to the minor, the birth parent, or the adoptive parent from any affidavit released by the department. The name of the adoption entity may not be redacted. The intent of this paragraph is to create a resource for adoptive parents and others wishing to obtain information about the cost of adoption in this state.*

(d) The *affidavit* ~~report~~ must show any expenses or receipts incurred in connection with:

1.~~(a)~~ The birth of the minor.

2.~~(b)~~ The placement of the minor with the petitioner.

3.~~(c)~~ The medical or hospital care received by the mother or by the minor during the mother's prenatal care and confinement.

4.~~(d)~~ The living expenses of the birth mother. The living expenses must be documented in detail to apprise the court of the exact expenses incurred.

5.~~(e)~~ The services relating to the adoption or to the placement of the minor for adoption that were received by or on behalf of the petitioner, the *adoption entity* ~~intermediary~~, either *birth* ~~natural~~ parent, the minor, or any other person.

The affidavit must state whether any of these expenses were or are eligible to be paid for by collateral sources, including, but not limited to, health insurance, Medicaid, Medicare, or public assistance.

(2) The court may require such additional information as is deemed necessary.

(3) The court must issue a separate order approving or disapproving the fees, costs, and expenditures itemized in the affidavit. The court may approve only fees, costs, and expenditures allowed under s. 63.097. The court may reject in whole or in part any fee, cost, or expenditure listed if the court finds that the expense is:

(a) Contrary to this chapter;

(b) Not supported by a receipt in the record, if the expense is not a fee of the adoption entity; or

(c) Not deemed by the court to be a reasonable fee or expense, taking into consideration the requirements of this chapter and the totality of the circumstances.

(4)~~(3)~~ This section does not apply to an adoption by a stepparent whose spouse is a *birth* ~~natural~~ or adoptive parent of the *minor* ~~child~~.

Section 97. Section 63.142, Florida Statutes, is amended to read:

63.142 Hearing; judgment of adoption.—

(1) *APPEARANCE.*—The petitioner and the person to be adopted shall appear at the hearing on the petition *for adoption*, unless:

(a) The person is a minor under 12 years of age;~~,~~ or

(b) The presence of either is excused by the court for good cause.

(2) *CONTINUANCE.*—The court may continue the hearing from time to time to permit further observation, investigation, or consideration of any facts or circumstances affecting the granting of the petition.

(3) *DISMISSAL.*—

(a) If the petition is dismissed, the court shall determine the person that is to have custody of the minor.

(b) If the petition is dismissed, the court shall state with specificity the reasons for the dismissal.

(4) *JUDGMENT.*—At the conclusion of the hearing, *after* ~~when~~ the court determines that *the date for a birth parent to file an appeal of a valid judgment terminating that birth parent's parental rights has passed and no appeal is pending* ~~all necessary consents have been obtained~~ and that the adoption is in the best interest of the person to be adopted, a judgment of adoption shall be entered.

(a) A judgment terminating parental rights pending adoption is voidable and any later judgment of adoption of that minor is voidable if, upon the motion of the birth parent, the court finds that any person knowingly gave false information that prevented the birth parent from timely making known his or her desire to assume parental responsibilities toward the minor or meeting the requirements under this chapter to exercise his or her parental rights. A motion under this paragraph must be filed with the court that entered the original judgment. The motion must be filed within a reasonable time, but not later than 1 year after the date the termination of parental rights final order was entered.

(b) Not later than 30 days after the filing of a motion under this subsection, the court must conduct a preliminary hearing to determine what contact, if any, shall be permitted between a birth parent and the child pending resolution of the motion. Such contact shall only be considered if it is requested by a birth parent who has appeared at the hearing. If the court orders contact between a birth parent and child, the order must be issued in writing as expeditiously as possible and must state with specificity any provisions regarding contact with persons other than those with whom the child resides.

(c) At the preliminary hearing, the court, upon the motion of any party or its own motion, may order scientific testing to determine the paternity of the minor if the person seeking to set aside the judgment is alleging to be the child's birth father and that fact has not previously been determined by legitimacy or scientific testing. The court may order supervised visitation with a person from whom scientific testing for paternity has been ordered conditional upon the filing of those test results with the court and such results establish that person's paternity of the minor.

(d) No later than 45 days after the preliminary hearing, the court must conduct a final hearing on the motion to set aside the judgment and issue its written order as expeditiously as possible thereafter.

Section 98. Section 63.152, Florida Statutes, is amended to read:

63.152 Application for new birth record.—Within 30 days after entry of a judgment of adoption, the clerk of the court, and in agency adoptions, any child-placing agency licensed by the department, shall prepare a certified statement of the entry for the state registrar of vital statistics on a form provided by the registrar. *The clerk of the court must mail a copy of the form completed under this section to the state registry of adoption information under s. 63.165.* A new birth record containing the necessary information supplied by the certificate shall be issued by the registrar on application of the adopting parents or the adopted person.

Section 99. Section 63.165, Florida Statutes, is amended to read:

63.165 State registry of adoption information; duty to inform and explain.—Notwithstanding any other law to the contrary, the department shall maintain a registry with the last known names and addresses of an adoptee and his or her *birth* ~~natural~~ parents and adoptive parents*; the certified statement of the final decree of adoption provided by the clerk of the court under s. 63.152;* and any other identifying information *that* ~~which~~ the adoptee, *birth* ~~natural~~ parents, or adoptive parents desire to include in the registry. *The department shall maintain the registry records for the time required by rules adopted by the department in accordance with this chapter or for 99 years, whichever period is greater.* The registry shall be open with respect to all adoptions in the state, regardless of when they took place. The registry shall be available for those persons choosing to enter information therein, but no one shall be required to do so.

(1) Anyone seeking to enter, change, or use information in the registry, or any agent of such person, shall present verification of his or her identity and, if applicable, his or her authority. A person who enters information in the registry shall be required to indicate clearly the persons to whom he or she is consenting to release this information, which persons shall be limited to the adoptee and the *birth* ~~natural~~ mother, *birth* ~~natural~~ father, adoptive mother, adoptive father, *birth* ~~natural~~ siblings, and maternal and paternal *birth* ~~natural~~ grandparents of the adoptee. Except as provided in this section, information in the registry is confidential and exempt from ~~the provisions of~~ s. 119.07(1). Consent to the release of this information may be made in the case of a minor adoptee by his or her adoptive parents or by the court after a showing of good cause. At any time, any person may withdraw, limit, or otherwise restrict consent to release information by notifying the department in writing.

(2) The department may charge a reasonable fee to any person seeking to enter, change, or use information in the registry. The department shall deposit such fees in a trust fund to be used by the department only for the efficient administration of this section. The department and agencies shall make counseling available for a fee to all persons seeking to use the registry, and the department shall inform all affected persons of the availability of such counseling.

(3) The department, intermediary, or licensed child-placing agency must inform the birth parents before parental rights are terminated, and the adoptive parents before placement, in writing, of the existence and purpose of the registry established under this section, but failure to do so does not affect the validity of any proceeding under this chapter.

Section 100. Section 63.182, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 63.182, F.S., for present text.)

63.182 Statute of repose.—An action or proceeding of any kind to vacate, set aside, or otherwise nullify an order of adoption or an underlying order terminating parental rights on any ground, including fraud or duress, must be filed within 1 year after entry of the order terminating parental rights.

Section 101. Section 63.207, Florida Statutes, is amended to read:

63.207 Out-of-state placement.—

(1) Unless the *minor* ~~child~~ is to be placed with a relative within the third degree or with a stepparent, *or is a special needs child as defined in s. 409.166, an adoption entity may not* ~~no person except an intermediary, an agency, or the department shall~~:

(a) Take or send a *minor* ~~child~~ out of the state for the purpose of placement for adoption; or

(b) Place or attempt to place a *minor* ~~child~~ for the purpose of adoption with a family who primarily lives and works outside Florida in another

state. ~~An intermediary may place or attempt to place a child for adoption in another state only if the child is a special needs child as that term is defined in s. 409.166.~~ If an *adoption entity* ~~intermediary~~ is acting under this subsection, the *adoption entity must* ~~intermediary shall~~ file a petition for declaratory statement pursuant to s. 63.102 for prior approval of fees and costs. The court shall review the costs pursuant to s. 63.097. The petition for declaratory statement must be converted to a petition for an adoption upon placement of the *minor* ~~child~~ in the home. The circuit court in this state must retain jurisdiction over the matter until the adoption becomes final. The adoptive parents must come to this state to have the adoption finalized. Violation of the order subjects the *adoption entity* ~~intermediary~~ to contempt of court and to the penalties provided in s. 63.212.

(2) An *adoption entity* ~~intermediary~~ may not counsel a birth mother to leave the state for the purpose of giving birth to a child outside the state in order to secure a fee in excess of that permitted under s. 63.097 when it is the intention that the child is to be placed for adoption outside the state.

(3) When applicable, the Interstate Compact on the Placement of Children authorized in s. 409.401 shall be used in placing children outside the state for adoption.

Section 102. Section 63.212, Florida Statutes, is amended to read:

63.212 Prohibited acts; penalties for violation.—

(1) It is unlawful for any person:

(a) Except *an adoption entity* ~~the department, an intermediary, or an agency~~, to place or attempt to place a *minor* ~~child~~ for adoption with a person who primarily lives and works outside this state unless the *minor* ~~child~~ is placed with a relative within the third degree or with a stepparent *or is a special needs child as defined in s. 409.166*. An *adoption entity* ~~intermediary~~ may place or attempt to place a special needs child for adoption with a person who primarily lives and works outside this state only if the *adoption entity* ~~intermediary~~ has a declaratory statement from the court establishing the fees to be paid *under s. 63.207*. This requirement does not apply if the *minor* ~~child~~ is placed with a relative within the third degree or with a stepparent.

(b) Except *an adoption entity* ~~the department, an intermediary, or an agency~~, to place or attempt to place a *minor* ~~child~~ for adoption with a family whose primary residence and place of employment is in another state unless the *minor* ~~child~~ is placed with a relative within the third degree or with a stepparent. An *adoption entity* ~~intermediary~~ may place or attempt to place a special needs child for adoption with a family whose primary residence and place of employment is in another state only if the *adoption entity* ~~intermediary~~ has a declaratory statement from the court establishing the fees to be paid. This requirement does not apply if the *special needs* child is placed with a relative within the third degree or with a stepparent.

(c) Except *an adoption entity* ~~the Department of Children and Family Services, an agency, or an intermediary~~, to place or attempt to place within the state a *minor* ~~child~~ for adoption unless the *minor* ~~child~~ is placed with a relative within the third degree or with a stepparent. This prohibition, however, does not apply to a person who is placing or attempting to place a *minor* ~~child~~ for the purpose of adoption with the *adoption entity* ~~Department of Children and Family Services or an agency or through an intermediary~~.

(d) To sell or surrender, or to arrange for the sale or surrender of, a *minor* ~~child~~ to another person for money or anything of value or to receive such minor child for such payment or thing of value. If a *minor* ~~child~~ is being adopted by a relative within the third degree or by a stepparent, or is being adopted through *an adoption entity, this paragraph does not prohibit* ~~the Department of Children and Family Services, an agency, or an intermediary, nothing herein shall be construed as prohibiting~~ the person who is contemplating adopting the child from paying, *under s. 63.097 and s. 63.132,* the actual prenatal care and living expenses of the mother of the child to be adopted, nor from paying, *under s. 63.097 and s. 63.132,* the actual living and medical expenses of such mother for a reasonable time, not to exceed 6 weeks, if medical needs require such support, after the birth of the *minor* ~~child~~.

(e) Having the rights and duties of a parent with respect to the care and custody of a minor to assign or transfer such parental rights for the purpose of, incidental to, or otherwise connected with, selling or offering to sell such rights and duties.

(f) To assist in the commission of any act prohibited in paragraph (a), paragraph (b), paragraph (c), paragraph (d), or paragraph (e).

(g) Except *an adoption entity* ~~the Department of Children and Family Services or an agency~~, to charge or accept any fee or compensation of any nature from anyone for making a referral in connection with an adoption.

(h) Except *an adoption entity* ~~the Department of Children and Family Services, an agency, or an intermediary~~, to advertise or offer to the public, in any way, by any medium whatever that a *minor* ~~child~~ is available for adoption or that a *minor* ~~child~~ is sought for adoption; and further, it is unlawful for any person to publish or broadcast any such advertisement without including a Florida license number of the agency *or*~~,~~ attorney~~, or physician~~ placing the advertisement.

(i) To contract for the purchase, sale, or transfer of custody or parental rights in connection with any child, ~~or~~ in connection with any fetus yet unborn, or in connection with any fetus identified in any way but not yet conceived, in return for any valuable consideration. Any such contract is void and unenforceable as against the public policy of this state. However, fees, costs, and other incidental payments made in accordance with statutory provisions for adoption, foster care, and child welfare are permitted, and a person may agree to pay expenses in connection with a preplanned adoption agreement as specified below, but the payment of such expenses may not be conditioned upon the transfer of parental rights. Each petition for adoption which is filed in connection with a preplanned adoption agreement must clearly identify the adoption as a preplanned adoption arrangement and must include a copy of the preplanned adoption agreement for review by the court.

1. Individuals may enter into a preplanned adoption arrangement as specified herein, but such arrangement shall not in any way:

a. Effect final transfer of custody of a child or final adoption of a child, without review and approval of the department and the court, and without compliance with other applicable provisions of law.

b. Constitute consent of a mother to place her child for adoption until 7 days following birth, and unless the court making the custody determination or approving the adoption determines that the mother was aware of her right to rescind within the 7-day period following birth but chose not to rescind such consent.

2. A preplanned adoption arrangement shall be based upon a preplanned adoption agreement *that must* ~~which shall~~ include, but need not be limited to, the following terms:

a. That the volunteer mother agrees to become pregnant by the fertility technique specified in the agreement, to bear the child, and to terminate any parental rights and responsibilities to the child she might have through a written consent executed at the same time as the preplanned adoption agreement, subject to a right of rescission by the volunteer mother any time within 7 days after the birth of the child.

b. That the volunteer mother agrees to submit to reasonable medical evaluation and treatment and to adhere to reasonable medical instructions about her prenatal health.

c. That the volunteer mother acknowledges that she is aware that she will assume parental rights and responsibilities for the child born to her as otherwise provided by law for a mother, if the intended father and intended mother terminate the agreement before final transfer of custody is completed, or if a court determines that a parent clearly specified by the preplanned adoption agreement to be the biological parent is not the biological parent, or if the preplanned adoption is not approved by the court pursuant to the Florida Adoption Act.

d. That an intended father who is also the biological father acknowledges that he is aware that he will assume parental rights and responsibilities for the child as otherwise provided by law for a father, if the agreement is terminated for any reason by any party before final transfer of custody is completed or if the planned adoption is not approved by the court pursuant to the Florida Adoption Act.

e. That the intended father and intended mother acknowledge that they may not receive custody or the parental rights under the agreement

if the volunteer mother terminates the agreement or if the volunteer mother rescinds her consent to place her child for adoption within 7 days after birth.

f. That the intended father and intended mother may agree to pay all reasonable legal, medical, psychological, or psychiatric expenses of the volunteer mother related to the preplanned adoption arrangement, and may agree to pay the reasonable living expenses of the volunteer mother. No other compensation, whether in cash or in kind, shall be made pursuant to a preplanned adoption arrangement.

g. That the intended father and intended mother agree to accept custody of and to assert full parental rights and responsibilities for the child immediately upon the child's birth, regardless of any impairment to the child.

h. That the intended father and intended mother shall have the right to specify the blood and tissue typing tests to be performed if the agreement specifies that at least one of them is intended to be the biological parent of the child.

i. That the agreement may be terminated at any time by any of the parties.

3. A preplanned adoption agreement shall not contain any provision:

a. To reduce any amount paid to the volunteer mother if the child is stillborn or is born alive but impaired, or to provide for the payment of a supplement or bonus for any reason.

b. Requiring the termination of the volunteer mother's pregnancy.

4. An attorney who represents an intended father and intended mother or any other attorney with whom that attorney is associated shall not represent simultaneously a female who is or proposes to be a volunteer mother in any matter relating to a preplanned adoption agreement or preplanned adoption arrangement.

5. Payment to agents, finders, and intermediaries, including attorneys and physicians, as a finder's fee for finding volunteer mothers or matching a volunteer mother and intended father and intended mother is prohibited. Doctors, psychologists, attorneys, and other professionals may receive reasonable compensation for their professional services, such as providing medical services and procedures, legal advice in structuring and negotiating a preplanned adoption agreement, or counseling.

6. As used in this paragraph, the term:

a. "Blood and tissue typing tests" include, but are not limited to, tests of red cell antigens, red cell isoenzymes, human leukocyte antigens, and serum proteins.

b. "Child" means the child or children conceived by means of an insemination that is part of a preplanned adoption arrangement.

c. "Fertility technique" means artificial embryonation, artificial insemination, whether in vivo or in vitro, egg donation, or embryo adoption.

d. "Intended father" means a male who, as evidenced by a preplanned adoption agreement, intends to have the parental rights and responsibilities for a child conceived through a fertility technique, regardless of whether the child is biologically related to the male.

e. "Intended mother" means a female who, as evidenced by a preplanned adoption agreement, intends to have the parental rights and responsibilities for a child conceived through a fertility technique, regardless of whether the child is biologically related to the female.

f. "Parties" means the intended father and intended mother, the volunteer mother and her husband, if she has a husband, who are all parties to the preplanned adoption agreement.

g. "Preplanned adoption agreement" means a written agreement among the parties that specifies the intent of the parties as to their rights and responsibilities in the preplanned adoption arrangement, consistent with the provisions of this act.

h. "Preplanned adoption arrangement" means the arrangement through which the parties enter into an agreement for the volunteer mother to bear the child, for payment by the intended father and intended mother of the expenses allowed by this act, for the intended father and intended mother to assert full parental rights and responsibilities to the child if consent to adoption is not rescinded after birth by the volunteer mother, and for the volunteer mother to terminate, subject to a right of rescission, in favor of the intended father and intended mother all her parental rights and responsibilities to the child.

i. "Volunteer mother" means a female person at least 18 years of age who voluntarily agrees, subject to a right of rescission, that if she should become pregnant pursuant to a preplanned adoption arrangement, she will terminate in favor of the intended father and intended mother her parental rights and responsibilities to the child.

(2) *This section does not* ~~Nothing herein shall be construed to~~ prohibit a licensed child-placing agency from charging fees reasonably commensurate to the services provided.

(3) It is unlawful for any *adoption entity* ~~intermediary~~ to fail to report to the court, prior to placement, the intended placement of a *minor* ~~child~~ for purposes of adoption with any person not a stepparent or a relative within the third degree, if the *adoption entity* ~~intermediary~~ participates in such intended placement.

(4) It is unlawful for any *adoption entity* ~~intermediary~~ to charge any fee over $1,000 and those costs as set out in paragraph (1)(d) over $2,500, other than for actual documented medical costs, court costs, and hospital costs unless such fee is approved by the court prior to the assessment of the fee by the *adoption entity* ~~intermediary~~ and upon a showing of justification for the larger fee.

(5) It is unlawful for any *adoption entity* ~~intermediary~~ to counsel a birth mother to leave the state for the purpose of giving birth to a child outside the state in order to secure a fee in excess of that permitted under s. 63.097 when it is the intention that the child be placed for adoption outside the state.

(6) It is unlawful for any *adoption entity* ~~intermediary~~ to obtain a preliminary home study or final home investigation and fail to disclose the existence of the study to the court.

(7) A person who violates any provision of this section, excluding paragraph (1)(h), is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A person who violates paragraph (1)(h) is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.083; and each day of continuing violation shall be considered a separate offense.

Section 103. *Section 63.072, Florida Statutes, is repealed.*

Section 104. *Any petition for adoption filed before October 1, 1998, shall be governed by the law in effect at the time the petition was filed.*

Section 105. Section 39.813, Florida Statutes, is created to read:

39.813 Continuing jurisdiction.—The court that terminates the parental rights of a child who is the subject of termination proceedings pursuant to this chapter shall retain exclusive jurisdiction in all matters pertaining to the child's adoption pursuant to chapter 63.

Section 106. *Section 39.471, Florida Statutes, is renumbered as section 39.814, Florida Statutes.*

Section 107. Section 39.473, Florida Statutes, is renumbered as section 39.815, Florida Statutes, and subsection (1) of said section is amended to read:

39.815 ~~39.473~~ Appeal.—

(1) Any child, any parent *or*~~,~~ guardian ad litem~~, or legal custodian~~ of any child, any other party to the proceeding who is affected by an order of the court, or the department may appeal to the appropriate district court of appeal within the time and in the manner prescribed by the Florida Rules of Appellate Procedure. The district court of appeal shall give an appeal from an order terminating parental rights priority in docketing and shall render a decision on the appeal as expeditiously as possible. Appointed counsel shall be compensated as provided in s. *39.0134* ~~39.474~~.

Section 108. Section 39.816, Florida Statutes, is created to read:

39.816 Authorization for pilot and demonstration projects.—

(1) Contingent upon receipt of a federal grant or contract pursuant to s. 473A(i) of the Social Security Act, 42 U.S.C. 673A(i), enacted November 19, 1997, the department is authorized to establish one or more pilot projects for the following purposes:

(a) The development of best practice guidelines for expediting termination of parental rights.

(b) The development of models to encourage the use of concurrent planning.

(c) The development of specialized units and expertise in moving children toward adoption as a permanency goal.

(d) The development of risk-assessment tools to facilitate early identification of the children who will be at risk of harm if returned home.

(e) The development of models to encourage the fast-tracking into preadoptive placements of children who have not attained 1 year of age.

(f) The development of programs that place children into preadoptive families without waiting for termination of parental rights.

(2) Contingent upon receipt of federal authorization and funding pursuant to s. 1130(a) of the Social Security Act, 42 U.S.C. 1320a-9, enacted November 19, 1997, the department is authorized to establish one or more demonstration projects for the following purposes:

(a) Identifying and addressing barriers that result in delays to adoptive placements for children in out-of-home care.

(b) Identifying and addressing parental substance abuse problems that endanger children and result in the placement of children in out-of-home care. This purpose may be accomplished through the placement of children with their parents in residential treatment facilities, including residential treatment facilities for post-partum depression, which are specifically designed to serve parents and children together, in order to promote family reunification, and which can ensure the health and safety of the children.

(c) Addressing kinship care.

Section 109. Section 39.817, Florida Statutes, is created to read:

39.817 Foster care privatization demonstration pilot project.—A pilot project shall be established through The Ounce of Prevention Fund of Florida to contract with a private entity for a foster care privatization demonstration project. No more then 30 children with a goal of family reunification shall be accepted into the program on a no-eject-or-reject basis as identified by the department. Sibling groups shall be kept together in one placement in their own communities. Foster care parents shall be paid employees of the program. The program shall provide for public/private partnerships, community collaboration, counseling, and medical and legal assistance, as needed. For purposes of identifying measurable outcomes, the pilot project shall be located in a department district with an integrated district management which was selected as a family transition program site, has a population of less than 500,000, has a total caseload of no more than 400, with and without board payment, and has a total foster care case load of no more than 250.

Section 110. Part X of chapter 39, Florida Statutes, consisting of sections 39.820, 39.821, 39.822, 39.823, 39.824, 39.825, 39.826, 39.827, 39.828, 39.829, and 39.8295, Florida Statutes, shall be entitled to read:

PART X
GUARDIANS AD LITEM AND GUARDIAN ADVOCATES

Section 111. Section 39.820, Florida Statutes, is created to read:

39.820 Definitions.—As used in this part, the term:

(1) "Guardian ad litem" as referred to in any civil or criminal proceeding includes the following: a certified guardian ad litem program; a duly certified volunteer; a staff attorney, contract attorney, or certified pro bono attorney working on behalf of a guardian ad litem or the program; staff members of a program office; a court-appointed attorney; or a responsible adult who is appointed by the court to represent the best interests of a child in a proceeding as provided for by law, including, but not limited to, this chapter, who is a party to any judicial proceeding as a representative of the child, and who serves until discharged by the court.

(2) "Guardian advocate" means a person appointed by the court to act on behalf of a drug-dependent newborn pursuant to the provisions of this part.

Section 112. *Section 415.5077, Florida Statutes, is renumbered as section 39.821, Florida Statutes.*

Section 113. Section 415.508, Florida Statutes, is renumbered as section 39.822, Florida Statutes, and amended to read:

39.822 ~~415.508~~ Appointment of guardian ad litem for abused, *abandoned,* or neglected child.—

(1) A guardian ad litem shall be appointed by the court at the earliest possible time to represent the child in any child abuse, *abandonment,* or neglect judicial proceeding, whether civil or criminal. Any person participating in a civil or criminal judicial proceeding resulting from such appointment shall be presumed prima facie to be acting in good faith and in so doing shall be immune from any liability, civil or criminal, that otherwise might be incurred or imposed.

(2) In those cases in which the parents are financially able, the parent or parents of the child shall reimburse the court, in part or in whole, for the cost of provision of guardian ad litem services. Reimbursement to the individual providing guardian ad litem services shall not be contingent upon successful collection by the court from the parent or parents.

(3) The guardian ad litem or the program representative shall review all disposition recommendations and changes in placements, and must be present at all critical stages of the dependency proceeding or submit a written report of recommendations to the court.

Section 114. Section 415.5082, Florida Statutes, is renumbered as section 39.823, Florida Statutes, and amended to read:

39.823 ~~415.5082~~ Guardian advocates for drug dependent newborns.—The Legislature finds that increasing numbers of drug dependent children are born in this state. Because of the parents' continued dependence upon drugs, the parents may temporarily leave their child with a relative or other adult or may have agreed to voluntary family services under s. *39.301(8)* ~~415.505(1)(e)~~. The relative or other adult may be left with a child who is likely to require medical treatment but for whom they are unable to obtain medical treatment. The purpose of this section is to provide an expeditious method for such relatives or other responsible adults to obtain a court order which allows them to provide consent for medical treatment and otherwise advocate for the needs of the child and to provide court review of such authorization.

Section 115. Section 415.5083, Florida Statutes, is renumbered as section 39.824, Florida Statutes, and amended to read:

39.824 ~~415.5083~~ Procedures and jurisdiction.—

(1) The Supreme Court is requested to adopt rules of juvenile procedure by October 1, 1989, to implement *this part* ~~ss. 415.5082-415.5089~~. All procedures, including petitions, pleadings, subpoenas, summonses, and hearings in cases for the appointment of a guardian advocate shall be according to the Florida Rules of Juvenile Procedure unless otherwise provided by law.

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

Section 116. *Section 415.5084, Florida Statutes, is renumbered as section 39.825, Florida Statutes.*

Section 117. *Section 415.5085, Florida Statutes, is renumbered as section 39.826, Florida Statutes.*

Section 118. Section 415.5086, Florida Statutes, is renumbered as section 39.827, Florida Statutes, and amended to read:

39.827 ~~415.5086~~ Hearing for appointment of a guardian advocate.—

(1) When a petition for appointment of a guardian advocate has been filed with the circuit court, the hearing shall be held within 14 days unless all parties agree to a continuance. If a child is in need of necessary medical treatment as defined in s. 39.01, the court shall hold a hearing within 24 hours.

(2) At the hearing, the parents have the right to be present, to present testimony, to call and cross-examine witnesses, to be represented by counsel at their own expense, and to object to the appointment of the guardian advocate.

(3) The hearing shall be conducted by the judge without a jury, applying the rules of evidence in use in civil cases. In a hearing on a petition for appointment of a guardian advocate, the moving party shall prove all the elements in s. *39.828* ~~415.5087~~ by a preponderance of the evidence.

(4) The hearing under this section shall remain confidential and closed to the public. The clerk shall keep all court records required by *this part* ~~ss. 415.5082-415.5089~~ separate from other records of the circuit court. All court records required by *this part* ~~ss. 415.5082-415.5089~~ shall be confidential and exempt from the provisions of s. 119.07(1). All records shall be inspected only upon order of the court by persons deemed by the court to have a proper interest therein, except that a child and the parents or custodians of the child and their attorneys and the department and its designees shall always have the right to inspect and copy any official record pertaining to the child. The court may permit authorized representatives of recognized organizations compiling statistics for proper purposes to inspect and make abstracts from official records, under whatever conditions upon their use and disposition the court may deem proper, and may punish by contempt proceedings any violation of those conditions. All information obtained pursuant to *this part* ~~ss. 415.5082-415.5089~~ in the discharge of official duty by any judge, employee of the court, or authorized agent of the department, shall be confidential and exempt from the provisions of s. 119.07(1) and shall not be disclosed to anyone other than the authorized personnel of the court or the department and its designees, except upon order of the court.

Section 119. Section 415.5087, Florida Statutes, is renumbered as section 39.828, Florida Statutes, and amended to read:

39.828 ~~415.5087~~ Grounds for appointment of a guardian advocate.—

(1) The court shall appoint the person named in the petition as a guardian advocate with all the powers and duties specified in s. *39.829* ~~415.5088~~ for an initial term of 1 year upon a finding that:

(a) The child named in the petition is or was a *drug-dependent* ~~drug dependent~~ newborn as described in s. *39.01(30)(g)* ~~415.503(10)(a)2.~~;

(b) The parent or parents of the child have voluntarily relinquished temporary custody of the child to a relative or other responsible adult;

(c) The person named in the petition to be appointed the guardian advocate is capable of carrying out the duties as provided in s. *39.829* ~~415.5088~~; and

(d) A petition to adjudicate the child dependent pursuant to *this* chapter ~~39~~ has not been filed.

(2) The appointment of a guardian advocate does not remove from the parents the right to consent to medical treatment for their child. The appointment of a guardian advocate does not prevent the filing of a subsequent petition under *this* chapter ~~39~~ to have the child adjudicated dependent.

Section 120. *Section 415.5088, Florida Statutes, is renumbered as section 39.829, Florida Statutes.*

Section 121. Section 415.5089, Florida Statutes, is renumbered as section 39.8295, Florida Statutes, and amended to read:

39.8295 ~~415.5089~~ Review and removal of guardian advocate.—

(1) At the end of the initial 1-year appointment, the court shall review the status of the child's care, health, and medical condition for the purpose of determining whether to reauthorize the appointment of the guardian advocate. If the court finds that all of the elements of s. *39.828* ~~415.5087~~ are still met the court shall reauthorize the guardian advocate for another year.

(2) At any time, the court may, upon its own motion, or upon the motion of the department, a family member, or other interested person remove a guardian advocate. A guardian advocate shall be removed if the court finds that the guardian advocate is not properly discharging his or her responsibilities or is acting in a manner inconsistent with his or her appointment, that the parents have assumed parental responsibility to provide for the child, or that the child has been adjudicated dependent pursuant to *this* chapter ~~39~~.

Section 122. Part XI of chapter 39, Florida Statutes, consisting of sections 39.901, 39.902, 39.903, 39.904, 39.905, 39.906, and 39.908, Florida Statutes, shall be entitled to read:

PART XI
DOMESTIC VIOLENCE

Section 123. *Section 415.601, Florida Statutes, is renumbered as section 39.901, Florida Statutes.*

Section 124. Section 415.602, Florida Statutes, is renumbered as section 39.902, Florida Statutes, and amended to read:

39.902 ~~415.602~~ Definitions ~~of terms used in ss. 415.601-415.608~~.— As used in *this part* ~~ss. 415.601-415.608~~, the term:

~~(1) "Department" means the Department of Children and Family Services.~~

~~(2) "District" means a service district of the department as created in s. 20.19.~~

(1)~~(3)~~ "Domestic violence" means any assault, battery, sexual assault, sexual battery, or any criminal offense resulting in physical injury or death of one family or household member by another who is or was residing in the same single dwelling unit.

(2)~~(4)~~ "Domestic violence center" means an agency that provides services to victims of domestic violence, as its primary mission.

(3)~~(5)~~ "Family or household member" means spouses, former spouses, adults related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who have a child in common regardless of whether they have been married or have resided together at any time.

Section 125. Section 415.603, Florida Statutes, is renumbered as section 39.903, Florida Statutes, and amended to read:

39.903 ~~415.603~~ Duties and functions of the department with respect to domestic violence.—

(1) The department shall:

(a) Develop by rule criteria for the approval or rejection of certification or funding of domestic violence centers.

(b) Develop by rule minimum standards for domestic violence centers to ensure the health and safety of the clients in the centers.

(c) Receive and approve or reject applications for certification of domestic violence centers, and receive and approve or reject applications for funding of domestic violence centers. When approving funding for a newly certified domestic violence center, the department shall make every effort to minimize any adverse economic impact on existing certified centers or services provided within the same district. In order to minimize duplication of services, the department shall make every effort to encourage subcontracting relationships with existing centers within the district. If any of the required services are exempted by the department under s. *39.905(1)(c)* ~~415.605(1)(c)~~, the center shall not receive funding for those services.

(d) Evaluate each certified domestic violence center annually to ensure compliance with the minimum standards. The department has the right to enter and inspect the premises of certified domestic violence centers at any reasonable hour in order to effectively evaluate the state of compliance of these centers with *this part* ~~ss. 415.601-415.608~~ and rules relating to *this part* ~~those sections~~.

(e) Adopt rules to implement *this part* ~~ss. 415.601-415.608~~.

(f) Promote the involvement of certified domestic violence centers in the coordination, development, and planning of domestic violence programming in the districts and the state.

(2) The department shall serve as a clearinghouse for information relating to domestic violence.

(3) The department shall enlist the assistance of public and voluntary health, education, welfare, and rehabilitation agencies in a concerted effort to prevent domestic violence and to treat persons engaged in or subject to domestic violence. With the assistance of these agencies, the department, within existing resources, shall formulate and conduct a research and evaluation program on domestic violence. Efforts on the part of these agencies to obtain relevant grants to fund this research and evaluation program must be supported by the department.

(4) The department shall develop and provide educational programs on domestic violence for the benefit of the general public, persons engaged in or subject to domestic violence, professional persons, or others who care for or may be engaged in the care and treatment of persons engaged in or subject to domestic violence.

(5) The department shall cooperate with, assist in, and participate in, programs of other properly qualified agencies, including any agency of the Federal Government, schools of medicine, hospitals, and clinics, in planning and conducting research on the prevention, care, treatment, and rehabilitation of persons engaged in or subject to domestic violence.

(6) The department shall contract with a statewide association whose primary purpose is to represent and provide technical assistance to domestic violence centers. This association shall receive 2 percent of the Domestic Violence Trust Fund for this purpose.

Section 126. Section 415.604, Florida Statutes, is renumbered as section 39.904, Florida Statutes, and amended to read:

39.904 ~~415.604~~ Report to the Legislature on the status of domestic violence cases.—On or before January 1 of each year, the department ~~of Children and Family Services~~ shall furnish to the President of the Senate and the Speaker of the House of Representatives a report on the status of domestic violence in this state, which report shall include, but is not limited to, the following:

(1) The incidence of domestic violence in this state.

(2) An identification of the areas of the state where domestic violence is of significant proportions, indicating the number of cases of domestic violence officially reported, as well as an assessment of the degree of unreported cases of domestic violence.

(3) An identification and description of the types of programs in the state that assist victims of domestic violence or persons who commit domestic violence, including information on funding for the programs.

(4) The number of persons who are treated by or assisted by local domestic violence programs that receive funding through the department.

(5) A statement on the effectiveness of such programs in preventing future domestic violence.

(6) An inventory and evaluation of existing prevention programs.

(7) A listing of potential prevention efforts identified by the department; the estimated annual cost of providing such prevention services, both for a single client and for the anticipated target population as a whole; an identification of potential sources of funding; and the projected benefits of providing such services.

Section 127. Section 415.605, Florida Statutes, is renumbered as section 39.905, Florida Statutes, and amended to read:

39.905 ~~415.605~~ Domestic violence centers.—

(1) Domestic violence centers certified under *this part* ~~ss. 415.601-415.608~~ must:

(a) Provide a facility which will serve as a center to receive and house persons who are victims of domestic violence. For the purpose of *this part* ~~ss. 415.601-415.608~~, minor children and other dependents of a victim, when such dependents are partly or wholly dependent on the victim for support or services, may be sheltered with the victim in a domestic violence center.

(b) Receive the annual written endorsement of local law enforcement agencies.

(c) Provide minimum services which include, but are not limited to, information and referral services, counseling and case management services, temporary emergency shelter for more than 24 hours, a 24-hour hotline, training for law enforcement personnel, assessment and appropriate referral of resident children, and educational services for community awareness relative to the incidence of domestic violence, the prevention of such violence, and the care, treatment, and rehabilitation for persons engaged in or subject to domestic violence. If a 24-hour hotline, professional training, or community education is already provided by a certified domestic violence center within a district, the department may exempt such certification requirements for a new center serving the same district in order to avoid duplication of services.

(d) Participate in the provision of orientation and training programs developed for law enforcement officers, social workers, and other professionals and paraprofessionals who work with domestic violence victims to better enable such persons to deal effectively with incidents of domestic violence.

(e) Establish and maintain a board of directors composed of at least three citizens, one of whom must be a member of a local, municipal, or county law enforcement agency.

(f) Comply with rules adopted pursuant to *this part* ~~ss. 415.601-415.608~~.

(g) File with the department a list of the names of the domestic violence advocates who are employed or who volunteer at the domestic violence center who may claim a privilege under s. 90.5036 to refuse to disclose a confidential communication between a victim of domestic violence and the advocate regarding the domestic violence inflicted upon the victim. The list must include the title of the position held by the advocate whose name is listed and a description of the duties of that position. A domestic violence center must file amendments to this list as necessary.

(h) Demonstrate local need and ability to sustain operations through a history of 18 consecutive months' operation as a domestic violence center, including 12 months' operation of an emergency shelter as *provided in paragraph (c)* ~~defined in paragraph (1)(a)~~, and a business plan which addresses future operations and funding of future operations.

(i) If its center is a new center applying for certification, demonstrate that the services provided address a need identified in the most current statewide needs assessment approved by the department.

(2) If the department finds that there is failure by a center to comply with the requirements established under *this part* ~~ss. 415.601-415.608~~ or with the rules adopted pursuant thereto, the department may deny, suspend, or revoke the certification of the center.

(3) The annual certificate shall automatically expire on the termination date shown on the certificate.

(4) The domestic violence centers shall establish procedures pursuant to which persons subject to domestic violence may seek services from these centers voluntarily.

(5) Domestic violence centers may be established throughout the state when private, local, state, or federal funds are available.

(6) In order to receive state funds, a center must:

(a) Obtain certification pursuant to *this part* ~~ss. 415.601-415.608~~. However, the issuance of a certificate will not obligate the department to provide funding.

(b) Receive at least 25 percent of its funding from one or more local, municipal, or county sources, public or private. Contributions in kind,

whether materials, commodities, transportation, office space, other types of facilities, or personal services, may be evaluated and counted as part of the required local funding.

(7)(a) All funds collected and appropriated to the domestic violence program shall be distributed annually by the department to each district according to an allocation formula determined by the department. In developing the formula, the department shall consider population, a rural and geographical area factor, and the incidence of domestic violence.

(b) A contract between a district and a certified domestic violence center shall contain provisions assuring the availability and geographic accessibility of services throughout the district. For this purpose, a center may distribute funds through subcontracts or to center satellites, provided such arrangements and any subcontracts are approved by the district.

Section 128. *Section 415.606, Florida Statutes, is renumbered as section 39.906, Florida Statutes.*

Section 129. *Section 415.608, Florida Statutes, is renumbered as section 39.908, Florida Statutes.*

Section 130. Subsections (4) through (20) of section 20.19, Florida Statutes, are renumbered as subsections (5) through (21), respectively, paragraph (b) of present subsection (4), paragraph (o) of present subsection (7), and paragraph (c) of present subsection (20) are amended, and a new subsection (4) is added to that section, to read:

20.19 Department of Children and Family Services.—There is created a Department of Children and Family Services.

(4) CERTIFICATION PROGRAMS FOR DEPARTMENT EMPLOYEES.-- The department is authorized to create certification programs for family safety and preservation employees and agents to ensure that only qualified employees and agents provide child protection services. The department is authorized to develop rules that include qualifications for certification, including training and testing requirements, continuing education requirements for ongoing certification, and decertification procedures to be used to determine when an individual no longer meets the qualifications for certification and to implement the decertification of an employee or agent.

(5)~~(4)~~ PROGRAM OFFICES.—

(a) There are created program offices, each of which shall be headed by an assistant secretary who shall be appointed by and serve at the pleasure of the secretary. Each program office shall have the following responsibilities:

1. Ensuring that family services programs are implemented according to legislative intent and as provided in state and federal laws, rules, and regulations.

2. Establishing program standards and performance objectives.

3. Reviewing, monitoring, and ensuring compliance with statewide standards and performance objectives.

4. Conducting outcome evaluations and ensuring program effectiveness.

5. Developing workload and productivity standards.

6. Developing resource allocation methodologies.

7. Compiling reports, analyses, and assessment of client needs on a statewide basis.

8. Ensuring the continued interagency collaboration with the Department of Education for the development and integration of effective programs to serve children and their families.

9. Other duties as are assigned by the secretary.

(b) The following program offices are established and may be consolidated, restructured, or rearranged by the secretary; provided any such consolidation, restructuring, or rearranging is for the purpose of encouraging service integration through more effective and efficient performance of the program offices or parts thereof:

1. Economic Self-Sufficiency Program Office.—The responsibilities of this office encompass income support programs within the department, such as temporary assistance to families with dependent children, food stamps, welfare reform, and state supplementation of the supplemental security income (SSI) program.

2. Developmental Services Program Office.—The responsibilities of this office encompass programs operated by the department for developmentally disabled persons. Developmental disabilities include any disability defined in s. 393.063.

3. Children and Families Program Office.—The responsibilities of this program office encompass early intervention services for children and families at risk; intake services for protective investigation of abandoned, abused, and neglected children; interstate compact on the placement of children programs; adoption; child care; out-of-home care programs and other specialized services to families; and child protection and sexual abuse treatment teams created under chapter *39* ~~415~~, excluding medical direction functions.

4. Alcohol, Drug Abuse, and Mental Health Program Office.—The responsibilities of this office encompass all alcohol, drug abuse, and mental health programs operated by the department.

(8)~~(7)~~ HEALTH AND HUMAN SERVICES BOARDS.—

(a) There is created at least one health and human services board in each service district for the purpose of encouraging the initiation and support of interagency cooperation and collaboration in addressing family services needs and promoting service integration. The initial membership and the authority to appoint the members shall be allocated among the counties of each district as follows:

1. District 1 has a board composed of 15 members, with 3 at-large members to be appointed by the Governor, and 12 members to be appointed by the boards of county commissioners of the respective counties, as follows: Escambia County, 6 members; Okaloosa County, 3 members; Santa Rosa County, 2 members; and Walton County, 1 member.

2. District 2 has a board composed of 23 members, with 5 at-large members to be appointed by the Governor, and 18 members to be appointed by the boards of county commissioners in the respective counties, as follows: Holmes County, 1 member; Washington County, 1 member; Bay County, 2 members; Jackson County, 1 member; Calhoun County, 1 member; Gulf County, 1 member; Gadsden County, 1 member; Franklin County, 1 member; Liberty County, 1 member; Leon County, 4 members; Wakulla County, 1 member; Jefferson County, 1 member; Madison County, 1 member; and Taylor County, 1 member.

3. District 3 has a board composed of 19 members, with 4 at-large members to be appointed by the Governor, and 15 members to be appointed by the boards of county commissioners of the respective counties, as follows: Hamilton County, 1 member; Suwannee County, 1 member; Lafayette County, 1 member; Dixie County, 1 member; Columbia County, 1 member; Gilchrist County, 1 member; Levy County, 1 member; Union County, 1 member; Bradford County, 1 member; Putnam County, 1 member; and Alachua County, 5 members.

4. District 4 has a board composed of 15 members, with 3 at-large members to be appointed by the Governor, and 12 members to be appointed by the boards of county commissioners of the respective counties, as follows: Baker County, 1 member; Nassau County, 1 member; Duval County, 7 members; Clay County, 2 members; and St. Johns County, 1 member.

5. District 5 has a board composed of 15 members, with 3 at-large members to be appointed by the Governor, and 12 members to be appointed by the boards of county commissioners of the respective counties, as follows: Pasco County, 3 members; and Pinellas County, 9 members.

6. District 6 has a board composed of 15 members, with 3 at-large members to be appointed by the Governor, and 12 members to be appointed by the boards of county commissioners of the respective counties, as follows: Hillsborough County, 9 members; and Manatee County, 3 members.

7. District 7 has a board composed of 15 members, with 3 at-large members to be appointed by the Governor, and 12 members to be appointed by the boards of county commissioners in the respective counties, as follows: Seminole County, 3 members; Orange County, 5 members; Osceola County, 1 member; and Brevard County, 3 members.

8. District 8 has a board composed of 15 members, with 3 at-large members to be appointed by the Governor, and 12 members to be appointed by the boards of county commissioners in the respective counties, as follows: Sarasota County, 3 members; DeSoto County, 1 member; Charlotte County, 1 member; Lee County, 3 members; Glades County, 1 member; Hendry County, 1 member; and Collier County, 2 members.

9. District 9 has a board composed of 15 members, with 3 at-large members to be appointed by the Governor, and 12 members to be appointed by the Board of County Commissioners of Palm Beach County.

10. District 10 has a board composed of 15 members, with 3 at-large members to be appointed by the Governor, and 12 members to be appointed by the Board of County Commissioners of Broward County.

11. District 11 has two boards, one from Dade County and one from Monroe County. Each board is composed of 15 members, with 3 at-large members to be appointed to each board by the Governor, and 12 members to be appointed by each of the respective boards of county commissioners.

12. District 12 has a board composed of 15 members, with 3 at-large members to be appointed by the Governor, and 12 members to be appointed by the boards of county commissioners of the respective counties, as follows: Flagler County, 3 members; and Volusia County, 9 members.

13. District 13 has a board composed of 15 members, with 3 at-large members to be appointed by the Governor, and 12 members to be appointed by the boards of county commissioners of the respective counties, as follows: Marion County, 4 members; Citrus County, 2 members; Hernando County, 2 members; Sumter County, 1 member; and Lake County, 3 members.

14. District 14 has a board composed of 15 members, with 3 at-large members to be appointed by the Governor, and 12 members to be appointed by the boards of county commissioners of the respective counties, as follows: Polk County, 9 members; Highlands County, 2 members; and Hardee County, 1 member.

15. District 15 has a board composed of 15 members, with 3 at-large members to be appointed by the Governor, and 12 members to be appointed by the boards of county commissioners of the respective counties, as follows: Indian River County, 3 members; Okeechobee County, 1 member; St. Lucie County, 5 members; and Martin County, 3 members.

Notwithstanding any other provisions of this subsection, in districts consisting of two counties, the number of members to be appointed by any one board of county commissioners may not be fewer than three nor more than nine.

(b) At any time after the adoption of initial bylaws pursuant to paragraph (o), a district health and human services board may adopt a bylaw that enlarges the size of the board up to a maximum of 23 members, or otherwise adjusts the size or composition of the board, including a decision to change from a district board to subdistrict boards, or from a subdistrict board to a district board, if in the judgment of the board, such change is necessary to adequately represent the diversity of the population within the district or subdistrict. In the creation of subdistrict boards, the bylaws shall set the size of the board, not to exceed 15 members, and shall set the number of appointments to be made by the Governor and the respective boards of county commissioners in the subdistrict. The Governor shall be given the authority to appoint no fewer than one-fifth of the members. Current members of the district board shall become members of the subdistrict board in the subdistrict where they reside. Vacancies on a newly created subdistrict board shall be filled from among the list of nominees submitted to the subdistrict nominee qualifications review committee pursuant to subsection (8).

(c) The appointments by the Governor and the boards of county commissioners are from nominees selected by the appropriate district nominee qualifications review committee pursuant to subsection (8). Membership of each board must be representative of its district with respect to age, gender, and ethnicity. For boards having 15 members or fewer, at least two members must be consumers of the department's services. For boards having more than 15 members, there must be at least three consumers on the board. Members must have demonstrated their interest and commitment to, and have appropriate expertise for, meeting the health and family services needs of the community. The Governor shall appoint nominees whose presence on the health and human services board will help assure that the board reflects the demographic characteristics and consumer perspective of each of the service districts.

(d)1. Board members shall submit annually a disclosure statement of health and family services interests to the department's inspector general and the board. Any member who has an interest in a matter under consideration by the board must abstain from voting. Board members are subject to the provisions of s. 112.3145, relating to disclosure of financial interests.

2. Individual providers or employees of provider agencies, other than employees of units of local or state government, may not serve as health and human services board members but may serve in an advisory capacity to the board. Salaried employees of units of local or state government occupying positions providing services under contract with the department may not serve as members of the board. Elected officials who have authority to appoint members to a health and human services board may not serve as members of a board. The district administrator shall serve as a nonvoting ex officio member of the board. A department employee may not be a member of the board.

(e) Appointments to fill vacancies created by the death, resignation, or removal of a member are for the unexpired term. A member may not serve more than two full consecutive terms.

(f) A member who is absent from three meetings within any 12-month period, without having been excused by the chairperson, is deemed to have resigned, and the board shall immediately declare the seat vacant. Members may be suspended or removed for cause by a majority vote of the board members or by the Governor.

(g) Members of the health and human services boards shall serve without compensation, but are entitled to receive reimbursement for per diem and travel expenses as provided in s. 112.061. Payment may also be authorized for preapproved child care expenses or lost wages for members who are consumers of the department's services and for preapproved child care expenses for other members who demonstrate hardship.

(h) Appointees to the health and human services board are subject to the provisions of chapter 112, part III, Code of Ethics for Public Officers and Employees.

(i) Actions taken by the board must be consistent with departmental policy and state and federal laws, rules, and regulations.

(j) The department shall provide comprehensive orientation and training to the members of the boards to enable them to fulfill their responsibilities.

(k) Each health and human services board, and each of its subcommittees, shall hold periodic public meetings and hearings throughout the district to receive input on the development of the district service delivery plan, the legislative budget request, and the performance of the department.

(l) Except as otherwise provided in this section, responsibility and accountability for local family services planning rests with the health and human services boards. All local family-services-related planning or advisory councils shall submit their plans to the health and human services boards. The boards shall provide input on the plan's attention to integrating service delivery at the local level. The health and human services boards may establish additional subcouncils or technical advisory committees.

(m) The health and human services boards shall operate through an annual agreement negotiated between the secretary and the board. Such agreements must include expected outcomes and provide for periodic reports and evaluations of district and board performance and must also include a core set of service elements to be developed by the secretary and used by the boards in district needs assessments to ensure consistency in the development of district legislative budget requests.

(n) The annual agreement between the secretary and the board must include provisions that specify the procedures to be used by the parties to resolve differences in the interpretation of the agreement or disputes as to the adequacy of the parties' compliance with their respective obligations under the agreement.

(o) Health and human services boards have the following responsibilities, with respect to those programs and services assigned to the districts, as developed jointly with the district administrator:

1. Establish district outcome measures consistent with statewide outcomes.

2. Conduct district needs assessments using methodologies consistent with those established by the secretary.

3. Negotiate with the secretary a district performance agreement that:

a. Identifies current resources and services available;

b. Identifies unmet needs and gaps in services;

c. Establishes service and funding priorities;

d. Establishes outcome measures for the district; and

e. Identifies expenditures and the number of clients to be served, by service.

4. Provide budget oversight, including development and approval of the district's legislative budget request.

5. Provide policy oversight, including development and approval of district policies and procedures.

6. Act as a focal point for community participation in department activities such as:

a. Assisting in the integration of all health and social services within the community;

b. Assisting in the development of community resources;

c. Advocating for community programs and services;

d. Receiving and addressing concerns of consumers and others; and

e. Advising the district administrator on the administration of service programs throughout the district.

7. Advise the district administrator on ways to integrate the delivery of family and health care services at the local level.

8. Make recommendations which would enhance district productivity and efficiency, ensure achievement of performance standards, and assist the district in improving the effectiveness of the services provided.

9. Review contract provider performance reports.

10. Immediately upon appointment of the membership, develop bylaws that clearly identify and describe operating procedures for the board. At a minimum, the bylaws must specify notice requirements for all regular and special meetings of the board, the number of members required to constitute a quorum, and the number of affirmative votes of members present and voting that are required to take official and final action on a matter before the board.

11.a. Determine the board's internal organizational structure, including the designation of standing committees. In order to foster the coordinated and integrated delivery of family services in its community, a local board shall use a committee structure that is based on issues, such as children, housing, transportation, or health care. Each such committee must include consumers, advocates, providers, and department staff from every appropriate program area. In addition, each board and district administrator shall jointly identify community entities, including, but not limited to, the Area Agency on Aging, and resources outside the department to be represented on the committees of the board.

b. The district juvenile justice boards established in s. *985.413* ~~39.025~~ constitute the standing committee on issues relating to planning, funding, or evaluation of programs and services relating to the juvenile justice continuum.

12. Participate with the secretary in the selection of a district administrator according to the provisions of paragraph *(10)*~~(9)~~(b).

13. Complete an annual evaluation of the district and review the evaluation at a meeting of the board at which the public has an opportunity to comment.

14. Provide input to the secretary on the annual evaluation of the district administrator. The board may request that the secretary submit a written report on the actions to be taken to address negative aspects of the evaluation. At any time, the board may recommend to the secretary that the district administrator be discharged. Upon receipt of such a recommendation, the secretary shall make a formal reply to the board stating the action to be taken with respect to the board's recommendation.

15. Elect a chair and other officers, as specified in the bylaws, from among the members of the board.

(21)~~(20)~~ INNOVATION ZONES.—The health and human services board may propose designation of an innovation zone for any experimental, pilot, or demonstration project that furthers the legislatively established goals of the department. An innovation zone is a defined geographic area such as a district, county, municipality, service delivery area, school campus, or neighborhood providing a laboratory for the research, development, and testing of the applicability and efficacy of model programs, policy options, and new technologies for the department.

(a)1. The district administrator shall submit a proposal for an innovation zone to the secretary. If the purpose of the proposed innovation zone is to demonstrate that specific statutory goals can be achieved more effectively by using procedures that require modification of existing rules, policies, or procedures, the proposal may request the secretary to waive such existing rules, policies, or procedures or to otherwise authorize use of alternative procedures or practices. Waivers of such existing rules, policies, or procedures must comply with applicable state or federal law.

2. For innovation zone proposals that the secretary determines require changes to state law, the secretary may submit a request for a waiver from such laws, together with any proposed changes to state law, to the chairs of the appropriate legislative committees for consideration.

3. For innovation zone proposals that the secretary determines require waiver of federal law, the secretary may submit a request for such waivers to the applicable federal agency.

(b) An innovation zone project may not have a duration of more than 2 years, but the secretary may grant an extension.

(c) The Statewide Health and Human Services Board, in conjunction with the secretary, shall develop a family services innovation transfer network for the purpose of providing information on innovation zone research and projects or other effective initiatives in family services to the health and human services boards established under subsection *(8)* ~~(7)~~.

(d) Prior to implementing an innovation zone pursuant to the requirements of this subsection and chapter 216, the secretary shall, in conjunction with the Auditor General, develop measurable and valid objectives for such zone within a negotiated reasonable period of time. No more than 15 innovative zones shall be in operation at any one time within the districts.

Section 131. Paragraph (h) of subsection (1) of section 20.43, Florida Statutes, is amended to read:

20.43 Department of Health.—There is created a Department of Health.

(1) The purpose of the Department of Health is to promote and protect the health of all residents and visitors in the state through organized state and community efforts, including cooperative agreements with counties. The department shall:

(h) Provide medical direction for child protection team and sexual abuse treatment functions created under chapter *39* ~~415~~.

Section 132. Paragraph (b) of subsection (2) of section 61.13, Florida Statutes, is amended to read:

61.13 Custody and support of children; visitation rights; power of court in making orders.—

(2)

(b)1. The court shall determine all matters relating to custody of each minor child of the parties in accordance with the best interests of the child and in accordance with the Uniform Child Custody Jurisdiction Act. It is the public policy of this state to assure that each minor child has frequent and continuing contact with both parents after the parents separate or the marriage of the parties is dissolved and to encourage parents to share the rights and responsibilities, and joys, of childrearing. After considering all relevant facts, the father of the child shall be given the same consideration as the mother in determining the primary residence of a child irrespective of the age or sex of the child.

2. The court shall order that the parental responsibility for a minor child be shared by both parents unless the court finds that shared parental responsibility would be detrimental to the child. Evidence that a parent has been convicted of a felony of the third degree or higher involving domestic violence, as defined in s. 741.28 and chapter 775, or meets the criteria of s. *39.806(1)(d)* ~~39.464(1)(d)~~, creates a rebuttable presumption of detriment to the child. If the presumption is not rebutted, shared parental responsibility, including visitation, residence of the child, and decisions made regarding the child, may not be granted to the convicted parent. However, the convicted parent is not relieved of any obligation to provide financial support. If the court determines that shared parental responsibility would be detrimental to the child, it may order sole parental responsibility and make such arrangements for visitation as will best protect the child or abused spouse from further harm. Whether or not there is a conviction of any offense of domestic violence or child abuse or the existence of an injunction for protection against domestic violence, the court shall consider evidence of domestic violence or child abuse as evidence of detriment to the child.

a. In ordering shared parental responsibility, the court may consider the expressed desires of the parents and may grant to one party the ultimate responsibility over specific aspects of the child's welfare or may divide those responsibilities between the parties based on the best interests of the child. Areas of responsibility may include primary residence, education, medical and dental care, and any other responsibilities that the court finds unique to a particular family.

b. The court shall order "sole parental responsibility, with or without visitation rights, to the other parent when it is in the best interests of" the minor child.

c. The court may award the grandparents visitation rights with a minor child if it is in the child's best interest. Grandparents have legal standing to seek judicial enforcement of such an award. This section does not require that grandparents be made parties or given notice of dissolution pleadings or proceedings, nor do grandparents have legal standing as "contestants" as defined in s. 61.1306. A court may not order that a child be kept within the state or jurisdiction of the court solely for the purpose of permitting visitation by the grandparents.

3. Access to records and information pertaining to a minor child, including, but not limited to, medical, dental, and school records, may not be denied to a parent because the parent is not the child's primary residential parent.

Section 133. Section 61.401, Florida Statutes, is amended to read:

61.401 Appointment of guardian ad litem.—In an action for dissolution of marriage, modification, parental responsibility, custody, or visitation, if the court finds it is in the best interest of the child, the court may appoint a guardian ad litem to act as next friend of the child, investigator or evaluator, not as attorney or advocate. The court in its discretion may also appoint legal counsel for a child to act as attorney or advocate; however, the guardian and the legal counsel shall not be the same person. In such actions which involve an allegation of child abuse, *abandonment,* or neglect as defined in s. *39.01* ~~415.503(3)~~, which allegation is verified and determined by the court to be well-founded, the court shall appoint a guardian ad litem for the child. The guardian ad litem shall be a party to any judicial proceeding from the date of the appointment until the date of discharge.

Section 134. Section 61.402, Florida Statutes, is amended to read:

61.402 Qualifications of guardians ad litem.—A guardian ad litem must be either a citizen certified by the Guardian Ad Litem Program to act in family law cases or an attorney who is a member in good standing of The Florida Bar. Prior to certifying a guardian ad litem to be appointed under this chapter, the Guardian Ad Litem Program must conduct a security background investigation as provided in s. *39.821* ~~415.5077~~.

Section 135. Subsection (4) of section 63.052, Florida Statutes, is amended to read:

63.052 Guardians designated; proof of commitment.—

(4) If a child is voluntarily surrendered to an intermediary for subsequent adoption and the adoption does not become final within 180 days, the intermediary must report to the court on the status of the child and the court may at that time proceed under s. *39.701* ~~39.453~~ or take action reasonably necessary to protect the best interest of the child.

Section 136. Paragraph (b) of subsection (2) of section 63.092, Florida Statutes, is amended to read:

63.092 Report to the court of intended placement by an intermediary; preliminary study.—

(2) PRELIMINARY HOME STUDY.—Before placing the minor in the intended adoptive home, a preliminary home study must be performed by a licensed child-placing agency, a licensed professional, or agency described in s. 61.20(2), unless the petitioner is a stepparent, a spouse of the birth parent, or a relative. The preliminary study shall be completed within 30 days after the receipt by the court of the intermediary's report, but in no event may the child be placed in the prospective adoptive home prior to the completion of the preliminary study unless ordered by the court. If the petitioner is a stepparent, a spouse of the birth parent, or a relative, the preliminary home study may be required by the court for good cause shown. The department is required to perform the preliminary home study only if there is no licensed child-placing agency, licensed professional, or agency described in s. 61.20(2), in the county where the prospective adoptive parents reside. The preliminary home study must be made to determine the suitability of the intended adoptive parents and may be completed prior to identification of a prospective adoptive child. A favorable preliminary home study is valid for 1 year after the date of its completion. A child must not be placed in an intended adoptive home before a favorable preliminary home study is completed unless the adoptive home is also a licensed foster home under s. 409.175. The preliminary home study must include, at a minimum:

(b) Records checks of the department's central abuse registry ~~under chapter 415~~ and ~~statewide~~ criminal records correspondence checks *pursuant to s. 435.045* through the Department of Law Enforcement on the intended adoptive parents;

If the preliminary home study is favorable, a minor may be placed in the home pending entry of the judgment of adoption. A minor may not be placed in the home if the preliminary home study is unfavorable. If the preliminary home study is unfavorable, the intermediary or petitioner may, within 20 days after receipt of a copy of the written recommendation, petition the court to determine the suitability of the intended adoptive home. A determination as to suitability under this subsection does not act as a presumption of suitability at the final hearing. In determining the suitability of the intended adoptive home, the court must consider the totality of the circumstances in the home.

Section 137. Subsection (2) of section 90.5036, Florida Statutes, is amended to read:

90.5036 Domestic violence advocate-victim privilege.—

(2) A victim has a privilege to refuse to disclose, and to prevent any other person from disclosing, a confidential communication made by the victim to a domestic violence advocate or any record made in the course of advising, counseling, or assisting the victim. The privilege applies to

confidential communications made between the victim and the domestic violence advocate and to records of those communications only if the advocate is registered under s. *39.905* ~~415.605~~ at the time the communication is made. This privilege includes any advice given by the domestic violence advocate in the course of that relationship.

Section 138. Section 154.067, Florida Statutes, is amended to read:

154.067 Child abuse and neglect cases; duties.—The Department of Health shall adopt a rule requiring every county health department, as described in s. 154.01, to adopt a protocol that, at a minimum, requires the county health department to:

(1) Incorporate in its health department policy a policy that every staff member has an affirmative duty to report, pursuant to chapter *39* ~~415~~, any actual or suspected case of child abuse, *abandonment,* or neglect; and

(2) In any case involving suspected child abuse, *abandonment,* or neglect, designate, at the request of the department, a staff physician to act as a liaison between the county health department and the Department of Children and Family Services office that is investigating the suspected abuse, *abandonment,* or neglect, and the child protection team, as defined in s. *39.01* ~~415.503~~, when the case is referred to such a team.

Section 139. Subsection (15) of section 213.053, Florida Statutes, is amended to read:

213.053 Confidentiality and information sharing.—

(15) The department may disclose confidential taxpayer information contained in returns, reports, accounts, or declarations filed with the department by persons subject to any state or local tax to the child support enforcement program, to assist in the location of parents who owe or potentially owe a duty of support pursuant to Title IV-D of the Social Security Act, their assets, their income, and their employer, *and to the Department of Children and Family Services for the purpose of diligent search activities pursuant to chapter 39.* Nothing in this subsection authorizes the disclosure of information if such disclosure is prohibited by federal law. Employees of the child support enforcement program *and of the Department of Children and Family Services* are bound by the same requirements of confidentiality and the same penalties for violation of the requirements as the department.

Section 140. Paragraph (a) of subsection (8) of section 216.136, Florida Statutes, is amended to read:

216.136 Consensus estimating conferences; duties and principals.—

(8) CHILD WELFARE SYSTEM ESTIMATING CONFERENCE.—

(a) Duties.—The Child Welfare System Estimating Conference shall develop the following information relating to the child welfare system:

1. Estimates and projections of the number of initial and additional reports of child abuse, *abandonment,* or neglect made to the central abuse *hotline* ~~registry and tracking system~~ maintained by the Department of *Children and Family* ~~Health and Rehabilitative~~ Services as established in s. *39.201(4)* ~~415.504(4)(a)~~.

2. Estimates and projections of the number of children who are alleged to be victims of child abuse, *abandonment,* or neglect and are in need of placement in *a* ~~an emergency~~ shelter.

In addition, the conference shall develop other official information relating to the child welfare system of the state which the conference determines is needed for the state planning and budgeting system. The Department of *Children and Family* ~~Health and Rehabilitative~~ Services shall provide information on the child welfare system requested by the Child Welfare System Estimating Conference, or individual conference principals, in a timely manner.

Section 141. Section 232.50, Florida Statutes, is amended to read:

232.50 Child abuse, *abandonment,* and neglect policy.—Every school board shall by March 1, 1985:

(1) Post in a prominent place in each school a notice that, pursuant to chapter *39* ~~415~~, all employees or agents of the district school board have an affirmative duty to report all actual or suspected cases of child abuse, *abandonment,* or neglect, have immunity from liability if they report such cases in good faith, and have a duty to comply with child protective investigations and all other provisions of law relating to child abuse, *abandonment,* and neglect. The notice shall also include the statewide toll-free telephone number of the state abuse registry.

(2) Provide that the superintendent, or the superintendent's designee, at the request of the Department of *Children and Family* ~~Health and Rehabilitative~~ Services, will act as a liaison to the Department of *Children and Family* ~~Health and Rehabilitative~~ Services and the child protection team, as defined in s. *39.01* ~~415.503~~, when in a case of suspected child abuse, *abandonment,* or neglect or an unlawful sexual offense involving a child the case is referred to such a team; except that this subsection may in no instance be construed as relieving or restricting the Department of *Children and Family* ~~Health and Rehabilitative~~ Services from discharging its duty and responsibility under the law to investigate and report every suspected or actual case of child abuse, *abandonment,* or neglect or unlawful sexual offense involving a child.

Each district school board shall comply with the provisions of this section, and such board shall notify the Department of Education and the Department of *Children and Family* ~~Health and Rehabilitative~~ Services of its compliance by March 1, 1985.

Section 142. Paragraph (a) of subsection (2) of section 318.21, Florida Statutes, as amended by section 2(1) of chapter 97-235, Laws of Florida, is amended to read:

318.21 Disposition of civil penalties by county courts.—All civil penalties received by a county court pursuant to the provisions of this chapter shall be distributed and paid monthly as follows:

(2) Of the remainder:

(a) Fifteen and six-tenths percent shall be paid to the General Revenue Fund of the state, except that the first $300,000 shall be deposited into the Grants and Donations Trust Fund in the Department of Children and Family Services for administrative costs, training costs, and costs associated with the implementation and maintenance of Florida foster care citizen review panels as provided for in s. *39.702* ~~39.4531~~.

Section 143. Effective July 1, 1999, paragraph (a) of subsection (2) of section 318.21, as amended by section 3(1) of chapter 97-235, Laws of Florida, is amended to read:

318.21 Disposition of civil penalties by county courts.—All civil penalties received by a county court pursuant to the provisions of this chapter shall be distributed and paid monthly as follows:

(2) Of the remainder:

(a) Ten and six-tenths percent shall be paid to the General Revenue Fund of the state, except that the first $300,000 shall be deposited into the Grants and Donations Trust Fund in the Department of Children and Family Services for administrative costs, training costs, and costs associated with the implementation and maintenance of Florida foster care citizen review panels as provided for in s. *39.702* ~~39.4531~~.

Section 144. Effective July 1, 2000, paragraph (a) of subsection (2) of section 318.21, Florida Statutes, as amended by section 4(1) of chapter 97-235, Laws of Florida, is amended to read:

318.21 Disposition of civil penalties by county courts.—All civil penalties received by a county court pursuant to the provisions of this chapter shall be distributed and paid monthly as follows:

(2) Of the remainder:

(a) Five and six-tenths percent shall be paid to the General Revenue Fund of the state, except that the first $300,000 shall be deposited into the Grants and Donations Trust Fund in the Department of Children and Family Services for administrative costs, training costs, and costs associated with the implementation and maintenance of Florida foster care citizen review panels as provided for in s. *39.702* ~~39.4531~~.

Section 145. Effective July 1, 2001, paragraph (a) of subsection (2) of section 318.21, Florida Statutes, as amended by section 5(1) of chapter 97-235, Laws of Florida, is amended to read:

318.21 Disposition of civil penalties by county courts.—All civil penalties received by a county court pursuant to the provisions of this chapter shall be distributed and paid monthly as follows:

(2) Of the remainder:

(a) Twenty and six-tenths percent shall be paid to the County Article V Trust Fund, except that the first $300,000 shall be deposited into the Grants and Donations Trust Fund in the Department of Children and Family Services for administrative costs, training costs, and costs associated with the implementation and maintenance of Florida foster care citizen review panels as provided for in s. *39.702* ~~39.4531~~.

Section 146. Effective July 1, 2002, paragraph (a) of subsection (2) of section 318.21, Florida Statutes, as amended by section 6 of chapter 97-235, Laws of Florida, is amended to read:

318.21 Disposition of civil penalties by county courts.—All civil penalties received by a county court pursuant to the provisions of this chapter shall be distributed and paid monthly as follows:

(2) Of the remainder:

(a) Twenty and six-tenths percent shall be paid to the General Revenue Fund of the state, except that the first $300,000 shall be deposited into the Grants and Donations Trust Fund in the Department of Children and Family Services for administrative costs, training costs, and costs associated with the implementation and maintenance of Florida foster care citizen review panels as provided for in s. *39.702* ~~39.4531~~.

Section 147. Paragraph (e) of subsection (1) of section 384.29, Florida Statutes, is amended to read:

384.29 Confidentiality.—

(1) All information and records held by the department or its authorized representatives relating to known or suspected cases of sexually transmissible diseases are strictly confidential and exempt from the provisions of s. 119.07(1). Such information shall not be released or made public by the department or its authorized representatives, or by a court or parties to a lawsuit upon revelation by subpoena, except under the following circumstances:

(e) When made to the proper authorities as required by *chapter 39 or* chapter 415.

Section 148. Paragraph (e) of subsection (1) of section 392.65, Florida Statutes, is amended to read:

392.65 Confidentiality.—

(1) All information and records held by the department or its authorized representatives relating to known or suspected cases of tuberculosis or exposure to tuberculosis shall be strictly confidential and exempt from s. 119.07(1). Such information shall not be released or made public by the department or its authorized representatives or by a court or parties to a lawsuit, except that release may be made under the following circumstances:

(e) When made to the proper authorities as required by *chapter 39 or* chapter 415.

Section 149. The introductory paragraph of subsection (14) of section 393.063, Florida Statutes, is amended to read:

393.063 Definitions.—For the purposes of this chapter:

(14) "Direct service provider," also known as "caregiver" in *chapters 39 and* ~~chapter~~ 415 or "caretaker" in provisions relating to employment security checks, means a person 18 years of age or older who has direct contact with individuals with developmental disabilities and is unrelated to the individuals with developmental disabilities.

Section 150. Section 395.1023, Florida Statutes, is amended to read:

395.1023 Child abuse and neglect cases; duties.—Each licensed facility shall adopt a protocol that, at a minimum, requires the facility to:

(1) Incorporate a facility policy that every staff member has an affirmative duty to report, pursuant to chapter *39* ~~415~~, any actual or suspected case of child abuse, *abandonment,* or neglect; and

(2) In any case involving suspected child abuse, *abandonment,* or neglect, designate, at the request of the department, a staff physician to act as a liaison between the hospital and the Department of Children and Family Services office which is investigating the suspected abuse, *abandonment,* or neglect, and the child protection team, as defined in s. *39.01* ~~415.503~~, when the case is referred to such a team.

Each general hospital and appropriate specialty hospital shall comply with the provisions of this section and shall notify the agency and the department of its compliance by sending a copy of its policy to the agency and the department as required by rule. The failure by a general hospital or appropriate specialty hospital to comply shall be punished by a fine not exceeding $1,000, to be fixed, imposed, and collected by the agency. Each day in violation is considered a separate offense.

Section 151. Section 400.4174, Florida Statutes, is amended to read:

400.4174 Reports of abuse in facilities.—When an employee, volunteer, administrator, or owner of a facility has a confirmed report of adult abuse, neglect, or exploitation, as defined in s. 415.102, or *a judicially determined report of* child abuse, *abandonment,* or neglect, as defined in s. *39.01* ~~415.503~~, and the protective investigator knows that the individual is an employee, volunteer, administrator, or owner of a facility, the agency shall be notified of the ~~confirmed~~ report.

Section 152. Paragraph (c) of subsection (2) of section 400.556, Florida Statutes, is amended to read:

400.556 Denial, suspension, revocation of license; administrative fines; investigations and inspections.—

(2) Each of the following actions by the owner of an adult day care center or by its operator or employee is a ground for action by the agency against the owner of the center or its operator or employee:

(c) A confirmed report of adult abuse, neglect, or exploitation, as defined in s. 415.102, or *a report* of child abuse, *abandonment,* or neglect, as defined in s. *39.01* ~~415.503~~, which report has been upheld following a hearing held pursuant to chapter 120 or a waiver of such hearing.

Section 153. Paragraph (a) of subsection (8) of section 402.165, Florida Statutes, is amended to read:

402.165 Statewide Human Rights Advocacy Committee; confidential records and meetings.—

(8)(a) In the performance of its duties, the Statewide Human Rights Advocacy Committee shall have:

1. Authority to receive, investigate, seek to conciliate, hold hearings on, and act on complaints which allege any abuse or deprivation of constitutional or human rights of clients.

2. Access to all client records, files, and reports from any program, service, or facility that is operated, funded, licensed, or regulated by the Department of *Children and Family* ~~Health and Rehabilitative~~ Services and any records which are material to its investigation and which are in the custody of any other agency or department of government. The committee's investigation or monitoring shall not impede or obstruct matters under investigation by law enforcement or judicial authorities. Access shall not be granted if a specific procedure or prohibition for reviewing records is required by federal law and regulation which supersedes state law. Access shall not be granted to the records of a private licensed practitioner who is providing services outside agencies and facilities and whose client is competent and refuses disclosure.

3. Standing to petition the circuit court for access to client records which are confidential as specified by law. The petition shall state the specific reasons for which the committee is seeking access and the intended use of such information. The court may authorize committee access to such records upon a finding that such access is directly related to an investigation regarding the possible deprivation of constitutional or human rights or the abuse of a client. Original client files, records, and reports shall not be removed from the Department of *Children and Family* ~~Health and Rehabilitative~~ Services or agency facilities. Under no circumstance shall the committee have access to confidential adoption records in accordance with the provisions of ss. *39.0132* ~~39.411~~, 63.022, and 63.162. Upon completion of a general investigation of practices and procedures of the Department of *Children and Family* ~~Health and Reha-~~

~~bilitative~~ Services, the committee shall report its findings to that department.

Section 154. Paragraph (a) of subsection (8) of section 402.166, Florida Statutes, is amended to read:

402.166 District human rights advocacy committees; confidential records and meetings.—

(8)(a) In the performance of its duties, a district human rights advocacy committee shall have:

1. Access to all client records, files, and reports from any program, service, or facility that is operated, funded, licensed, or regulated by the Department of *Children and Family* ~~Health and Rehabilitative~~ Services and any records which are material to its investigation and which are in the custody of any other agency or department of government. The committee's investigation or monitoring shall not impede or obstruct matters under investigation by law enforcement or judicial authorities. Access shall not be granted if a specific procedure or prohibition for reviewing records is required by federal law and regulation which supersedes state law. Access shall not be granted to the records of a private licensed practitioner who is providing services outside agencies and facilities and whose client is competent and refuses disclosure.

2. Standing to petition the circuit court for access to client records which are confidential as specified by law. The petition shall state the specific reasons for which the committee is seeking access and the intended use of such information. The court may authorize committee access to such records upon a finding that such access is directly related to an investigation regarding the possible deprivation of constitutional or human rights or the abuse of a client. Original client files, records, and reports shall not be removed from Department of *Children and Family* ~~Health and Rehabilitative~~ Services or agency facilities. Upon no circumstances shall the committee have access to confidential adoption records in accordance with the provisions of ss. *39.0132* ~~39.411~~, 63.022, and 63.162. Upon completion of a general investigation of practices and procedures of the Department of *Children and Family* ~~Health and Rehabilitative~~ Services, the committee shall report its findings to that department.

Section 155. Section 409.1672, Florida Statutes, is amended to read:

409.1672 Incentives for department employees.—In order to promote accomplishing the goal of family preservation, family reunification, or permanent placement of a child in an adoptive home, the department may, pursuant to s. 110, chapter 92-142, Laws of Florida, or subsequent legislative authority and within existing resources, develop monetary performance incentives such as bonuses, salary increases, and educational enhancements for department employees engaged in positions and activities related to the child welfare system under chapter 39~~, chapter 415,~~ or this chapter who demonstrate outstanding work in these areas.

Section 156. Subsection (8) and paragraph (c) of subsection (9) of section 409.176, Florida Statutes, are amended to read:

409.176 Registration of residential child-caring agencies and family foster homes.—

(8) The provisions of chapters *39* ~~415~~ and 827 regarding child abuse, *abandonment,* and neglect and the provisions of s. 409.175 and chapter 435 regarding screening apply to any facility registered under this section.

(9) The qualified association may deny, suspend, or revoke the registration of a Type II facility which:

(c) Violates the provisions of chapter *39* ~~415~~ or chapter 827 regarding child abuse, *abandonment,* and neglect or the provisions of s. 409.175 or chapter 435 regarding screening.

The qualified association shall notify the department within 10 days of the suspension or revocation of the registration of any Type II facility registered under this section.

Section 157. Paragraph (b) of subsection (10) of section 409.2554, Florida Statutes, is amended to read:

409.2554 Definitions.—As used in ss. 409.2551-409.2598, the term:

(10) "Support" means:

(b) Support for a child who is placed under the custody of someone other than the custodial parent pursuant to s. *39.508* ~~39.41~~.

Section 158. Section 409.2577, Florida Statutes, is amended to read:

409.2577 Parent locator service.—The department shall establish a parent locator service to assist in locating parents who have deserted their children and other persons liable for support of dependent children. The department shall use all sources of information available, including the Federal Parent Locator Service, and may request and shall receive information from the records of any person or the state or any of its political subdivisions or any officer thereof. Any agency as defined in s. 120.52, any political subdivision, and any other person shall, upon request, provide the department any information relating to location, salary, insurance, social security, income tax, and employment history necessary to locate parents who owe or potentially owe a duty of support pursuant to Title IV-D of the Social Security Act. This provision shall expressly take precedence over any other statutory nondisclosure provision which limits the ability of an agency to disclose such information, except that law enforcement information as provided in s. 119.07(3)(i) is not required to be disclosed, and except that confidential taxpayer information possessed by the Department of Revenue shall be disclosed only to the extent authorized in s. 213.053(15). Nothing in this section requires the disclosure of information if such disclosure is prohibited by federal law. Information gathered or used by the parent locator service is confidential and exempt from the provisions of s. 119.07(1). Additionally, the department is authorized to collect any additional information directly bearing on the identity and whereabouts of a person owing or asserted to be owing an obligation of support for a dependent child. Information gathered or used by the parent locator service is confidential and exempt from the provisions of s. 119.07(1). The department may make such information available only to public officials and agencies of this state; political subdivisions of this state; the custodial parent, legal guardian, attorney, or agent of the child; and other states seeking to locate parents who have deserted their children and other persons liable for support of dependents, for the sole purpose of establishing, modifying, or enforcing their liability for support, *and shall make such information available to the Department of Children and Family Services for the purpose of diligent search activities pursuant to chapter 39.* If the department has reasonable evidence of domestic violence or child abuse and the disclosure of information could be harmful to the custodial parent or the child of such parent, the child support program director or designee shall notify the *Department of Children and Family Services and the* Secretary of the United States Department of Health and Human Services of this evidence. Such evidence is sufficient grounds for the department to disapprove an application for location services.

Section 159. Subsection (29) of section 409.912, Florida Statutes, is amended to read:

409.912 Cost-effective purchasing of health care.—The agency shall purchase goods and services for Medicaid recipients in the most cost-effective manner consistent with the delivery of quality medical care. The agency shall maximize the use of prepaid per capita and prepaid aggregate fixed-sum basis services when appropriate and other alternative service delivery and reimbursement methodologies, including competitive bidding pursuant to s. 287.057, designed to facilitate the cost-effective purchase of a case-managed continuum of care. The agency shall also require providers to minimize the exposure of recipients to the need for acute inpatient, custodial, and other institutional care and the inappropriate or unnecessary use of high-cost services.

(29) Each managed care plan that is under contract with the agency to provide health care services to Medicaid recipients shall annually conduct a background check with the Florida Department of Law Enforcement of all persons with ownership interest of 5 percent or more or executive management responsibility for the managed care plan and shall submit to the agency information concerning any such person who has been found guilty of, regardless of adjudication, or has entered a plea of nolo contendere or guilty to, any of the offenses listed in s. 435.03 or has a confirmed report of abuse, neglect, or exploitation pursuant to ~~part I of~~ chapter 415.

Section 160. Paragraph (a) of subsection (1) of section 409.9126, Florida Statutes, is amended to read:

409.9126 Children with special health care needs.—

(1) As used in this section:

(a) "Children's Medical Services network" means an alternative service network that includes health care providers and health care facilities specified in chapter 391 and ss. *39.303,* 383.15-383.21, *and* 383.216~~, and 415.5055~~.

Section 161. Paragraph (f) of subsection (5) of section 414.065, Florida Statutes, is amended to read:

414.065 Work requirements.—

(5) CONTINUATION OF TEMPORARY CASH ASSISTANCE FOR CHILDREN; PROTECTIVE PAYEES.—

(f) If the department is unable to designate a qualified protective payee or authorized representative, a referral shall be made under the provisions of chapter *39* ~~415~~ for protective intervention.

Section 162. Section 435.045, Florida Statutes, is created to read:

435.045 Requirements for prospective foster or adoptive parents.—

(1) Unless an election provided for in subsection (2) is made with respect to the state, the department shall conduct criminal records checks equivalent to the level 2 screening required in s. 435.04(1) for any prospective foster or adoptive parent before the foster or adoptive parent may be finally approved for placement of a child on whose behalf foster care maintenance payments or adoption assistance payments under s. 471 of the Social Security Act, 42 U.S.C. 671, are to be made. Approval shall not be granted:

(a) In any case in which a record check reveals a felony conviction for child abuse, abandonment, or neglect; for spousal abuse; for a crime against children, including child pornography, or for a crime involving violence, including rape, sexual assault, or homicide but not including other physical assault or battery, if the department finds that a court of competent jurisdiction has determined that the felony was committed at any time; and

(b) In any case in which a record check reveals a felony conviction for physical assault, battery, or a drug-related offense, if the department finds that a court of competent jurisdiction has determined that the felony was committed within the past 5 years.

(2) For purposes of this section, and ss. 39.401(3) and 39.508(9)(b) and (10)(a), the department and its authorized agents or contract providers are hereby designated a criminal justice agency for the purposes of accessing criminal justice information, including National Crime Information Center information, to be used for enforcing Florida's laws concerning the crimes of child abuse, abandonment, and neglect. This information shall be used solely for purposes supporting the detection, apprehension, prosecution, pretrial release, posttrial release, or rehabilitation of criminal offenders or persons accused of the crimes of child abuse, abandonment, or neglect and shall not be further disseminated or used for any other purposes.

(3) Subsection (2) shall not apply if the Governor has notified the Secretary of the United States Department of Health and Human Services in writing that the state has elected to make subsection (2) inapplicable to the state, or if the Legislature, by law, has elected to make subsection (2) inapplicable to the state.

Section 163. Section 447.401, Florida Statutes, is amended to read:

447.401 Grievance procedures.—Each public employer and bargaining agent shall negotiate a grievance procedure to be used for the settlement of disputes between employer and employee, or group of employees, involving the interpretation or application of a collective bargaining agreement. Such grievance procedure shall have as its terminal step a final and binding disposition by an impartial neutral, mutually selected by the parties; however, when the issue under appeal is an allegation of abuse, *abandonment,* or neglect by an employee under *s. 39.201 or* s. 415.1075 ~~or s. 415.504~~, the grievance may not be decided until the *abuse, abandonment, or neglect of a child has been judicially determined or until a* confirmed report of abuse or neglect *of a disabled adult or elderly person* has been upheld pursuant to the procedures for appeal in *s.* ~~ss.~~ 415.1075 ~~and 415.504~~. However, an arbiter or other neutral shall not have the power to add to, subtract from, modify, or alter the terms of a collective bargaining agreement. If an employee organization is certified as the bargaining agent of a unit, the grievance procedure then in existence may be the subject of collective bargaining, and any agreement which is reached shall supersede the previously existing procedure. All public employees shall have the right to a fair and equitable grievance procedure administered without regard to membership or nonmembership in any organization, except that certified employee organizations shall not be required to process grievances for employees who are not members of the organization. A career service employee shall have the option of utilizing the civil service appeal procedure, an unfair labor practice procedure, or a grievance procedure established under this section, but such employee is precluded from availing himself or herself to more than one of these procedures.

Section 164. Paragraph (d) of subsection (1) of section 464.018, Florida Statutes, is amended to read:

464.018 Disciplinary actions.—

(1) The following acts shall be grounds for disciplinary action set forth in this section:

(d) Being found guilty, regardless of adjudication, of any of the following offenses:

1. A forcible felony as defined in chapter 776.

2. A violation of chapter 812, relating to theft, robbery, and related crimes.

3. A violation of chapter 817, relating to fraudulent practices.

4. A violation of chapter 800, relating to lewdness and indecent exposure.

5. A violation of chapter 784, relating to assault, battery, and culpable negligence.

6. A violation of chapter 827, relating to child abuse.

7. A violation of chapter 415, relating to protection from abuse, neglect, and exploitation.

8. A violation of chapter 39, relating to child abuse, abandonment, and neglect.

Section 165. Paragraph (a) of subsection (2) of section 490.014, Florida Statutes, is amended to read:

490.014 Exemptions.—

(2) No person shall be required to be licensed or provisionally licensed under this chapter who:

(a) Is a salaried employee of a government agency; developmental services program, mental health, alcohol, or drug abuse facility operating pursuant to chapter 393, chapter 394, or chapter 397; subsidized child care program, subsidized child care case management program, or child care resource and referral program operating pursuant to chapter 402; child-placing or child-caring agency licensed pursuant to chapter 409; domestic violence center certified pursuant to chapter *39* ~~415~~; accredited academic institution; or research institution, if such employee is performing duties for which he or she was trained and hired solely within the confines of such agency, facility, or institution.

Section 166. Paragraph (a) of subsection (4) of section 491.014, Florida Statutes, is amended to read:

491.014 Exemptions.—

(4) No person shall be required to be licensed, provisionally licensed, registered, or certified under this chapter who:

(a) Is a salaried employee of a government agency; developmental services program, mental health, alcohol, or drug abuse facility operating pursuant to chapter 393, chapter 394, or chapter 397; subsidized child care program, subsidized child care case management program, or child care resource and referral program operating pursuant to chapter

402; child-placing or child-caring agency licensed pursuant to chapter 409; domestic violence center certified pursuant to chapter *39* ~~415~~; accredited academic institution; or research institution, if such employee is performing duties for which he or she was trained and hired solely within the confines of such agency, facility, or institution.

Section 167. Paragraph (b) of subsection (3) of section 741.30, Florida Statutes, is amended to read:

741.30 Domestic violence; injunction; powers and duties of court and clerk; petition; notice and hearing; temporary injunction; issuance of injunction; statewide verification system; enforcement.—

(3)

(b) The sworn petition shall be in substantially the following form:

PETITION FOR
INJUNCTION FOR PROTECTION
AGAINST DOMESTIC VIOLENCE

Before me, the undersigned authority, personally appeared Petitioner (Name) , who has been sworn and says that the following statements are true:

(a) Petitioner resides at: (address)

(Petitioner may furnish address to the court in a separate confidential filing if, for safety reasons, the petitioner requires the location of the current residence to be confidential.)

(b) Respondent resides at: (last known address)

(c) Respondent's last known place of employment: (name of business and address)

(d) Physical description of respondent: . . . .

Race. . . .

Sex. . . .

Date of birth. . . .

Height. . . .

Weight. . . .

Eye color. . . .

Hair color. . . .

Distinguishing marks or scars. . . .

(e) Aliases of respondent: . . . .

(f) Respondent is the spouse or former spouse of the petitioner or is any other person related by blood or marriage to the petitioner or is any other person who is or was residing within a single dwelling unit with the petitioner, as if a family, or is a person with whom the petitioner has a child in common, regardless of whether the petitioner and respondent are or were married or residing together, as if a family.

(g) The following describes any other cause of action currently pending between the petitioner and respondent: . . . . . .

. . . . . .

The petitioner should also describe any previous or pending attempts by the petitioner to obtain an injunction for protection against domestic violence in this or any other circuit, and the results of that attempt . . . . . .

. . . . . .

Case numbers should be included if available.

(h) Petitioner has suffered or has reasonable cause to fear imminent domestic violence because respondent has: . . . . . .

(i) Petitioner alleges the following additional specific facts: (mark appropriate sections)

. . . . Petitioner is the custodian of a minor child or children whose names and ages are as follows: . . . . . .

. . . . Petitioner needs the exclusive use and possession of the dwelling that the parties share.

. . . . Petitioner is unable to obtain safe alternative housing because:

. . . . . .

. . . . Petitioner genuinely fears that respondent imminently will abuse, remove, or hide the minor child or children from petitioner because: . . . . . .

. . . . . .

(j) Petitioner genuinely fears imminent domestic violence by respondent.

(k) Petitioner seeks an injunction: (mark appropriate section or sections)

. . . . Immediately restraining the respondent from committing any acts of domestic violence.

. . . . Restraining the respondent from committing any acts of domestic violence.

. . . . Awarding to the petitioner the temporary exclusive use and possession of the dwelling that the parties share or excluding the respondent from the residence of the petitioner.

. . . . Awarding temporary custody of, or temporary visitation rights with regard to, the minor child or children of the parties, or prohibiting or limiting visitation to that which is supervised by a third party.

. . . . Establishing temporary support for the minor child or children or the petitioner.

. . . . Directing the respondent to participate in a batterers' intervention program or other treatment pursuant to s. *39.901* ~~415.601~~.

. . . . Providing any terms the court deems necessary for the protection of a victim of domestic violence, or any minor children of the victim, including any injunctions or directives to law enforcement agencies.

Section 168. Subsection (3) of section 744.309, Florida Statutes, is amended to read:

744.309 Who may be appointed guardian of a resident ward.—

(3) DISQUALIFIED PERSONS.—No person who has been convicted of a felony or who, from any incapacity or illness, is incapable of discharging the duties of a guardian, or who is otherwise unsuitable to perform the duties of a guardian, shall be appointed to act as guardian. Further, no person who has been judicially determined to have committed abuse, *abandonment*, or neglect against a child as defined in s. 39.01~~(2) and (47)~~, or who has a confirmed report of abuse, neglect, or exploitation which has been uncontested or upheld pursuant to the provisions of ss. 415.104 and 415.1075 shall be appointed to act as a guardian. Except as provided in subsection (5) or subsection (6), a person who provides substantial services to the proposed ward in a professional or business capacity, or a creditor of the proposed ward, may not be appointed guardian and retain that previous professional or business relationship. A person may not be appointed a guardian if he or she is in the employ of any person, agency, government, or corporation that provides service to the proposed ward in a professional or business capacity, except that a person so employed may be appointed if he or she is the spouse, adult child, parent, or sibling of the proposed ward or the court determines that the potential conflict of interest is insubstantial and that the appointment would clearly be in the proposed ward's best interest. The court may not appoint a guardian in any other circumstance in which a conflict of interest may occur.

Section 169. Section 784.075, Florida Statutes, is amended to read:

784.075 Battery on detention or commitment facility staff.—A person who commits a battery on an intake counselor or case manager, as defined in s. *984.03(31)* ~~39.01(34)~~, on other staff of a detention center or facility as defined in s. *984.03(19)* ~~39.01(23)~~, or on a staff member of a commitment facility as defined in s. *985.03(45)* ~~39.01(59)(c), (d), or (e),~~ commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. For purposes of this section, a staff member of the facilities listed includes persons employed by the Department of Juvenile Justice, persons employed at facilities licensed by the Department of Juvenile Justice, and persons employed at facilities operated under a contract with the Department of Juvenile Justice.

Section 170. Section 933.18, Florida Statutes, is amended to read:

933.18 When warrant may be issued for search of private dwelling.—No search warrant shall issue under this chapter or under any other law of this state to search any private dwelling occupied as such unless:

(1) It is being used for the unlawful sale, possession, or manufacture of intoxicating liquor;

(2) Stolen or embezzled property is contained therein;

(3) It is being used to carry on gambling;

(4) It is being used to perpetrate frauds and swindles;

(5) The law relating to narcotics or drug abuse is being violated therein;

(6) A weapon, instrumentality, or means by which a felony has been committed, or evidence relevant to proving said felony has been committed, is contained therein;

(7) One or more of the following misdemeanor child abuse offenses is being committed there:

(a) Interference with custody, in violation of s. 787.03.

(b) Commission of an unnatural and lascivious act with a child, in violation of s. 800.02.

(c) Exposure of sexual organs to a child, in violation of s. 800.03.

(8) It is in part used for some business purpose such as a store, shop, saloon, restaurant, hotel, or boardinghouse, or lodginghouse;

(9) It is being used for the unlawful sale, possession, or purchase of wildlife, saltwater products, or freshwater fish being unlawfully kept therein; or

(10) The laws in relation to cruelty to animals have been or are being violated therein, except that no search pursuant to such a warrant shall be made in any private dwelling after sunset and before sunrise unless specially authorized by the judge issuing the warrant, upon a showing of probable cause. Property relating to the violation of such laws may be taken on a warrant so issued from any private dwelling in which it is concealed or from the possession of any person therein by whom it shall have been used in the commission of such offense or from any person therein in whose possession it may be.

If, during a search pursuant to a warrant issued under this section, a child is discovered and appears to be in imminent danger, the law enforcement officer conducting such search may remove the child from the private dwelling and take the child into protective custody pursuant to *chapter 39* ~~s. 415.506~~. The term "private dwelling" shall be construed to include the room or rooms used and occupied, not transiently but solely as a residence, in an apartment house, hotel, boardinghouse, or lodginghouse. No warrant shall be issued for the search of any private dwelling under any of the conditions hereinabove mentioned except on sworn proof by affidavit of some creditable witness that he or she has reason to believe that one of said conditions exists, which affidavit shall set forth the facts on which such reason for belief is based.

Section 171. Subsection (10) of section 943.045, Florida Statutes, is amended to read:

943.045 Definitions; ss. 943.045-943.08.—The following words and phrases as used in ss. 943.045-943.08 shall have the following meanings:

(10) "Criminal justice agency" means:

(a) A court.

(b) The department.

(c) The Department of Juvenile Justice.

(d) The Department of Children and Family Services' Protective Investigations, which investigates the crimes of abuse and neglect.

(e)~~(d)~~ Any other governmental agency or subunit thereof which performs the administration of criminal justice pursuant to a statute or rule of court and which allocates a substantial part of its annual budget to the administration of criminal justice.

Section 172. Section 944.401, Florida Statutes, is amended to read:

944.401 Escapes from secure detention or residential commitment facility.—An escape from any secure detention facility maintained for the temporary detention of children, pending adjudication, disposition, or placement; an escape from any residential commitment facility defined in s. *985.03(45)* ~~39.01(59)~~, maintained for the custody, treatment, punishment, or rehabilitation of children found to have committed delinquent acts or violations of law; or an escape from lawful transportation thereto or therefrom constitutes escape within the intent and meaning of s. 944.40 and is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 173. Subsection (3) of section 944.705, Florida Statutes, is amended to read:

944.705 Release orientation program.—

(3) Any inmate who claims to be a victim of domestic violence as defined in s. 741.28 shall receive, as part of the release orientation program, referral to the nearest domestic violence center certified under *chapter 39* ~~ss. 415.601-415.608~~.

Section 174. Subsections (2) and (41) of section 984.03, Florida Statutes, as amended by chapter 97-276, Laws of Florida, are amended to read:

984.03 Definitions.—When used in this chapter, the term:

(2) "Abuse" means any willful act that results in any physical, mental, or sexual injury that causes or is likely to cause the child's physical, mental, or emotional health to be significantly impaired. Corporal discipline of a child by a parent or guardian for disciplinary purposes does not in itself constitute abuse when it does not result in harm to the child as defined in s. *39.01* ~~415.503~~.

(41) "Parent" means a woman who gives birth to a child and a man whose consent to the adoption of the child would be required under s. 63.062(1)(b). If a child has been legally adopted, the term "parent" means the adoptive mother or father of the child. The term does not include an individual whose parental relationship to the child has been legally terminated, or an alleged or prospective parent, unless the parental status falls within the terms of either s. *39.503* ~~39.4051(7)~~ or s. 63.062(1)(b).

Section 175. Subsection (4) of section 984.10, Florida Statutes, is amended to read:

984.10 Intake.—

(4) If the department has reasonable grounds to believe that the child has been abandoned, abused, or neglected, it shall proceed pursuant to the provisions of ~~s. 415.505 and~~ chapter 39.

Section 176. Paragraphs (a) and (c) of subsection (3) of section 984.15, Florida Statutes, are amended to read:

984.15 Petition for a child in need of services.—

(3)(a) The parent, guardian, or legal custodian may file a petition alleging that a child is a child in need of services if:

1. The department waives the requirement for a case staffing committee.

2. The department fails to convene a meeting of the case staffing committee within 7 days, excluding weekends and legal holidays, after receiving a written request for such a meeting from the child's parent, guardian, or legal custodian.

3. The parent, guardian, or legal custodian does not agree with the plan for services offered by the case staffing committee.

4. The department fails to provide a written report within 7 days after the case staffing committee meets, as required under s. *984.12(8)* ~~39.426(8)~~.

(c) The petition must be in writing and must set forth specific facts alleging that the child is a child in need of services as defined in s. *984.03(9)* ~~39.01~~. The petition must also demonstrate that the parent, guardian, or legal custodian has in good faith, but unsuccessfully, partic-

ipated in the services and processes described in ss. *984.11 and 984.12* ~~39.424 and 39.426~~.

Section 177. Section 984.24, Florida Statutes, is amended to read:

984.24 Appeal.—The state, any child, or the family, guardian ad litem, or legal custodian of any child who is affected by an order of the court pursuant to this *chapter* ~~part~~ may appeal to the appropriate district court of appeal within the time and in the manner prescribed by the Florida Rules of Appellate Procedure ~~and pursuant to s. 39.413~~.

Section 178. Subsection (42) of section 985.03, Florida Statutes, as amended by chapter 97-276, Laws of Florida, is amended to read:

985.03 Definitions.—When used in this chapter, the term:

(42) "Parent" means a woman who gives birth to a child and a man whose consent to the adoption of the child would be required under s. 63.062(1)(b). If a child has been legally adopted, the term "parent" means the adoptive mother or father of the child. The term does not include an individual whose parental relationship to the child has been legally terminated, or an alleged or prospective parent, unless the parental status falls within the terms of either s. *39.503* ~~39.4051(7)~~ or s. 63.062(1)(b).

Section 179. Paragraph (c) of subsection (4) of section 985.303, Florida Statutes, is amended to read:

985.303 Neighborhood restorative justice.—

(4) DEFERRED PROSECUTION PROGRAM; PROCEDURES.—

(c) The board shall require the parent or legal guardian of the juvenile who is referred to a Neighborhood Restorative Justice Center to appear with the juvenile before the board at the time set by the board. In scheduling board meetings, the board shall be cognizant of a parent's or legal guardian's other obligations. The failure of a parent or legal guardian to appear at the scheduled board meeting with his or her child or ward may be considered by the juvenile court as an act of child neglect as defined by s. *39.01* ~~415.503(3)~~, and the board may refer the matter to the Department of Children and Family Services for investigation under the provisions of chapter *39* ~~415~~.

Section 180. *Sections 39.002, 39.0195, 39.0196, 39.39, 39.403, 39.4032, 39.4052, 39.4053, 39.408(3), (4), 39.449, 39.45, 39.451, 39.457, 39.459, 39.4611, 39.462, 39.4625, 39.472, 39.474, 39.475, 415.501, 415.5016, 415.50165, 415.5017, 415.50175, 415.5018, 415.50185, 415.5019, 415.502, 415.503, 415.505, 415.506, 415.5075, 415.509, and 415.514, Florida Statutes, are repealed.*

Section 181. Except as otherwise provided in this act, this act shall take effect October 1, 1998.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to protection of children; reorganizing and revising ch. 39, F.S.; providing for part I of that chapter, entitled "General Provisions"; amending s. 39.001, F.S.; revising purposes and intent; providing for personnel standards and screening and for drug testing; renumbering and amending s. 415.5015, F.S., relating to child abuse prevention training in the district school system; amending s. 39.01, F.S.; revising definitions; renumbering and amending s. 39.455, F.S., relating to immunity from liability for agents of the Department of Children and Family Services or a social service agency; amending s. 39.012, F.S., and creating s. 39.0121, F.S.; providing authority and requirements for department rules; renumbering and amending s. 39.40, F.S., relating to procedures and jurisdiction; providing for right to counsel; renumbering s. 39.4057, F.S., relating to permanent mailing address designation; renumbering and amending s. 39.411, F.S., relating to oaths, records, and confidential information; renumbering s. 39.414, F.S., relating to court and witness fees; renumbering and amending s. 39.415, F.S., relating to providing for compensation of appointed counsel; renumbering and amending s. 39.418, F.S., relating to the Operations and Maintenance Trust Fund; providing for part II of ch. 39, F.S., entitled "Reporting Child Abuse"; renumbering and amending s. 415.504, F.S., relating to mandatory reports of child abuse, abandonment, or neglect; renumbering and amending s. 415.511, F.S., relating to immunity from liability in cases of child abuse, abandonment, or neglect; renumbering and amending s. 415.512, F.S., relating to abrogation of privileged communications in cases of child abuse, abandonment, or neglect; renumbering and amending s. 415.513, F.S.; providing penalties relating to reporting of child abuse, abandonment, or neglect; renumbering and amending s. 415.5131, F.S.; increasing an administrative fine for false reporting; providing for part III of ch. 39, F.S., entitled "Protective Investigations"; creating s. 39.301, F.S.; providing for child protective investigations; creating s. 39.302, F.S.; providing for protective investigations of institutional child abuse, abandonment, or neglect; renumbering and amending s. 415.5055, F.S., relating to child protection teams and services and eligible cases; creating s. 39.3035, F.S.; providing standards for child advocacy centers eligible for state funding; renumbering and amending s. 415.507, F.S., relating to photographs, medical examinations, X rays, and medical treatment of an abused, abandoned, or neglected child; renumbering and amending s. 415.5095, F.S., relating to a model plan for intervention and treatment in sexual abuse cases; creating s. 39.306, F.S.; providing for working agreements with local law enforcement to perform criminal investigations; renumbering and amending s. 415.50171, F.S., relating to reports of child-on-child sexual abuse; providing for part IV of ch. 39, F.S., entitled "Family Builders Program"; renumbering and amending s. 415.515, F.S., relating to establishment of the program; renumbering and amending s. 415.516, F.S., relating to goals of the program; renumbering and amending s. 415.517, F.S., relating to contracts for services; renumbering and amending s. 415.518, F.S., relating to family eligibility; renumbering s. 415.519, F.S., relating to delivery of services; renumbering and amending s. 415.520, F.S., relating to qualifications of program workers; renumbering s. 415.521, F.S., relating to outcome evaluation; renumbering and amending s. 415.522, F.S., relating to funding; providing for part V of ch. 39, F.S., entitled "Taking Children into Custody and Shelter Hearings"; creating s. 39.395, F.S.; providing for medical or hospital personnel taking a child into protective custody; amending s. 39.401, F.S.; providing for law enforcement officers or authorized agents of the department taking a child alleged to be dependent into custody; amending s. 39.402, F.S., relating to placement in a shelter; amending s. 39.407, F.S., relating to physical and mental examination and treatment of a child and physical or mental examination of a person requesting custody; renumbering and amending s. 39.4033, F.S., relating to referral of a dependency case to mediation; providing for part VI of ch. 39, F.S., entitled "Petition, Arraignment, Adjudication, and Disposition"; renumbering and amending s. 39.404, F.S., relating to petition for dependency; renumbering and amending s. 39.405, F.S., relating to notice, process, and service; renumbering and amending s. 39.4051, F.S., relating to procedures when the identity or location of the parent, legal custodian, or caregiver is unknown; renumbering and amending s. 39.4055, F.S., relating to injunction pending disposition of a petition for detention or dependency; renumbering and amending s. 39.406, F.S., relating to answers to petitions or other pleadings; renumbering and amending s. 39.408, F.S., relating to arraignment hearings; renumbering and amending s. 39.409, F.S., relating to adjudicatory hearings and orders; renumbering and amending s. 39.41, F.S., relating to disposition hearings and powers of disposition; creating s. 39.5085, F.S.; establishing the Relative-Caregiver Program; directing the Department of Children and Family Services to establish and operate the Relative-Caregiver Program; providing financial assistance within available resources to relatives caring for children; providing for financial assistance and support services to relatives caring for children placed with them by the child protection system; providing for rules establishing eligibility guidelines, caregiver benefits, and payment schedule; renumbering and amending s. 39.4105, F.S., relating to grandparents' rights; renumbering and amending s. 39.413, F.S., relating to appeals; providing for part VII of ch. 39, F.S., entitled "Case Plans"; renumbering and amending s. 39.4031, F.S., relating to case plan requirements and case planning for children in out-of-home care; renumbering and amending s. 39.452, F.S., relating to case planning for children in out-of-home care when the parents, legal custodians, or caregivers do not participate; creating s. 39.603, F.S.; providing for court approvals of case planning; providing for part VIII of ch. 39, F.S., entitled "Judicial Reviews"; renumbering and amending s. 39.453, F.S., relating to judicial review of the status of a child; renumbering and amending s. 39.4531, F.S., relating to citizen review panels; renumbering and amending s. 39.454, F.S., relating to initiation of proceedings for termination of parental rights; renumbering and amending s. 39.456, F.S.; revising exemptions from judicial review; providing for part IX of ch. 39, F.S., entitled "Termination of Parental Rights"; renumbering and amending s. 39.46, F.S., relating to procedures, jurisdiction, and service of process; renumbering and amending s. 39.461, F.S., relating to petition for termination of parental rights, and filing and elements thereof; removing provisions authorizing licensed

child-placing agencies to file actions to terminate parental rights; creating s. 39.803, F.S.; providing procedures when the identity or location of the parent is unknown after filing a petition for termination of parental rights; renumbering s. 39.4627, F.S., relating to penalties for false statements of paternity; renumbering and amending s. 39.463, F.S., relating to petitions and pleadings for which no answer is required; deleting references to licensed child-placing agencies; renumbering and amending s. 39.464, F.S., relating to grounds for termination of paternal rights; renumbering and amending s. 39.465, F.S., relating to right to counsel and appointment of a guardian ad litem; renumbering and amending s. 39.466, F.S., relating to advisory hearings; renumbering and amending s. 39.467, F.S., relating to adjudicatory hearings; renumbering and amending s. 39.4612, F.S., relating to the manifest best interests of the child; renumbering and amending s. 39.469, F.S., relating to powers of disposition and order of disposition; renumbering and amending s. 39.47, F.S., relating to postdisposition relief; providing additional requirements for a petition for adoption; prohibiting filing such petition until the order terminating parental rights is final; amending s. 63.022, F.S.; revising legislative intent with respect to adoptions in this state; amending s. 63.032, F.S.; revising definitions; defining the term "adoption entity"; creating s. 63.037, F.S.; exempting adoption proceedings that result from a termination of parental rights under ch. 39, F.S., from certain provisions of ch. 63, F.S.; creating s. 63.038, F.S.; providing criminal penalties for committing certain fraudulent acts; creating s. 63.039, F.S.; providing sanctions and an award of attorney's fees under certain circumstances; amending s. 63.052, F.S.; providing for placement of a minor pending adoption; specifying the jurisdiction of the court over a minor who has been placed for adoption; amending s. 63.062, F.S.; specifying additional persons who must consent to an adoption, execute an affidavit of nonpaternity, or receive notice of proceedings to terminate parental rights; permitting an affidavit of nonpaternity under certain circumstances; amending s. 63.082, F.S.; revising requirements for executing a consent to an adoption; providing a time period for withdrawing consent; providing additional disclosure requirements; amending s. 63.085, F.S.; specifying information that must be disclosed to persons seeking to adopt a minor and to the birth parents; creating s. 63.087, F.S.; requiring that a separate proceeding be conducted by the court to determine whether a birth parent's parental rights should be terminated; providing for rules, jurisdiction, and venue for such proceedings; providing requirements for the petition and hearing; creating s. 63.088, F.S.; providing requirements for identifying and locating a person who is required to consent to an adoption or receive notice of proceedings to terminate parental rights; providing requirements for the notice; providing requirements for conducting a diligent search for such person whose location is unknown; requiring that an unlocated or unidentified person be served notice by constructive service; providing that failure to respond or appear constitutes grounds to terminate parental rights pending adoption; creating s. 63.089, F.S.; providing procedures for the proceeding to terminate parental rights pending adoption; specifying the matters to be determined; specifying grounds upon which parental rights may be terminated; providing for procedures following a judgment; providing for records to be made part of the subsequent adoption; amending s. 63.092, F.S.; providing requirements to be met if a prospective placement in an adoptive home is an at-risk placement; defining at-risk placement; amending s. 63.097, F.S.; revising requirements for the court in approving specified fees and costs; amending s. 63.102, F.S.; revising requirements for filing a petition for adoption; providing requirements for prior approval of fees and costs; amending s. 63.112, F.S.; revising requirements for the information that must be included in a petition for adoption; amending s. 63.122, F.S.; revising the time requirements for hearing a petition for adoption; amending s. 63.125, F.S., relating to the final home investigation; conforming provisions to changes made by the act; amending s. 63.132, F.S.; revising requirements for the report of expenditures and receipts which is filed with the court; amending s. 63.142, F.S.; specifying circumstances under which a judgment terminating parental rights pending adoption is voidable; providing for an evidentiary hearing to determine the minor's placement following a motion to void such a judgment; amending s. 63.152, F.S.; requiring that the clerk of the court mail a copy of a new birth record to the state registry of adoption information; amending s. 63.165, F.S.; requiring that a copy of the certified statement of final decree of adoption be included in the state registry of adoption information; requiring that the Department of Children and Family Services maintain such information for a specified period; amending s. 63.182, F.S.; requiring that an action to vacate an order of adoption or an order terminating parental rights pending adoption be filed within a specified period after entry of the order; amending s. 63.207, F.S.; revising provisions that limit the placement of a minor in another state for adoption; amending s. 63.212, F.S., relating to prohibitions and penalties with respect to adoptions; conforming provisions to changes made by the act; repealing s. 63.072, F.S., relating to persons who may waive required consent to an adoption; requiring that a petition for adoption be governed by the law in effect at the time the petition is filed; creating s. 39.813, F.S.; providing for continuing jurisdiction of the court that terminates parental rights over all matters pertaining to the child's adoption; renumbering s. 39.471, F.S., relating to oaths, records, and confidential information; renumbering and amending s. 39.473, F.S., relating to appeal; creating s. 39.816, F.S.; authorizing certain pilot and demonstration projects contingent on receipt of federal grants or contracts; creating s. 39.817, F.S.; providing for a foster care demonstration pilot project; providing for part X of ch. 39, F.S., entitled "Guardians Ad Litem and Guardian Advocates"; creating s. 39.820, F.S.; providing definitions; renumbering s. 415.5077, F.S., relating to qualifications of guardians ad litem; renumbering and amending s. 415.508, F.S., relating to appointment of a guardian ad litem for an abused, abandoned, or neglected child; renumbering and amending s. 415.5082, F.S., relating to guardian advocates for drug dependent newborns; renumbering and amending s. 415.5083, F.S., relating to procedures and jurisdiction; renumbering s. 415.5084, F.S., relating to petition for appointment of a guardian advocate; renumbering s. 415.5085, F.S., relating to process and service; renumbering and amending s. 415.5086, F.S., relating to hearing for appointment of a guardian advocate; renumbering and amending s. 415.5087, F.S., relating to grounds for appointment of a guardian advocate; renumbering s. 415.5088, F.S., relating to powers and duties of the guardian advocate; renumbering and amending s. 415.5089, F.S., relating to review and removal of a guardian advocate; providing for part XI of ch. 39, F.S., entitled "Domestic Violence"; renumbering s. 415.601, F.S., relating to legislative intent regarding treatment and rehabilitation of victims and perpetrators; renumbering and amending s. 415.602, F.S., relating to definitions; renumbering and amending s. 415.603, F.S., relating to duties and functions of the department; renumbering and amending s. 415.604, F.S., relating to an annual report to the Legislature; renumbering and amending s. 415.605, F.S., relating to domestic violence centers; renumbering s. 415.606, F.S., relating to referral to such centers and notice of rights; renumbering s. 415.608, F.S., relating to confidentiality of information received by the department or a center; amending s. 20.19, F.S.; providing for certification programs for family safety and preservation employees of the department; providing for rules; amending ss. 20.43, 61.13, 61.401, 61.402, 63.052, 63.092, 90.5036, 154.067, 216.136, 232.50, 318.21, 384.29, 392.65, 393.063, 395.1023, 400.4174, 400.556, 402.165, 402.166, 409.1672, 409.176, 409.2554, 409.912, 409.9126, 414.065, 447.401, 464.018, 490.014, 491.014, 741.30, 744.309, 784.075, 933.18, 944.401, 944.705, 984.03, 984.10, 984.15, 984.24, 985.03, 985.303, F.S.; correcting cross-references; conforming related provisions and references; amending ss. 213.053 and 409.2577, F.S.; authorizing disclosure of certain confidential taxpayer and parent locator information for diligent search activities under ch. 39, F.S.; creating s. 435.045, F.S.; providing background screening requirements for prospective foster or adoptive parents; amending s. 943.045, F.S.; providing that the Department of Children and Family Services is a "criminal justice agency" for purposes of the criminal justice information system; repealing s. 39.002, F.S., relating to intent; repealing s. 39.0195, F.S., relating to sheltering unmarried minors and aiding unmarried runaways; repealing s. 39.0196, F.S., relating to children locked out of the home; repealing ss. 39.39, 39.449, and 39.459, F.S., relating to definition of "department"; repealing s. 39.403, F.S., relating to protective investigation; repealing s. 39.4032, F.S., relating to multidisciplinary case staffing; repealing s. 39.4052, F.S., relating to affirmative duty of written notice to adult relatives; repealing s. 39.4053, F.S., relating to diligent search after taking a child into custody; repealing s. 39.408(3), (4), F.S., relating to disposition hearings and notice of hearings; repealing s. 39.45, F.S., relating to legislative intent regarding foster care; repealing s. 39.451, F.S., relating to case planning; repealing s. 39.457, F.S., relating to a pilot program in Leon County to provide additional benefits to children in foster care; repealing s. 39.4611, F.S., relating to elements of petitions; repealing s. 39.462, F.S., relating to process and services; repealing s. 39.4625, F.S., relating to identity or location of parent unknown after filing of petition for termination of parental rights; repealing s. 39.472, F.S., relating to court and witness fees; repealing s. 39.474, F.S., relating to compensation of counsel; repealing s. 39.475, F.S., relating to rights of grandparents; repealing s. 415.501, F.S., relating to the state plan for prevention of abuse and neglect; repealing ss. 415.5016, 415.50165, 415.5017, 415.50175, 415.5018, 415.50185, and 415.5019, F.S., relating to purpose and legislative intent, definitions, procedures, confidentiality of records, district authority and responsibilities, outcome evaluation, and rules for the family services response system;

repealing s. 415.502, F.S., relating to legislative intent for comprehensive protective services for abused or neglected children; repealing s. 415.503, F.S., relating to definitions; repealing s. 415.505, F.S., relating to child protective investigations and investigations of institutional child abuse or neglect; repealing s. 415.506, F.S., relating to taking a child into protective custody; repealing s. 415.5075, F.S., relating to rules for medical screening and treatment of children; repealing s. 415.509, F.S., relating to public agencies' responsibilities for prevention, identification, and treatment of child abuse and neglect; repealing s. 415.514, F.S., relating to rules for protective services; providing effective dates.

Senator Dudley moved the following amendment to **Amendment 1** which was adopted:

Amendment 1A (with title amendment)—On page 60, between lines 18 and 19, insert:

Section 16. Section 415.51, Florida Statutes, is renumbered as section 39.202, Florida Statutes, and amended to read:

39.202 ~~415.51~~ Confidentiality of reports and records in cases of child abuse or neglect.—

(1)(a) In order to protect the rights of the child and the child's parents ~~or other persons responsible for the child's welfare~~, all records *held by the department* concerning reports of child abuse or neglect, including reports made to the central abuse hotline and all records generated as a result of such reports, shall be confidential and exempt from the provisions of s. 119.07(1) and shall not be disclosed except as specifically authorized by *this chapter* ~~ss. 415.502-415.514~~. Such exemption from s. 119.07(1) applies to information in the possession of those entities granted access as set forth in this section.

(b) Except for information identifying individuals, all records involving the death of a child determined to be a result of abuse, abandonment, or neglect shall be released to the public within 10 days after completion of the investigation.

(2) Access to such records, excluding the name of the reporter which shall be released only as provided in subsection *(4)* ~~(9)~~, shall be granted only to the following persons, officials, and agencies:

(a) Employees, *authorized* ~~or~~ agents, *or contract providers* of the department, *the Department of Health, or county agencies* responsible for carrying out child or adult protective investigations, ongoing child or adult protective services, *Healthy Start services*, or licensure or approval of adoptive homes, foster homes, or *child care facilities, or family day care homes or informal child care providers who receive subsidized child care funding, or* other homes used to provide for the care and welfare of children. Also, employees or agents of the Department of Juvenile Justice responsible for the provision of services to children, pursuant to ~~parts II and IV of~~ chapter *985* ~~39~~.

(b) Criminal justice agencies of appropriate jurisdiction.

(c) The state attorney of the judicial circuit in which the child resides or in which the alleged abuse or neglect occurred.

(d) The parent, *caregiver,* or *legal* custodian of any child who is alleged to have been abused, *abandoned, or* neglected, *and the child, and their attorneys* ~~or abandoned~~. This access shall be made available no later than 30 days after the department receives the initial report of abuse, neglect, or abandonment. However, any information otherwise made confidential or exempt by law shall not be released pursuant to this paragraph.

(e) Any person alleged in the report as having caused the abuse, *abandonment, or* neglect~~, or abandonment~~ of a child. This access shall be made available no later than 30 days after the department receives the initial report of abuse, *abandonment, or* neglect~~, or abandonment~~. However, any information otherwise made confidential or exempt by law shall not be released pursuant to this paragraph.

(f) A court upon its finding that access to such records may be necessary for the determination of an issue before the court; however, such access shall be limited to inspection in camera, unless the court determines that public disclosure of the information contained therein is necessary for the resolution of an issue then pending before it.

(g) A grand jury, by subpoena, upon its determination that access to such records is necessary in the conduct of its official business.

(h) Any appropriate official of the department responsible for:

1. Administration or supervision of the department's program for the prevention, investigation, or treatment of child abuse, abandonment, ~~or~~ neglect*, or abuse, neglect, or exploitation of a disabled adult or elderly person,* when carrying out his or her official function; ~~or~~

2. Taking appropriate administrative action concerning an employee of the department alleged to have perpetrated ~~institutional~~ child abuse or neglect*, or abuse, neglect, or exploitation of a disabled adult or elderly person; or*~~.~~

3. Employing and continuing employment of personnel of the department.

(i) Any person engaged in bona fide research or audit purposes. However, no information identifying the subjects of the report shall be made available to the researcher.

(j) The Division of Administrative Hearings for purposes of any administrative challenge.

(k) Any appropriate official of the human rights advocacy committee investigating a report of known or suspected child abuse, abandonment, or neglect, the Auditor General for the purpose of conducting preliminary or compliance reviews pursuant to s. 11.45, or the guardian ad litem for the child ~~as defined in s. 415.503~~.

(l) Employees or agents of an agency of another state that has comparable jurisdiction to the jurisdiction described in paragraph (a).

(m) The Public Employees Relations Commission for the sole purpose of obtaining evidence for appeals filed pursuant to s. 447.207. Records may be released only after deletion of all information which specifically identifies persons other than the employee.

(n) Employees or agents of the Department of Revenue responsible for child support enforcement activities.

(3) The department may release to professional persons such information as is necessary for the diagnosis and treatment of the child or the person perpetrating the abuse*, abandonment, or neglect*.

(4) The name of any person reporting child abuse, abandonment, or neglect may not be released to any person other than employees of the department responsible for child protective services, ~~or~~ the central abuse hotline, *law enforcement,* or the appropriate state attorney ~~or law enforcement agency~~, without the written consent of the person reporting. This does not prohibit the subpoenaing of a person reporting child abuse, abandonment, or neglect when deemed necessary by the court, the state attorney, or the department, provided the fact that such person made the report is not disclosed. Any person who reports a case of child abuse or neglect may, at the time he or she makes the report, request that the department notify him or her that a child protective investigation occurred as a result of the report. The department shall mail such a notice to the reporter within 10 days after completing the child protective investigation.

(5) All records and reports of the child protection team are confidential and exempt from the provisions of ss. 119.07(1) and *455.667* ~~455.241~~, and shall not be disclosed, except, upon request, to the state attorney, law enforcement, the department, and necessary professionals, in furtherance of the treatment or additional evaluative needs of the child or by order of the court.

(6) The department shall make and keep reports and records of all cases under this chapter relating to child abuse, abandonment, and neglect and shall preserve the records pertaining to a child and family until 7 years after the last entry was made or until the child is 18 years of age, whichever date is first reached, and may then destroy the records. Department records required by this chapter relating to child abuse, abandonment, and neglect may be inspected only upon order of the court or as provided for in this section.

(7)~~(6)~~ A person who knowingly or willfully makes public or discloses to any unauthorized person any confidential information contained in

the central abuse hotline is subject to the penalty provisions of s. *39.205* ~~415.513~~. This notice shall be prominently displayed on the first sheet of any documents released pursuant to this section.

Section 17. *It is a public necessity that reports and records of cases of child abandonment held by the Department of Children and Family Services be confidential and exempt from public records requirements due to the sensitive and personal nature of these records and the detrimental effect that release of such personal information could have on the families and children involved. Further, the disclosure of such information could interfere with the department's ability to carry out its duties with respect to the protection of families and children.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 347, line 16, after the semicolon (;) insert: amending and renumbering s. 415.51, F.S.; revising provisions relating to confidentiality of Department of Children and Family Services reports and records of cases of child abuse and neglect; providing an exemption from public records requirements for department reports and records of cases of child abandonment; requiring certain recordkeeping and preservation by the department;

Senators Rossin, Dudley and Campbell offered the following amendment to **Amendment 1** which was moved by Senator Rossin and adopted:

Amendment 1B (with title amendment)—On page 346, delete line 6 and insert:

Section 180. *This act may be cited as the "Marriage Preparation and Preservation Act of 1998."*

Section 181. *It is the finding of the Legislature based on reliable research that:*

(1) The divorce rate has been accelerating.

(2) Just as the family is the foundation of society, the marital relationship is the foundation of the family. Consequently, strengthening marriages can only lead to stronger families, children, and communities, as well as a stronger economy.

(3) An inability to cope with stress from both internal and external sources leads to significantly higher incidents of domestic violence, child abuse, absenteeism, medical costs, learning and social deficiencies, and divorce.

(4) Relationship skills can be learned.

(5) Once learned, relationship skills can facilitate communication between parties to a marriage and assist couples in avoiding conflict.

(6) Once relationship skills are learned, they are generalized to parenting, the workplace, schools, neighborhoods, and civic relationships.

(7) By reducing conflict and increasing communication, stressors can be diminished and coping can be furthered.

(8) When effective coping exists, domestic violence, child abuse, divorce and its effect on children such as absenteeism, medical costs, and learning and social deficiencies, are diminished.

(9) The state has a compelling interest in educating its citizens with regard to marriage and, if contemplated, the effects of divorce.

Section 182. Paragraph (i) of subsection (1) of section 232.246, Florida Statutes, is amended to read:

232.246 General requirements for high school graduation.—

(1) Graduation requires successful completion of either a minimum of 24 academic credits in grades 9 through 12 or an International Baccalaureate curriculum. The 24 credits shall be distributed as follows:

(i) One-half credit in life management skills to include consumer education, positive emotional development, *marriage and relationship skill-based education,* nutrition, prevention of human immunodeficiency virus infection and acquired immune deficiency syndrome and other sexually transmissible diseases, benefits of sexual abstinence and consequences of teenage pregnancy, information and instruction on breast cancer detection and breast self-examination, cardiopulmonary resuscitation, drug education, and the hazards of smoking. Such credit shall be given for a course to be taken by all students in either the 9th or 10th grade.

School boards may award a maximum of one-half credit in social studies and one-half elective credit for student completion of nonpaid voluntary community or school service work. Students choosing this option must complete a minimum of 75 hours of service in order to earn the one-half credit in either category of instruction. Credit may not be earned for service provided as a result of court action. School boards that approve the award of credit for student volunteer service shall develop guidelines regarding the award of the credit, and school principals are responsible for approving specific volunteer activities. A course designated in the Course Code Directory as grade 9 through grade 12 which is taken below the 9th grade may be used to satisfy high school graduation requirements or Florida Academic Scholar's Certificate Program requirements as specified in a district's pupil progression plan.

Section 183. Subsection (5) is added to section 741.01, Florida Statutes, to read:

741.01 County court judge or clerk of the circuit court to issue marriage license; fee.—

(5) The fee charged for each marriage license issued in the state shall be reduced by a sum of $32.50 for all couples who present valid certificates of completion of a premarital preparation course from a qualified course provider registered under s. 741.0305(5) for a course taken no more than 1 year prior to the date of application for a marriage license. For each license issued that is subject to the fee reduction of this subsection, the clerk is not required to transfer the sum of $7.50 to the State Treasury for deposit in the Displaced Homemaker Trust Fund pursuant to subsection (3) or to transfer the sum of $25 to the Supreme Court for deposit in the Family Courts Trust Fund.

Section 184. Section 741.0305, Florida Statutes, is created to read:

741.0305 Marriage fee reduction for completion of premarital preparation course.—

(1) A man and a woman who intend to apply for a marriage license under s. 741.04 may, together or separately, complete a premarital preparation course of not less than 4 hours. All individuals shall verify completion of the course by filing with the application a valid certificate of completion from the course provider for each applicant which certificate shall specify whether the course was completed by personal instruction, videotape instruction, instruction via other electronic medium, or a combination of those methods. All individuals who complete a premarital preparation course pursuant to this section must be issued a certificate of completion at the conclusion of the course by their course provider. Upon furnishing such certificate when applying for a marriage license, the individuals shall have their marriage license fee reduced by $32.50.

(2) The premarital preparation course must include instruction regarding:

(a) Conflict management.

(b) Communication skills.

(c) Financial responsibilities.

(d) Children and parenting responsibilities.

(e) Data compiled from available information relating to problems reported by married couples who seek marital or individual counseling.

(3)(a) All individuals electing to participate in a premarital preparation course shall choose from the following list of qualified instructors:

1. A psychologist licensed under chapter 490.

2. A clinical social worker licensed under chapter 491.

3. A marriage and family therapist licensed under chapter 491.

4. A mental health counselor licensed under chapter 491.

5. An official representative of a religious institution which is recognized under s. 496.404(20) if the representative has relevant training.

6. Any other provider designated by a judicial circuit, including, but not limited to, school counselors who are certified to offer such courses. Each judicial circuit may establish a roster of area course providers, including those who offer the course on a sliding fee scale or for free.

(b) The costs of such premarital preparation course shall be paid by the applicant.

(4) Each premarital preparation course provider shall furnish each participant who completes the course with a certificate of completion specifying the name of the participant and the date of completion and whether the course was conducted by personal instruction, videotape instruction, or instruction via other electronic medium, or by a combination of these methods.

(5) All area course providers shall register with the clerk of the circuit court by filing an affidavit in writing attesting to the provider's compliance with the premarital preparation course requirements as set forth in this section and including the course instructor's name and qualifications, including the license number, if any, or, if an official representative of a religious institution, a statement as to relevant training. The affidavit shall also include the addresses where the provider may be contacted.

Section 185. *(1) Premarital preparation courses offered and completed by individuals across the state shall be reviewed by researchers from the Florida State University Center for Marriage and Family in order to determine the efficacy of such premarital preparation courses.*

(2) Premarital preparation pilot programs may be created by the Florida State University Center for Marriage and Family which will be administered by course providers or by qualified instructors as provided in section 741.0305(3), Florida Statutes. These pilot programs shall offer a premarital preparation course based on statistical information and data obtained by researchers from the Florida State University Center for Marriage and Family.

(3) The Florida State University Center for Marriage and Family shall develop a questionnaire and create a curriculum based on data collected by its researchers. Any curriculum developed by The Florida State University Center for Marriage and Family researchers, shall be the sole property of the Center.

Section 186. Section 741.0306, Florida Statutes, is created to read:

741.0306 Creation of a family law handbook.—

(1) Based upon their willingness to undertake this project, there shall be created by the Family Law Section of The Florida Bar a handbook explaining those sections of Florida law pertaining to the rights and responsibilities under Florida law of marital partners to each other and to their children both during a marriage and upon dissolution. The material in the handbook or other suitable electronic media shall be reviewed for accuracy by the Family Court Steering Committee of the Florida Supreme Court prior to publication and distribution.

(2) Such handbooks shall be available from the clerk of the circuit court upon application for a marriage license. The clerks may also make the information in the handbook available on videotape or other electronic media and are encouraged to provide a list of course providers and sites at which marriage and relationship skill building classes are available.

(3) The information contained in the handbook or other electronic media presentation may be reviewed and updated annually, and may include, but not be limited to:

(a) Pre-nuptial agreements; as a contract and as an opportunity to structure financial arrangements and other aspects of the marital relationship;

(b) Shared parental responsibility for children; the determination of primary residence or custody and secondary residence or routine visitation, holiday, summer and vacation visitation arrangements, telephone access, and the process for notice for changes;

(c) Permanent relocation restrictions on parents with primary residential responsibility;

(d) Child support for minor children; both parents are obligated for support in accordance with applicable child support guidelines;

(e) Property rights, including equitable distribution, special equity, pre-marital property, and non-marital property;

(f) Alimony, including temporary, permanent rehabilitative, and lump sum;

(g) Domestic violence and child abuse and neglect, including penalties and other ramifications of false reporting;

(h) Court process for dissolution with or without legal assistance, including who may attend, the recording of proceedings, how to access those records, and the cost of such access;

(i) Parent education course requirements for divorcing parents with children;

(j) Community resources that are available for separating or divorcing persons and their children; and

(k) Women's rights specified in the Battered Women's Bill of Rights.

(4) The material contained in such a handbook may also be provided through video tape or other suitable electronic media. The information contained in the handbook or other electronic media presentation shall be reviewed and updated annually.

Section 187. Section 741.04, Florida Statutes, is amended to read:

741.04 Marriage license issued.—

(1) No county court judge or clerk of the circuit court in this state shall issue a license for the marriage of any person unless there shall be first presented and filed with him or her an affidavit in writing, signed by both parties to the marriage, providing the social security numbers of each party, made and subscribed before some person authorized by law to administer an oath, reciting the true and correct ages of such parties; unless both such parties shall be over the age of 18 years, except as provided in s. 741.0405; and unless one party is a male and the other party is a female. Pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, each party is required to provide his or her social security number in accordance with this section. Disclosure of social security numbers obtained through this requirement shall be limited to the purpose of administration of the Title IV-D program for child support enforcement.

(2) No county court judge or clerk of the circuit court in this state shall issue a license for the marriage of any person unless there shall be first presented and filed with him or her:

(a) A statement in writing, signed by both parties which specifies whether the parties, separately or together, have completed a premarital preparation course.

(b) A statement that verifies that both parties have obtained and read or otherwise accessed the information contained in the handbook or other electronic media presentation of the rights and responsibilities of parties to a marriage specified in s. 741.0306.

(3) If a couple has not submitted to the clerk valid certificates of completion of a premarital preparation course, the couple will be required to wait 3 days before they may obtain a marriage license. If a couple has submitted valid certificates of completion of a premarital preparation course, they will not be required to wait 3 days before issuance of a marriage license. A county court judge issuing a marriage license may waive the 3-day waiting period for good cause.

Section 188. *When applying for a marriage license, an applicant may complete and file with the clerk of the circuit court an unsigned anonymous informational questionnaire which shall be provided by the clerk. The clerk shall, for purposes of anonymity, keep all such questionnaires in a separate file for later distribution by the clerk to researchers from The Florida State University Center for Marriage and Family. These questionnaires must be made available to researchers from the center at their request. Researchers from the center shall develop the questionnaire and distribute them to the clerk of the circuit court in each county.*

Section 189. Section 741.05, Florida Statutes, is amended to read:

741.05 Penalty for violation of ss. 741.03, 741.04*(1)*.—Any county court judge, clerk of the circuit court, or other person who shall violate any provision of ss. 741.03 and 741.04*(1)* shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 190. Section 61.043, Florida Statutes, is amended to read:

61.043 Commencement of a proceeding for dissolution of marriage or for alimony and child support.—

(1) A proceeding for dissolution of marriage or a proceeding under s. 61.09 shall be commenced by filing in the circuit court a petition entitled "In re the marriage of . . . . , husband, and . . . . , wife." A copy of the petition together with a copy of a summons shall be served upon the other party to the marriage in the same manner as service of papers in civil actions generally.

(2) Upon filing for dissolution of marriage, the petitioner must complete and file with the clerk of the circuit court an unsigned anonymous informational questionnaire. For purposes of anonymity, completed questionnaires must be kept in a separate file for later distribution by the clerk to researchers from The Florida State University Center for Marriage and Family. These questionnaires must be made available to researchers from The Florida State University Center for Marriage and Family at their request. The actual questionnaire shall be formulated by researchers from Florida State University who shall distribute them to the clerk of the circuit court in each county.

Section 191. Subsection (2) of section 61.052, Florida Statutes, is amended to read:

61.052 Dissolution of marriage.—

(2) Based on the evidence at the hearing, which evidence need not be corroborated except to establish that the residence requirements of s. 61.021 are met which may be corroborated by a valid Florida driver's license, a Florida voter's registration card, *a valid Florida identification card issued under ss. 322.051,* or the testimony or affidavit of a third party, the court shall dispose of the petition for dissolution of marriage when the petition is based on the allegation that the marriage is irretrievably broken as follows:

(a) If there is no minor child of the marriage and if the responding party does not, by answer to the petition for dissolution, deny that the marriage is irretrievably broken, the court shall enter a judgment of dissolution of the marriage if the court finds that the marriage is irretrievably broken.

(b) When there is a minor child of the marriage, or when the responding party denies by answer to the petition for dissolution that the marriage is irretrievably broken, the court may:

1. Order either or both parties to consult with a marriage counselor, psychologist, psychiatrist, minister, priest, rabbi, or any other person deemed qualified by the court and acceptable to the party or parties ordered to seek consultation; or

2. Continue the proceedings for a reasonable length of time not to exceed 3 months, to enable the parties themselves to effect a reconciliation; or

3. Take such other action as may be in the best interest of the parties and the minor child of the marriage.

If, at any time, the court finds that the marriage is irretrievably broken, the court shall enter a judgment of dissolution of the marriage. If the court finds that the marriage is not irretrievably broken, it shall deny the petition for dissolution of marriage.

Section 192. Section 61.21, Florida Statutes, is amended to read:

61.21 Parenting course authorized; fees; required attendance authorized; contempt.—

(1) LEGISLATIVE FINDINGS; PURPOSE.—It is the finding of the Legislature that:

(a) A large number of children experience the separation or divorce of their parents each year. Parental conflict related to divorce is a societal concern because children suffer potential short-term and long-term detrimental economic, emotional, and educational effects during this difficult period of family transition. This is particularly true when parents engage in lengthy legal conflict.

(b) Parents are more likely to consider the best interests of their children when determining parental arrangements if courts provide families with information regarding the process by which courts make decisions on issues affecting their children and suggestions as to how parents may ease the coming adjustments in family structure for their children.

(c) It has been found to be beneficial to parents who are separating or divorcing to have available an educational program that will provide general information regarding:

1. The issues and legal procedures for resolving custody and child support disputes.

2. The emotional experiences and problems of divorcing adults.

3. The family problems and the emotional concerns and needs of the children.

4. The availability of community services and resources.

(d) Parents who are separating or divorcing are more likely to receive maximum benefit from a program if they attend such program at the earliest stages of their dispute, before extensive litigation occurs and adversarial positions are assumed or intensified.

(2)~~(1)~~ All judicial circuits in the state *shall* ~~may~~ approve a parenting course which shall be a course of a minimum of 4 hours designed to educate, train, and assist divorcing parents in regard to the consequences of divorce on parents and children.

(a) The parenting course referred to in this section shall be named The Parent Education and Family Stabilization Course and may include, but not be limited to, the following topics as they relate to court actions between parents involving custody, care, visitation, and support of a child or children:

1. Legal aspects of deciding child-related issues between parents.

2. Emotional aspects of separation and divorce on adults.

3. Emotional aspects of separation and divorce on children.

4. Family relationships and family dynamics.

5. Financial responsibilities to a child or children.

6. Issues regarding spousal or child abuse and neglect.

7. Skill-based relationship education that may be generalized to parenting, workplace, school, neighborhood, and civic relationships.

(b) Information regarding spousal and child abuse and neglect shall be included in every parent education and family stabilization course. A list of local agencies that provide assistance with such issues shall also be provided.

(c) The parent education and family stabilization course shall be educational in nature and shall not be designed to provide individual mental health therapy for parents or children, or individual legal advice to parents or children.

(d) Course providers shall not solicit participants from the sessions they conduct to become private clients or patients.

(e) Course providers shall not give individual legal advice or mental health therapy.

(3)~~(2)~~ All parties to a dissolution of marriage proceeding with minor children *or a paternity action which involves issues of parental responsibility shall* ~~or a modification of a final judgment action involving shared parental responsibilities, custody, or visitation may~~ be required to complete *The Parent Education and Family Stabilization* ~~a court-approved parenting~~ Course prior to the entry by the court of a final judgment ~~or~~

~~order modifying the final judgment~~. *The court may excuse a party from attending the parenting course for good cause.*

(4)~~(3)~~ All parties required to complete a parenting course *under this section shall begin the course as expeditiously as possible after filing for dissolution of marriage and* shall file proof of compliance with the court prior to the entry of the final judgment ~~or order modifying the final judgment~~.

(5) All parties to a modification of a final judgment involving shared parental responsibilities, custody, or visitation may be required to complete a court-approved parenting course prior to the entry of an order modifying the final judgment.

(6) Each judicial circuit may establish a registry of course providers and sites at which the parent education and family stabilization course required by this section may be completed. The court shall also include within the registry of course providers and sites at least one site in each circuit at which the parent education and family stabilization course may be completed on a sliding fee scale, if available.

(7)~~(4)~~ A reasonable fee may be charged to each parent attending the course.

(8)~~(5)~~ Information obtained or statements made by the parties at any educational session required under this statute shall not be considered in the adjudication of a pending or subsequent action, nor shall any report resulting from such educational session become part of the record of the case unless the parties have stipulated in writing to the contrary.

(9)~~(6)~~ The court may hold any parent who fails to attend a required parenting course in contempt or that parent may be denied shared parental responsibility or visitation or otherwise sanctioned as the court deems appropriate.

(10)~~(7)~~ Nothing in this section shall be construed to require the parties to a dissolution of marriage to attend a court-approved parenting course together.

(11) The court may, without motion of either party, prohibit the parenting course from being taken together, if there is a history of domestic violence between the parties.

Section 193. Paragraph (d) is added to subsection (1) of section 28.101, Florida Statutes, to read:

28.101 Petitions and records of dissolution of marriage; additional charges.—

(1) When a party petitions for a dissolution of marriage, in addition to the filing charges in s. 28.241, the clerk shall collect and receive:

(d) A charge of $32.50. On a monthly basis the clerk shall transfer the moneys collected pursuant to this paragraph as follows:

1. An amount of $7.50 to the State Treasury for deposit in the Displaced Homemaker Trust Fund.

2. An amount of $25 to the Supreme Court for deposit in the Family Courts Trust Fund.

Section 194. Section 25.388, Florida Statutes, is amended to read:

25.388 Family Courts Trust Fund.—

(1)(a) The trust fund moneys in the Family Courts Trust Fund, administered by the Supreme Court, shall be used to implement family court plans in all judicial circuits of this state.

(b) The Supreme Court, through the Office of the State Courts Administrator, shall adopt a comprehensive plan for the operation of the trust fund and the expenditure of any moneys deposited into the trust fund. The plan shall provide for a comprehensive integrated response to families in litigation, including domestic violence matters, guardian ad litem programs, mediation programs, legal support, training, automation, and other related costs incurred to benefit the citizens of the state and the courts in relation to family law cases. *The trust fund shall be used to fund the publication of the handbook created pursuant to s. 741.0306.*

(2) As part of its comprehensive plan, the Supreme Court shall evaluate the necessity for an installment plan or a waiver for any or all of the fees based on financial necessity and report such findings to the Legislature.

(3) The trust fund shall be funded with moneys generated from fees assessed pursuant to *ss. 28.101 and* ~~s.~~ 741.01(4).

Section 195. *There is hereby appropriated in fiscal year 1998-1999 the sum of $75,000 from the General Revenue Fund to the Florida State University Center for Marriage and Family for review of premarital preparation courses, development of premarital preparation pilot programs, and development of a questionnaire and creation of a curriculum based on data collected by its researchers.*

Section 196. Section 180 through 195 and this section of this act, shall take effect January 1, 1999.

Section 197. Except as otherwise provided in this act,

And the title is amended as follows:

On page 360, line 11, after the semicolon (;) insert: An act relating to families and children; reorganizing and revising ch. 39, F.S.; providing for part I of that chapter, entitled "General Provisions"; amending s. 39.001, F.S.; revising purposes and intent; providing for personnel standards and screening and for drug testing; renumbering and amending s. 415.5015, F.S., relating to child abuse prevention training in the district school system; amending s. 39.01, F.S.; revising definitions; renumbering and amending s. 39.455, F.S., relating to immunity from liability for agents of the Department of Children and Family Services or a social service agency; amending s. 39.012, F.S., and creating s. 39.0121, F.S.; providing authority and requirements for department rules; renumbering and amending s. 39.40, F.S., relating to procedures and jurisdiction; providing for right to counsel; renumbering s. 39.4057, F.S., relating to permanent mailing address designation; renumbering and amending s. 39.411, F.S., relating to oaths, records, and confidential information; renumbering s. 39.414, F.S., relating to court and witness fees; renumbering and amending s. 39.415, F.S., relating to providing for compensation of appointed counsel; renumbering and amending s. 39.418, F.S., relating to the Operations and Maintenance Trust Fund; providing for part II of ch. 39, F.S., entitled "Reporting Child Abuse"; renumbering and amending s. 415.504, F.S., relating to mandatory reports of child abuse, abandonment, or neglect; renumbering and amending s. 415.511, F.S., relating to immunity from liability in cases of child abuse, abandonment, or neglect; renumbering and amending s. 415.512, F.S., relating to abrogation of privileged communications in cases of child abuse, abandonment, or neglect; renumbering and amending s. 415.513, F.S.; deleting the requirement for the Department of Children and Family Services to provide information to the state attorney; providing for the Department of Children and Family Services to report annually to the Legislature the number of reports referred to law enforcement agencies; providing for investigation by local law enforcement agencies of possible false reports; providing for law enforcement agencies to refer certain reports to the state attorney for prosecution; providing for law enforcement entities to handle certain reports of abuse or neglect during the pendency of such an investigation; providing procedures; specifying the penalty for knowingly and willfully making, or advising another to make, a false report; providing for state attorneys to report annually to the Legislature the number of complaints that have resulted in informations or indictments; renumbering and amending s. 415.5131, F.S.; increasing an administrative fine for false reporting; providing for part III of ch. 39, F.S., entitled "Protective Investigations"; creating s. 39.301, F.S.; providing for child protective investigations; creating s. 39.302, F.S.; providing for protective investigations of institutional child abuse, abandonment, or neglect; renumbering and amending s. 415.5055, F.S., relating to child protection teams and services and eligible cases; creating s. 39.3035, F.S.; providing standards for child advocacy centers eligible for state funding; renumbering and amending s. 415.507, F.S., relating to photographs, medical examinations, X rays, and medical treatment of an abused, abandoned, or neglected child; renumbering and amending s. 415.5095, F.S., relating to a model plan for intervention and treatment in sexual abuse cases; creating s. 39.306, F.S.; providing for working agreements with local law enforcement to perform criminal investigations; renumbering and amending s. 415.50171, F.S., relating to reports of child-on-child sexual abuse; providing for part IV of ch. 39, F.S., entitled "Family Builders Program"; renumbering and amending s. 415.515, F.S., relating to establishment of the program; renumbering

and amending s. 415.516, F.S., relating to goals of the program; renumbering and amending s. 415.517, F.S., relating to contracts for services; renumbering and amending s. 415.518, F.S., relating to family eligibility; renumbering s. 415.519, F.S., relating to delivery of services; renumbering and amending s. 415.520, F.S., relating to qualifications of program workers; renumbering s. 415.521, F.S., relating to outcome evaluation; renumbering and amending s. 415.522, F.S., relating to funding; providing for part V of ch. 39, F.S., entitled "Taking Children into Custody and Shelter Hearings"; creating s. 39.395, F.S.; providing for medical or hospital personnel taking a child into protective custody; amending s. 39.401, F.S.; providing for law enforcement officers or authorized agents of the department taking a child alleged to be dependent into custody; amending s. 39.402, F.S., relating to placement in a shelter; amending s. 39.407, F.S., relating to physical and mental examination and treatment of a child and physical or mental examination of a person requesting custody; renumbering and amending s. 39.4033, F.S., relating to referral of a dependency case to mediation; providing for part VI of ch. 39, F.S., entitled "Petition, Arraignment, Adjudication, and Disposition"; renumbering and amending s. 39.404, F.S., relating to petition for dependency; renumbering and amending s. 39.405, F.S., relating to notice, process, and service; renumbering and amending s. 39.4051, F.S., relating to procedures when the identity or location of the parent, legal custodian, or caregiver is unknown; renumbering and amending s. 39.4055, F.S., relating to injunction pending disposition of a petition for detention or dependency; renumbering and amending s. 39.406, F.S., relating to answers to petitions or other pleadings; renumbering and amending s. 39.408, F.S., relating to arraignment hearings; renumbering and amending s. 39.409, F.S., relating to adjudicatory hearings and orders; renumbering and amending s. 39.41, F.S., relating to disposition hearings and powers of disposition; creating s. 39.5085, F.S.; establishing the Relative-Caregiver Program; directing the Department of Children and Family Services to establish and operate the Relative-Caregiver Program; providing financial assistance within available resources to relatives caring for children; providing for financial assistance and support services to relatives caring for children placed with them by the child protection system; providing for rules establishing eligibility guidelines, caregiver benefits, and payment schedule; renumbering and amending s. 39.4105, F.S., relating to grandparents' rights; renumbering and amending s. 39.413, F.S., relating to appeals; providing for part VII of ch. 39, F.S., entitled "Case Plans"; renumbering and amending s. 39.4031, F.S., relating to case plan requirements and case planning for children in out-of-home care; renumbering and amending s. 39.452, F.S., relating to case planning for children in out-of-home care when the parents, legal custodians, or caregivers do not participate; creating s. 39.603, F.S.; providing for court approvals of case planning; providing for part VIII of ch. 39, F.S., entitled "Judicial Reviews"; renumbering and amending s. 39.453, F.S., relating to judicial review of the status of a child; renumbering and amending s. 39.4531, F.S., relating to citizen review panels; renumbering and amending s. 39.454, F.S., relating to initiation of proceedings for termination of parental rights; renumbering and amending s. 39.456, F.S.; revising exemptions from judicial review; providing for part IX of ch. 39, F.S., entitled "Termination of Parental Rights"; renumbering and amending s. 39.46, F.S., relating to procedures, jurisdiction, and service of process; renumbering and amending s. 39.461, F.S., relating to petition for termination of parental rights, and filing and elements thereof; creating s. 39.803, F.S.; providing procedures when the identity or location of the parent is unknown after filing a petition for termination of parental rights; renumbering s. 39.4627, F.S., relating to penalties for false statements of paternity; renumbering and amending s. 39.463, F.S., relating to petitions and pleadings for which no answer is required; renumbering and amending s. 39.464, F.S., relating to grounds for termination of paternal rights; renumbering and amending s. 39.465, F.S., relating to right to counsel and appointment of a guardian ad litem; renumbering and amending s. 39.466, F.S., relating to advisory hearings; renumbering and amending s. 39.467, F.S., relating to adjudicatory hearings; renumbering and amending s. 39.4612, F.S., relating to the manifest best interests of the child; renumbering and amending s. 39.469, F.S., relating to powers of disposition and order of disposition; renumbering and amending s. 39.47, F.S., relating to post-disposition relief; creating s. 39.813, F.S.; providing for continuing jurisdiction of the court that terminates parental rights over all matters pertaining to the child's adoption; renumbering s. 39.471, F.S., relating to oaths, records, and confidential information; renumbering and amending s. 39.473, F.S., relating to appeal; creating s. 39.816, F.S.; authorizing certain pilot and demonstration projects contingent on receipt of federal grants or contracts; creating s. 39.817, F.S.; providing for a foster care demonstration pilot project; providing for part X of ch. 39, F.S., entitled "Guardians Ad Litem and Guardian Advocates"; creating s. 39.820, F.S.; providing definitions; renumbering s. 415.5077, F.S., relating to qualifications of guardians ad litem; renumbering and amending s. 415.508, F.S., relating to appointment of a guardian ad litem for an abused, abandoned, or neglected child; renumbering and amending s. 415.5082, F.S., relating to guardian advocates for drug dependent newborns; renumbering and amending s. 415.5083, F.S., relating to procedures and jurisdiction; renumbering s. 415.5084, F.S., relating to petition for appointment of a guardian advocate; renumbering s. 415.5085, F.S., relating to process and service; renumbering and amending s. 415.5086, F.S., relating to hearing for appointment of a guardian advocate; renumbering and amending s. 415.5087, F.S., relating to grounds for appointment of a guardian advocate; renumbering s. 415.5088, F.S., relating to powers and duties of the guardian advocate; renumbering and amending s. 415.5089, F.S., relating to review and removal of a guardian advocate; providing for part XI of ch. 39, F.S., entitled "Domestic Violence"; renumbering s. 415.601, F.S., relating to legislative intent regarding treatment and rehabilitation of victims and perpetrators; renumbering and amending s. 415.602, F.S., relating to definitions; renumbering and amending s. 415.603, F.S., relating to duties and functions of the department; renumbering and amending s. 415.604, F.S., relating to an annual report to the Legislature; renumbering and amending s. 415.605, F.S., relating to domestic violence centers; renumbering s. 415.606, F.S., relating to referral to such centers and notice of rights; renumbering s. 415.608, F.S., relating to confidentiality of information received by the department or a center; amending s. 20.19, F.S.; providing for certification programs for family safety and preservation employees of the department; providing for rules; amending ss. 20.43, 61.13, 61.401, 61.402, 63.052, 63.092, 90.5036, 154.067, 216.136, 232.50, 318.21, 384.29, 392.65, 393.063, 395.1023, 400.4174, 400.556, 402.165, 402.166, 409.1672, 409.176, 409.2554, 409.912, 409.9126, 414.065, 447.401, 464.018, 490.014, 491.014, 741.30, 744.309, 784.075, 933.18, 944.401, 944.705, 984.03, 984.10, 984.15, 984.24, 985.03, 985.303, F.S.; correcting cross-references; conforming related provisions and references; amending ss. 213.053 and 409.2577, F.S.; authorizing disclosure of certain confidential taxpayer and parent locator information for diligent search activities under ch. 39, F.S.; creating s. 435.045, F.S.; providing background screening requirements for prospective foster or adoptive parents; amending s. 943.045, F.S.; providing that the Department of Children and Family Services is a "criminal justice agency" for purposes of the criminal justice information system; repealing s. 39.002, F.S., relating to intent; repealing s. 39.0195, F.S., relating to sheltering unmarried minors and aiding unmarried runaways; repealing s. 39.0196, F.S., relating to children locked out of the home; repealing ss. 39.39, 39.449, and 39.459, F.S., relating to definition of "department"; repealing s. 39.403, F.S., relating to protective investigation; repealing s. 39.4032, F.S., relating to multidisciplinary case staffing; repealing s. 39.4052, F.S., relating to affirmative duty of written notice to adult relatives; repealing s. 39.4053, F.S., relating to diligent search after taking a child into custody; repealing s. 39.408(3), (4), F.S., relating to disposition hearings and notice of hearings; repealing s. 39.45, F.S., relating to legislative intent regarding foster care; repealing s. 39.451, F.S., relating to case planning; repealing s. 39.457, F.S., relating to a pilot program in Leon County to provide additional benefits to children in foster care; repealing s. 39.4611, F.S., relating to elements of petitions; repealing s. 39.462, F.S., relating to process and services; repealing s. 39.4625, F.S., relating to identity or location of parent unknown after filing of petition for termination of parental rights; repealing s. 39.472, F.S., relating to court and witness fees; repealing s. 39.474, F.S., relating to compensation of counsel; repealing s. 39.475, F.S., relating to rights of grandparents; repealing s. 415.501, F.S., relating to the state plan for prevention of abuse and neglect; repealing ss. 415.5016, 415.50165, 415.5017, 415.50175, 415.5018, 415.50185, and 415.5019, F.S., relating to purpose and legislative intent, definitions, procedures, confidentiality of records, district authority and responsibilities, outcome evaluation, and rules for the family services response system; repealing s. 415.502, F.S., relating to legislative intent for comprehensive protective services for abused or neglected children; repealing s. 415.503, F.S., relating to definitions; repealing s. 415.505, F.S., relating to child protective investigations and investigations of institutional child abuse or neglect; repealing s. 415.506, F.S., relating to taking a child into protective custody; repealing s. 415.5075, F.S., relating to rules for medical screening and treatment of children; repealing s. 415.509, F.S., relating to public agencies' responsibilities for prevention, identification, and treatment of child abuse and neglect; repealing s. 415.514, F.S., relating to rules for protective services; providing appropriations; creating the "Marriage Preparation and Preservation Act"; providing legislative findings; amending s. 232.246, F.S.; prescribing a high school graduation requirement; amending s. 741.01, F.S.; providing for a reduction of the

marriage license fee under certain circumstances; creating a waiting period before a marriage license is issued; creating s. 741.0305, F.S.; providing for a premarital preparation course; providing for modification of marriage license fees; specifying course providers; providing course contents; providing for a review of such courses; providing for compilation of information and report of findings; providing for pilot programs; creating s. 741.0306, F.S.; providing for creation of a marriage law handbook created by the Family Law Section of The Florida Bar; providing for information that may be included in the handbook; amending s. 741.04, F.S.; prohibiting issuance of a marriage license until petitioners verify certain facts and complete a questionnaire; providing for a waiting period; providing for a waiver of the waiting period; amending s. 741.05, F.S.; conforming provisions; amending s. 61.043, F.S.; providing for completion of an informational questionnaire upon filing for dissolution of marriage; amending s. 61.052, F.S.; specifying documents that may be used to corroborate residency requirements; amending s. 61.21, F.S.; revising provisions relating to the authorized parenting course offered to educate, train, and assist divorcing parents in regard to the consequences of divorce on parents and children; providing legislative findings and purpose; requiring judicial circuits to approve a parenting course; requiring parties to a dissolution proceeding with a minor child to attend a court-approved parenting family course; providing procedures and guidelines and course objectives; requiring parties to file proof of compliance with the court; authorizing the court to require parties to a modification of a final judgment of dissolution to take the course under certain circumstances; amending s. 28.101, F.S.; providing a fee for filing for dissolution of marriage; amending s. 25.388, F.S.; providing funding for the marriage law handbook; providing an appropriation; providing effective dates.

WHEREAS, the Florida Legislature endorses and encourages marriage as a means of promoting stability and continuity in society, and

WHEREAS, children of divorced parents can suffer long-lasting adverse consequences from the break-up of their parents' relationship and the existing family law system, and

WHEREAS, recent annual statistics show that for every two marriages in Florida, one ends in divorce, and

WHEREAS, the state has a compelling interest in promoting those relationships which inure to the benefit of Florida's children, and

WHEREAS, the state has a compelling interest in educating its citizens with regard to the responsibilities of marriage and, if contemplated, the effects of divorce, NOW, THEREFORE,

Senator Gutman moved the following amendment to **Amendment 1** which was adopted:

Amendment 1C (with title amendment)—On page 346, between lines 5 and 6, insert:

Section 181. Section 464.0145, Florida Statutes, is created to read:

464.0145 Licensure of foreign-trained or foreign-licensed nurses.—

(1) The Legislature is aware of experienced, foreign-trained and foreign-licensed practical and professional nurses who lawfully reside in this state and who desire to become licensed to practice their profession. It is the goal of the Legislature to facilitate the licensing of foreign-trained, duly-qualified professionals so that the public receives the benefit of their services.

(2) Notwithstanding s. 464.009(1) and (2), the department shall issue a license to practice professional nursing or practical nursing to an applicant who:

(a) Completes the application form and submits a fee set by the board, not to exceed $150.

(b) Demonstrates to the department through submission of documentation, or other evidence acceptable to the department, that the applicant:

1. Graduated from a foreign school of nursing; or

2. Was licensed to practice professional nursing or practical nursing in another country.

(c) Successfully completes a nursing-review program approved by the department and passes the examination administered by the school, college, or university that offers the nursing-review program.

(d) Demonstrates proficiency in English.

(e) Provides sufficient information to the department for purposes of a statewide criminal-records check conducted by the Department of Law Enforcement.

(f) Is in good mental and physical health and is of good moral character.

(3) By December 31, 1998, the department shall develop a nursing-review program that complies with the intent and purpose of chapter 74-105, Laws of Florida.

(4) If an applicant is unable to provide official documentation that verifies training or licensure in another country and provides a compelling reason why official documentation cannot be obtained, or if there is limited or no information on nursing education in the country of licensure, the applicant may prove training or licensure by presenting, in writing, substantial, detailed information on the educational program that the applicant attended or by providing at least three notarized statements from nurses currently licensed in this state who have personal knowledge of the applicant having graduated from a nursing program or having been licensed as a nurse in the foreign country.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 360, line 11, after the semicolon (;) insert: creating s. 464.0145, F.S.; providing for the licensure of foreign-trained or foreign-licensed nurses;

Senator Forman moved the following amendment to **Amendment 1** which was adopted:

Amendment 1D (with title amendment)—On page 346, between lines 5 and 6, insert:

Section 180. Subsections (1) and (2) of section 744.369, Florida Statutes, are amended to read:

744.369 Judicial review of guardianship reports.—

(1) The court shall review the initial guardianship report within 60 days after the filing of the clerk's report of findings to the court. The court shall review the annual guardianship report within *30* ~~15~~ days after the filing of the clerk's report of findings to the court.

(2) The court may appoint general or special masters to assist the court in its review function. *The court may require the general or special master to conduct random field audits.*

Section 181. Section 744.702, Florida Statutes, is amended to read:

744.702 Legislative intent.—The Legislature finds that private guardianship is inadequate where there is no willing and responsible family member or friend, other person, bank, or corporation available to serve as guardian for an incapacitated person, and such person does not have adequate income or wealth for the compensation of a private guardian. The Legislature intends through this act to establish the *Statewide Public Guardianship Office, and permit the establishment of offices* ~~office~~ of public guardian for the purpose of providing guardianship services for incapacitated persons when no private guardian is available. The Legislature further finds that alternatives to guardianship and less intrusive means of assistance should always be explored, *including, but not limited to, guardian advocates,* before an individual's rights are removed through an adjudication of incapacity. The purpose of this legislation is to provide a public guardian only to those persons whose needs cannot be met through less drastic means of intervention. *The Statewide Public Guardianship Office may have the assistance of the Inspector General of the Department of Elderly Affairs in providing auditing services, and the Office of General Counsel of the department shall provide assistance in rulemaking and other matters as needed to assist the Statewide Public Guardianship Office. The executive director of the Statewide Public Guardianship Office shall establish a curriculum committee to develop the training program specified in this part. The curriculum committee shall include, but not be limited to, probate judges.*

Section 182. Section 744.7021, Florida Statutes, is created to read:

744.7021 Statewide Public Guardianship Office.—There is hereby created the Statewide Public Guardianship Office within the Department of Elderly Affairs. The Department of Elderly Affairs shall provide administrative support and service to the office to the extent requested by the executive director within the available resources of the department. The Statewide Public Guardianship Office shall not be subject to control, supervision, or direction by the Department of Elderly Affairs in the performance of its duties.

(1) The head of the Statewide Public Guardianship Office is the executive director who shall be appointed by the Governor. The executive director must be a licensed attorney with a background in guardianship law and knowledge of social services available to meet the needs of incapacitated persons, shall serve on a full-time basis, and shall personally, or through representatives of the office, carry out the purposes and functions of the Statewide Public Guardianship Office in accordance with state and federal law. The executive director shall serve at the pleasure of and report to the Governor.

(2) The Statewide Public Guardianship Office shall within available resources have oversight responsibilities for all public guardians.

(a) The office shall review the current public guardian programs in Florida and other states.

(b) The office, in consultation with local guardianship offices, shall develop statewide performance measures and standards.

(c) The office shall review the various methods of funding guardianship programs, the kinds of services being provided by such programs, and the demographics of the wards. In addition, the office shall review and make recommendations regarding the feasibility of recovering a portion or all of the costs of providing public guardianship services from the assets or income of the wards.

(d) No later than October 1, 1999, the office shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court an interim report describing the progress of the office in meeting the goals as described in this section. No later than October 1, 2000, the office shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court a proposed public guardianship plan including alternatives for meeting the state's guardianship needs. This plan may include recommendations for less than the entire state, may include a phase-in system, and shall include estimates of the cost of each of the alternatives. Each year thereafter, the office shall provide a status report and provide further recommendations to address the need for public guardianship services and related issues.

(e) The office may provide assistance to local governments or entities in pursuing grant opportunities. The office shall review and make recommendations in the annual report on the availability and efficacy of seeking Medicaid matching funds. The office shall diligently seek ways to use existing programs and services to meet the needs of public wards.

(f) The office shall develop a guardianship training program. The training program may be offered to all guardians whether public or private. A fee may be charged to private guardians in order to defray the cost of providing the training.

(3) The office may conduct or contract for demonstration projects, within funds appropriated or through gifts, grants, or contributions for such purposes, to determine the feasibility or desirability of new concepts of organization, administration, financing, or service delivery designed to preserve the civil and constitutional rights of indigent persons of marginal or diminished capacity due to the infirmities of aging as manifested by Alzheimer's disease or related memory disorders, organic brain damage, or other physical, mental, or emotional dysfunctioning. The demonstration projects should endeavor to address emergency needs of affected persons prior to judicial intervention, to utilize alternatives to guardianship, when possible, and to develop innovative linkages between existing programs and services including those funded through the Department of Elderly Affairs Alzheimer's Disease Initiative and related services, the adult protective services program, and local law enforcement.

(4) The office may promulgate rules pursuant to the requirements of chapter 120 to carry out the provisions of this section.

Section 183. Section 744.703, Florida Statutes, is amended to read:

744.703 Office of public guardian; appointment, notification.—

(1) *The executive director of the Statewide Public Guardianship Office* ~~The chief judge of the judicial circuit~~, after consultation with the *chief judge and other* circuit judges within the judicial circuit and with appropriate advocacy groups and individuals and organizations who are knowledgeable about the needs of incapacitated persons, may establish, within a county in the judicial circuit or within the judicial circuit, an office of public guardian and create a list of persons best qualified to serve as the public guardian. The public guardian must have knowledge of the legal process and knowledge of social services available to meet the needs of incapacitated persons. A nonprofit corporation under s. 744.309(5) may be appointed public guardian only if:

(a) It has been granted tax-exempt status from the United States Internal Revenue Service; and

(b) It maintains a staff of professionally qualified individuals to carry out the guardianship functions, including a staff attorney who has experience in probate areas and another person who has a master's degree in social work, or a gerontologist, psychologist, registered nurse, or nurse practitioner.

(2) The *executive director* ~~chief judge~~ shall appoint the public guardian *from the list of candidates described in subsection (1).* A public guardian must meet the qualifications for a guardian as prescribed in s. 744.309(1)(a). Upon appointment of the public guardian, the *executive director* ~~chief judge~~ shall notify the *chief judge of the judicial circuit and the* Chief Justice of the Supreme Court of Florida, in writing, of the appointment.

(3) If the needs of the *county or* circuit do not require a full-time public guardian, a part-time public guardian may be appointed at reduced compensation.

(4) A public guardian, whether full-time or part-time, may not hold any position that would create a conflict of interest.

(5) The public guardian is to be appointed for a term of 4 years, after which her or his appointment must be reviewed by the *executive director* ~~chief judge of the circuit~~, and may be reappointed *for a term of up to 4 years. A public guardian may be suspended upon the request of the chief judge. If a public guardian is suspended, the executive director shall appoint an acting public guardian as soon as possible to serve until such time as the public guardian is reinstated or a permanent replacement is selected. A public guardian may be removed from office during the term of office only by the executive director who must consult with the chief judge prior to said removal. A recommendation of removal made by the chief judge must be considered by the executive director.* ~~Removal of the public guardian from office during the term of office must be by the chief judge. This section does not limit the application of ss. 744.474 and 744.477.~~

(6) Public guardians appointed by a chief judge pursuant to this section may continue in their positions until the expiration of the term pursuant to their agreement with the chief judge. However, oversight of all public guardians shall transfer to the Statewide Public Guardianship Office upon the effective date of this act. The executive director of the Statewide Public Guardianship Office shall be responsible for all future appointments of public guardians pursuant to this act.

Section 184. Section 744.706, Florida Statutes, is amended to read:

744.706 Preparation of budget.—Each public guardian shall prepare a budget for the operation of the office of public guardian to be submitted to the *Statewide Public Guardianship Office* ~~chief judge of the judicial circuit~~ for inclusion in the *Department of Elderly Affairs'* ~~circuit courts'~~ legislative budget request. The office of public guardian shall be operated within the limitations of the General Appropriations Act and any other funds appropriated by the Legislature to that particular judicial circuit, subject to the provisions of chapter 216. *The Department of Elderly Affairs shall make a separate and distinct request for an appropriation for the Statewide Public Guardianship Office.* However, this section shall not be construed to preclude the financing of any operations of the office of the public guardian by moneys raised through local effort *or through the efforts of the Statewide Public Guardianship Office. All public guardians who are funded in whole or in part by moneys raised*

through local efforts, grants, or any other source must submit a copy of their budget to the Statewide Public Guardianship Office annually.

Section 185. Section 744.707, Florida Statutes, is amended to read:

744.707 Procedures and rules.—The public guardian, *subject to the oversight of the Statewide Public Guardianship Office,* is authorized to:

(1) Formulate and adopt necessary procedures to assure the efficient conduct of the affairs of the ward and general administration of the office and staff.

(2) Contract for services necessary to discharge the duties of the office.

(3) Accept the services of volunteer persons or organizations and provide reimbursement for proper and necessary expenses.

Section 186. Subsections (3), (4), (5), (7), and (8) of section 744.708, Florida Statutes, are amended to read:

744.708 Reports and standards.—

(3) A public guardian shall file an annual report on the operations of the office of public guardian, in writing, by September 1 for the preceding fiscal year with the *Statewide Public Guardianship Office* ~~chief judge of the judicial circuit~~ who shall have responsibility for supervision of the operations of the office of public guardian.

(4) Within 6 months of his or her appointment as guardian of a ward, the public guardian shall submit to *the clerk of the court for placement in the ward's guardianship file and to the executive director of the Statewide Public Guardianship Office* ~~the chief judge of the circuit~~ a report on his or her efforts to locate a family member or friend, other person, bank, or corporation to act as guardian of the ward and a report on the ward's potential to be restored to capacity.

(5) An independent audit by a qualified certified public accountant shall be performed at least every 2 years. The audit should include an investigation into the practices of the office for managing the person and property of the wards. *A copy of the report shall be submitted to the Statewide Public Guardianship Office. In addition, the office of public guardian shall be subject to audits by the Auditor General pursuant to s. 11.45.*

(7) The ratio for professional staff to wards shall be 1 professional to 40 wards. The *Statewide Public Guardianship Office* ~~chief judge of the circuit upon application of the public guardian, or upon the court's own motion,~~ may enlarge or recede from the ratio *after consultation with the local public guardian and the chief judge of the circuit court* ~~for good cause~~. *The basis of the decision to enlarge or recede from the prescribed ratio shall be reported in the annual report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court.*

(8) The term "professional," for purposes of this part, shall not include the public guardian *nor the executive director of the Statewide Public Guardianship Office.* The term "professional" shall be limited to those persons who exercise direct supervision of individual wards under the direction of the public guardian.

Section 187. Subsection (3) of section 744.1085, Florida Statutes, is amended to read:

744.1085 Regulation of professional guardians; application; bond required; educational requirements; audits.—

(3) Each professional guardian defined in s. 744.102(15), on October 1, 1997, must receive a minimum of 40 hours of instruction and training by October 1, 1998, or within 1 year after becoming a professional guardian, whichever occurs later. Each professional guardian must receive a minimum of 16 hours of continuing education every 2 calendar years after the year in which the initial 40-hour educational requirement is met. The instruction and education must be completed through a course approved *or offered by* the *Statewide Public Guardianship Office* ~~chief judge of the circuit court and taught by a court-approved organization~~. The expenses incurred to satisfy the educational requirements prescribed in this section may not be paid with the assets of any ward. This subsection does not apply to any attorney who is licensed to practice law in this state.

Section 188. Section 744.3135, Florida Statutes, is amended to read:

744.3135 Credit and criminal investigation.—The court may require a prospective guardian and shall require a professional guardian, to submit, at his or her own expense, to an investigation of the prospective guardian's credit history and an investigatory check by the National Crime Information Center and the Florida Crime Information Center systems by means of fingerprint checks by the Department of Law Enforcement and the Federal Bureau of Investigation. The court shall waive the credit and criminal investigation for a guardian who is the spouse or child of the ward. *The clerk of the court shall obtain fingerprint cards from the Federal Bureau of Investigation and make them available to guardians. Any guardian who is so required by this provision or by the court shall have his or her fingerprints taken and forward the proper fingerprint card along with the necessary fee to the Florida Department of Law Enforcement for processing. The prospective professional guardian shall pay to the clerk of the court a fee of $5 for handling and processing professional guardian files. The results of the fingerprint checks shall be forwarded to the clerk of court who shall maintain the results in a guardian file and shall make the results available to the court. If credit or criminal investigations are required, the court must consider the results of the investigations in appointing a guardian.*

Section 189. Subsection (1) of section 28.241, Florida Statutes, is amended to read:

28.241 Filing charges for trial and appellate proceedings.—

(1) The party instituting any civil action, suit, or proceeding in the circuit court shall pay to the clerk of that court a service charge of $40 in all cases in which there are not more than five defendants and an additional service charge of $2 for each defendant in excess of five. An additional service charge of $10 shall be paid by the party seeking each severance that is granted. An additional service charge of $35 shall be paid to the clerk for all proceedings of garnishment, attachment, replevin, and distress. An additional service charge of $8 shall be paid to the clerk for each civil action filed, $7 of such charge to be remitted by the clerk to the State Treasurer for deposit into the General Revenue Fund unallocated. An additional charge of $2.50 shall be paid to the clerk for each civil action brought in circuit or county court, to be deposited into the Court Education Trust Fund; the moneys collected shall be forwarded by the clerk to the Supreme Court monthly for deposit in the fund. Service charges in excess of those herein fixed may be imposed by the governing authority of the county by ordinance or by special or local law; and such excess shall be expended as provided by such ordinance or any special or local law, now or hereafter in force, to provide and maintain facilities, including a law library, for the use of the courts of the county wherein the service charges are collected; to provide and maintain equipment; or for a legal aid program in such county. In addition, the county is authorized to impose, by ordinance or by special or local law, a fee of up to *$15* ~~$10~~ for each civil action filed, for the establishment, maintenance, or supplementation of a public guardian pursuant to ss. 744.701-744.708, inclusive. Postal charges incurred by the clerk of the circuit court in making service by certified or registered mail on defendants or other parties shall be paid by the party at whose instance service is made. That part of the within fixed or allowable service charges which is not by local or special law applied to the special purposes shall constitute the total service charges of the clerk of such court for all services performed by him or her in civil actions, suits, or proceedings. The sum of all service charges and fees permitted under this subsection may not exceed $200*; however, the $200 cap may be increased to $210 in order to provide for the establishment, maintenance, or supplementation of a public guardian as indicated in this subsection.*

Section 190. *There is hereby appropriated from the General Revenue fund in a lump sum to the Department of Elder Affairs the sum of $300,000 in order to carry out the purposes of this act.*

Section 191. *All powers, duties and functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds relating to the public guardianship program under Chapter 744, Florida Statutes, are transferred by a type two transfer, as defined in s. 20.06(2), Florida Statutes, from the Circuit Court budget entity within the Judicial Branch to the Department of Elder Affairs.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 360, line 11, after the semicolon (;) insert: amending s. 744.369, F.S.; extending the time to review certain reports; authorizing random field audits; amending s. 744.702, F.S.; providing legislative intent to establish the Statewide Public Guardianship Office; directing the Department of Elderly Affairs to provide certain services and support; creating s. 744.7021, F.S.; providing for the Statewide Public Guardianship Office within the Department of Elderly Affairs; providing for an executive director and oversight responsibilities; requiring submission of a guardianship plan and yearly status reports to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court; requiring the office to develop a training program; authorizing demonstration projects; providing for rules; amending s. 744.703, F.S.; providing for the executive director to establish offices of public guardian and to appoint public guardians; providing for transfer of oversight responsibility from the chief judge of the circuit to the office; providing for the suspension of public guardians, as specified; amending s. 744.706, F.S.; providing for the preparation of the budget of the Statewide Public Guardianship Office; amending s. 744.707, F.S.; revising language with respect to procedures and rules to include reference to the Statewide Public Guardianship Office; amending s. 744.708, F.S.; revising language with respect to reports and standards; providing reference to audits by the Auditor General; amending s. 744.1085, F.S.; revising language with respect to professional guardians to include reference to the Statewide Public Guardianship Office; amending s. 744.3135, F.S.; providing a procedure for obtaining fingerprint cards and for maintaining the results of certain investigations; amending s. 28.241, F.S.; providing for funds for public guardians; providing for an appropriation; providing for a transfer of resources between agencies;

WHEREAS, the Legislature has recognized that private guardianship is inadequate when there is no willing and responsible family member or friend, other person, bank, or corporation available to serve as guardian for an incapacitated person, and such person does not have adequate income or wealth for the compensation of a private guardian, and

WHEREAS, a few judicial circuits have been able to establish public guardianship programs to provide guardianship services to some of the state's vulnerable citizens, and additional circuits would like to have public guardians available, and

WHEREAS, many of the state's vulnerable citizens are going without this service which is necessary for the exercise of an incapacitated person's constitutional rights, and

WHEREAS, the Legislature recognizes the need for a statewide office to assist in finding ways to meet the guardianship needs of incapacitated citizens, and

WHEREAS, there is a growing problem in Florida involving functionally incapacitated persons who are unable to access needed services, and

WHEREAS, the magnitude of this compelling problem demands legislative action to protect our state's most vulnerable citizens, NOW, THEREFORE,

Amendment 1 as amended was adopted.

On motion by Senator Dudley, by two-thirds vote **CS for HB 3883** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Bankhead	Diaz-Balart	Horne	Ostalkiewicz
Bronson	Dudley	Jones	Rossin
Brown-Waite	Dyer	Kirkpatrick	Scott
Burt	Forman	Klein	Silver
Campbell	Geller	Kurth	Sullivan
Casas	Grant	Latvala	Thomas
Childers	Gutman	Laurent	Turner
Clary	Hargrett	Lee	Williams
Cowin	Harris	Meadows	
Crist	Holzendorf	Myers	

Nays—None

Consideration of **SJR 82** was deferred.

On motion by Senator Bankhead, by two-thirds vote **HB 4833** was withdrawn from the Committee on Rules and Calendar.

On motion by Senator Bankhead—

HB 4833—A reviser's bill to be entitled An act relating to the Florida Statutes; amending ss. 20.19, 20.316, 26.012, 27.02, 27.151, 27.52, 39.01, 39.40, 39.403, 39.408, 39.41, 39.452, 39.454, 49.011, 95.11, 228.041, 230.2316, 230.23161, 230.335, 232.17, 232.19, 239.117, 240.235, 240.35, 253.025, 316.003, 316.635, 318.143, 318.21, 397.6758, 397.706, 409.145, 409.1685, 409.2564, 409.803, 415.107, 415.5015, 415.503, 415.5086, 415.51, 419.001, 743.0645, 744.309, 784.075, 790.22, 790.23, 877.22, 921.0012, 921.0022, 938.17, 943.0515, 943.0585, 943.059, 944.401, 948.51, 958.04, 958.046, 960.001, 984.03, 984.04, 984.05, 984.071, 984.10, 984.15, 984.16, 984.20, 984.21, 984.22, 984.225, 984.226, 984.23, 984.24, 985.03, 985.213, 985.214, 985.218, 985.231, and 985.306, F.S., to conform to the directive of the Legislature in section 122 of chapter 97-238, Laws of Florida, to incorporate the reorganization of the content of chapter 39, F.S., into chapters 39, 984, and 985, F.S., as provided in chapter 97-238; correcting cross-references.

—a companion measure, was substituted for **SB 1302** and read the second time by title. On motion by Senator Bankhead, by two-thirds vote **HB 4833** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Bankhead	Dudley	Jones	Rossin
Bronson	Dyer	Kirkpatrick	Scott
Brown-Waite	Forman	Klein	Silver
Burt	Geller	Latvala	Sullivan
Casas	Grant	Laurent	Thomas
Childers	Gutman	Lee	Turner
Clary	Hargrett	McKay	Williams
Cowin	Harris	Meadows	
Crist	Holzendorf	Myers	
Diaz-Balart	Horne	Ostalkiewicz	

Nays—None

THE PRESIDENT PRESIDING

SJR 82—A joint resolution proposing an amendment to Section 1 of Article VII of the State Constitution to limit legislative authority with respect to taxes.

—was read the second time by title.

Senator Burt moved the following amendments which were adopted:

Amendment 1—On page 2, line 7, delete "*two-thirds*" and insert: *three-fifths*

Amendment 2—On page 4, line 6, delete "two-thirds" and insert: three-fifths

On motion by Senator Burt, by two-thirds vote **SJR 82** as amended was read the third time in full as follows:

SJR 82—A joint resolution proposing an amendment to Section 1 of Article VII of the State Constitution to limit legislative authority with respect to taxes.

Be It Resolved by the Legislature of the State of Florida:

That the following amendment to Section 1 of Article VII of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose and that, if approved, it shall take effect January 1, 1999:

ARTICLE VII
FINANCE AND TAXATION

SECTION 1. Taxation; appropriations; state expenses; state revenue limitation.—

(a) No tax shall be levied except in pursuance of law. No state ad valorem taxes shall be levied upon real estate or tangible personal property. All other forms of taxation shall be preempted to the state except as provided by general law.

(b) Motor vehicles, boats, airplanes, trailers, trailer coaches and mobile homes, as defined by law, shall be subject to a license tax for their operation in the amounts and for the purposes prescribed by law, but shall not be subject to ad valorem taxes.

(c) No money shall be drawn from the treasury except in pursuance of appropriation made by law.

(d) Provision shall be made by law for raising sufficient revenue to defray the expenses of the state for each fiscal period. *However, a law enacted after January 1, 1999, may not impose, expand the base of, increase the rate of, or repeal an exemption from a tax unless the law is enacted in a separate bill for that purpose only by a three-fifths vote of the membership of each house of the legislature.*

(e) Except as provided herein, state revenues collected for any fiscal year shall be limited to state revenues allowed under this subsection for the prior fiscal year plus an adjustment for growth. As used in this subsection, "growth" means an amount equal to the average annual rate of growth in Florida personal income over the most recent twenty quarters times the state revenues allowed under this subsection for the prior fiscal year. For the 1995-1996 fiscal year, the state revenues allowed under this subsection for the prior fiscal year shall equal the state revenues collected for the 1994-1995 fiscal year. Florida personal income shall be determined by the legislature, from information available from the United States Department of Commerce or its successor on the first day of February prior to the beginning of the fiscal year. State revenues collected for any fiscal year in excess of this limitation shall be transferred to the budget stabilization fund until the fund reaches the maximum balance specified in Section 19(g) of Article III, and thereafter shall be refunded to taxpayers as provided by general law. State revenues allowed under this subsection for any fiscal year may be increased by a two-thirds vote of the membership of each house of the legislature in a separate bill that contains no other subject and that sets forth the dollar amount by which the state revenues allowed will be increased. The vote may not be taken less than seventy-two hours after the third reading of the bill. For purposes of this subsection, "state revenues" means taxes, fees, licenses, and charges for services imposed by the legislature on individuals, businesses, or agencies outside state government. However, "state revenues" does not include: revenues that are necessary to meet the requirements set forth in documents authorizing the issuance of bonds by the state; revenues that are used to provide matching funds for the federal Medicaid program with the exception of the revenues used to support the Public Medical Assistance Trust Fund or its successor program and with the exception of state matching funds used to fund elective expansions made after July 1, 1994; proceeds from the state lottery returned as prizes; receipts of the Florida Hurricane Catastrophe Fund; balances carried forward from prior fiscal years; taxes, licenses, fees, and charges for services imposed by local, regional, or school district governing bodies; or revenue from taxes, licenses, fees, and charges for services required to be imposed by any amendment or revision to this constitution after July 1, 1994. An adjustment to the revenue limitation shall be made by general law to reflect the fiscal impact of transfers of responsibility for the funding of governmental functions between the state and other levels of government. The legislature shall, by general law, prescribe procedures necessary to administer this subsection.

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

CONSTITUTIONAL AMENDMENT
ARTICLE VII, SECTION 1

LIMITATION ON IMPOSITION OF TAXES, INCREASES IN TAX RATES, AND REPEAL OF TAX EXEMPTIONS.—Proposing an amendment to the State Constitution, effective January 1, 1999, requiring that a law that imposes new or increased taxes or repeals exemptions from a tax be enacted in a bill for that purpose only by a three-fifths vote of the membership of each house of the Legislature.

—and **SJR 82** as amended passed by the required constitutional three-fifths vote of the membership, and was certified to the House. The vote on passage was:

Yeas—37

Madam President	Crist	Jones	Rossin
Bankhead	Diaz-Balart	Kirkpatrick	Scott
Bronson	Dudley	Klein	Silver
Brown-Waite	Dyer	Latvala	Sullivan
Burt	Grant	Laurent	Thomas
Campbell	Gutman	Lee	Turner
Casas	Hargrett	McKay	Williams
Childers	Harris	Meadows	
Clary	Holzendorf	Myers	
Cowin	Horne	Ostalkiewicz	

Nays—3

Forman	Geller	Kurth

The Senate resumed consideration of—

HB 4439—A bill to be entitled An act relating to contracting; amending s. 468.603, F.S.; revising and providing definitions relating to electrical inspectors; amending s. 468.432, F.S.; requiring registration of community association management entities; creating s. 468.604, F.S.; providing responsibilities of building code administrators, plans examiners, and inspectors; amending s. 468.605, F.S.; revising membership of the Florida Building Code Administrators and Inspectors Board; amending s. 468.609, F.S.; revising and providing requirements for certification as a building code administrator, plans examiner, or inspector, including provisional certification; amending s. 468.617, F.S.; revising provisions relating to local governments contracting for building code, examination, and inspection services; amending s. 468.627, F.S.; revising and eliminating fees; amending s. 468.629, F.S.; prohibiting making or attempting to make a certificateholder violate a local or state building code; prohibiting acting or practicing as a building code administrator or building official, plans examiner, or inspector without being an active certificateholder; providing penalties; amending s. 469.001, F.S.; redefining the terms "abatement" and "survey"; defining the term "project designer"; amending s. 469.002, F.S., relating to exemptions from state regulation of asbestos abatement; revising an exemption applicable to certain asbestos-related activities done by government employees; revising certain existing exemptions; amending s. 469.004, F.S.; eliminating provisions relating to prerequisites to issuance of a license and to continuing education; amending s. 469.005, F.S.; revising licensure requirements for asbestos consultants and asbestos contractors relating to required coursework; amending s. 469.006, F.S.; requiring applicants for business licensure to submit evidence of financial responsibility and an affidavit attesting to having obtained the required workers' compensation, public liability, and property damage insurance; amending s. 469.013, F.S.; revising continuing education requirements applicable to asbestos surveyors, management planners, and project monitors; repealing s. 469.015, F.S., relating to seals; amending ss. 255.551, 376.60, and 469.014, F.S.; correcting cross references; creating s. 471.026, F.S.; allowing engineers to perform building inspection duties; amending s. 475.276, F.S; providing an exception to requirement that real estate licensees provide a notice of nonrepresentation; creating s. 481.222, F.S.; allowing architects to perform duties of building code inspectors; amending s. 489.103, F.S.; providing exemptions from regulation under pt. I, ch. 489, F.S., relating to construction contracting; amending s. 489.105, F.S.; revising and providing definitions applicable to contractors; amending s. 489.107, F.S.; requiring the Construction Industry Licensing Board and the Electrical Contractors' Licensing Board to each appoint a committee to meet jointly at least twice a year; amending s. 489.113, F.S.; providing that expansion of the scope of practice of any type of contractor does not limit the scope of practice of any existing type

of contractor unless the Legislature expressly provides such limitation; repealing s. 489.1135, F.S., relating to designation and certification of underground utility and excavation contractors; creating s. 489.1136, F.S.; providing for medical gas certification for plumbing contractors who install, improve, repair, or maintain conduits used to transport gaseous or partly gaseous substances for medical purposes; requiring certain coursework; requiring an examination for certain persons; providing for discipline and penalties; providing a definition; amending s. 553.06, F.S.; providing that plumbing contractors who install, improve, repair, or maintain such conduits shall be governed by the National Fire Prevention Association Standard 99C; amending s. 489.115, F.S.; authorizing certificateholders and registrants to apply continuing education courses earned under other regulatory provisions under certain circumstances; amending s. 489.119, F.S.; detailing what constitutes an incomplete contract for purposes of work allowed a business organization under temporary certification or registration; amending s. 489.140, F.S.; eliminating a provision that requires the transfer of surplus moneys from fines into the Construction Industries Recovery Fund; amending s. 489.141, F.S.; clarifying provisions relating to conditions for recovery from the fund; eliminating a notice requirement; revising a limitation on the making of a claim; amending s. 489.142, F.S.; revising a provision relating to powers of the Construction Industry Licensing Board with respect to actions for recovery from the fund, to conform; amending s. 489.143, F.S.; revising provisions relating to payment from the fund; amending s. 489.503, F.S.; providing exemptions from regulation under pt. II, ch. 489, F.S., relating to electrical and alarm system contracting; revising an exemption that applies to telecommunications, community antenna television, and radio distribution systems, to include cable television systems; amending s. 489.505, F.S., and repealing subsection (24), relating to the definition of "limited burglar alarm system contractor"; redefining terms applicable to electrical and alarm system contracting; defining the terms "monitoring" and "fire alarm system agent"; amending s. 489.507, F.S.; requiring the Electrical Contractors' Licensing Board and the Construction Industry Licensing Board to each appoint a committee to meet jointly at least twice a year; amending s. 489.509, F.S.; eliminating reference to the payment date of the biennial renewal fee for certificateholders and registrants; eliminating an inconsistent provision relating to failure to renew an active or inactive certificate or registration; providing for transfer of a portion of certain fees applicable to regulation of electrical and alarm system contracting to fund certain projects relating to the building construction industry and continuing education programs related thereto; amending s. 489.511, F.S.; revising eligibility requirements for certification as an electrical or alarm system contractor; authorizing the taking of the certification examination more than three times and providing requirements with respect thereto; eliminating an obsolete provisions; amending s. 489.513, F.S.; revising registration requirements for electrical contractors; amending s. 489.517, F.S.; authorizing certificateholders and registrants to apply continuing education courses earned under other regulatory provisions under certain circumstances; providing for verification of public liability and property damage insurance; creating s. 489.5185, F.S.; providing requirements for fire alarm system agents, including specified training and fingerprint and criminal background checks; providing for fees for approval of training providers and courses; providing applicability to applicants, current employees, and various licensees; requiring an identification card and providing requirements therefor; providing continuing education requirements; providing disciplinary penalties; amending s. 489.519, F.S.; authorizing certificateholders and registrants to apply for voluntary inactive status at any time during the period of certification or registration; authorizing a person passing the certification examination and applying for licensure to place his or her license on inactive status without having to qualify a business; amending s. 489.521, F.S.; providing conditions on qualifying agents qualifying more than one business organization; providing for revocation or suspension of such qualification for improper supervision; providing technical changes; amending s. 489.525, F.S.; revising reporting requirements of the Department of Business and Professional Regulation to local boards and building officials; providing applicability with respect to information provided on the Internet; amending s. 489.533, F.S.; revising and providing grounds for discipline; providing penalties; reenacting s. 489.518(5), F.S., relating to alarm system agents, to incorporate the amendment to s. 489.533, F.S., in a reference thereto; amending s. 489.537, F.S.; authorizing registered electrical contractors to install raceways for alarm systems; providing that licensees under pt. II, ch. 489, F.S., are subject, as applicable, to certain provisions relating to local occupational license taxes; amending s. 205.0535, F.S.; providing that businesses providing local exchange telephone service or pay telephone service may not be assessed an occupational license tax on a per-instrument basis; amending s. 553.19, F.S.; updating electrical and alarm standards; adding a national code relating to fire alarms to the minimum electrical and alarm standards required in this state; amending 553.73, F.S; adding an exception from the Florida Building Code; creating s. 501.935, F.S.; providing requirements relating to home-inspection reports; providing legislative intent; providing definitions; providing exemptions; requiring, prior to inspection, provision of inspector credentials, a caveat, a disclosure of conflicts of interest and certain relationships, and a statement or agreement of scope, limitations, terms, and conditions; requiring a report on the results of the inspection; providing prohibited acts, for which there are civil penalties; providing that failure to comply is a deceptive and unfair trade practice; creating s. 501.937, F.S.; providing requirements for use of professional titles by industrial hygienists and safety professionals; providing definitions; providing that violation of such requirements is a deceptive and unfair trade practice; creating s. 715.15, F.S.; providing that certain provisions in contracts for improvement of real property are void; providing applicability; An act relating to fire prevention and control; amending s. 633.021, F.S.; defining the term "fire extinguisher"; amending s. 633.061, F.S.; requiring an individual or organization that hydrotests fire extinguishers and preengineered systems to obtain a permit or license from the State Fire Marshal; revising the services that may be performed under certain licenses and permits issued by the State Fire Marshal; providing additional application requirements; providing requirements for obtaining an upgraded license; amending ss. 633.065, 633.071, F.S.; providing requirements for installing and inspecting fire suppression equipment; amending s. 633.162, F.S.; prohibiting an owner, officer, or partner of a company from applying for licensure if the license held by the company is suspended or revoked; revising the grounds upon which the State Fire Marshal may deny, revoke, or suspend a license or permit; providing restrictions on activities of former licenseholders and permittees; amending s. 633.171, F.S.; revising the prohibition against rendering a fire extinguisher or preengineered system inoperative to conform to changes made by the act; amending s. 633.547, F.S.; providing the State Fire Marshal authority to suspend and revoke certificates; providing restrictions on the activities of former certificateholders whose certificates are suspended or revoked; amending s. 489.105, F.S., relating to contracting; conforming a cross-reference to changes made by the act; amending s. 468.385, F.S.; revising provisions relating to the written examination required for licensure as an auctioneer; amending s. 468.388, F.S.; eliminating exemptions from the requirement that a written agreement be executed prior to conducting an auction; amending s. 468.389, F.S.; revising a ground for disciplinary action relating to failure to account for or to pay certain money, to include reference to property belonging to another; providing penalties; reenacting ss. 468.385(3)(b) and 468.391, F.S., relating to licensure as an auctioneer and to a criminal penalty, respectively, to incorporate the amendment to s. 468.389, F.S., in references thereto; amending s. 468.393, F.S.; reducing the level at which the Auctioneer Recovery Fund must be maintained and for which surcharges are levied; reenacting s. 468.392(5), F.S., relating to moneys in the Auctioneer Recovery Fund, to incorporate the amendment to s. 468.393, F.S., in references thereto; amending s. 468.395, F.S.; revising circumstances under which recovery from the Auctioneer Recovery Fund may be obtained; reducing the amount per claim or claims arising out of the same transaction or auction and the aggregate lifetime limit with respect to any one licensee that may be paid from the fund; amending s. 468.396, F.S., relating to claims against a single licensee in excess of the dollar limitation, to conform; eliminating semiannual identification and payment of claims; amending s. 468.397, F.S., relating to payment of claim; correcting language; creating s. 205.1945, F.S.; prohibiting local jurisdiction from charging an occupational license tax under certain circumstances; amending s. 489.129, F.S.; providing procedures and responsibilities when the department undertakes an investigation of a contractor; deleting a ground for disciplinary action; amending s. 489.131, F.S.; requiring that bids for public projects be accompanied by certain evidence; requiring local boards or agencies that license contractors to transmit quarterly reports; clarifying the department's authority to initiate disciplinary actions; providing that local boards that license and discipline contractors must have at least 2 consumer representatives; providing effective dates.

—with pending **Amendment 1** by Senator Clary as amended.

Senator Clary moved the following amendments to **Amendment 1** which were adopted:

Amendment 1B (with title amendment)—On page 106, between lines 9 and 10, insert:

Section 59. Subsection (1) of section 205.0535, Florida Statutes, is amended to read:

205.0535 Reclassification and rate structure revisions.—

(1) By October 1, 1995, any municipality or county may, by ordinance, reclassify businesses, professions, and occupations and may establish new rate structures, if the conditions specified in subsections (2) and (3) are met. A person who is engaged in the business of providing local exchange telephone service or a pay telephone service in a municipality or in the unincorporated area of a county and who pays the occupational license tax under the category designated for telephone companies or a pay telephone service provider certified pursuant to s. 364.3375 is deemed to have but one place of business or business location in each municipality or unincorporated area of a county. *Pay telephone service providers may not be assessed an occupational license tax on a per-instrument basis.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 114, line 12, after the semicolon (;) insert: amending s. 205.0535, F.S.; providing that businesses providing pay telephone service may not be assessed an occupational license tax on a per-instrument basis;

Amendment 1C (with title amendment)—On page 106, between lines 9 and 10, insert:

Section 59. Effective January 1, 2001, paragraph (f) is added to subsection (8) of section 553.73, Florida Statutes, as amended by CS for CS for HB 4181, 1998 Regular Session, to read:

553.73 Florida Building Code.—

(8) The following buildings, structures, and facilities may be exempted from the Florida Building Code as provided by law and any further exemptions shall be as determined by the Legislature and provided by law:

(f) Those structures or facilities of electric utilities, as defined in s. 366.02, which are directly involved in the generation, transmission, or distribution of electricity.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 114, line 12, after the semicolon (;) insert: amending s. 553.73, F.S., as amended; adding an exception from the Florida Building Code for certain electric utilities;

Amendment 1 as amended was adopted.

On motion by Senator Clary, by two-thirds vote **HB 4439** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Madam President	Diaz-Balart	Jones	Ostalkiewicz
Bronson	Dudley	Kirkpatrick	Rossin
Brown-Waite	Forman	Klein	Scott
Burt	Geller	Kurth	Silver
Campbell	Grant	Latvala	Sullivan
Casas	Gutman	Laurent	Turner
Childers	Hargrett	Lee	Williams
Clary	Harris	McKay	
Cowin	Holzendorf	Meadows	
Crist	Horne	Myers	

Nays—None

The Senate resumed consideration of—

CS for SB 1814—A bill to be entitled An act relating to termination of pregnancy; providing a short title; amending s. 390.011, F.S.; defining additional terms; amending s. 390.0111, F.S.; revising provisions relating to termination of pregnancy; prohibiting the performing or inducement of a termination of pregnancy upon a minor without specified notice; providing disciplinary action for violation; providing notice requirements; providing exceptions; providing procedure for judicial waiver of notice; providing for confidentiality of proceedings; providing for issuance of a court order authorizing consent to a termination of pregnancy without notification; providing for dismissal of petition; requiring the issuance of written findings of fact and legal conclusions; providing for expedited confidential appeal; providing for waiver of filing fees; requesting the Supreme Court to adopt rules; providing for severability; providing an effective date.

—with pending point of order to the bill as amended.

RULING ON POINT OF ORDER

On recommendation of Senator Donald C. Sullivan, Chairman of the Committee on Ways and Means, the President ruled the point not well taken.

On motion by Senator Harris, further consideration of **CS for SB 1814** as amended was deferred.

MOTION

On motion by Senator Bankhead, the rules were waived and time of recess was extended until 8:00 p.m.

On motion by Senator Bankhead—

SR 2108—A resolution abating the Censure of a lobbyist.

WHEREAS, David R. Arpin of Jacksonville was a lobbyist registered at the Florida Senate in 1976, and

WHEREAS, in the waning days of the 1976 regular session, Mr. Arpin wrote in his association's newsletter that a particular state senator's law firm reputedly represented a state agency, when in fact no such relationship existed, thus raising the inference of improper conduct by or suggesting a conflict of interest of a member of the Senate, and

WHEREAS, the affected senator filed a formal written complaint against Mr. Arpin, and

WHEREAS, the Senate Committee on Rules and Calendar conducted a legislative hearing, pursuant to notice, at which the senator and Mr. Arpin both appeared and spoke, and

WHEREAS, at the legislative hearing, Mr. Arpin and his lobbying principal were represented and advised by three attorneys, each a senior member of The Florida Bar, and

WHEREAS, Mr. Arpin publicly tendered an apology and printed a subsequent retraction in his association's newsletter, and

WHEREAS, the Senate committee recommended that, for his conduct, Mr. Arpin be disciplined by Censure under the authority of Senate Rule 9, and

WHEREAS, the Journal of the Florida Senate on June 1, 1976, indicates that the committee's report and recommendation were adopted by the Senate and that David R. Arpin stood Censured by the Senate for violation of the obligations of a lobbyist as contained in Senate Rule 9, and

WHEREAS, the Senate, in 1998, reasserts the high standard of conduct and inquiry that it expects each member of the professional lobbying corps to undertake before releasing information into the legislative process, and

WHEREAS, the Senate recognizes that the passage of time ameliorates conditions existing in individual cases, and

WHEREAS, David R. Arpin has given the Florida Senate his binding written assurance that he will seek no legal, declaratory, or equitable remedy, including monetary or other damages, against the Florida Senate, its officers, members, or agents, current, former, or future, and

WHEREAS, the Senate accepts that assurance as consideration for the filing and adoption of this Resolution, bolstered by the fact that over

20 years have passed since the incident, a time during which any possible statute of limitations has barred such a suit, and the equitable period in which any such suit could have been brought has long ago expired, and

WHEREAS, the legal effect of this Resolution and the power of a succeeding Senate to abate a Censure adopted by a predecessor Senate, is unclear, but the Florida Senate nevertheless seeks to extend legislative grace to David R. Arpin, NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida:

That, as a matter of legislative grace, the Censure report as it appears on page 486 of the June 1, 1976, Senate Journal, is abated as of the date of adoption of this resolution.

BE IT FURTHER RESOLVED that the Florida Senate reasserts the continuing obligation of and necessity for lobbyists to take reasonable steps to ensure the truth of the statements they launch into the stream of legislative commerce in the course of lobbying for their clients' positions.

—was taken up and read the second time in full. On motion by Senator Bankhead, **SR 2108** was adopted.

The Senate resumed consideration of—

CS for SB 1814—A bill to be entitled An act relating to termination of pregnancy; providing a short title; amending s. 390.011, F.S.; defining additional terms; amending s. 390.0111, F.S.; revising provisions relating to termination of pregnancy; prohibiting the performing or inducement of a termination of pregnancy upon a minor without specified notice; providing disciplinary action for violation; providing notice requirements; providing exceptions; providing procedure for judicial waiver of notice; providing for confidentiality of proceedings; providing for issuance of a court order authorizing consent to a termination of pregnancy without notification; providing for dismissal of petition; requiring the issuance of written findings of fact and legal conclusions; providing for expedited confidential appeal; providing for waiver of filing fees; requesting the Supreme Court to adopt rules; providing for severability; providing an effective date.

—which was previously considered and amended this day.

Pending further consideration of **CS for SB 1814** as amended, on motion by Senator Harris, by two-thirds vote **HB 3999** was withdrawn from the Committees on Health Care; Judiciary; and Ways and Means.

On motion by Senator Harris, by two-thirds vote—

HB 3999—A bill to be entitled An act relating to termination of pregnancies; providing a short title; amending s. 390.011, F.S.; defining additional terms; amending s. 390.0111, F.S.; revising provisions relating to terminations of pregnancies; prohibiting the performing or inducement of a termination of pregnancy upon a minor without specified notice; providing disciplinary action for violation; providing notice requirements; providing exceptions; providing procedure for judicial waiver of notice; providing for notice of right to counsel; prohibiting court from requiring counties to pay for such counsel; providing for confidentiality of proceedings; providing for issuance of a court order authorizing consent to a termination of pregnancy without notification; providing for dismissal of petition; requiring the issuance of written findings of fact and legal conclusions; providing for expedited confidential appeal; providing for waiver of filing fees; requesting the Supreme Court to adopt rules; providing for severability; providing an effective date.

—a companion measure, was substituted for **CS for SB 1814** as amended and by two-thirds vote read the second time by title.

On motion by Senator Harris, further consideration of **HB 3999** was deferred.

Consideration of **HB 1747**, **SB 1080**, **CS for SB 336** and **SJR 2140** was deferred.

SB 2302—A bill to be entitled An act relating to tax on sales, use, and other transactions; providing that no tax on certain purchases by, and revenues of, a chamber of commerce not actually paid or collected before a specified date shall be due from that chamber of commerce; providing for refund of certain taxes paid; providing an effective date.

—was read the second time by title.

The Committee on Ways and Means recommended the following amendment which was moved by Senator Laurent and adopted:

Amendment 1—On page 3, lines 1 and 2, delete those lines and insert: *entitled to a refund of the taxes paid. Notwithstanding s. 215.26(2), application for this refund must be filed on or before July 1, 1999.*

On motion by Senator Laurent, further consideration of **SB 2302** as amended was deferred.

On motion by Senator Brown-Waite, the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has requested the return of CS for HB 1437.

John B. Phelps, Clerk

CS for HB 1437—A bill to be entitled An act relating to public records and meetings; amending s. 408.7056, F.S.; providing an exemption from public records requirements for certain personal information in documents, reports, or records prepared or reviewed by a provider and subscriber assistance panel or obtained by the Agency for Health Care Administration; providing an exemption for portions of meetings of such panels when such information, or trade secret or internal risk management program information, is discussed; requiring recording of closed meetings; providing for future review and repeal; providing a finding of public necessity; providing an effective date.

On motion by Senator Brown-Waite, **CS for HB 1437** was returned to the House as requested.

SPECIAL ORDER CALENDAR, continued

The Senate resumed consideration of—

SB 2302—A bill to be entitled An act relating to tax on sales, use, and other transactions; providing that no tax on certain purchases by, and revenues of, a chamber of commerce not actually paid or collected before a specified date shall be due from that chamber of commerce; providing for refund of certain taxes paid; providing an effective date.

—which was previously considered and amended this day.

RECONSIDERATION OF AMENDMENT

On motion by Senator Laurent, the Senate reconsidered the vote by which **Amendment 1** was adopted. **Amendment 1** failed.

Pending further consideration of **SB 2302**, on motion by Senator Laurent, by two-thirds vote **CS for HB 747** was withdrawn from the Committees on Ways and Means Subcommittee E (Finance and Tax); Ways and Means; and Commerce and Economic Opportunities.

On motion by Senator Laurent—

CS for HB 747—A bill to be entitled An act relating to tax on sales, use, and other transactions; providing that no tax on certain purchases by, and revenues of, a chamber of commerce not actually paid or collected before a specified date shall be due from that chamber of commerce; providing for refund of certain taxes paid; providing an effective date.

—a companion measure, was substituted for **SB 2302** and read the second time by title. On motion by Senator Laurent, by two-thirds vote

CS for HB 747 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Madam President	Crist	Horne	Myers
Bankhead	Dudley	Jones	Ostalkiewicz
Bronson	Dyer	Kirkpatrick	Rossin
Brown-Waite	Forman	Klein	Scott
Burt	Geller	Kurth	Silver
Campbell	Grant	Latvala	Sullivan
Casas	Gutman	Laurent	Thomas
Childers	Hargrett	Lee	Turner
Clary	Harris	McKay	Williams
Cowin	Holzendorf	Meadows	

Nays—None

Consideration of **SB 1034** was deferred.

CS for SB 1664—A bill to be entitled An act relating to educational facilities; amending s. 235.04, F.S.; allowing a school board to sell and lease back an educational plant for the purposes of repair, remodeling, and site improvement; amending s. 235.056, F.S.; authorizing boards to rent or lease certain buildings or space within buildings for conversion to use as educational facilities; providing for funding; requiring school board adoption of a resolution certifying that specified conditions have been met; amending s. 201.24, F.S., relating to exemption from excise tax on documents; conforming provisions; amending s. 236.25, F.S., relating to school district tax for capital outlay; conforming provisions; providing an effective date.

—was read the second time by title.

An amendment was considered and adopted to conform **CS for SB 1664** to **HB 3599**.

Pending further consideration of **CS for SB 1664** as amended, on motion by Senator Burt, by two-thirds vote **HB 3599** was withdrawn from the Committees on Education; Governmental Reform and Oversight; and Ways and Means.

On motion by Senator Burt—

HB 3599—A bill to be entitled An act relating to educational facilities; amending s. 235.056, F.S.; authorizing boards to rent or lease certain buildings or space within buildings for conversion to use as educational facilities; providing for funding; requiring school board adoption of a resolution certifying that specified conditions have been met; amending s. 201.24, F.S., relating to exemption from excise tax on documents; conforming provisions; amending s. 236.25, F.S., relating to school district tax for capital outlay; conforming provisions; providing an effective date.

—a companion measure, was substituted for **CS for SB 1664** as amended and read the second time by title. On motion by Senator Burt, by two-thirds vote **HB 3599** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Madam President	Diaz-Balart	Kirkpatrick	Rossin
Bankhead	Dudley	Klein	Scott
Bronson	Forman	Kurth	Silver
Brown-Waite	Geller	Latvala	Sullivan
Burt	Gutman	Laurent	Thomas
Campbell	Hargrett	Lee	Turner
Casas	Harris	McKay	Williams
Childers	Holzendorf	Meadows	
Cowin	Horne	Myers	
Crist	Jones	Ostalkiewicz	

Nays—1

Clary

On motion by Senator Williams, by two-thirds vote **HB 4153** was withdrawn from the Committees on Criminal Justice; Community Affairs; and Ways and Means.

On motion by Senator Williams—

HB 4153—A bill to be entitled An act relating to juvenile justice; amending s. 985.309, F.S.; providing funding for boot camps operated by the department, a county, or municipal government, contingent upon specific appropriation, local funding, or state and local funding; requiring boot camps operated by a sheriff to be under his or her supervisory jurisdiction and authority as determined by a contract between the department and the sheriff; providing for placement of children eligible for boot camp placement in boot camp in or nearest to the judicial circuit in which they were adjudicated; requiring exceptions to a boot camp placement; deleting requirement that the department charge and a county or municipal government pay a monitoring fee; clarifying consequences for a department, county or municipal boot camp failing to comply with department rules for boot camps; deleting authorization by the department to institute injunctive proceedings against a county or municipal boot camp for failing to comply with department rules for boot camps; providing an effective date.

—a companion measure, was substituted for **CS for SB 1486** and read the second time by title.

Senators Latvala and Silver offered the following amendment which was moved by Senator Latvala:

Amendment 1 (with title amendment)—On page 7, line 13, insert:

Section 2. *The sum of $1,000,000 is appropriated to the Eckerd Youth Alternatives program to match private funds on a dollar for dollar basis. The department shall disburse up to the full amount of this appropriation, depending upon the amount of private matching funds obtained and may not use these funds for any other purpose.*

Section 3. This act shall take effect October 1, 1998.

And the title is amended as follows:

On page 1, line 4, after the semicolon (;) insert: providing an appropriation to the Eckerd Youth Alternatives program;

On motion by Senator Williams, further consideration of **HB 4153** with pending **Amendment 1** was deferred.

On motion by Senator Rossin, by two-thirds vote **CS for HB 3269** was withdrawn from the Committees on Community Affairs; Governmental Reform and Oversight; and Rules and Calendar.

On motion by Senator Rossin—

CS for HB 3269—A bill to be entitled An act relating to special districts; amending s. 189.4042, F.S.; specifying procedures for merger or dissolution of independent special districts created by a county or municipality; amending s. 189.405, F.S.; revising the amount of the filing fee and the number of required signatures on petitions in provisions which specify how candidates for the governing board of certain single-county and multicounty special districts shall qualify; amending s. 189.429, F.S., and s. 15, ch. 97-256, Laws of Florida, which require special districts, including fire control districts, to submit draft codified charters to the Legislature; revising the deadline and requirements for such codification; providing that the Legislature may adopt a schedule for codification; amending s. 215.425, F.S.; authorizing extra compensation for special district employees pursuant to resolution; amending s. 191.006, F.S., relating to powers of independent special fire control districts, to conform; providing effective dates.

—a companion measure, was substituted for **SB 1032** and read the second time by title. On motion by Senator Rossin, by two-thirds vote **CS for HB 3269** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Diaz-Balart	Horne	Myers
Bronson	Dudley	Jones	Ostalkiewicz
Brown-Waite	Dyer	Kirkpatrick	Rossin
Burt	Forman	Klein	Scott
Campbell	Geller	Kurth	Silver
Casas	Grant	Latvala	Sullivan
Childers	Gutman	Laurent	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

On motion by Senator Lee, by two-thirds vote **HB 3523** was withdrawn from the Committees on Regulated Industries; and Ways and Means.

On motion by Senator Lee, by two-thirds vote—

HB 3523—A bill to be entitled An act relating to landscape design; amending s. 481.303, F.S.; providing definitions; amending s. 481.329, F.S., providing exemptions from licensure and regulation under part II, ch. 489, F.S.; providing an effective date.

—a companion measure, was substituted for **CS for SB 1066** and by two-thirds vote read the second time by title.

Senator Lee moved the following amendment which was adopted:

Amendment 1—On page 1, lines 17-19, delete those lines and insert: *materials. Such plans may include only recommendations for the conceptual placement of tangible objects for landscape design projects.*

On motion by Senator Lee, by two-thirds vote **HB 3523** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Madam President	Crist	Horne	Myers
Bankhead	Dudley	Jones	Ostalkiewicz
Bronson	Dyer	Kirkpatrick	Rossin
Brown-Waite	Forman	Klein	Scott
Burt	Geller	Kurth	Silver
Campbell	Grant	Latvala	Sullivan
Casas	Gutman	Laurent	Thomas
Childers	Hargrett	Lee	Turner
Clary	Harris	McKay	Williams
Cowin	Holzendorf	Meadows	

Nays—None

The Senate resumed consideration of—

HB 3999—A bill to be entitled An act relating to termination of pregnancies; providing a short title; amending s. 390.011, F.S.; defining additional terms; amending s. 390.0111, F.S.; revising provisions relating to terminations of pregnancies; prohibiting the performing or inducement of a termination of pregnancy upon a minor without specified notice; providing disciplinary action for violation; providing notice requirements; providing exceptions; providing procedure for judicial waiver of notice; providing for notice of right to counsel; prohibiting court from requiring counties to pay for such counsel; providing for confidentiality of proceedings; providing for issuance of a court order authorizing consent to a termination of pregnancy without notification; providing for dismissal of petition; requiring the issuance of written findings of fact and legal conclusions; providing for expedited confidential appeal; providing for waiver of filing fees; requesting the Supreme Court to adopt rules; providing for severability; providing an effective date.

—which was previously considered this day.

MOTION

On motion by Senator Casas, by two-thirds vote debate on **HB 3999** was limited to 10 minutes per amendment and 10 minutes per side on the bill.

Senator Forman moved the following amendment which failed:

Amendment 1—On page 6, delete line 22 and insert: *induced upon a minor unless the person performing, inducing, or assisting in*

Senator Kurth moved the following amendments which failed:

Amendment 2—On page 6, between lines 2 and 3, insert:

(b) If the male responsible for impregnating the minor meets the criteria described in s. 794.05, the physician shall refer the male to the proper authorities.

(Redesignate subsequent paragraphs.)

Amendment 3—On page 6, line 25, after "*minor*" insert: *, and to one parent or to the legal guardian of the male who impregnated her,*

On motion by Senator Harris, by two-thirds vote **HB 3999** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—31

Madam President	Cowin	Holzendorf	Myers
Bankhead	Crist	Horne	Ostalkiewicz
Bronson	Diaz-Balart	Jones	Scott
Brown-Waite	Dudley	Kirkpatrick	Sullivan
Burt	Grant	Laurent	Thomas
Casas	Gutman	Lee	Turner
Childers	Hargrett	McKay	Williams
Clary	Harris	Meadows	

Nays—9

Campbell	Geller	Kurth	Rossin
Dyer	Klein	Latvala	Silver
Forman			

CS for HB 4415—A bill to be entitled An act relating to children's health; amending s. 383.011, F.S.; directing the Agency for Health Care Administration to seek a federal waiver for the Healthy Start program; amending s. 391.011, F.S.; providing a short title; amending s. 391.016, F.S.; providing legislative intent relating to the Children's Medical Services program; amending s. 391.021, F.S.; providing definitions; creating s. 391.025, F.S.; providing for applicability and scope; amending s. 391.026, F.S.; providing powers and duties of the Department of Health; creating s. 391.028, F.S., and renumbering and amending s. 391.051, F.S.; providing for administration of the program; creating s. 391.029, F.S., and renumbering and amending ss. 391.046 and 391.07, F.S.; providing program eligibility; creating s. 391.031, F.S.; establishing benefits; creating s. 391.035, F.S., and renumbering and amending ss. 391.036 and 391.041, F.S.; establishing provider qualifications; creating s. 391.045, F.S.; providing for provider reimbursement; creating s. 391.047, F.S.; establishing responsibility for payments on behalf of program participants when other parties are liable; creating s. 391.055, F.S.; establishing service delivery systems; creating s. 391.065, F.S.; providing for health care provider agreements; creating s. 391.071, F.S.; providing for quality of care requirements; creating s. 391.081, F.S.; establishing grievance reporting and resolution requirements; creating s. 391.095, F.S.; providing for program integrity; renumbering and amending s. 391.061, F.S.; providing for research and evaluation; renumbering ss. 391.201-391.217, F.S., relating to prescribed pediatric extended care centers; designating said sections as pt. IX of ch. 400, F.S.; amending ss. 391.206 and 391.217, F.S.; conforming cross references; designating ss. 391.221, 391.222, and 391.223, F.S., as pt. II of ch. 391, F.S., entitled "Children's Medical Services Councils and Panels"; creating s. 391.221, F.S.; establishing the Statewide Children's Medical Services Network Advisory Council; creating s. 391.222, F.S.; establishing the Cardiac Advisory Council; creating s. 391.223, F.S.; providing for technical advisory panels; amending ss. 391.301, 391.303, 391.304, 391.305, and 391.307, F.S.; revising provisions relating to developmental evaluation and intervention programs; amending s. 408.701, F.S.;

conforming cross references; creating s. 409.810, F.S.; providing a short title; creating s. 409.811, F.S.; providing definitions; creating s. 409.812, F.S.; creating the Florida Children's Healthy Bodies program; providing legislative findings and intent; providing guiding principles; creating s. 409.813, F.S.; specifying program components; specifying that certain program components are not an entitlement; establishing an enrollment ceiling; creating s. 409.8131, F.S.; creating the Medikids program; providing legislative findings and intent; providing that the program is not an entitlement; providing for a marketing plan; providing for application to Medikids of specified sections of ch. 409, F.S., relating to Medicaid; providing for benefits; providing eligibility standards; providing for enrollment; creating s. 409.8134, F.S.; providing for delivery of services and reimbursement of providers in a rural county; creating s. 409.8135, F.S.; providing behavioral health benefits to non-Medicaid-eligible children with serious emotional needs; creating s. 409.814, F.S.; providing eligibility requirements; creating s. 409.815, F.S.; establishing health benefits coverage requirements for the program; creating s. 409.816, F.S.; providing for limitations on premiums and cost-sharing; creating s. 409.817, F.S.; providing for a health insurance pilot project; requiring approval of health benefits coverage as a condition of financial assistance; creating s. 409.8175, F.S.; directing the Agency for Health Care Administration to seek federal approval to establish a family coverage program; providing conditions; creating s. 409.8177, F.S.; providing for program evaluation; requiring annual reports; creating s. 409.818, F.S.; providing for program administration; providing responsibilities for the Department of Children and Family Services, the Department of Health, the Department of Insurance, the Agency for Health Care Administration, and the Florida Healthy Kids Corporation; authorizing program modifications to obtain federal approval of the state's child health insurance plan; renumbering and amending s. 154.508, F.S., relating to outreach activities; creating s. 409.8195, F.S.; requiring the development of quality assurance and access standards; creating s. 409.821, F.S.; establishing performance measures and standards; providing an enrollment ceiling; amending s. 409.904, F.S.; expanding Medicaid optional eligibility to certain children and providing for continuous eligibility; amending s. 409.9126, F.S.; relating to the provision of Children's Medical Services network services for children with special health care needs; deleting definitions; deleting standards for referral of certain children to the network; providing for certain provider reimbursement; amending s. 624.91, F.S., relating to the Florida Healthy Kids Corporation; providing legislative intent; specifying that the program is not an entitlement; revising standards; providing additional duties; repealing ss. 391.031, 391.056, and 391.091, F.S., relating to patient care centers, district children's medical program supervisors, and the Cardiac Advisory Council which was advisory to the Children's Medical Services Program Office; repealing s. 624.92, F.S., relating to application for a Medicaid waiver for funds to expand the Florida Health Kids Corporation; providing for future repeal and review of s. 409.814(3), F.S., and ss. 409.810-409.821, F.S., relating to the "Florida Children's Healthy Bodies Act," on specified dates; providing a contingent effective date.

—was read the second time by title.

Senator Brown-Waite moved the following amendment which was adopted:

Amendment 1 (with title amendment)—Delete everything after the enacting clause and insert:

Section 1. *The Agency for Health Care Administration, working jointly with the Department of Health and the Florida Association of Healthy Start Coalitions, is directed to seek a federal waiver to secure matching funds under Title XIX of the Social Security Act for the Healthy Start program. The federal waiver application must seek Medicaid matching funds utilizing appropriated general revenue and local contributions.*

Section 2. Section 391.011, Florida Statutes, is amended to read:

391.011 Short title.—*The provisions of this chapter* ~~This act shall be known and~~ may be cited as the "Children's Medical Services Act."

Section 3. Section 391.016, Florida Statutes, is amended to read:

391.016 Legislative intent.—The Legislature *intends that the Children's Medical Services program:*

(1) Provide to children with special health care needs a family-centered, comprehensive, and coordinated statewide managed system of care that links community-based health care with multidisciplinary, regional, and tertiary pediatric specialty care. The program may provide for the coordination and maintenance of consistency of the medical home for children in families with a Children's Medical Services program participant, in order to achieve family-centered care ~~finds and declares that there is a need to provide medical services for needy children, particularly those with chronic, crippling or potentially crippling and physically handicapping diseases or conditions, and to provide leadership and direction in promoting, planning, and coordinating children's medical care programs so that the full development of each child's potential may be realized~~.

(2) Provide essential preventive, evaluative, and early intervention services for children at risk for or having special health care needs, in order to prevent or reduce long term disabilities.

(3) Serve as a principal provider for children with special health care needs under Titles XIX and XXI of the Social Security Act.

(4) Be complementary to children's health training programs essential for the maintenance of a skilled pediatric health care workforce for all Floridians.

Section 4. Section 391.021, Florida Statutes, is amended to read:

391.021 Definitions.—When used in this act, unless the context clearly indicates otherwise:

(1) "Children's Medical Services network" or "network" means a statewide managed care service system that includes health care providers, as defined in this section.

(2) "Children with special health care needs" means those children under age 21 years whose serious or chronic physical or developmental conditions require extensive preventive and maintenance care beyond that required by typically healthy children. Health care utilization by these children exceeds the statistically expected usage of the normal child adjusted for chronological age. These children often need complex care requiring multiple providers, rehabilitation services, and specialized equipment in a number of different settings.

(3)~~(1)~~ "Department" means the Department of Health.

(4)~~(2)~~ "Eligible individual" means a *child with a special health care need or a* female ~~of any age~~ with a high-risk pregnancy, ~~or an individual below the age of 21 years who has an organic disease, defect, or condition which may hinder the achievement of his or her normal growth and development, and~~ who meets the financial and medical eligibility standards established *in s. 391.029.* ~~by the department. In addition, where specific legislative appropriation exists, individuals with long-term chronic diseases, such as cystic fibrosis, which originated during childhood and who received services under this act before the age of 21 years shall continue to be eligible beyond that age.~~

(5) "Health care provider" means a health care professional, health care facility, or entity licensed or certified to provide health services in this state that meets the criteria as established by the department.

(6)~~(3)~~ "*Health* ~~Medical~~ services" includes the prevention, diagnosis, and treatment of human disease, pain, injury, deformity, or disabling ~~physical~~ conditions.

(7) "Participant" means an eligible individual who is enrolled in the Children's Medical Services program.

(8) "Program" means the Children's Medical Services program established in the Division of Children's Medical Services of the department.

Section 5. Section 391.025, Florida Statutes, is created to read:

391.025 Applicability and scope.—

(1) This act applies to health services provided to eligible individuals who are:

(a) Enrolled in the Medicaid program;

(b) Enrolled in the Florida Kidcare program; and

(c) Uninsured or underinsured, provided that they meet the financial eligibility requirements established in this act, and to the extent that resources are appropriated for their care.

(2) The Children's Medical Services program consists of the following components:

(a) The infant metabolic screening program established in s. 383.14.

(b) The regional perinatal intensive care centers program established in ss. 383.15-383.21.

(c) A federal or state program authorized by the Legislature.

(d) The developmental evaluation and intervention program.

(e) The Children's Medical Services network.

(3) The Children's Medical Services program shall not be deemed an insurer and is not subject to the licensing requirements of the Florida Insurance Code or the rules of the Department of Insurance, when providing services to children who receive Medicaid benefits, other Medicaid-eligible children with special health care needs, and children participating in the Florida Kidcare program. This exemption shall not extend to contractors.

Section 6. Section 391.026, Florida Statutes, is amended to read:

391.026 Powers and duties of the department.~~—To administer its programs of children's medical services,~~ The department shall have the following powers, duties, and responsibilities:

(1) To provide or contract for the provision of *health* ~~medical~~ services to eligible individuals.

(2) To determine the medical and financial eligibility *standards for the program and to determine the medical and financial eligibility* of individuals seeking *health* ~~medical~~ services *from the program*.

(3) To recommend priorities for the implementation of comprehensive plans and budgets.

(4) To coordinate a comprehensive delivery system for eligible individuals to take maximum advantage of all available ~~federal~~ funds.

(5) To promote, establish, and coordinate programs relating to children's medical services in cooperation with *other* public and private agencies *and to coordinate funding of health care programs with federal, state, or local indigent health care funding mechanisms*.

(6) To initiate, coordinate, and request review of applications to federal and state agencies for funds, services, or commodities relating to children's medical programs.

(7) To sponsor or promote grants for projects, programs, education, or research in the field of medical needs of children, with an emphasis on early diagnosis and treatment.

(8) To *oversee and operate the Children's Medical Services network* ~~contract or be contracted with~~.

(9) To establish *reimbursement mechanisms for the Children's Medical Services network* ~~standards of eligibility for patients of children's medical services programs~~.

(10) To *establish Children's Medical Services network standards and credentialing requirements for health care providers and health care services* ~~coordinate funding of medical care programs with state or local indigent health care funding mechanisms~~.

(11) To *serve as a provider and principal case manager for children with special health care needs under Titles XIX and XXI of the Social Security Act* ~~establish standards for patient care and facilities~~.

(12) To monitor the provision of health services in the program, including the utilization and quality of health services.

(13) To administer the Children with Special Health Care Needs program in accordance with Title V of the Social Security Act.

(14) To establish and operate a grievance resolution process for participants and health care providers.

(15) To maintain program integrity in the Children's Medical Services program.

(16) To receive and manage health care premiums, capitation payments, and funds from federal, state, local, and private entities for the program.

(17) To appoint health care consultants for the purpose of providing peer review and making recommendations to enhance the delivery and quality of services in the Children's Medical Services program.

(18)~~(12)~~ To make rules to carry out the provisions of this act.

Section 7. Section 391.028, Florida Statutes, is created, and section 391.051, Florida Statutes, is renumbered as subsection (1) of said section and amended, to read:

391.028 Administration.—The Children's Medical Services program shall have a central office and area offices.

(1) ~~391.051 Qualifications of director.—~~The Director *of the Division of* ~~for~~ Children's Medical Services must be a physician licensed under chapter 458 or chapter 459 who has specialized training and experience in the provision of *health* ~~medical~~ care to children and who has recognized skills in leadership and the promotion of children's health programs. The *division* director ~~for Children's Medical Services~~ shall be the deputy secretary and the Deputy State Health Officer for Children's Medical Services and is appointed by and reports to the secretary.

(2) The division director shall designate Children's Medical Services area offices to perform operational activities, including, but not limited to:

(a) Providing case management services for the network.

(b) Providing local oversight of the program.

(c) Determining an individual's medical and financial eligibility for the program.

(d) Participating in the determination of a level of care and medical complexity for long-term care services.

(e) Authorizing services in the program and developing spending plans.

(f) Participating in the development of treatment plans.

(g) Taking part in the resolution of complaints and grievances from participants and health care providers.

(3) Each Children's Medical Services area office shall be directed by a physician licensed under chapter 458 or chapter 459 who has specialized training and experience in the provision of health care to children. The director of a Children's Medical Services area office shall be appointed by the division director from the active panel of Children's Medical Services physician consultants.

Section 8. Section 391.029, Florida Statutes, is created, section 391.046, Florida Statutes, is renumbered as subsection (3) of said section and amended, and section 391.07, Florida Statutes, is renumbered as subsection (4) of said section and amended, to read:

391.029 Program eligibility.—

(1) The department shall establish the medical criteria to determine if an applicant for the Children's Medical Services program is an eligible individual.

(2) The following individuals are financially eligible for the program:

(a) A high-risk pregnant female who is eligible for Medicaid.

(b) A child with special health care needs from birth to age 21 years who is eligible for Medicaid.

(c) A child with special health care needs from birth to age 19 years who is eligible for a program under Title XXI of the Social Security Act.

(d) A child with special health care needs from birth to age 21 years whose projected annual cost of care adjusts the family income to Medicaid financial criteria. In cases where the family income is adjusted based on a projected annual cost of care, the family shall participate financially in the cost of care based on criteria established by the department.

(e) A child with special health care needs as defined in Title V of the Social Security Act relating to children with special health care needs.

The department may continue to serve certain children with special health care needs who are 21 years of age or older and who were receiving services from the program prior to April 1, 1998. Such children may be served by the department until July 1, 2000.

(3) ~~391.046 Financial determination.—~~The department shall determine the financial *and medical eligibility of children for the program. The department shall also determine* ~~ability of individuals seeking medical services, or~~ the financial ability of the parents, or persons or other agencies having legal custody over such individuals, to pay the costs of *health* ~~such medical~~ services *under the program*. The department may pay reasonable travel expenses related to the determination of eligibility for or the provision of *health* ~~medical~~ services.

(4) ~~391.07 Indigent and semi-indigent cases.—~~Any child who has been provided with surgical or medical care or treatment under this act prior to being adopted shall continue to be eligible to be provided with such care or treatment after his or her adoption, regardless of the financial ability of the persons adopting the child.

Section 9. Section 391.031, Florida Statutes, is created to read:

391.031 Benefits.—Benefits provided under the program shall be the same benefits provided to children as specified in ss. 409.905 and 409.906. The department may offer additional benefits for early intervention services, respite services, genetic testing, genetic and nutritional counseling, and parent support services, if such services are determined to be medically necessary. No child or person determined eligible for the program who is eligible under Title XIX or Title XXI of the Social Security Act shall receive any service other than an initial health care screening or treatment of an emergency medical condition as defined in s. 395.002, until such child or person is enrolled in Medicaid or a Title XXI program.

Section 10. Section 391.035, Florida Statutes, is created, section 391.036, Florida Statutes, is renumbered as subsection (2) of said section and amended, and section 391.041, Florida Statutes, is renumbered as subsection (3) of said section and amended, to read:

391.035 Provider qualifications.—

(1) The department shall establish the criteria to designate health care providers to participate in the Children's Medical Services network. The department shall follow, whenever available, national guidelines for selecting health care providers to serve children with special health care needs.

(2) ~~391.036 Medical services providers; qualifications.—~~The department shall require that all *health care* providers *under contract with the program* ~~of medical services under this act~~ be duly licensed in the state, if such licensure is available, and meet such criteria as may be established by the department.

(3) ~~391.041 Services to other state or local programs or institutions.—~~The department may initiate agreements with other state or local governmental programs or institutions for the coordination of *health* ~~medical~~ care to eligible individuals receiving services from such programs or institutions.

Section 11. Section 391.045, Florida Statutes, is created to read:

391.045 Reimbursement.—

(1) The department shall reimburse health care providers for services rendered through the Children's Medical Services network using cost-effective methods, including, but not limited to, capitation, discounted fee-for-service, unit costs, and cost reimbursement. Medicaid reimbursement rates shall be utilized to the maximum extent possible, where applicable.

(2) Reimbursement to the Children's Medical Services program for services provided to children with special health care needs who participate in the Florida Kidcare program and who are not Medicaid recipients shall be on a capitated basis.

Section 12. Section 391.047, Florida Statutes, is created to read:

391.047 Responsibility for payments on behalf of Children's Medical Services program participants when other parties are liable.—The Children's Medical Services program shall comply with s. 402.24, concerning third-party liabilities and recovery of third-party payments for health services.

Section 13. Section 391.055, Florida Statutes, is created to read:

391.055 Service delivery systems.—

(1) The program shall apply managed care methods to ensure the efficient operation of the Children's Medical Services network. Such methods include, but are not limited to, capitation payments, utilization management and review, prior authorization, and case management.

(2) The components of the network are:

(a) Qualified primary care physicians who shall serve as the gatekeepers and who shall be responsible for the provision or authorization of health services to an eligible individual who is enrolled in the Children's Medical Services network.

(b) Comprehensive specialty care arrangements that meet the requirements of s. 391.035 to provide acute care, specialty care, long-term care, and chronic disease management for eligible individuals.

(c) Case management services.

(3) The Children's Medical Services network may contract with school districts participating in the certified school match program pursuant to ss. 236.0812 and 409.908(21) for the provision of school-based services, as provided for in s. 409.9071, for Medicaid-eligible children who are enrolled in the Children's Medical Services network.

Section 14. Section 391.065, Florida Statutes, is created to read:

391.065 Health care provider agreements.—The department is authorized to establish health care provider agreements for participation in the Children's Medical Services program.

Section 15. Section 391.071, Florida Statutes, is created to read:

391.071 Quality of care requirements.—The Children's Medical Services program shall develop quality of care and service integration standards and reporting requirements for health care providers that participate in the Children's Medical Services program. The program shall ensure that these standards are not duplicative of other standards and requirements for health care providers.

Section 16. Section 391.081, Florida Statutes, is created to read:

391.081 Grievance reporting and resolution requirements.—The department shall adopt and implement a system to provide assistance to eligible individuals and health care providers to resolve complaints and grievances. To the greatest extent possible, the department shall use existing grievance reporting and resolution processes. The department shall ensure that the system developed for the Children's Medical Services program does not duplicate existing grievance reporting and resolution processes.

Section 17. Section 391.095, Florida Statutes, is created to read:

391.095 Program integrity.—The department shall operate a system to oversee the activities of Children's Medical Services program participants, and health care providers and their representatives, to prevent fraudulent and abusive behavior, overutilization and duplicative utilization, and neglect of participants and to recover overpayments as appropriate. For the purposes of this section, the terms "abuse" and "fraud" have the meanings provided in s. 409.913. The department shall refer incidents of suspected fraud and abuse, and overutilization and duplicative utilization, to the appropriate regulatory agency.

Section 18. Section 391.061, Florida Statutes, is renumbered as section 391.097, Florida Statutes, and is amended to read:

391.097 ~~391.061~~ Research *and evaluation*.—

(1) The department may initiate, fund, and conduct research *and evaluation* projects to improve the delivery of children's medical services. The department may cooperate with public and private agencies engaged in work of a similar nature.

(2) The Children's Medical Services network shall be included in any evaluation conducted in accordance with the provisions of Title XXI of the Social Security Act as enacted by the Legislature.

Section 19. *Sections 391.201 through 391.217, Florida Statutes, are renumbered as sections 400.901 through 400.917, Florida Statutes, and designated as part IX of chapter 400, Florida Statutes.*

Section 20. Section 391.206, Florida Statutes, is renumbered as section 400.906, Florida Statutes, and subsection (1) of said section is amended to read:

400.906 ~~391.206~~ Initial application for license.—

(1) Application for a license shall be made to the agency on forms furnished by it and shall be accompanied by the appropriate license fee unless the applicant is exempt from payment of the fee as provided in s. *400.905* ~~391.205~~.

Section 21. Section 391.217, Florida Statutes, is renumbered as section 400.917, Florida Statutes, and amended to read:

400.917 ~~391.217~~ Disposition of moneys from fines and fees.—All moneys received from administrative fines pursuant to s. *400.908* ~~391.208~~ and all moneys received from fees collected pursuant to s. *400.905* ~~391.205~~ shall be deposited in the Health Care Trust Fund created in s. *408.16* ~~455.2205~~.

Section 22. *Sections 391.221, 391.222, and 391.223, Florida Statutes, as created by this act, are designated as part II of chapter 391, Florida Statutes, entitled "Children's Medical Services Councils and Panels."*

Section 23. Section 391.221, Florida Statutes, is created to read:

391.221 Statewide Children's Medical Services Network Advisory Council.—

(1) The secretary of the department may appoint a Statewide Children's Medical Services Network Advisory Council for the purpose of acting as an advisory body to the department. Specifically, the duties of the council shall include, but not be limited to:

(a) Recommending standards and credentialing requirements for health care providers rendering health services to Children's Medical Services network participants.

(b) Making recommendations to the Director of the Division of Children's Medical Services concerning the selection of health care providers for the Children's Medical Services network.

(c) Reviewing and making recommendations concerning network health care provider or participant disputes that are brought to the attention of the advisory council.

(d) Providing input to the Children's Medical Services program on the policies governing the Children's Medical Services network.

(e) Reviewing the financial reports and financial status of the network and making recommendations concerning the methods of payment and cost controls for the network.

(f) Reviewing and recommending the scope of benefits for the network.

(g) Reviewing network performance measures and outcomes and making recommendations for improvements to the network and its maintenance and collection of data and information.

(2) The council shall be composed of 12 members representing the private health care provider sector, families with children who have special health care needs, the Agency for Health Care Administration, the Department of Insurance, the Florida Chapter of the American Academy of Pediatrics, an academic health center pediatric program, and the health insurance industry. Members shall be appointed for 4-year, staggered terms. In no case shall an employee of the Department of Health serve as a member or as an ex officio member of the advisory council. A vacancy shall be filled for the remainder of the unexpired term in the same manner as the original appointment. A member may not be appointed to more than two consecutive terms. However, a member may be reappointed after being off the council for at least 2 years.

(3) Members shall receive no compensation, but shall be reimbursed for per diem and travel expenses in accordance with the provisions of s. 112.061.

Section 24. Section 391.091, Florida Statutes, is renumbered as section 391.222, Florida Statutes, and amended to read:

391.222 ~~391.091~~ Cardiac Advisory Council.—

(1)~~(a)~~ The secretary of the department may appoint a Cardiac Advisory Council for the purpose of acting as the advisory body to the *Division of* Children's Medical Services ~~Program Office~~ in the delivery of cardiac services *to children*. Specifically, the duties of the council shall include, but not be limited to:

(a)~~1.~~ Recommending standards for personnel and facilities rendering cardiac services for *the Division of* Children's Medical Services;

(b)~~2.~~ Receiving reports of the periodic review of cardiac personnel and facilities to determine if established standards for *the Division of* Children's Medical Services cardiac services are met;

(c)~~3.~~ Making recommendations to the *division* ~~Children's Medical Services staff~~ director as to the approval or disapproval of reviewed personnel and facilities;

(d)~~4.~~ Making recommendations as to the intervals for reinspection of approved personnel and facilities; and

(e)~~5.~~ Providing input to *the Division of* Children's Medical Services on all aspects of Children's Medical Services cardiac programs, including the rulemaking process.

(2) The council shall be composed of eight members with technical expertise in cardiac medicine. Members shall be appointed for 4-year, staggered terms. In no case shall an employee of the Department of Health serve as a member or as an ex officio member of the advisory council. A vacancy shall be filled for the remainder of the unexpired term in the same manner as the original appointment. A member may not be appointed to more than two consecutive terms. However, a member may be reappointed after being off the council for at least 2 years.

(3)~~(b)~~ Members shall receive no compensation, but shall be reimbursed for per diem and travel expenses in accordance with the provisions of s. 112.061.

~~(2) The Cardiac Advisory Council shall meet at the call of the chair, at the request of a majority of its membership, or at the call of the staff director of the Children's Medical Services Program Office, but no more frequently than quarterly. Minutes shall be recorded for all meetings of such council and shall be kept on file in the Children's Medical Services Program Office.~~

~~(3) No later than December 1 of each year preceding a legislative session in which a biennial budget will be adopted, the department shall present a summary report to the President of the Senate and the Speaker of the House of Representatives documenting compliance with this act and the accomplishments and expenditures of the Cardiac Advisory Council.~~

Section 25. Section 391.223, Florida Statutes, is created to read:

391.223 Technical advisory panels.—The secretary of the department may establish technical advisory panels to assist the Division of Children's Medical Services in developing specific policies and procedures for the Children's Medical Services program.

Section 26. Section 391.301, Florida Statutes, is amended to read:

391.301 Developmental evaluation and intervention programs; legislative findings and intent.—

(1) The Legislature finds that the high-risk and disabled newborn infants in this state need in-hospital and outpatient developmental evaluation and intervention and that their families need training and support services. The Legislature further finds that there is an identifiable and increasing number of infants who need developmental evaluation and intervention and family support due to the fact that increased numbers of low-birthweight and sick full-term newborn infants are now surviving *because of* ~~due to~~ the advances in neonatal intensive care medicine; increased numbers of medically involved infants are remaining inappropriately in hospitals because their parents lack the confidence or skills to care for these infants without support; and increased numbers of infants are at risk due to parent risk factors, such as substance abuse, teenage pregnancy, and other high-risk conditions.

(2) It is the intent of the Legislature to establish developmental evaluation and intervention *services* ~~programs~~ at all hospitals providing Level II or Level III neonatal intensive care services, in order that families with high-risk or disabled infants may gain the services and skills they need to support their infants.

(3) It is the intent of the Legislature to provide a statewide coordinated program to screen, diagnose, and manage high-risk infants identified as hearing-impaired. The program shall develop criteria to identify infants who are at risk of having hearing impairments, and shall ensure that all parents or guardians of newborn infants are provided with materials regarding hearing impairments prior to discharge of the newborn infants from the hospital.

(4) It is the intent of the Legislature that a methodology be developed to integrate information on infants with potentially disabling conditions with *other early intervention programs, including Part C of Pub. L. No. 105-17 and* ~~the reporting system to be established under~~ the Healthy Start program.

Section 27. Section 391.303, Florida Statutes, is amended to read:

391.303 Program requirements.—

(1) ~~A~~ Developmental evaluation and intervention *services* ~~program~~ shall be established at each hospital that provides Level II or Level III neonatal intensive care services. Program services shall be made available to an infant or toddler identified as being at risk for developmental disabilities, or identified as medically involved, who, along with his or her family, would benefit from program services. Program services shall be made available to infants or toddlers in a Level II or Level III neonatal intensive care unit or in a pediatric intensive care unit, infants who are identified as being at high risk for hearing impairment or who are hearing-impaired, or infants who have a metabolic or genetic disorder. The developmental evaluation and intervention programs are subject to the availability of moneys and the limitations established by the General Appropriations Act or chapter 216. Hearing screening, evaluation and referral services, and initial developmental assessments services shall be provided to each infant or toddler. Other program services may be provided to an infant or toddler, and the family of the infant or toddler, who do not meet the financial eligibility criteria for the Children's Medical Services program based on the availability of funding, including insurance and fees.

(2) Each *developmental evaluation and intervention* program shall have a program director, a medical director, and necessary staff to carry out the program. The program director shall establish and coordinate the developmental evaluation and intervention program. The program shall include, but is not limited to:

(a) In-hospital evaluation and intervention services, parent support and training, and family support planning and case management.

(b) Screening and evaluation services to identify each infant at risk of hearing impairment, and a medical and educational followup and care management program for an infant who is identified as hearing-impaired, with management beginning as soon after birth as practicable. The medical management program must include the genetic evaluation of an infant suspected to have genetically determined deafness and an evaluation of the relative risk.

(c) Regularly held multidisciplinary team meetings to develop and update the family support plan. In addition to the family, a multidisciplinary team may include a physician, physician assistant, psychologist, psychotherapist, educator, social worker, nurse, physical or occupational therapist, speech pathologist, developmental evaluation and intervention program director, case manager, ~~and~~ others who are involved with the in-hospital and posthospital discharge care plan, *and anyone the family wishes to include as a member of the team*. The family support plan is a written plan that describes the infant or toddler, ~~and~~ the therapies and services the infant or toddler and his or her family need, *and the intended outcomes of the services*.

(d) Discharge planning by the multidisciplinary team, including referral and followup to primary medical care and modification of the family support plan.

(e) Education and training for neonatal and pediatric intensive care services staff, volunteers, and others, as needed, in order to expand the services provided to high-risk, developmentally disabled, medically involved, or hearing-impaired infants and toddlers and their families.

(f) Followup intervention services after hospital discharge, to aid the family and the high-risk, developmentally disabled, medically involved, or hearing-impaired infant's or toddler's transition into the community. ~~These services shall include, but are not limited to, home intervention services and other intervention services, both contractual and voluntary.~~ Support services shall be coordinated at the request of the family and within the context of the family support plan.

(g) Referral to and coordination of services with community providers.

(h) Educational materials about infant care, infant growth and development, community resources, medical conditions and treatments, and family advocacy. Materials regarding hearing impairments shall be provided to each parent or guardian of a hearing-impaired infant or toddler.

(i) Involvement of the parents and guardians of each identified high-risk, developmentally disabled, medically involved, or hearing-impaired infant or toddler.

Section 28. Paragraph (a) of subsection (1) of section 391.304, Florida Statutes, is amended to read:

391.304 Program coordination.—

(1) The Department of Health shall:

(a) Coordinate with the Department of Education, ~~the Offices of Prevention, Early Assistance, and Child Development,~~ the Florida Interagency Coordinating Council for Infants and Toddlers, and the State Coordinating Council for Early Childhood Services in planning and administering ss. 391.301-391.307. This coordination shall be in accordance with s. 411.222.

Section 29. Subsection (1) of section 391.305, Florida Statutes, is amended to read:

391.305 Program standards; rules.—The Department of Health shall adopt rules for the administration of the developmental evaluation and intervention program. The rules shall specify standards for the development and operation of the program, including, but not limited to:

(1) Standards governing the *eligibility* ~~need~~ for program services and the requirements of the population to be served.

Section 30. Subsection (1) of section 391.307, Florida Statutes, is amended to read:

391.307 Program review.—

(1) At least annually during the contract period, the Department of Health shall evaluate each developmental evaluation and intervention program. The department shall develop criteria to evaluate *child and family outcomes* ~~patient outcome~~, program participation, *service coordination* ~~case management~~, and program effectiveness.

Section 31. Subsection (13) of section 408.701, Florida Statutes, is amended to read:

408.701 Community health purchasing; definitions.—As used in ss. 408.70-408.706, the term:

(13) "Health care provider" or "provider" means a state-licensed or state-authorized facility, a facility principally supported by a local government or by funds from a charitable organization that holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code, a licensed practitioner, a county health department established under part I of chapter 154, ~~a patient care center described in s. 391.031,~~ a prescribed pediatric extended care center defined in s. *400.902* ~~391.202~~, a federally supported primary care program such as a migrant health center or a community health center authorized under s. 329 or s. 330 of the United States Public Health Services Act that delivers health care services to individuals, or a community facility that receives funds from the state under the Community Alcohol, Drug Abuse, and Mental Health Services Act and provides mental health services to individuals.

Section 32. Section 409.810, Florida Statutes, is created to read:

409.810 Short title.—Sections 409.810-409.820 may be cited as the "Florida Kidcare Act."

Section 33. Section 409.811, Florida Statutes, is created to read:

409.811 Definitions.—As used in ss. 409.810-409.820, the term:

(1) "Actuarially equivalent" means that:

(a) The aggregate value of the benefits included in health benefits coverage is equal to the value of the benefits in the benchmark benefit plan; and

(b) The benefits included in health benefits coverage are substantially similar to the benefits included in the benchmark benefit plan, except that preventive health services must be the same as in the benchmark benefit plan.

(2) "Agency" means the Agency for Health Care Administration.

(3) "Applicant" means a parent or guardian of a child or a child whose disability of nonage has been removed under chapter 743, who applies for determination of eligibility for health benefits coverage under ss. 409.810-409.820.

(4) "Benchmark benefit plan" means the form and level of health benefits coverage established in s. 409.815.

(5) "Child" means any person under 19 years of age.

(6) "Child with special health care needs" means a child whose serious or chronic physical or developmental condition requires extensive preventive and maintenance care beyond that required by typically healthy children. Health care utilization by such a child exceeds the statistically expected usage of the normal child adjusted for chronological age, and such a child often needs complex care requiring multiple providers, rehabilitation services, and specialized equipment in a number of different settings.

(7) "Children's Medical Services network" or "network" means a statewide managed care service system as defined in s. 391.021(1).

(8) "Community rate" means a method used to develop premiums for a health insurance plan that spreads financial risk across a large population and allows adjustments only for age, gender, family composition, and geographic area.

(9) "Department" means the Department of Health.

(10) "Enrollee" means a child who has been determined eligible for and is receiving coverage under ss. 409.810-409.820.

(11) "Enrollment ceiling" means the maximum number of children receiving premium assistance payments, excluding children enrolled in Medicaid, that may be enrolled at any time in the Florida Kidcare program. The maximum number shall be established annually in the General Appropriations Act or by general law.

(12) "Family" means the group or the individuals whose income is considered in determining eligibility for the Florida Kidcare program. The family includes a child with a custodial parent or caretaker relative who resides in the same house or living unit or, in the case of a child whose disability of nonage has been removed under chapter 743, the child. The family may also include other individuals whose income and resources are considered in whole or in part in determining eligibility of the child.

(13) "Family income" means cash received at periodic intervals from any source, such as wages, benefits, contributions, or rental property. Income also may include any money that would have been counted as income under the Aid to Families with Dependent Children (AFDC) state plan in effect prior to August 22, 1996.

(14) "Guarantee issue" means that health benefits coverage must be offered to an individual regardless of the individual's health status, preexisting condition, or claims history.

(15) "Health benefits coverage" means protection that provides payment of benefits for covered health care services or that otherwise provides, either directly or through arrangements with other persons, covered health care services on a prepaid per capita basis or on a prepaid aggregate fixed-sum basis.

(16) "Health insurance plan" means health benefits coverage under the following:

(a) A health plan offered by any certified health maintenance organization or authorized health insurer, except a plan that is limited to the following: a limited benefit, specified disease, or specified accident; hospital indemnity; accident only; limited benefit convalescent care; Medicare supplement; credit disability; dental; vision; long-term care; disability income; coverage issued as a supplement to another health plan; workers' compensation liability or other insurance; or motor vehicle medical payment only; or

(b) An employee welfare benefit plan that includes health benefits established under the Employee Retirement Income Security Act of 1974, as amended.

(17) "Medicaid" means the medical assistance program authorized by Title XIX of the Social Security Act, and regulations thereunder, and ss. 409.901-409.920, as administered in this state by the agency.

(18) "Medically necessary" means the use of any medical treatment, service, equipment, or supply necessary to palliate the effects of a terminal condition, or to prevent, diagnose, correct, cure, alleviate, or preclude deterioration of a condition that threatens life, causes pain or suffering, or results in illness or infirmity and which is:

(a) Consistent with the symptom, diagnosis, and treatment of the enrollee's condition;

(b) Provided in accordance with generally accepted standards of medical practice;

(c) Not primarily intended for the convenience of the enrollee, the enrollee's family, or the health care provider;

(d) The most appropriate level of supply or service for the diagnosis and treatment of the enrollee's condition; and

(e) Approved by the appropriate medical body or health care specialty involved as effective, appropriate, and essential for the care and treatment of the enrollee's condition.

(19) "Medikids" means a component of the Florida Kidcare program of medical assistance authorized by Title XXI of the Social Security Act, and regulations thereunder, and s. 409.8132, as administered in the state by the agency.

(20) "Preexisting condition exclusion" means, with respect to coverage, a limitation or exclusion of benefits relating to a condition based on the fact that the condition was present before the date of enrollment for such coverage, whether or not any medical advice, diagnosis, care, or treatment was recommended or received before such date.

(21) "Premium" means the entire cost of a health insurance plan, including the administration fee or the risk assumption charge.

(22) "Premium assistance payment" means the monthly consideration paid by the agency per enrollee in the Florida Kidcare program towards health insurance premiums.

(23) "Program" means the Florida Kidcare program, the medical assistance program authorized by Title XXI of the Social Security Act as part of the federal Balanced Budget Act of 1997.

(24) "Qualified alien" means an alien as defined in s. 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended, Pub. L. No. 104-193.

(25) "Resident" means a United States citizen, or qualified alien, who is domiciled in this state.

(26) "Rural county" means a county having a population density of less than 100 persons per square mile, or a county defined by the most recent United States Census as rural, in which there is no prepaid health plan participating in the Medicaid program as of July 1, 1998.

(27) "Substantially similar" means that, with respect to additional services as defined in s. 2103(c)(2) of Title XXI of the Social Security Act, these services must have an actuarial value equal to at least 75 percent of the actuarial value of the coverage for that service in the benchmark benefit plan and, with respect to the basic services as defined in s. 2103(c)(1) of Title XXI of the Social Security Act, these services must be the same as the services in the benchmark benefit plan.

Section 34. Section 409.812, Florida Statutes, is created to read:

409.812 Program created; purpose.—The Florida Kidcare program is created to provide a defined set of health benefits to previously uninsured, low-income children through the establishment of a variety of affordable health benefits coverage options from which families may select coverage and through which families may contribute financially to the health care of their children.

Section 35. Section 409.813, Florida Statutes, is created to read:

409.813 Program components; entitlement and nonentitlement.—The Florida Kidcare program includes health benefits coverage provided to children through:

(1) Medicaid;

(2) Medikids as created in s. 409.8132;

(3) The Florida Healthy Kids Corporation as created in s. 624.91;

(4) Employer-sponsored group health insurance plans approved under ss. 409.810–409.820; and

(5) The Children's Medical Services network established in chapter 391.

Except for coverage under the Medicaid program, coverage under the Florida Kidcare program is not an entitlement. No cause of action shall arise against the state, the department, the Department of Children and Family Services, or the agency for failure to make health services available to any person under ss. 409.810-409.820.

Section 36. Section 409.8132, Florida Statutes, is created to read:

409.8132 Medikids program component.—

(1) PROGRAM COMPONENT CREATED; PURPOSE.—The Medikids program component is created in the Agency for Health Care Administration to provide health care services under the Florida Kidcare program to eligible children using the administrative structure and provider network of the Medicaid program.

(2) ADMINISTRATION.—The director of the agency shall appoint an administrator of the Medikids program component, which shall be located in the Division of State Health Purchasing. The Agency for Health Care Administration is designated as the state agency authorized to make payments for medical assistance and related services for the Medikids program component of the Florida Kidcare program. Payments shall be made, subject to any limitations or directions in the General Appropriations Act, only for covered services provided to eligible children by qualified health care providers under the Florida Kidcare program.

(3) INSURANCE LICENSURE NOT REQUIRED.—The Medikids program component shall not be subject to the licensing requirements of the Florida Insurance Code or rules of the Department of Insurance.

(4) APPLICABILITY OF LAWS RELATING TO MEDICAID.—The provisions of ss. 409.902, 409.905, 409.906, 409.907, 409.908, 409.910, 409.912, 409.9121, 409.9122, 409.9123, 409.9124, 409.9127, 409.9128, 409.913, 409.916, 409.919, 409.920, and 409.9205 apply to the administration of the Medikids program component of the Florida Kidcare program, except that s. 409.9122 applies to Medikids as modified by the provisions of subsection (7).

(5) BENEFITS.—Benefits provided under the Medikids program component shall be the same benefits provided to children as specified in ss. 409.905 and 409.906.

(6) ELIGIBILITY.—

(a) A child who is under the age of 5 years is eligible to enroll in the Medikids program component of the Florida Kidcare program, if the child is a member of a family that has a family income which exceeds the Medicaid applicable income level as specified in s. 409.903, but which is equal to or below 200 percent of the current federal poverty level. In determining the eligibility of such a child, an assets test is not required. A child who is eligible for Medikids may elect to enroll in Florida Healthy Kids coverage or employer–sponsored group coverage. However, a child who is eligible for Medikids may participate in the Florida Healthy Kids program only if the child has a sibling participating in the Florida Healthy Kids program and the child's county of residence permits such enrollment.

(b) The provisions of s. 409.814(3), (4), and (5) shall be applicable to the Medikids program.

(7) ENROLLMENT.—Enrollment in the Medikids program component may only occur during periodic open enrollment periods as specified by the agency. During the first 12 months of the program, there shall be at least one, but no more than three, open enrollment periods. The initial open enrollment period shall be for 90 days, and subsequent open enrollment periods during the first year of operation of the program shall be for 30 days. After the first year of the program, the agency shall determine the frequency and duration of open enrollment periods. An applicant may apply for enrollment in the Medikids program component and proceed through the eligibility determination process at any time throughout the year. However, enrollment in Medikids shall not begin until the next open enrollment period; and a child may not receive services under the Medikids program until the child is enrolled in a managed care plan or MediPass. In addition, once determined eligible, an applicant may receive choice counseling and select a managed care plan or MediPass. An applicant may select MediPass under the Medikids program component only in counties that have fewer than two managed care plans available to serve Medicaid recipients and only if the federal Health Care Financing Administration determines that MediPass constitutes "health insurance coverage" as defined in Title XXI of the Social Security Act.

(8) SPECIAL ENROLLMENT PERIODS.—The agency shall establish a special enrollment period of 30 days' duration for any newborn child who is eligible for Medikids, or for any child who is enrolled in Medicaid if such child loses Medicaid eligibility and becomes eligible for Medikids, or for any child who is enrolled in Medikids if such child moves to another county that is not within the coverage area of the child's Medikids managed care plan or MediPass provider.

(9) PENALTIES FOR VOLUNTARY CANCELLATION.—The agency shall establish enrollment criteria that must include penalties or waiting periods of not fewer than 60 days for reinstatement of coverage upon voluntary cancellation for nonpayment of premiums.

Section 37. Section 409.8134, Florida Statutes, is created to read:

409.8134 Program enrollment and expenditure ceilings.—

(1) Except for the Medicaid program, a ceiling shall be placed on annual federal and state expenditures and on enrollment in the Florida Kidcare program as provided each year in the General Appropriations Act. The agency, in consultation with the Department of Health, may propose to increase the enrollment ceiling in accordance with chapter 216.

(2) Except for the Medicaid program, whenever the Social Services Estimating Conference determines that there is presently, or will be by the

end of the current fiscal year, insufficient funds to finance the current or projected enrollment in the Florida Kidcare program, all additional enrollment must cease and additional enrollment may not resume until sufficient funds are available to finance such enrollment.

(3) The agency shall collect and analyze the data needed to project Florida Kidcare program enrollment, including participation rates, caseloads, and expenditures. The agency shall report the caseload and expenditure trends to the Social Services Estimating Conference in accordance with chapter 216.

Section 38. Section 409.8135, Florida Statutes, is created to read:

409.8135 Behavioral health services.—In order to ensure a high level of integration of physical and behavioral health care and to meet the more intensive treatment needs of enrollees with the most serious emotional disturbances or substance abuse problems, the Department of Health shall contract with the Department of Children and Family Services to provide behavioral health services to non-Medicaid-eligible children with special health care needs. The Department of Children and Family Services, in consultation with the Department of Health and the agency, is authorized to establish the following:

(1) The scope of behavioral health services, including duration and frequency.

(2) Clinical guidelines for referral to behavioral health services.

(3) Behavioral health services standards.

(4) Performance-based measures and outcomes for behavioral health services.

(5) Practice guidelines for behavioral health services to ensure cost-effective treatment and to prevent unnecessary expenditures.

(6) Rules to implement this section.

Section 39. Section 409.814, Florida Statutes, is created to read:

409.814 Eligibility.—A child whose family income is equal to or below 200 percent of the federal poverty level is eligible for the Florida Kidcare program as provided in this section. In determining the eligibility of such a child, an assets test is not required.

(1) A child who is eligible for Medicaid coverage under s. 409.903 or s. 409.904 must be enrolled in Medicaid and is not eligible to receive health benefits under any other health benefits coverage authorized under ss. 409.810-409.820.

(2) A child who is not eligible for Medicaid, but who is eligible for the Florida Kidcare program, may obtain coverage under any of the other types of health benefits coverage authorized in ss. 409.810-409.820 if such coverage is approved and available in the county in which the child resides. However, a child who is eligible for Medikids may participate in the Florida Healthy Kids program only if the child has a sibling participating in the Florida Healthy Kids program and the child's county of residence permits such enrollment.

(3) A child who is eligible for the Florida Kidcare program who is a child with special health care needs, as determined through a risk-screening instrument, is eligible for health benefits coverage from and may be referred to the Children's Medical Services network.

(4) The following children are not eligible to receive premium assistance for health benefits coverage under ss. 409.810-409.820, except under Medicaid if the child would have been eligible for Medicaid under s. 409.903 or s. 409.904 as of June 1, 1997:

(a) A child who is eligible for coverage under a state health benefit plan on the basis of a family member's employment with a public agency in the state;

(b) A child who is covered under a group health benefit plan or under other health insurance coverage, excluding coverage provided under the Florida Healthy Kids Corporation as established under s. 624.91;

(c) A child who is seeking premium assistance for employer-sponsored group coverage, if the child has been covered by the same employer's group coverage during the 6 months prior to the family's submitting an application for determination of eligibility under the Florida Kidcare program;

(d) A child who is an alien, but who does not meet the definition of qualified alien, in the United States; or

(e) A child who is an inmate of a public institution or a patient in an institution for mental diseases.

(5) A child whose family income is above 200 percent of the federal poverty level or a child who is excluded under the provisions of subsection (4) may participate in the Florida Kidcare program, excluding the Medicaid program, but is subject to the following provisions:

(a) The family is not eligible for premium assistance payments and must pay the full cost of the premium, including any administrative costs.

(b) The agency is authorized to place limits on enrollment in Medikids by these children in order to avoid adverse selection. The number of children participating in Medikids whose family income exceeds 200 percent of the federal poverty level must not exceed 10 percent of total enrollees in the Medikids program.

(c) The board of directors of the Florida Healthy Kids Corporation is authorized to place limits on enrollment of these children in order to avoid adverse selection. In addition, the board is authorized to offer a reduced benefit package to these children in order to limit program costs for such families. The number of children participating in the Florida Healthy Kids program whose family income exceeds 200 percent of the federal poverty level must not exceed 10 percent of total enrollees in the Florida Healthy Kids program.

(d) Children described in this subsection are not counted in the annual enrollment ceiling for the Florida Kidcare program.

(6) Once a child is determined eligible for the Florida Kidcare program, the child is eligible for coverage under the program for 6 months without a redetermination or reverification of eligibility, if the family continues to pay the applicable premium. Effective January 1, 1999, a child who has not attained the age of 5 and who has been determined eligible for the Medicaid program is eligible for coverage for 12 months without a redetermination or reverification of eligibility.

Section 40. Section 409.815, Florida Statutes, is created to read:

409.815 Health benefits coverage; limitations.—

(1) MEDICAID BENEFITS.—For purposes of the Florida Kidcare program, benefits available under Medicaid and Medikids include those goods and services provided under the medical assistance program authorized by Title XIX of the Social Security Act, and regulations thereunder, as administered in this state by the agency. This includes those mandatory Medicaid services authorized under s. 409.905 and optional Medicaid services authorized under s. 409.906, rendered on behalf of eligible individuals by qualified providers, in accordance with federal requirements for Title XIX, subject to any limitations or directions provided for in the General Appropriations Act or chapter 216, and according to methodologies and limitations set forth in agency rules and policy manuals and handbooks incorporated by reference thereto.

(2) BENCHMARK BENEFITS.—In order for health benefits coverage to qualify for premium assistance payments for an eligible child under ss. 409.810-409.820, the health benefits coverage, except for coverage under Medicaid and Medikids, must include the following minimum benefits, as medically necessary.

(a) Preventive health services.—Covered services include:

1. Well-child care, including services recommended in the Guidelines for Health Supervision of Children and Youth as developed by the American Academy of Pediatrics;

2. Immunizations and injections;

3. Health education counseling and clinical services;

4. Vision screening; and

5. Hearing screening.

(b) Inpatient hospital services.—All covered services provided for the medical care and treatment of an enrollee who is admitted as an inpatient to a hospital licensed under part I of chapter 395, with the following exceptions:

1. All admissions must be authorized by the enrollee's health benefits coverage provider.

2. The length of the patient stay shall be determined based on the medical condition of the enrollee in relation to the necessary and appropriate level of care.

3. Room and board may be limited to semiprivate accommodations, unless a private room is considered medically necessary or semiprivate accommodations are not available.

4. Admissions for rehabilitation and physical therapy are limited to 15 days per contract year.

(c) Emergency services.—Covered services include visits to an emergency room or other licensed facility if needed immediately due to an injury or illness and delay means risk of permanent damage to the enrollee's health. Health maintenance organizations shall comply with the provisions of s. 641.513.

(d) Maternity services.—Covered services include maternity and newborn care, including prenatal and postnatal care, with the following limitations:

1. Coverage may be limited to the fee for vaginal deliveries; and

2. Initial inpatient care for newborn infants of enrolled adolescents shall be covered, including normal newborn care, nursery charges, and the initial pediatric or neonatal examination, and the infant may be covered for up to 3 days following birth.

(e) Organ transplantation services.—Covered services include pretransplant, transplant, and postdischarge services and treatment of complications after transplantation for transplants deemed necessary and appropriate within the guidelines set by the Organ Transplant Advisory Council under s. 381.0602 or the Bone Marrow Transplant Advisory Panel under s. 627.4236.

(f) Outpatient services.—Covered services include preventive, diagnostic, therapeutic, palliative care, and other services provided to an enrollee in the outpatient portion of a health facility licensed under chapter 395, except for the following limitations:

1. Services must be authorized by the enrollee's health benefits coverage provider; and

2. Treatment for temporomandibular joint disease (TMJ) is specifically excluded.

(g) Behavioral health services.—

1. Mental health benefits include:

a. Inpatient services, limited to not more than 30 inpatient days per contract year for psychiatric admissions, or residential services in facilities licensed under s. 394.875(8) or s. 395.003 in lieu of inpatient psychiatric admissions; however, a minimum of 10 of the 30 days shall be available only for inpatient psychiatric services when authorized by a physician; and

b. Outpatient services, including outpatient visits for psychological or psychiatric evaluation, diagnosis, and treatment by a licensed mental health professional, limited to a maximum of 40 outpatient visits each contract year.

2. Substance abuse services include:

a. Inpatient services, limited to not more than 7 inpatient days per contract year for medical detoxification only and 30 days of residential services; and

b. Outpatient services, including evaluation, diagnosis, and treatment by a licensed practitioner, limited to a maximum of 40 outpatient visits per contract year.

(h) Durable medical equipment.—Covered services include equipment and devices that are medically indicated to assist in the treatment of a medical condition and specifically prescribed as medically necessary, with the following limitations:

1. Low-vision and telescopic aides are not included.

2. Corrective lenses and frames may be limited to one pair every 2 years, unless the prescription or head size of the enrollee changes.

3. Hearing aids shall be covered only when medically indicated to assist in the treatment of a medical condition.

4. Covered prosthetic devices include artificial eyes and limbs, braces, and other artificial aids.

(i) Health practitioner services.—Covered services include services and procedures rendered to an enrollee when performed to diagnose and treat diseases, injuries, or other conditions, including care rendered by health practitioners acting within the scope of their practice, with the following exceptions:

1. Chiropractic services shall be provided in the same manner as in the Florida Medicaid program.

2. Podiatric services may be limited to one visit per day totaling two visits per month for specific foot disorders.

(j) Home health services.—Covered services include prescribed home visits by both registered and licensed practical nurses to provide skilled nursing services on a part-time intermittent basis, subject to the following limitations:

1. Coverage may be limited to include skilled nursing services only;

2. Meals, housekeeping, and personal comfort items may be excluded; and

3. Private duty nursing is limited to circumstances where such care is medically necessary.

(k) Hospice services.—Covered services include reasonable and necessary services for palliation or management of an enrollee's terminal illness, with the following exceptions:

1. Once a family elects to receive hospice care for an enrollee, other services that treat the terminal condition will not be covered; and

2. Services required for conditions totally unrelated to the terminal condition are covered to the extent that the services are included in this section.

(l) Laboratory and X-ray services.—Covered services include diagnostic testing, including clinical radiologic, laboratory, and other diagnostic tests.

(m) Nursing facility services.—Covered services include regular nursing services, rehabilitation services, drugs and biologicals, medical supplies, and the use of appliances and equipment furnished by the facility, with the following limitations:

1. All admissions must be authorized by the health benefits coverage provider.

2. The length of the patient stay shall be determined based on the medical condition of the enrollee in relation to the necessary and appropriate level of care, but is limited to not more than 100 days per contract year.

3. Room and board may be limited to semiprivate accommodations, unless a private room is considered medically necessary or semiprivate accommodations are not available.

4. Specialized treatment centers and independent kidney disease treatment centers are excluded.

5. Private duty nurses, television, and custodial care are excluded.

6. Admissions for rehabilitation and physical therapy are limited to 15 days per contract year.

(n) Prescribed drugs.—

1. Coverage shall include drugs prescribed for the treatment of illness or injury when prescribed by a licensed health practitioner acting within the scope of his or her practice.

2. Prescribed drugs may be limited to generics if available and brand name products if a generic substitution is not available, unless the prescribing licensed health practitioner indicates that a brand name is medically necessary.

3. Prescribed drugs covered under this section shall include all prescribed drugs covered under the Florida Medicaid program.

(o) Therapy services.—Covered services include rehabilitative services, including occupational, physical, respiratory, and speech therapies, with the following limitations:

1. Services must be for short-term rehabilitation where significant improvement in the enrollee's condition will result; and

2. Services shall be limited to not more than 24 treatment sessions within a 60-day period per episode or injury, with the 60-day period beginning with the first treatment.

(p) Transportation services.—Covered services include emergency transportation required in response to an emergency situation.

(q) Lifetime maximum.—Health benefits coverage obtained under ss. 409.810-409.820 shall pay an enrollee's covered expenses at a lifetime maximum of $1 million per covered child.

(r) Cost-sharing.—Cost-sharing provisions must comply with s. 409.816.

(s) Exclusions.—

1. Experimental or investigational procedures that have not been clinically proven by reliable evidence are excluded;

2. Services performed for cosmetic purposes only or for the convenience of the enrollee are excluded; and

3. Abortion may be covered only if necessary to save the life of the mother or if the pregnancy is the result of an act of rape or incest.

(t) Enhancements to minimum requirements.—

1. This section sets the minimum benefits that must be included in any health benefits coverage, other than Medicaid or Medikids coverage, offered under ss. 409.810–409.820. Health benefits coverage may include additional benefits not included under this subsection, but may not include benefits excluded under paragraph (s).

2. Health benefits coverage may extend any limitations beyond the minimum benefits described in this section.

Except for the Children's Medical Services network, the agency may not increase the premium assistance payment for either additional benefits provided beyond the minimum benefits described in this section or the imposition of less restrictive service limitations.

(u) Applicability of other state laws.—Health insurers, health maintenance organizations, and their agents are subject to the provisions of the Florida Insurance Code, except for any such provisions waived in this section.

1. Except as expressly provided in this section, a law requiring coverage for a specific health care service or benefit, or a law requiring reimbursement, utilization, or consideration of a specific category of licensed health care practitioner, does not apply to a health insurance plan policy or contract offered or delivered under ss. 409.810-409.820 unless that law is made expressly applicable to such policies or contracts.

2. Notwithstanding chapter 641, a health maintenance organization may issue contracts providing benefits equal to, exceeding, or actuarially equivalent to the benchmark benefit plan authorized by this section and may pay providers located in a rural county negotiated fees or Medicaid reimbursement rates for services provided to enrollees who are residents of the rural county.

Section 41. Section 409.816, Florida Statutes, is created to read:

409.816 Limitations on premiums and cost-sharing.—The following limitations on premiums and cost-sharing are established for the program.

(1) Enrollees who receive coverage under the Medicaid program may not be required to pay:

(a) Enrollment fees, premiums, or similar charges; or

(b) Copayments, deductibles, coinsurance, or similar charges.

(2) Enrollees in families with a family income equal to or below 150 percent of the federal poverty level, who are not receiving coverage under the Medicaid program, may not be required to pay:

(a) Enrollment fees, premiums, or similar charges that exceed the maximum monthly charge permitted under s. 1916(b)(1) of the Social Security Act; or

(b) Copayments, deductibles, coinsurance, or similar charges that exceed a nominal amount, as determined consistent with regulations referred to in s. 1916(a)(3) of the Social Security Act. However, such charges may not be imposed for preventive services, including well-baby and well-child care, age-appropriate immunizations, and routine hearing and vision screenings.

(3) Enrollees in families with a family income above 150 percent of the federal poverty level, who are not receiving coverage under the Medicaid program or who are not eligible under s. 409.814(5), may be required to pay enrollment fees, premiums, copayments, deductibles, coinsurance, or similar charges on a sliding scale related to income, except that the total annual aggregate cost-sharing with respect to all children in a family may not exceed 5 percent of the family's income. However, copayments, deductibles, coinsurance, or similar charges may not be imposed for preventive services, including well-baby and well-child care, age-appropriate immunizations, and routine hearing and vision screenings.

Section 42. Section 409.817, Florida Statutes, is created to read:

409.817 Approval of health benefits coverage; financial assistance.—In order for health insurance coverage to qualify for premium assistance payments for an eligible child under ss. 409.810-409.820, the health benefits coverage must:

(1) Be certified by the Department of Insurance under s. 409.818 as meeting, exceeding, or being actuarially equivalent to the benchmark benefit plan;

(2) Be guarantee issued;

(3) Be community rated;

(4) Not impose any preexisting condition exclusion for covered benefits; however, group health insurance plans may permit the imposition of a preexisting condition exclusion, but only insofar as it is permitted under s. 627.6561;

(5) Comply with the applicable limitations on premiums and cost-sharing in s. 409.816;

(6) Comply with the quality assurance and access standards developed under s. 409.820; and

(7) Establish periodic open enrollment periods, which may not occur more frequently than quarterly.

Section 43. Section 409.8175, Florida Statutes, is created to read:

409.8175 Delivery of services in rural counties.—A health maintenance organization or a health insurer may reimburse providers located in a rural county according to the Medicaid fee schedule for services provided to enrollees in rural counties if the provider agrees to accept such fee schedule.

Section 44. Section 409.8177, Florida Statutes, is created to read:

409.8177 Program evaluation.—The agency, in consultation with the Department of Health, the Department of Children and Family Services,

and the Florida Healthy Kids Corporation, shall by January 1 of each year submit to the Governor and the Legislature a report of the Florida Kidcare program. In addition to the items specified under s. 2108 of Title XXI of the Social Security Act, the report shall include an assessment of crowd-out and access to health care, as well as the following:

(1) An assessment of the operation of the program, including the progress made in reducing the number of uncovered low-income children.

(2) An assessment of the effectiveness in increasing the number of children with creditable health coverage.

(3) The characteristics of the children and families assisted under the program, including ages of the children, family income, and access to or coverage by other health insurance prior to the program and after disenrollment from the program.

(4) The quality of health coverage provided, including the types of benefits provided.

(5) The amount and level, including payment of part or all of any premium, of assistance provided.

(6) The average length of coverage of a child under the program.

(7) The program's choice of health benefits coverage and other methods used for providing child health assistance.

(8) The sources of nonfederal funding used in the program.

(9) An assessment of the effectiveness of Medikids, Children's Medical Services network, and other public and private programs in the state in increasing the availability of affordable quality health insurance and health care for children.

(10) A review and assessment of state activities to coordinate the program with other public and private programs.

(11) An analysis of changes and trends in the state that affect the provision of health insurance and health care to children.

(12) A description of any plans the state has for improving the availability of health insurance and health care for children.

(13) Recommendations for improving the program.

(14) Other studies as necessary.

Section 45. Section 409.818, Florida Statutes, is created to read:

409.818 Administration.—In order to implement ss. 409.810-409.820, the following agencies shall have the following duties:

(1) The Department of Children and Family Services shall:

(a) Develop a simplified eligibility application mail-in form to be used for determining the eligibility of children for coverage under the Florida Kidcare program, in consultation with the agency, the Department of Health, and the Florida Healthy Kids Corporation. The simplified eligibility application form must include an item that provides an opportunity for the applicant to indicate whether coverage is being sought for a child with special health care needs. Families applying for children's Medicaid coverage must also be able to use the simplified application form without having to pay a premium.

(b) Establish and maintain the eligibility determination process under the program except as specified in subsection (5). The department shall directly, or through the services of a contracted third-party administrator, establish and maintain a process for determining eligibility of children for coverage under the program. The eligibility determination process must be used solely for determining eligibility of applicants for health benefits coverage under the program. The eligibility determination process must include an initial determination of eligibility for any coverage offered under the program, as well as a redetermination or reverification of eligibility each subsequent 6 months. Effective January 1, 1999, a child who has not attained the age of 5 and who has been determined eligible for the Medicaid program is eligible for coverage for 12 months without a redetermination or reverification of eligibility. In conducting an eligibility determination, the department shall determine if the child has special health care needs.

(c) Inform program applicants about eligibility determinations and provide information about eligibility of applicants to Medicaid, Medikids, the Children's Medical Services network, and the Florida Healthy Kids Corporation, and to insurers and their agents, through a centralized coordinating office.

(d) Adopt rules necessary for conducting program eligibility functions.

(2) The Department of Health shall:

(a) Design an eligibility intake process for the program, in coordination with the Department of Children and Family Services, the agency, and the Florida Healthy Kids Corporation. The eligibility intake process may include local intake points that are determined by the Department of Health in coordination with the Department of Children and Family Services.

(b) Design and implement program outreach activities under s. 409.819.

(c) Chair a state-level coordinating council to review and make recommendations concerning the implementation and operation of the program. The coordinating council shall include representatives from the department, the Department of Children and Family Services, the agency, the Florida Healthy Kids Corporation, the Department of Insurance, local government, health insurers, health maintenance organizations, health care providers, families participating in the program, and organizations representing low-income families.

(d) In consultation with the Florida Healthy Kids Corporation and the Department of Children and Family Services, establishing a toll-free telephone line to assist families with questions about the program.

(e) Adopt rules necessary to implement outreach activities.

(3) The Agency for Health Care Administration, under the authority granted in s. 409.914(1), shall:

(a) Calculate the premium assistance payment necessary to comply with the premium and cost-sharing limitations specified in s. 409.816. The premium assistance payment for each enrollee in a health insurance plan participating in the Florida Healthy Kids Corporation shall equal the premium approved by the Florida Healthy Kids Corporation and the Department of Insurance pursuant to ss. 627.410 and 641.31, less any enrollee's share of the premium established within the limitations specified in s. 409.816. The premium assistance payment for each enrollee in an employer-sponsored health insurance plan approved under ss. 409.810–409.820 shall equal the premium for the plan adjusted for any benchmark benefit plan actuarial equivalent benefit rider approved by the Department of Insurance pursuant to ss. 627.410 and 641.31, less any enrollee's share of the premium established within the limitations specified in s. 409.816. In calculating the premium assistance payment levels for children with family coverage, the agency shall set the premium assistance payment levels for each child proportionately to the total cost of family coverage.

(b) Annually calculate the program enrollment ceiling based on estimated per-child premium assistance payments and the estimated appropriation available for the program.

(c) Make premium assistance payments to health insurance plans on a periodic basis. The agency may use its Medicaid fiscal agent or a contracted third-party administrator in making these payments. The agency may require health insurance plans that participate in the Medikids program or employer-sponsored group health insurance to collect premium payments from an enrollee's family. Participating health insurance plans shall report premium payments collected on behalf of enrollees in the program to the agency in accordance with a schedule established by the agency.

(d) Monitor compliance with quality assurance and access standards developed under s. 409.820.

(e) Establish a mechanism for investigating and resolving complaints and grievances from program applicants, enrollees, and health benefits coverage providers, and maintain a record of complaints and confirmed problems. In the case of a child who is enrolled in a health maintenance organization, the agency must use the provisions of s. 641.511 to address grievance reporting and resolution requirements.

(f) Approve health benefits coverage for participation in the program, following certification by the Department of Insurance under subsection (4).

(g) Adopt rules necessary for calculating premium assistance payment levels, calculating the program enrollment ceiling, making premium assistance payments, monitoring access and quality assurance standards, investigating and resolving complaints and grievances, administering the Medikids program, and approving health benefits coverage.

The agency is designated the lead state agency for Title XXI of the Social Security Act for purposes of receipt of federal funds, for reporting purposes, and for ensuring compliance with federal and state regulations and rules.

(4) The Department of Insurance shall certify that health benefits coverage plans that seek to provide services under the Florida Kidcare program, except those offered through the Florida Healthy Kids Corporation or the Children's Medical Services network, meet, exceed, or are actuarially equivalent to the benchmark benefit plan and that health insurance plans will be offered at an approved rate. In determining actuarial equivalence of benefits coverage, the Department of Insurance and health insurance plans must comply with the requirements of s. 2103 of Title XXI of the Social Security Act. The department shall adopt rules necessary for certifying health benefits coverage plans.

(5) The Florida Healthy Kids Corporation shall retain its functions as authorized in s. 624.91, including eligibility determination for participation in the Healthy Kids program.

(6) The agency, the Department of Health, the Department of Children and Family Services, the Florida Healthy Kids Corporation, and the Department of Insurance, after consultation with and approval of the Speaker of the House of Representatives and the President of the Senate, are authorized to make program modifications that are necessary to overcome any objections of the United States Department of Health and Human Services to obtain approval of the state's child health insurance plan under Title XXI of the Social Security Act.

Section 46. Section 154.508, Florida Statutes, is transferred, renumbered as section 409.819, Florida Statutes, and amended to read:

409.819 ~~154.508~~ Identification of low-income, uninsured children; determination of ~~Medicaid~~ eligibility *for the Florida Kidcare program*; alternative health care information.—The *Department of Health* ~~Agency for Health Care Administration~~ shall develop a program, in conjunction with the Department of Education, the Department of Children and Family Services, *the Agency for Health Care Administration, the Florida Healthy Kids Corporation* ~~the Department of Health~~, local *governments, employers* ~~school districts~~, and other stakeholders to identify low-income, uninsured children and, to the extent possible and subject to appropriation, refer them to the Department of Children and Family Services for ~~a Medicaid~~ eligibility determination and provide parents with information about *choices* ~~alternative sources~~ of health *benefits coverage under the Florida Kidcare program* ~~care~~. *These activities shall include, but not be limited to: training community providers in effective methods of outreach; conducting public information campaigns designed to publicize the Florida Kidcare program, the eligibility requirements of the program, and the procedures for enrollment in the program; and maintaining public awareness of the Florida Kidcare program. Special emphasis shall be placed on the identification of minority children for referral to and participation in the Florida Kidcare program.*

Section 47. Section 409.820, Florida Statutes, is created to read:

409.820 Quality assurance and access standards.—Except for Medicaid, the Department of Health, in consultation with the agency and the Florida Healthy Kids Corporation, shall develop a minimum set of quality assurance and access standards for all program components. The standards must include a process for granting exceptions to specific requirements for quality assurance and access. Compliance with the standards shall be a condition of program participation by health benefits coverage providers. These standards shall comply with the provisions of chapters 409 and 641 and Title XXI of the Social Security Act.

Section 48. *The following performance measures and standards are adopted for the Florida Kidcare program:*

(1) The total number of previously uninsured children who receive health benefits coverage as a result of state activities under Title XXI of the Social Security Act: 254,000 uninsured children expected to obtain coverage during the 1998-1999 fiscal year.

(a) The number of children enrolled in the Medicaid program as a result of eligibility expansions under Title XXI of the Social Security Act: 29,500 children enrolled in Medicaid under new eligibility groups during the 1998-1999 fiscal year.

(b) The number of children enrolled in the Medicaid program as a result of outreach efforts under Title XXI of the Social Security Act who are eligible for Medicaid but who have not enrolled in the program: 80,000 children previously eligible for Medicaid, but not enrolled in Medicaid, who enroll in Medicaid during the 1998-1999 fiscal year.

(c) The number of uninsured children enrolled in Medikids under Title XXI of the Social Security Act: 17,000 children enrolled in Medikids during the 1998-1999 fiscal year.

(d) The number of uninsured children added to the enrollment for the Florida Healthy Kids Corporation program under Title XXI of the Social Security Act: 70,000 additional children enrolled in the Florida Healthy Kids Corporation program during the 1998-1999 fiscal year.

(e) The number of uninsured children enrolled in employer-sponsored group health insurance coverage under Title XXI of the Social Security Act: 48,000 uninsured children enrolled in health insurance coverage during the 1998-1999 fiscal year.

(f) The number of uninsured children enrolled in the Children's Medical Services network under Title XXI of the Social Security Act: 9,500 uninsured children enrolled in the Children's Medical Services network during the 1998-1999 fiscal year.

(2) The percentage of uninsured children in this state as of July 1, 1998, who receive health benefits coverage under the Florida Kidcare program: 30.9 percent of uninsured children enrolled in the Florida Kidcare program during the 1998-1999 fiscal year.

(3) The percentage of children enrolled in the Florida Kidcare program with up-to-date immunizations: 80 percent of enrolled children with up-to-date immunizations.

(4) The percentage of compliance with the standards established in the Guidelines for Health Supervision of Children and Youth as developed by the American Academy of Pediatrics for children eligible for the Florida Kidcare program and served under:

(a) Medicaid;

(b) Medikids;

(c) The Florida Healthy Kids Corporation program;

(d) Employer-sponsored group health insurance plans; and

(e) The Children's Medical Services network.

For each category of coverage, the health care provided is in compliance with the health supervision standards for 80 percent of enrolled children.

(5) The perception of the enrollee or the enrollee's family concerning coverage provided to children enrolled in the Florida Kidcare program and served under:

(a) Medicaid;

(b) Medikids;

(c) Florida Healthy Kids Corporation;

(d) Employer-sponsored group health insurance plans; and

(e) The Children's Medical Services network.

For each category of coverage, 90 percent of the enrollees or the enrollee families indicate satisfaction with the care provided under the program.

Section 49. *The Agency for Health Care Administration shall conduct a study of the feasibility of extending presumptive eligibility for Medicaid*

to children who have not attained the age of 19. The study shall assess whether families delay seeking health care services or health care coverage because of the lack of presumptive eligibility. The agency shall report its findings to the President of the Senate, the Speaker of the House of Representatives, and the chairpersons of the respective health care committees no later than December 31, 1998.

Section 50. *For fiscal year 1998–1999, the enrollment ceiling for the non–Medicaid portion of the Florida Kidcare program is 270,000 children. Thereafter, the enrollment ceiling shall be established in the General Appropriations Act or general law.*

Section 51. Subsections (6) and (7) are added to section 409.904, Florida Statutes, to read:

409.904 Optional payments for eligible persons.—The agency may make payments for medical assistance and related services on behalf of the following persons who are determined to be eligible subject to the income, assets, and categorical eligibility tests set forth in federal and state law. Payment on behalf of these Medicaid eligible persons is subject to the availability of moneys and any limitations established by the General Appropriations Act or chapter 216.

(6) A child born before October 1, 1983, living in a family that has an income which is at or below 100 percent of the current federal poverty level, who has attained the age of 6, but has not attained the age of 19, and who would be eligible in s. 409.903(6), if the child had been born on or after such date. In determining the eligibility of such a child, an assets test is not required.

(7) A child who has not attained the age of 19 who has been determined eligible for the Medicaid program is deemed to be eligible for a total of 6 months, regardless of changes in circumstances other than attainment of the maximum age. Effective January 1, 1999, a child who has not attained the age of 5 and who has been determined eligible for the Medicaid program is deemed to be eligible for a total of 12 months regardless of changes in circumstances other than attainment of the maximum age.

Section 52. Subsections (11) through (22) of section 409.906, Florida Statutes, are renumbered as subsections (12) through (23), respectively, and a new subsection (11) is added to that section to read:

409.906 Optional Medicaid services.—Subject to specific appropriations, the agency may make payments for services which are optional to the state under Title XIX of the Social Security Act and are furnished by Medicaid providers to recipients who are determined to be eligible on the dates on which the services were provided. Any optional service that is provided shall be provided only when medically necessary and in accordance with state and federal law. Nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. Optional services may include:

(11) HEALTHY START SERVICES.—The agency may pay for a continuum of risk-appropriate medical and psychosocial services for the Healthy Start program in accordance with a federal waiver. The agency may not implement the federal waiver unless the waiver permits the state to limit enrollment or the amount, duration, and scope of services to ensure that expenditures will not exceed funds appropriated by the Legislature or available from local sources.

Section 53. Section 409.9126, Florida Statutes, is amended to read:

409.9126 Children with special health care needs.—

~~(1) As used in this section:~~

~~(a) "Children's Medical Services network" means an alternative service network that includes health care providers and health care facilities specified in chapter 391 and ss. 383.15-383.21, 383.216, and 415.5055.~~

~~(b) "Children with special health care needs" means those children whose serious or chronic physical or developmental conditions require extensive preventive and maintenance care beyond that required by typically healthy children. Health care utilization by these children exceeds the statistically expected usage of the normal child matched for chronological age and often needs complex care requiring multiple providers, rehabilitation services, and specialized equipment in a number of different settings.~~

~~(2) The Legislature finds that Medicaid-eligible children with special health care needs require a comprehensive, continuous, and coordinated system of health care that links community-based health care with multidisciplinary, regional, and tertiary care. The Legislature finds that Florida's Children's Medical Services program provides a full continuum of coordinated, comprehensive services for children with special health care needs.~~

(1)~~(3)~~ Except as provided in *subsection (4)* ~~subsections (8) and (9)~~, children eligible for Children's Medical Services who receive Medicaid benefits, and other Medicaid-eligible children with special health care needs, shall be exempt from the provisions of s. 409.9122 and shall be served through the Children's Medical Services network *established in chapter 391.*

(2)~~(4)~~ The Legislature directs the agency to apply to the federal Health Care Financing Administration for a waiver to assign to the Children's Medical Services network all Medicaid-eligible children who meet the criteria for participation in the Children's Medical Services program ~~as specified in s. 391.021(2),~~ and other Medicaid-eligible children with special health care needs.

~~(5) The Children's Medical Services program shall assign a qualified MediPass primary care provider from the Children's Medical Services network who shall serve as the gatekeeper and who shall be responsible for the provision or authorization of all health services to a child who has been assigned to the Children's Medical Services network by the Medicaid program.~~

(3)~~(6)~~ Services provided through the Children's Medical Services network shall be reimbursed on a fee-for-service basis and shall utilize a primary care case management process. *However, effective July 1, 1999, reimbursement to the Children's Medical Services program for services provided to Medicaid-eligible children with special health care needs through the Children's Medical Services network shall be on a capitated basis.*

~~(7) The agency, in consultation with the Children's Medical Services program, shall develop by rule quality-of-care and service integration standards.~~

~~(8) The agency may issue a request for proposals, based on the quality-of-care and service integration standards, to allow managed care plans that have contracts with the Medicaid program to provide services to Medicaid-eligible children with special health care needs.~~

(4)~~(9)~~ The agency *may* ~~shall~~ approve requests to provide services to Medicaid-eligible children with special health care needs from managed care plans that meet *access,* quality-of-care, *network,* and service integration standards and are in good standing with the agency. The agency shall monitor on a quarterly basis managed care plans which have been approved to provide services to Medicaid-eligible children with special health care needs. *The agency may determine the number of enrollment slots approved for a managed care plan based on the managed care plan's network capacity to serve children with special health care needs.*

(5)~~(10)~~ The agency, in consultation with the Department of Health ~~and Rehabilitative Services~~, shall adopt rules that address Medicaid requirements for referral, enrollment, and disenrollment of children with special health care needs who are enrolled in Medicaid managed care plans and who may benefit from the Children's Medical Services network.

~~(11) The Children's Medical Services network may contract with school districts participating in the certified school match program pursuant to ss. 236.0812 and 409.908(21) for the provision of school-based services, as provided for in s. 409.9071, for Medicaid-eligible children who are enrolled in the Children's Medical Services network.~~

~~(12) After 1 complete year of operation, the agency shall conduct an evaluation of the Children's Medical Services network. The evaluation shall include, but not be limited to, an assessment of whether the use of the Children's Medical Services network is less costly than the provision of the services would have been in the Medicaid fee-for-service program. The evaluation also shall include an assessment of patient satisfaction~~

~~with the Children's Medical Services network, an assessment of the quality of care delivered through the network, and recommendations for further improving the performance of the network. The agency shall report the evaluation findings to the Governor and the chairpersons of the appropriations and health care committees of each chamber of the Legislature.~~

Section 54. Section 624.91, Florida Statutes, is amended to read:

624.91 The Florida Healthy Kids Corporation Act.—

(1) SHORT TITLE.—This section may be cited as the "William G. 'Doc' Myers Healthy Kids Corporation Act."

(2) LEGISLATIVE INTENT.—

(a) The Legislature finds that increased access to health care services could improve children's health and reduce the incidence and costs of childhood illness and disabilities among children in this state. Many children do not have *comprehensive, affordable health care* ~~preventive~~ services available ~~or funded, and for those who do, lack of access is a restriction to getting service~~. It is the intent of the Legislature that *the Florida Healthy Kids* ~~a nonprofit~~ Corporation ~~be organized to facilitate a program to bring preventive health care services to children, if necessary through the use of school facilities in this state when more appropriate sites are unavailable, and to~~ provide comprehensive health insurance coverage to such children. ~~A goal for~~ The corporation is *encouraged* to cooperate with any existing *health* ~~preventive~~ service programs funded by the public or the private sector.

(b) It is the intent of the Legislature that the Florida Healthy Kids Corporation serve as one of several providers of services to children eligible for medical assistance under Title XXI of the Social Security Act. Although the corporation may serve other children, the Legislature intends the primary recipients of services provided through the corporation be school-age children with a family income below 200 percent of the federal poverty level, who do not qualify for Medicaid. It is also the intent of the Legislature that state and local government Florida Healthy Kids funds, to the extent permissible under federal law, be used to obtain matching federal dollars.

(3) NONENTITLEMENT.—Nothing in this section shall be construed as providing an individual with an entitlement to health care services. No cause of action shall arise against the state, the Florida Healthy Kids Corporation, or a unit of local government for failure to make health services available under this section.

(4)~~(3)~~ CORPORATION AUTHORIZATION, DUTIES, POWERS.—

(a) *There is created* ~~The Legislature hereby creates~~ the Florida Healthy Kids Corporation, a not-for-profit corporation which *operates* ~~shall operate~~ on sites ~~to be~~ designated by the corporation.

(b) The Florida Healthy Kids Corporation shall phase in a program to:

1. Organize school children groups to facilitate the provision of ~~preventive health care services to children and to provide~~ comprehensive health insurance coverage to children;

2. Arrange for the collection of any family, *local contributions,* or employer payment or premium, in an amount to be determined by the board of directors, ~~from all participant families or employers~~ to provide for payment *of* ~~for preventive health care services or~~ premiums for comprehensive insurance coverage and for the actual or estimated administrative expenses ~~incurred during the period for which family or employer payments are made~~;

3. Establish the administrative and accounting procedures for the operation of the corporation;

4. Establish, with consultation from appropriate professional organizations, standards for preventive health services and providers and comprehensive insurance benefits appropriate to children; *provided that such standards for rural areas shall not limit primary care providers to board-certified pediatricians;*

5. Establish eligibility criteria which children must meet in order to participate in the program;

6. Establish procedures under which applicants to and participants in the program may have grievances reviewed by an impartial body and reported to the board of directors of the corporation;

7. Establish participation criteria and, if appropriate, contract with an authorized insurer, health maintenance organization, or insurance administrator to provide administrative services to the corporation;

8. Establish enrollment criteria which shall include penalties or waiting periods of not fewer than 60 days for reinstatement of coverage upon voluntary cancellation for nonpayment of family premiums;

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

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

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

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

13.~~11.~~ As appropriate, enter into contracts with local school boards or other agencies to provide onsite information, enrollment, and other services necessary to the operation of the corporation; ~~and~~

14.~~12.~~ Provide a report on an annual basis to the Governor, Insurance Commissioner, Commissioner of Education, Senate President, Speaker of the House of Representatives, and Minority Leaders of the Senate and the House of Representatives;~~.~~

15.~~13.~~ *Each fiscal year, establish a maximum number of participants by county, on a statewide basis, who may enroll in the program without the benefit of local matching funds. Thereafter, the corporation may establish local matching requirements for supplemental participation in the program. The corporation may vary local matching requirements and enrollment by county depending on factors which may influence the generation of local match, including, but not limited to, population density, per capita income, existing local tax effort, and other factors. The corporation also may accept in-kind match in lieu of cash for the local match requirement to the extent allowed by Title XXI of the Social Security Act; and* ~~For the 1996-1997 fiscal year only, funds may be appropriated to the Florida Healthy Kids Corporation to organize school children groups to facilitate the provision of preventive health care services to children at sites in addition to those allowed in subparagraph 1. This subparagraph is repealed on July 1, 1997.~~

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

(c) Coverage under the corporation's program is secondary to any other available private coverage held by the participant child or family member. The corporation may establish procedures for coordinating benefits under this program with benefits under other public and private coverage.

(d) The Florida Healthy Kids Corporation shall be a private corporation not for profit, organized pursuant to chapter 617, and shall have all powers necessary to carry out the purposes of this act, including, but not limited to, the power to receive and accept grants, loans, or advances of

funds from any public or private agency and to receive and accept from any source contributions of money, property, labor, or any other thing of value, to be held, used, and applied for the purposes of this act.

(5)~~(4)~~ BOARD OF DIRECTORS.—

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

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

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

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

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

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

6. One member appointed by the Insurance Commissioner from among three members nominated by the Florida Hospital Association;

7. Two members, appointed by the Insurance Commissioner, who are representatives of authorized health care insurers or health maintenance organizations;

8. One member, appointed by the Insurance Commissioner, who represents the Institute for Child Health Policy;

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

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

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

~~In order to provide for staggered terms, the initial term of the members appointed under subparagraphs 1., 4., and 6. shall be for 2 years and the initial term of the members appointed under subparagraphs 2., 5., 8., and 10. shall be for 4 years.~~

(b) A member of the board of directors may be removed by the official who appointed that member. The board shall appoint an executive director, who is responsible for other staff authorized by the board.

(c) Board members are entitled to receive, from funds of the corporation, reimbursement for per diem and travel expenses as provided by s. 112.061.

(d) There shall be no liability on the part of, and no cause of action shall arise against, any member of the board of directors, or its employees or agents, for any action they take in the performance of their powers and duties under this act.

(6)~~(5)~~ LICENSING NOT REQUIRED; FISCAL OPERATION.—

(a) The corporation shall not be deemed an insurer. The officers, directors, and employees of the corporation shall not be deemed to be agents of an insurer. Neither the corporation nor any officer, director, or employee of the corporation is subject to the licensing requirements of the insurance code or the rules of the Department of Insurance. However, ~~the Department of Insurance may require that~~ any marketing representative utilized and compensated by the corporation *must* be appointed as a representative of the insurers or health services providers with which the corporation contracts.

(b) The board has complete fiscal control over the corporation and is responsible for all corporate operations.

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

(7)~~(6)~~ ACCESS TO RECORDS; CONFIDENTIALITY; PENALTIES.—Notwithstanding any other laws to the contrary, the Florida Healthy Kids Corporation shall have access to the medical records of a student upon receipt of permission from a parent or guardian of the student. Such medical records may be maintained by state and local agencies. Any identifying information, including medical records and family financial information, obtained by the corporation pursuant to this subsection is confidential and is exempt from the provisions of s. 119.07(1). Neither the corporation nor the staff or agents of the corporation may release, without the written consent of the participant or the parent or guardian of the participant, to any state or federal agency, to any private business or person, or to any other entity, any confidential information received pursuant to this subsection. A violation of this subsection is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 55. *(1) Sections 391.031 and 391.056, Florida Statutes, are hereby repealed.*

(2) Section 624.92, Florida Statutes, as created by section 9 of chapter 97-260, Laws of Florida, is hereby repealed.

Section 56. *The provisions of this act which would require changes to contracts in existence on June 30, 1998, between the Florida Healthy Kids Corporation and its contracted providers shall be applied to such contracts upon the renewal of the contracts, but not later than July 1, 2000.*

Section 57. *Sections 409.810 through 409.820, Florida Statutes, as created by this act, are repealed, subject to prior legislative review, on the first July 1 occurring at least 1 year after the effective date of an act of the United States Congress or the federal Health Care Financing Administration which:*

(1) Reduces Florida's federal matching rate under Title XXI of the Social Security Act to less than 65 percent federal match; or

(2) Reduces the federal funds allotted to Florida under Title XXI of the Social Security Act to less than $250 million annually.

Section 58. This act shall take effect July 1 of the year in which enacted.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to health care; directing the Agency for Health Care Administration to seek a federal waiver for the Healthy Start Program; amending s. 391.011, F.S.; providing a short title; amending s. 391.016, F.S.; providing legislative intent relating to the Children's Medical Services program; amending s. 391.021, F.S.; providing definitions; creating s. 391.025, F.S.; providing for applicability and scope; amending s. 391.026, F.S.; providing powers and duties of the Department of Health; creating s. 391.028, F.S., and renumbering and amending s. 391.051, F.S.; providing for administration of the program; creating s. 391.029, F.S., and renumbering and amending ss. 391.046 and 391.07, F.S.; providing program eligibility; creating s. 391.031, F.S.; establishing benefits; creating s. 391.035, F.S., and renumbering and amending ss. 391.036 and 391.041, F.S.; establishing provider qualifications; creating s. 391.045, F.S.; providing for provider reimbursement; creating s. 391.047, F.S.; establishing responsibility for payments on behalf of program participants when other parties are liable; creating s. 391.055, F.S.; establishing service delivery systems; creating s. 391.065, F.S.; providing for health care provider agreements; creating s. 391.071, F.S.; providing for quality of care requirements; creating s. 391.081, F.S.; establishing grievance reporting and resolution requirements; creating s. 391.095, F.S.; providing for program integrity; renumbering and amending s. 391.061, F.S.; providing for research and evaluation; renumbering ss. 391.201-391.217, F.S., relating to prescribed pediatric extended care centers; designating said sections as pt. IX of ch. 400, F.S.; amending ss. 391.206 and 391.217, F.S.; conforming cross-references; designating ss. 391.221, 391.222, and 391.223, F.S., as pt. II of ch. 391, F.S., entitled "Children's Medical Services Councils and Panels"; creating s. 391.221, F.S.; establishing the Statewide Children's Medical Services Network Advisory Council; renumbering and amending s. 391.091,

F.S., relating to the Cardiac Advisory Council; deleting meeting and reporting requirements; creating s. 391.223, F.S.; providing for technical advisory panels; amending ss. 391.301, 391.303, 391.304, 391.305, and 391.307, F.S.; revising provisions relating to developmental evaluation and intervention programs; amending s. 408.701, F.S.; conforming cross-references; creating s. 409.810, F.S.; providing a short title; creating s. 409.811, F.S.; providing definitions; creating s. 409.812, F.S.; creating and establishing the purpose of the Florida Kidcare program; creating s. 409.813, F.S.; specifying program components; specifying that certain program components are not an entitlement; creating s. 409.8132, F.S.; creating and establishing the purpose of the Medikids program component; providing for administration by the Agency for Health Care Administration; exempting Medikids from licensure under the Florida Insurance Code; providing applicability of certain Medicaid requirements; establishing benefit requirements; providing for eligibility; providing enrollment requirements; authorizing penalties for nonpayment of premiums; creating s. 409.8134, F.S.; providing for program enrollment and expenditure ceilings; creating s. 409.8135, F.S., providing behavior health benefits to non-Medicaid-eligible children with serious emotional needs; creating s. 409.814, F.S.; providing eligibility requirements; creating s. 409.815, F.S.; establishing requirements for health benefits coverage under the Florida Kidcare program; creating s. 409.816, F.S.; providing for limitations on premiums and cost-sharing; creating s. 409.817, F.S.; providing for approval of health benefits coverage as a condition of financial assistance; creating s. 409.8175, F.S.; authorizing health maintenance organizations and health insurers to reimburse providers in rural counties according to the Medicaid fee schedule; creating 409.8177, F.S.; providing for program evaluation; requiring annual reports; creating s. 409.818, F.S.; providing for program administration; specifying duties of the Department of Children and Family Services, the Department of Health, the Agency for Health Care Administration, the Department of Insurance, and the Florida Healthy Kids Corporation; authorizing certain program modifications related to federal approval; renumbering and amending s. 154.508, F.S., relating to outreach activities to identify low-income, uninsured children; creating s. 409.820, F.S.; requiring the Department of Health to develop standards for quality assurance and program access; establishing performance measures and standards for the Florida Kidcare program; directing the Agency for Health Care Administration to conduct a study of Medicaid presumptive eligibility and report its findings to the Legislature; providing an enrollment ceiling; amending s. 409.904, F.S.; expanding Medicaid optional eligibility to certain children and providing for continuous eligibility; amending s. 409.906, F.S.; authorizing the Agency for Health Care Administration to pay for certain services for the Healthy Start program pursuant to a federal waiver; providing for limitations; amending s. 409.9126, F.S., relating to the provision of Children's Medical Services network services for children with special health care needs; deleting definitions; deleting standards for referral of certain children to the network; providing for certain provider reimbursement; amending s. 624.91, F.S., relating to the Florida Healthy Kids Corporation; providing legislative intent; specifying that the program is not an entitlement; revising standards; providing for competitive bids for health plans; providing additional duties; repealing ss. 391.031 and 391.056, F.S., relating to patient care centers and district children's medical program supervisors; repealing s. 624.92, F.S., relating to application for a Medicaid waiver for funds to expand the Florida Healthy Kids Corporation; providing that the provisions of this act do not apply to certain existing contracts; providing for future repeal and review of ss. 409.810-409.820, F.S., relating to the "Florida Kidcare Act," based on specified changes in federal policy; providing an effective date.

On motion by Senator Brown-Waite, by two-thirds vote **CS for HB 4415** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Madam President	Clary	Grant	Klein
Bankhead	Cowin	Gutman	Kurth
Bronson	Crist	Hargrett	Latvala
Brown-Waite	Diaz-Balart	Harris	Laurent
Burt	Dudley	Holzendorf	Lee
Campbell	Dyer	Horne	McKay
Casas	Forman	Jones	Meadows
Childers	Geller	Kirkpatrick	Ostalkiewicz
Rossin	Silver	Thomas	Williams
Scott	Sullivan	Turner	

Nays—None

CS for SB 1114—A bill to be entitled An act relating to contaminated site rehabilitation tax credits; creating s. 199.1055, F.S.; providing for a contaminated site rehabilitation tax credit against the intangible personal property tax; authorizing the Department of Revenue to adopt rules; amending s. 220.02, F.S.; providing for an additional cross-reference; creating s. 220.1845, F.S.; providing for a contaminated site rehabilitation tax credit against the corporate income tax; authorizing the Department of Revenue to adopt rules; creating s. 376.30781, F.S.; providing for a partial tax credit for the rehabilitation of drycleaning-solvent-contaminated sites and brownfield sites; providing for the Department of Environmental Protection to allocate such partial credits; providing procedures for application for tax credits; providing for a nonrefundable review fee; providing verification requirements; authorizing the Department of Environmental Protection to adopt rules; providing for revocation or modification of eligibility for tax credit under certain conditions; amending s. 213.053, F.S.; providing for information-sharing; providing an effective date.

—was read the second time by title.

Senators Harris, Turner and Kirkpatrick offered the following amendment which was moved by Senator Harris and adopted:

Amendment 1 (with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Present subsection (4) of section 414.026, Florida Statutes, is redesignated as subsection (6) and amended, and new subsections (4) and (5) are added to that section, to read:

414.026 WAGES Program State Board of Directors.—

(4) The WAGES Program State Board of Directors must approve the WAGES State Plan, the operating budget and any amendments thereto, and any WAGES-related proposed administrative rules. In addition, state agencies charged by law with implementation of the WAGES Program and the Workforce Development Board of Enterprise Florida, Inc., shall collaborate with the staff of the WAGES Program State Board of Directors on all WAGES-related policies, requests for proposals, and related directives.

(5)(a) The Governor, by executive order, may designate the WAGES Program State Board of Directors as a nonprofit corporation for the purpose of receiving federal funds and providing oversight and maintenance to the WAGES Program and in administering the State Plans for Aid and Services to Needy Families with Children under 42 U.S.C. s. 602, as amended. The nonprofit corporation shall be known as WAGES, Inc., and may, by executive order, be designated as the state agency required by 42 U.S.C. s. 602(a)(3).

(b) The executive order designating the nonprofit corporation must include provisions for the governance and organizational structure of the corporation which are consistent with 42 U.S.C. s. 602(a)(5).

(c) The nonprofit corporation shall be organized under chapter 617 and shall possess all the powers granted by that chapter.

(d) The designated nonprofit corporation is eligible to use the state communications system in accordance with s. 282.105(3).

(e) Pursuant to the applicable provisions of chapter 284, the Division of Risk Management of the Department of Insurance may insure the nonprofit corporation under the same general terms and conditions as other nonprofit, statutory corporations.

(f) All departments, officers, agencies, coalitions, and institutions of the state shall cooperate with the designated nonprofit corporation in the performance of its duties.

(g) The designated nonprofit corporation shall make provisions for an annual postaudit of its financial accounts by an independent certified public accountant. The annual audit shall be submitted to the Executive Office of the Governor for review.

(h) WAGES, Inc., shall make all arrangements and fulfill all legal conditions to become a nonprofit corporation.

(i) The nonprofit corporation shall make available to the public, upon request, copies of 42 U.S.C. s. 602, as amended; applicable state laws; and any executive orders establishing WAGES, Inc.

(j) The nonprofit corporation is subject to the provisions of chapter 119, relating to public records, and those provisions of chapter 286 relating to public meetings and records.

(k) The nonprofit corporation is authorized to hire an executive director and appropriate staff. The nonprofit corporation shall annually, by February 1, provide the Legislature with a list of staff and salaries.

(6)~~(4)~~ This section expires June 30, *2002* ~~1999~~, and shall be reviewed by the Legislature prior to that date. In its review, the Legislature shall assess the status of the WAGES Program and shall determine if the responsibility for administering the program should be transferred to other state agencies.

Section 2. Section 414.028, Florida Statutes, is amended to read:

414.028 Local WAGES coalitions.—The WAGES Program State Board of Directors shall create and charter local WAGES coalitions to plan and coordinate the delivery of services under the WAGES Program at the local level. The boundaries of the service area for a local WAGES coalition shall conform to the boundaries of the service area for the regional workforce development board established under the Enterprise Florida workforce development board. The local delivery of services under the WAGES Program shall be coordinated, to the maximum extent possible, with the local services and activities of the local service providers designated by the regional workforce development boards.

(1)(a) Each local WAGES coalition must have a minimum of 11 members, of which at least one-half must be from the business community. The composition of the coalition membership must generally reflect the racial, gender, and ethnic diversity of the community as a whole. All members shall be appointed to 3-year terms. The membership of each coalition must include:

1. Representatives of the principal entities that provide funding for the employment, education, training, and social service programs that are operated in the service area, including, but not limited to, representatives of local government, the regional workforce development board, and the United Way.

2. A representative of the health and human services board.

3. A representative of a community development board.

4. Three representatives of the business community who represent a diversity of sizes of businesses.

5. Representatives of other local planning, coordinating, or service-delivery entities.

6. A representative of a grassroots community or economic development organization that serves the poor of the community.

(b) *A person may be a member of a local WAGES coalition or a combined WAGES coalition as provided in subsection (2) regardless of whether the member, or an organization represented by a member, could benefit financially from transactions of the coalition. However, if the coalition enters into a contract with an organization or individual represented on the coalition, the contract must be approved by a two-thirds vote of the entire board, and the board member who could benefit financially from the transaction must abstain from voting. A board member must disclose any such conflict in a manner that is approved by the WAGES Program State Board of Directors and is consistent with the procedures outlined in s. 112.3143.* ~~A representative of an agency or entity that could benefit financially from funds appropriated under the WAGES Program may not be a member of a local WAGES coalition.~~

(c) A member of the board of a public or private educational institution may not serve as a member of a local WAGES coalition.

(d) A representative of any county or municipal governing body that elects to provide services through the local WAGES coalition shall be an ex officio, nonvoting member of the coalition.

(e) A representative of a county health department or a representative of a healthy start coalition shall serve as an ex officio, nonvoting member of the coalition.

(f) This subsection does not prevent a local WAGES coalition from extending regular, voting membership to not more than one representative of a county health department and not more than one representative of a healthy start coalition.

(2) A local WAGES coalition and a regional workforce development board may be combined into one board if the membership complies with subsection (1), and if the membership of the combined board meets the requirements of Pub. L. No. 97-300, the federal Job Training Partnership Act, as amended, and with any law delineating the membership requirements for the regional workforce development boards. ~~Notwithstanding paragraph (1)(b), in a region in which the duties of the two boards are combined, a person may be a member of the WAGES coalition even if the member, or the member's principal, could benefit financially from transactions of the coalition. However, members must recuse themselves from voting on all matters from which they or their principals could benefit financially. Failure to recuse on any such vote will constitute grounds for immediate removal from the local WAGES coalition.~~

(3) The statewide implementation plan prepared by the WAGES Program State Board of Directors shall prescribe and publish the process for chartering the local WAGES coalitions.

(4) Each local WAGES coalition shall perform the planning, coordination, and oversight functions specified in the statewide implementation plan, including, but not limited to:

(a) Developing a program and financial plan to achieve the performance outcomes specified by the WAGES Program State Board of Directors for current and potential program participants in the service area. The plan must reflect the needs of service areas for seed money to create programs that assist children of WAGES participants. *The plan must also include provisions for providing services for victims of domestic violence.*

(b) Developing a funding strategy to implement the program and financial plan which incorporates resources from all principal funding sources.

(c) Identifying employment, service, and support resources in the community which may be used to fulfill the performance outcomes of the WAGES Program.

(d) In cooperation with the regional workforce development board, coordinating the implementation of one-stop career centers.

(e) Advising the Department of Children and Family Services and the Department of Labor and Employment Security with respect to the competitive procurement of services under the WAGES Program.

(f) Selecting an entity to administer the program and financial plan, such as a unit of a political subdivision within the service area, a not-for-profit private organization or corporation, or any other entity agreed upon by the local WAGES coalition.

(g) Developing a plan for services for victims of domestic violence.

1. The WAGES Program State Board of Directors shall specify requirements for the local plan, including:

a. Criteria for determining eligibility for exceptions to state work requirements;

b. The programs and services to be offered to victims of domestic violence;

c. Time limits for exceptions to program requirements, which may not result in an adult participant exceeding the federal time limit for exceptions or the state lifetime benefit limit that the participant would otherwise be entitled to receive; and

d. An annual report on domestic violence, including the progress made in reducing domestic violence as a barrier to self-sufficiency among WAGES participants, local policies and procedures for granting exceptions and exemptions from program requirements due to domestic vio-

lence, and the number and percentage of cases in which such exceptions and exemptions are granted.

2. Each local WAGES coalition plan must specify provisions for coordinating and, where appropriate, delivering services, including:

a. Provisions for the local coalition to coordinate with law enforcement agencies and social service agencies and organizations that provide services and protection to victims of domestic violence;

b. Provisions for allowing participants access to domestic violence support services and ensuring that WAGES participants are aware of domestic violence shelters, hotlines, and other domestic violence services and policies;

c. Designation of the agency that is responsible for determining eligibility for exceptions from program requirements due to domestic violence;

d. Provisions that require each individual who is granted an exemption from program requirements due to domestic violence to participate in a program that prepares the individual for self-sufficiency and safety; and

e. Where possible and necessary, provisions for job assignments and transportation arrangements that take maximum advantage of opportunities to preserve the safety of the victim of domestic violence and the victim's dependents.

(5) By October 1, 1998, local WAGES coalitions shall deliver through one-stop career centers, the full continuum of services provided under the WAGES Program, including services that are provided at the point of application. The State WAGES Board may direct the Department of Labor and Employment Security to provide such services to WAGES participants if a local WAGES coalition is unable to provide services due to decertification. Local WAGES coalitions may not determine an individual's eligibility for temporary cash assistance and all education and training shall be provided through agreements with regional workforce development boards. The local WAGES coalitions shall develop a transition plan to be approved by the WAGES Program State Board of Directors. Should career service employees of the Department of Labor and Employment Security be subject to layoff due to the local WAGES coalitions taking over the delivery of such services, such employees shall be given priority consideration for employment by the local WAGES coalitions. Positions associated with operation of WAGES Program functions that will be transferred to local WAGES coalitions must be vacated within 60 days after transfer of such functions and placed in reserve by the Executive Office of the Governor. When positions have been vacated, funds associated with those positions are to be transferred to local WAGES coalitions to support operation of the transferred functions. The amount of funds provided to each local WAGES coalition will be determined by an allocation formula to be developed by the WAGES Program State Board of Directors.

(6)~~(5)~~ The WAGES Program State Board of Directors may not approve the program and financial plan of a local coalition unless the plan provides a teen pregnancy prevention component that includes, but is not necessarily limited to, a plan for implementing the Florida Education Now and Babies Later (ENABL) program under s. 411.242 and the Teen Pregnancy Prevention Community Initiative within each *county* ~~segment~~ of the service area in which the *teen* ~~childhood~~ birth rate is higher than the state average. Each local WAGES coalition is authorized to fund community-based welfare prevention and reduction initiatives that increase the support provided by noncustodial parents to their welfare-dependent children and are consistent with program and financial guidelines developed by the WAGES Program State Board of Directors and the Commission on Responsible Fatherhood. These initiatives may include, but are not limited to, improved paternity establishment, work activities for noncustodial parents, and programs aimed at decreasing out-of-wedlock pregnancies, encouraging the involvement of fathers with their children, and increasing child-support payments.

(7)~~(6)~~ *At the option of the local WAGES coalition,* local employees of the department and the Department of Labor and Employment Security shall provide staff support for the local WAGES coalitions. ~~At the option of the local WAGES coalition,~~ Staff support may be provided by another agency, ~~or~~ entity, *or by contract* ~~if it can be provided at no cost to the state and if the support is not provided by an agency or other entity that could benefit financially from funds appropriated to implement the WAGES Program~~.

(8)~~(7)~~ There shall be no liability on the part of, and no cause of action of any nature shall arise against, any member of a local WAGES coalition or its employees or agents for any lawful action taken by them in the performance of their powers and duties under this section and s. 414.029.

Section 3. Paragraph (b) of subsection (1) and subsection (7) of section 414.065, Florida Statutes, are amended and subsection (12) is added to that section to read:

414.065 Work requirements.—

(1) WORK ACTIVITIES.—The following activities may be used individually or in combination to satisfy the work requirements for a participant in the WAGES Program:

(b) Subsidized private sector employment.—Subsidized private sector employment is employment in a private for-profit enterprise or a private not-for-profit enterprise which is directly supplemented by federal or state funds. A subsidy may be provided in one or more of the forms listed in this paragraph.

1. Work supplementation.—A work supplementation subsidy diverts a participant's temporary cash assistance under the program to the employer. The employer must pay the participant wages that equal or exceed the applicable federal minimum wage. Work supplementation may not exceed 6 months. At the end of the supplementation period, the employer is expected to retain the participant as a regular employee without receiving a subsidy ~~for at least 12 months~~. *A* ~~The~~ work supplementation agreement *may not be continued with any employer who exhibits a pattern of failing to provide participants with continued employment after the period of work supplementation ends* ~~must provide that if the employee is dismissed at any time within 12 months after termination of the supplementation period due in any part to loss of the supplement, the employer shall repay some or all of the supplement previously paid as a subsidy to the employer under the WAGES Program~~.

2. On-the-job training.—On-the-job training is full-time, paid employment in which the employer or an educational institution in cooperation with the employer provides training needed for the participant to perform the skills required for the position. The employer or the educational institution on behalf of the employer receives a subsidy to offset the cost of the training provided to the participant. Upon satisfactory completion of the training, the employer is expected to retain the participant as a regular employee without receiving a subsidy. *An* ~~The~~ on-the-job training agreement *may not be continued with any employer who exhibits a pattern of failing to provide participants with continued employment after the on-the-job training subsidy ends* ~~must provide that in the case of dismissal of a participant due to loss of the subsidy, the employer shall repay some or all of the subsidy previously provided by the department and the Department of Labor and Employment Security~~.

3. Incentive payments.—The department and the Department of Labor and Employment Security may provide additional incentive payments to encourage employers to employ program participants. Incentive payments may include payments to encourage the employment of hard-to-place participants, in which case the amount of the payment shall be weighted proportionally to the extent to which the participant has limitations associated with the long-term receipt of welfare and difficulty in sustaining employment. In establishing incentive payments, the department and the Department of Labor and Employment Security shall consider the extent of prior receipt of welfare, lack of employment experience, lack of education, lack of job skills, and other appropriate factors. A participant who has complied with program requirements and who is approaching the time limit for receiving temporary cash assistance may be defined as "hard-to-place." Incentive payments may include payments in which an initial payment is made to the employer upon the employment of a participant, and the majority of the incentive payment is made after the employer retains the participant as a full-time employee for at least 12 months. *An* ~~The~~ incentive agreement *may not be continued with any employer who exhibits a pattern of failing to provide participants with continued employment after the incentive payments end* ~~must provide that if the employee is dismissed at any time within 12 months after termination of the incentive payment period due in any part to loss of the incentive, the employer shall repay some or all of the payment previously paid as an incentive to the employer under the WAGES Program~~.

4. Tax credits.—An employer who employs a program participant may qualify for enterprise zone property tax credits under s. 220.182, the tax refund program for qualified target industry businesses under s. 288.106, or other federal or state tax benefits. The department and the Department of Labor and Employment Security shall provide information and assistance, as appropriate, to use such credits to accomplish program goals.

5. WAGES training bonus.—An employer who hires a WAGES participant who has less than 6 months of eligibility for temporary cash assistance remaining and who pays the participant a wage that precludes the participant's eligibility for temporary cash assistance may receive $240 for each full month of employment for a period that may not exceed 3 months. An employer who receives a WAGES training bonus for an employee may not receive a work supplementation subsidy for the same employee. Employment is defined as 35 hours per week at a wage of no less than $6 per hour.

(7) EXCEPTIONS TO NONCOMPLIANCE PENALTIES.—The situations listed in this subsection shall constitute exceptions to the penalties for noncompliance with participation requirements, except that these situations do not constitute exceptions to the applicable time limit for receipt of temporary cash assistance:

(a) Noncompliance related to child care.—Temporary cash assistance may not be terminated for refusal to participate in work activities if the individual is a single custodial parent caring for a child who has not attained 6 years of age, and the adult proves to the department or to the Department of Labor and Employment Security an inability to obtain needed child care for one or more of the following reasons:

1. Unavailability of appropriate child care within a reasonable distance from the individual's home or worksite.

2. Unavailability or unsuitability of informal child care by a relative or under other arrangements.

3. Unavailability of appropriate and affordable formal child care arrangements.

(b) Noncompliance related to domestic violence.—An individual who is determined to be unable to comply with the work requirements because such compliance would make it probable that the individual would be unable to escape domestic violence shall be exempt from work requirements pursuant to s. 414.028(4)(g). However, the individual shall comply with a plan that specifies alternative requirements that prepare the individual for self-sufficiency while providing for the safety of the individual and the individual's dependents. An exception granted under this paragraph does not constitute an exception to the time limitations on benefits specified under s. 414.105.

(c) Noncompliance related to treatment or remediation of past effects of domestic violence.—An individual who is determined to be unable to comply with the work requirements under this section due to mental or physical impairment related to past incidents of domestic violence may be exempt from work requirements for a specified period pursuant to s. 414.028(4)(g), except that such individual shall comply with a plan that specifies alternative requirements that prepare the individual for self-sufficiency while providing for the safety of the individual and the individual's dependents. The plan must include counseling or a course of treatment necessary for the individual to resume participation. The need for treatment and the expected duration of such treatment must be verified by a physician licensed under chapter 458 or chapter 459; a psychologist licensed under s. 490.005(1), s. 490.006, or the provision identified as s. 490.013(2) in s. 1, chapter 81-235, Laws of Florida; a therapist as defined in s. 491.003(2) or (6); or a treatment professional who is registered under s. 415.605(1)(g), is authorized to maintain confidentiality under s. 90.5036(1)(d), and has a minimum of 2 years experience at a certified domestic violence center. An exception granted under this paragraph does not constitute an exception from the time limitations on benefits specified under s. 414.105.

(d)~~(b)~~ Noncompliance related to medical incapacity.—If an individual cannot participate in assigned work activities due to a medical incapacity, the individual may be excepted from the activity for a specific period, except that the individual shall be required to comply with the course of treatment necessary for the individual to resume participation. A participant may not be excused from work activity requirements unless the participant's medical incapacity is verified by a physician licensed under chapter 458 or chapter 459, in accordance with procedures established by rule of the Department of Labor and Employment Security.

(e)~~(c)~~ Other good cause exceptions for noncompliance.—Individuals who are temporarily unable to participate due to circumstances beyond their control may be excepted from the noncompliance penalties. The Department of Labor and Employment Security may define by rule situations that would constitute good cause. These situations must include caring for a disabled family member when the need for the care has been verified and alternate care is not available.

(12) PROTECTION FOR CURRENT EMPLOYEES.—In establishing and contracting for work-experience and community service activities, other work-experience activities, on-the-job training, subsidized employment, and work supplementation under the WAGES Program, an employed worker may not be displaced, either completely or partially. A WAGES participant may not be assigned to an activity or employed in a position if the employer has created the vacancy or terminated an existing employee without good cause in order to fill that position with a WAGES participant.

Section 4. Section 414.20, Florida Statutes, is amended to read:

414.20 Other support services.—Support services shall be provided, if resources permit, to assist participants in complying with work activity requirements outlined in s. 414.065. If resources do not permit the provision of needed support services, the department and the Department of Labor and Employment Security may prioritize or otherwise limit provision of support services. This section does not constitute an entitlement to support services. Lack of provision of support services may be considered as a factor in determining whether good cause exists for failing to comply with work activity requirements but does not automatically constitute good cause for failing to comply with work activity requirements, and does not affect any applicable time limit on the receipt of temporary cash assistance or the provision of services under this chapter. Support services shall include, but need not be limited to:

(1) TRANSPORTATION.—Transportation expenses may be provided to any participant when the assistance is needed to comply with work activity requirements or employment requirements, including transportation to and from a child care provider. Payment may be made in cash or tokens in advance or through reimbursement paid against receipts or invoices. *Transportation services may include, but are not limited to, cooperative arrangements with the following: public transit providers; community transportation coordinators designated under chapter 427; school districts, churches and community centers; donated motor vehicle programs, vanpools, and ridesharing programs; small enterprise developments and entrepreneurial programs that encourage WAGES participants to become transportation providers; public and private transportation partnerships; and other innovative strategies to expand transportation options available to program participants.*

(a) Local WAGES coalitions are authorized to provide payment for vehicle operational and repair expenses, including repair expenditures necessary to make a vehicle functional; vehicle registration fees; driver's license fees; and liability insurance for the vehicle for a period of up to 6 months. Request for vehicle repairs must be accompanied by an estimate of the cost prepared by a repair facility registered under s. 559.904.

(b) Transportation disadvantaged funds as defined in chapter 427 do not include WAGES support services funds or funds appropriated to assist persons eligible under the Job Training Partnership Act. It is the intent of the Legislature that local WAGES coalitions and regional workforce development boards consult with local community transportation coordinators designated under chapter 427 regarding the availability and cost of transportation services through the coordinated transportation system prior to contracting for comparable transportation services outside the coordinated system. ~~Support services funds may also be used to develop transportation resources to expand transportation options available to participants. These services may include cooperative arrangements with local transit authorities or school districts and small enterprise development.~~

(2) ANCILLARY EXPENSES.—Ancillary expenses such as books, tools, clothing, fees, and costs necessary to comply with work activity requirements or employment requirements may be provided.

(3) MEDICAL SERVICES.—A family that meets the eligibility requirements for Medicaid shall receive medical services under the Medicaid program.

(4) PERSONAL AND FAMILY COUNSELING AND THERAPY.—Counseling may be provided to participants who have a personal or family problem or problems caused by substance abuse that is a barrier to compliance with work activity requirements or employment requirements. In providing these services, the department and the Department of Labor and Employment Security shall use services that are available in the community at no additional cost. If these services are not available, the department and the Department of Labor and Employment Security may use support services funds. Personal or family counseling not available through Medicaid may not be considered a medical service for purposes of the required statewide implementation plan or use of federal funds.

Section 5. Section 414.105, Florida Statutes, is amended to read:

414.105 Time limitations of temporary cash assistance.—Unless otherwise expressly provided in this chapter, an applicant or current participant shall receive temporary cash assistance for episodes of not more than 24 cumulative months in any consecutive 60-month period that begins with the first month of participation and for not more than a lifetime cumulative total of 48 months as an adult.

(1) The time limitation for episodes of temporary cash assistance may not exceed 36 cumulative months in any consecutive 72-month period that begins with the first month of participation and may not exceed a lifetime cumulative total of 48 months of temporary cash assistance as an adult, for cases in which the participant:

(a) Has received aid to families with dependent children or temporary cash assistance for any 36 months of the preceding 60 months; or

(b) Is a custodial parent under the age of 24 who:

1. Has not completed a high school education or its equivalent; or

2. Had little or no work experience in the preceding year.

(2) A participant who is not exempt from work activity requirements may earn 1 month of eligibility for extended temporary cash assistance, up to a maximum of 12 additional months, for each month in which the participant is working full–time, part–time, or otherwise fully complying with all the requirements of the WAGES Program. The period for which extended temporary cash assistance is granted shall be based upon compliance with WAGES Program requirements beginning October 1, 1996. A participant may not receive temporary cash assistance under this subsection, in combination with other periods of temporary cash assistance, for longer than 48 months.

(3)~~(2)~~ Hardship exemptions to the time limitations of this chapter shall be limited to 10 percent of participants in the first year of implementation of this chapter, 15 percent of participants in the second year of implementation of this chapter, and 20 percent of participants in all subsequent years. Criteria for hardship exemptions include:

(a) Diligent participation in activities, combined with inability to obtain employment.

(b) Diligent participation in activities, combined with extraordinary barriers to employment, including the conditions which may result in an exemption to work requirements.

(c) Significant barriers to employment, combined with a need for additional time.

(d) Diligent participation in activities and a need by teen parents for an exemption in order to have 24 months of eligibility beyond receipt of the high school diploma or equivalent.

(e) A recommendation of extension for a minor child of a participating family that has reached the end of the eligibility period for temporary cash assistance. The recommendation must be the result of a review which determines that the termination of the child's temporary cash assistance would be likely to result in the child being placed into emergency shelter or foster care. Temporary cash assistance shall be provided through a protective payee. Staff of the Children and *Families* ~~Family Services~~ Program Office of the department shall conduct all assessments in each case in which it appears a child may require continuation of temporary cash assistance through a protective payee.

At the recommendation of the local WAGES coalition, temporary cash assistance under a hardship exemption for a participant who is eligible for work activities and who is not working shall be reduced by 10 percent. Upon the employment of the participant, full benefits shall be restored.

(4) In addition to the exemptions listed in subsection (3), a victim of domestic violence may be granted a hardship exemption if the effects of such domestic violence delay or otherwise interrupt or adversely affect the individual's participation in the program. Hardship exemptions granted under this subsection shall not be subject to the percentage limitations in subsection (3).

(5)~~(3)~~ The department shall establish a procedure for reviewing and approving hardship exemptions, and the local WAGES coalitions may assist in making these determinations. The composition of any review panel must generally reflect the racial, gender, and ethnic diversity of the community as a whole. Members of a review panel shall serve without compensation, but are entitled to receive reimbursement for per diem and travel expenses as provided in s. 112.016.

(6)~~(4)~~ The cumulative total of all hardship exemptions may not exceed 12 months, may include reduced benefits at the option of the community review panel, and shall, in combination with other periods of temporary cash assistance as an adult, total no more than 48 months of temporary cash assistance. If an individual fails to comply with program requirements during a hardship exemption period, the hardship exemption shall be removed.

(7)~~(5)~~ For individuals who have moved from another state and have legally resided in this state for less than 12 months, the time limitation for temporary cash assistance shall be the shorter of the respective time limitations used in the two states, and months in which temporary cash assistance was received under a block grant program that provided temporary assistance for needy families in any state shall count towards the cumulative 48-month benefit limit for temporary cash assistance.

(8)~~(6)~~ For individuals subject to a time limitation under the Family Transition Act of 1993, that time limitation shall continue to apply. Months in which temporary cash assistance was received through the family transition program shall count towards the time limitations under this chapter.

(9)~~(7)~~ Except when temporary cash assistance was received through the family transition program, the calculation of the time limitation for temporary cash assistance shall begin with the first month of receipt of temporary cash assistance after the effective date of this act.

(10)~~(8)~~ Child-only cases are not subject to time limitations, and temporary cash assistance received while an individual is a minor child shall not count towards time limitations.

(11)~~(9)~~ An individual who receives benefits under the Supplemental Security Income program or the Social Security Disability Insurance program is not subject to time limitations.

(12) A person who is totally responsible for the personal care of a disabled family member is not subject to time limitations if the need for the care is verified and alternative care is not available for the family member. The department shall annually evaluate an individual's qualifications for this exemption.

(13)~~(10)~~ A member of the WAGES Program staff shall interview and assess the employment prospects and barriers of each participant who is within 6 months of reaching the 24-month time limit. The staff member shall assist the participant in identifying actions necessary to become employed prior to reaching the benefit time limit for temporary cash assistance and, if appropriate, shall refer the participant for services that could facilitate employment.

Section 6. Present subsections (4), (5), (6), (7), (8), (9), and (10) of section 414.0252, Florida Statutes, are renumbered as subsections (5), (7), (8), (9), (10), (11), and (12) of that section, respectively, and new subsections (4) and (6) are added to that section, to read:

414.0252 Definitions.—As used in ss. 414.015-414.45, the term:

(4) "Domestic violence" means any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense that results in the physical injury or death of one family or household member by another.

(6) "Family or household member" means spouses, former spouses, noncohabitating partners, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who have a child in common regardless of whether they have been married or have resided together at any time.

Section 7. Paragraph (g) is added to subsection (10) of section 414.095, Florida Statutes, and subsection (3) and paragraph (d) of subsection (15) of that section are amended to read:

414.095 Determining eligibility for the WAGES Program.—

(3) ELIGIBILITY FOR NONCITIZENS.—A "qualified noncitizen" is an individual who is lawfully present in the United States as a refugee or who is granted asylum under ss. 207 and 208 of the Immigration and Nationality Act, an alien whose deportation is withheld under s. 243(h) of the Immigration and Nationality Act, or an alien who has been admitted as a permanent resident and meets specific criteria under federal law. *In addition, a "qualified noncitizen" includes an individual who has been battered or subject to extreme cruelty in the United States by a spouse or a parent, and has applied for or received protection under the federal Violence Against Women Act of 1994, Pub. L. No. 103-322, if the need for benefits is related to the abuse.* A "nonqualified noncitizen" is a nonimmigrant alien, including a tourist, business visitor, foreign student, exchange visitor, temporary worker, or diplomat. In addition, a "nonqualified noncitizen" includes an individual paroled into the United States for less than 1 year. A qualified noncitizen who is otherwise eligible may receive temporary cash assistance to the extent permitted by federal law. The income or resources of a sponsor and the sponsor's spouse shall be included in determining eligibility to the maximum extent permitted by federal law.

(a) A child born in the United States to an illegal or ineligible alien is eligible for temporary cash assistance under this chapter if the family meets all eligibility requirements.

(b) If the parent may legally work in this country, the parent must participate in the work activity requirements provided in s. 414.065, to the extent permitted under federal law.

(c) The department shall participate in the Systematic Alien Verification for Entitlements Program (SAVE) established by the United States Immigration and Naturalization Service in order to verify the validity of documents provided by aliens and to verify an alien's eligibility.

(d) The income of an illegal alien or ineligible alien, less a pro rata share for the illegal alien or ineligible alien, counts in determining a family's eligibility to participate in the program.

(e) The entire assets of an ineligible alien or a disqualified individual who is a mandatory member of a family shall be included in determining the family's eligibility.

(10) PARTICIPANT OPPORTUNITIES AND OBLIGATIONS.—An applicant or participant in the WAGES Program has the following opportunities and obligations:

(g) To receive information regarding services available from certified domestic violence centers or organizations that provide counseling and supportive services to individuals who are past or present victims of domestic violence or who are at risk of domestic violence and, upon request, to be referred to such organizations in a manner which protects the individual's confidentiality.

(15) PROHIBITIONS AND RESTRICTIONS.—

(d) Notwithstanding any law to the contrary, if a parent or caretaker relative without good cause does not cooperate with the state agency responsible for administering the child support enforcement program in establishing, modifying, or enforcing a support order with respect to a child of a teen parent or other family member, or a child of a family member who is in the care of an adult relative, temporary cash assistance to the entire family shall be denied until the state agency indicates that cooperation by the parent or caretaker relative has been satisfactory. *To the extent permissible under federal law, a parent or caretaker relative shall not be penalized for failure to cooperate with paternity establishment or with the establishment, modification, or enforcement of a support order when such cooperation could subject an individual to a risk of domestic violence. Such risk shall constitute good cause to the extent permitted by Title IV-D of the Social Security Act, as amended, or other federal law.*

Section 8. Subsection (2) of section 414.115, Florida Statutes, is amended to read:

414.115 Limited temporary cash assistance for children born to families receiving temporary cash assistance.—

(2) Subsection (1) does not apply:

(a) To a program participant who is a victim of rape or incest if the victim files a police report on the rape or incest within 30 days after the incident;

(b) To a program participant who is confirmed by the Title IV-D child support agency as having been granted an exemption from participating in requirements for the enforcement of child support due to circumstances consistent with the conception of the child as a result of rape, incest, or sexual exploitation. A child for whom an exemption is claimed under this paragraph and for whom an application has been made for a good-cause exemption from the requirements of s. 414.095 shall receive temporary benefits until a determination is made on the application for a good-cause exemption from the requirements of s. 414.095;

(c)~~(b)~~ To children who are the firstborn, including all children in the case of multiple birth, of minors included in a temporary cash assistance group who as minors become first-time parents;

(d)~~(c)~~ To a child when parental custody has been legally transferred; or

(e)~~(d)~~ To a child who is no longer able to live with his or her parents as a result of:

1. The death of the child's parent or parents;

2. The incapacity of the child's parent or parents as documented by a physician, such that the parent or parents are unable to care for the child;

3. Legal transfer of the custody of the child to another individual;

4. Incarceration of the child's parent or parents, except that the child shall not receive temporary cash assistance if a parent is subsequently released and reunited with the child; or

5. A situation in which the child's parent's or parents' institutionalization is expected to be for an extended period, as defined by the department.

Section 9. Paragraph (g) is added to subsection (1) of section 234.01, Florida Statutes, to read:

234.01 Purpose; transportation; when provided.—

(1) School boards, after considering recommendations of the superintendent:

(g) May provide transportation for WAGES participants as defined in s. 414.0252.

Section 10. Present paragraph (b) of subsection (1) of section 234.211, Florida Statutes, is redesignated as paragraph (c), and a new paragraph (b) is added to that subsection to read:

234.211 Use of school buses for public purposes.—

(1)

(b) Each school district may enter into agreements with local WAGES coalitions for the provision of transportation services to WAGES participants as defined in s. 414.0252. Agreements must provide for reimbursement in full or in part for the proportionate share of fixed and operating costs incurred by the school district attributable to the use of buses in accordance with the agreement.

Section 11. Subsection (13) is added to section 341.041, Florida Statutes, to read:

341.041 Transit responsibilities of the department.—The department shall, within the resources provided pursuant to chapter 216:

(13) Assist local governmental entities and other transit operators in the planning, development, and coordination of transit services for WAGES participants as defined in s. 414.0252.

Section 12. Subsections (1) and (2) of section 341.052, Florida Statutes, are amended to read:

341.052 Public transit block grant program; administration; eligible projects; limitation.—

(1) There is created a public transit block grant program which shall be administered by the department. Block grant funds shall only be provided to "Section 9" providers and "Section 18" providers designated by the United States Department of Transportation and community transportation coordinators as defined in chapter 427. Eligible providers must establish public transportation development plans consistent, to the maximum extent feasible, with approved local government comprehensive plans of the units of local government in which the provider is located. *In developing public transportation development plans, eligible providers must solicit comments from local WAGES coalitions established under chapter 414. The development plans must address how the public transit provider will work with the appropriate local WAGES coalition to provide services to WAGES participants. Eligible providers must review program and financial plans established under s. 414.028 and provide information to the local WAGES coalition serving the county in which the provider is located regarding the availability of transportation services to assist WAGES participants.*

(2) Costs for which public transit block grant program funds may be expended include:

(a) Costs of public bus transit and local public fixed guideway capital projects.

(b) Costs of public bus transit service development and transit corridor projects. Whenever block grant funds are used for a service development project or a transit corridor project, the use of such funds is governed by s. 341.051. Local transit service development projects and transit corridor projects currently operating under contract with the department shall continue to receive state funds according to the contract until such time as the contract expires. Transit corridor projects, wholly within one county, meeting or exceeding performance criteria as described in the contract shall be continued by the transit provider at the same or a higher level of service until such time as the department, the M.P.O., and the service provider, agree to discontinue the service. The provider may not increase fares for services in transit corridor projects wholly within one county without the consent of the department.

(c) Costs of public bus transit operations.

All projects *must* ~~shall~~ be consistent, to the maximum extent feasible, with the approved local government comprehensive plans of the units of local government ~~comprehensive plans of local government~~ in which the project is located.

Section 13. Paragraph (a) of subsection (2) of section 414.026, Florida Statutes, is amended to read:

414.026 WAGES Program State Board of Directors.—

(2)(a) The board of directors shall be composed of the following members:

1. The Commissioner of Education, or the commissioner's designee.

2. The Secretary of Children and Family Services.

3. The Secretary of Health.

4. The Secretary of Labor and Employment Security.

5. The Secretary of Community Affairs.

6. The Secretary of Transportation.

7.~~6.~~ The director of the Office of Tourism, Trade, and Economic Development.

8.~~7.~~ The president of the Enterprise Florida workforce development board, established under s. 288.9620.

9.~~8.~~ The chief executive officer of the Florida Tourism Industry Marketing Corporation, established under s. 288.1226.

10.~~9.~~ Nine members appointed by the Governor, as follows:

a. Six members shall be appointed from a list of ten nominees, of which five must be submitted by the President of the Senate and five must be submitted by the Speaker of the House of Representatives. The list of five nominees submitted by the President of the Senate and the Speaker of the House of Representatives must each contain at least three individuals employed in the private sector, two of whom must have management experience. One of the five nominees submitted by the President of the Senate and one of the five nominees submitted by the Speaker of the House of Representatives must be an elected local government official who shall serve as an ex officio nonvoting member.

b. Three members shall be at-large members appointed by the Governor.

c. Of the nine members appointed by the Governor, at least six must be employed in the private sector and of these, at least five must have management experience.

The members appointed by the Governor shall be appointed to 4-year, staggered terms. Within 60 days after a vacancy occurs on the board, the Governor shall fill the vacancy of a member appointed from the nominees submitted by the President of the Senate and the Speaker of the House of Representatives for the remainder of the unexpired term from one nominee submitted by the President of the Senate and one nominee submitted by the Speaker of the House of Representatives. Within 60 days after a vacancy of a member appointed at-large by the Governor occurs on the board, the Governor shall fill the vacancy for the remainder of the unexpired term. The composition of the board must generally reflect the racial, gender, and ethnic diversity of the state as a whole.

Section 14. Section 414.225, Florida Statutes, is created to read:

414.225 Transitional transportation.—In order to assist former WAGES participants in maintaining and sustaining employment, transportation may be provided, if funds are available, for up to 1 year after the participant is no longer eligible to participate in the program due to earnings. This does not constitute an entitlement to transitional transportation. If funds are not sufficient to provide services under this section, the department may limit or otherwise prioritize transportation services.

(1) Transitional transportation must be job related.

(2) Transitional transportation may include expenses identified in s. 414.20.

Section 15. Subsection (27) is added to section 427.013, Florida Statutes, to read:

427.013 The Commission for the Transportation Disadvantaged; purpose and responsibilities.—The purpose of the commission is to accomplish the coordination of transportation services provided to the transportation disadvantaged. The goal of this coordination shall be to assure the cost-effective provision of transportation by qualified community transportation coordinators or transportation operators for the transportation disadvantaged without any bias or presumption in favor of multioperator systems or not-for-profit transportation operators over single operator systems or for-profit transportation operators. In carrying out this purpose, the commission shall:

(27) Ensure that local community transportation coordinators work cooperatively with local WAGES coalitions established in chapter 414 to

provide assistance in the development of innovative transportation services for WAGES participants.

Section 16. Subsection (9) is added to section 427.0155, Florida Statutes, to read:

427.0155 Community transportation coordinators; powers and duties.—Community transportation coordinators shall have the following powers and duties:

(9) Work cooperatively with local WAGES coalitions established in chapter 414 to provide assistance in the development of innovative transportation services for WAGES participants.

Section 17. Subsection (7) is added to section 427.0157, Florida Statutes, to read:

427.0157 Coordinating boards; powers and duties.—The purpose of each coordinating board is to develop local service needs and to provide information, advice, and direction to the community transportation coordinators on the coordination of services to be provided to the transportation disadvantaged. The commission shall, by rule, establish the membership of coordinating boards. The members of each board shall be appointed by the metropolitan planning organization or designated official planning agency. The appointing authority shall provide each board with sufficient staff support and resources to enable the board to fulfill its responsibilities under this section. Each board shall meet at least quarterly and shall:

(7) Work cooperatively with local WAGES coalitions established in chapter 414 to provide assistance in the development of innovative transportation services for WAGES participants.

Section 18. Section 414.80, Florida Statutes, is created to read:

414.80 Short title.—Sections 414.80-414.860 may be cited as the "WAGES Targeted Employment Act."

Section 19. Section 414.810, Florida Statutes, is created to read:

414.810 Legislative findings and intent.—

(1) The Legislature finds that the success of the Work and Gain Economic Self–sufficiency (WAGES) Program depends upon the existence of sufficient employment opportunities compatible with the education and skill levels of participants in the WAGES Program.

(2) The Legislature finds that in several identifiable regions of the state there is an alarmingly inadequate supply of entry–level jobs in relation to the number of WAGES participants who are exhausting statutory limitations on the receipt of temporary cash assistance under the WAGES Program.

(3) The Legislature finds that the disparity between employment opportunities and the number of WAGES participants in these areas of critical state economic concern constitutes an economic development emergency with significant fiscal and social implications for these areas and for the state as a whole.

(4) The Legislature finds that there is an immediate need to facilitate the location and expansion of businesses and the creation of jobs in these areas of critical state economic concern, but that such activities may be hampered by existing budgetary, statutory, regulatory, or programmatic requirements.

(5) It is the intent of the Legislature to provide for a WAGES Targeted Employment Program in order to ensure that the resources of state and local government are marshaled in a coordinated, effective, and timely manner to promote economic development and job creation integral to the success of the WAGES Program.

Section 20. Section 414.811, Florida Statutes, is created to read:

414.811 Policy and purpose.—Because the Legislature has determined that the state must take extraordinary measures to meet the employment needs of its residents who are transitioning from dependence on welfare to self–reliance through employment and to ensure that adequate employment opportunities exist for such residents, it is hereby found and declared necessary:

(1) To create a WAGES Targeted Employment Team to be composed of a state director and appointed agency WAGES Targeted Employment Coordinators.

(a) The state director shall be appointed by the Governor, and for administrative purposes, shall be housed in the Executive Office of the Governor.

(b) Staffing for the WAGES Targeted Employment Team shall be provided by the Department of Community Affairs. The department shall coordinate the use of state facilities and resources in ensuring the successful completion of the team's objectives.

(2) To empower the WAGES Targeted Employment Team to facilitate the creation of employment opportunities in areas of critical state economic concern.

(3) To provide for coordination with local government of state designated projects.

Section 21. Section 414.812, Florida Statutes, is created to read:

414.812 Limitations.—

(1) The existence of the WAGES Targeted Employment Program is not designed to disrupt the orderly economic development of the state. Rather, it is created to coordinate state resources and rapidly eliminate barriers that prevent the creation of employment opportunities in designated regions and communities of the state.

(2) Nothing in ss. 414.80-414.860 shall be construed to:

(a) Interfere with the responsibilities of the Division of Community Affairs relative to the State Emergency Management Act under chapter 252;

(b) Interfere with military and defense obligations of the Florida National Guard; or

(c) Authorize the destruction of wetlands or other ecologically or environmentally sensitive lands.

Section 22. Section 414.813, Florida Statutes, is created to read:

414.813 Liberal construction.—Sections 414.80-414.860 shall be construed liberally in order to effectuate their purposes.

Section 23. Section 414.820, Florida Statutes, is created to read:

414.820 Designation of Areas of Critical State Economic Concern.—

(1) The Legislature declares the following workforce development regions to be areas of critical state economic concern:

(a) Region 5—Gadsden, Leon, and Wakulla counties;

(b) Region 6—Hamilton, Jefferson, Lafayette, Madison, Suwannee, and Taylor counties;

(c) Region 7—Baker, Columbia, Dixie, Gilchrist, and Union counties;

(d) Region 19—DeSoto, Hardee, and Highlands counties; and

(e) Region 23—Dade and Monroe counties.

(2) By Executive Order, the Governor shall declare no more than 4 additional areas of the state as areas of critical state economic concern based upon the following criteria:

(a) Areas with a high proportion of families who had already received cash assistance in three out of the previous five years at the time their time limit was established;

(b) Areas with a high proportion of families subject to the WAGES time limit headed by a parent who was under age 24 at the time the time limit was established and who lacked high school or GED completion;

(c) Areas with a high proportion of families subject to the time limit who have used all of the available months of cash assistance since October 1996;

(d) Areas with a low ratio of new jobs per WAGES participant;

(e) Areas with a low ratio of job openings requiring less than a high school degree per WAGES participant;

(f) Areas with a high proportion of families subject to the time limit who are either within six months of the time limit or are receiving cash assistance under a period of hardship extension to the time limit;

(g) Areas with unusually high unemployment; and

(h) Areas identified as labor surplus areas using the criteria established by the U.S. Department of Labor Employment and Training Administration.

(3) Subcounty areas determined to have the greatest need for job creation as determined by the Workforce Development Board of Enterprise Florida, Inc., based upon the criteria in subsection (2) shall qualify for designation by the Governor under the authority provided by this section.

Section 24. Section 414.830, Florida Statutes, is created to read:

414.830 WAGES Targeted Employment Program.—

(1)(a) By July 1, 1998, the heads of the Departments of Agriculture and Consumer Services, Labor and Employment Security, Community Affairs, Children and Family Services, Revenue, Business and Professional Regulation, Management Services, Military Affairs, Transportation, and Environmental Protection shall select from within each such department a person to be designated as the WAGES Targeted Employment Coordinator for the department and a person to serve as an alternate.

(b) By July 1, 1998, the Comptroller; the Auditor General; the executive director of each water management district; and the heads of the Office of Tourism, Trade, and Economic Development, Enterprise Florida, Inc., State WAGES Board of Directors, Institute of Food and Agricultural Science, Florida Chamber of Commerce, the Florida Home Builders Association, the State Board of Community Colleges, Division of Workforce Development of the Department of Education, State University System, Florida Ports Council, and the Office of Planning and Budgeting shall select from within such organizations a person to be designated as the WAGES Targeted Employment Coordinator for the organization and a person to serve as an alternate.

(c) By designation, the WAGES Targeted Employment Coordinators are empowered to commit and coordinate those resources applicable to the organization that the coordinator represents. The WAGES Targeted Employment Coordinators together with the state director comprise the WAGES Targeted Employment Team, and are responsible for providing various resources dictated by need as determined by project teams.

(d) The head of each organization identified in paragraphs (a) and (b) shall notify the Governor and the state director in writing of the person initially designated as the WAGES Targeted Employment Coordinator for such organization and his or her alternate and of any changes in persons so designated thereafter. The Governor may add individuals to the WAGES Targeted Employment Team as deemed necessary.

(2) The WAGES Targeted Employment Team shall encourage state and local agencies to cooperatively solve all barriers for attracting and committing potential employers to locate in areas of critical state economic concern and to facilitate expansion of existing businesses in those areas. The Secretary of the Department of Transportation is directed to ensure that transportation components of identified projects be provided from resources available to the department. Once a local project leader or regional employment team has identified a barrier that cannot be overcome through traditional means, the WAGES Targeted Employment Team, with the approval of the Governor, may:

(a) By contract with the potential employer, waive any criteria, requirement or similar provision of any economic development incentive. Such incentives shall include, but not be limited to, programs under ss. 288.106, 288.047, 288.063, 288.1045, 288.107, 212.097, 212.098, and 220.1895;

(b) By contract with the potential employer, provide training and educational opportunities for new employees, develop training programs, and pay tuition or training expenses for employees;

(c) Contract with any Florida based provider of employment training services or educational services for the provision of services related to the team's responsibilities;

(d) Contract with potential employers to provide any service or product over which the team has control;

(e) Recommend emergency issues to the Governor for his consideration as matters requiring an executive order;

(f) Waive transportation provider preferences and exclusions provided to the Transportation Disadvantage Commission and associated providers; and

(g) Authorize the use of funds appropriated for the WAGES Targeted Employment Program for the staffing expenses of the Department of Community Affairs.

(3) The WAGES Targeted Employment Team shall meet at a minimum on a monthly basis.

(4) In order to accomplish the goals of the WAGES Targeted Employment Team, the Governor may, by executive order, effective for a period of no longer than one year, and subject to legislative review and approval at the next regular legislative session:

(a) Exercise any power enumerated under s. 252.36; and

(b) Require, at the recommendation of the WAGES Targeted Employment Team, minimum hiring requirements of participants of the WAGES Program for contracts entered into by the Florida Department of Transportation or any school district entering into contract for capital construction.

(5) The Legislature by concurrent resolution may at any time terminate an executive order issued for purposes described in this section.

(6) The WAGES Targeted Employment Team is directed to use local resources and financing whenever possible and to petition the Governor to use the powers granted in this act to finance local projects.

Section 25. Section 414.840, Florida Statutes, is created to read:

414.840 Regional WAGES Targeted Employment Teams.—

(1) Enterprise Florida, Inc., in cooperation with the Department of Community Affairs, is responsible for initial organization of the Regional WAGES Targeted Employment Teams. Regional employment teams shall be composed of representatives of cities and counties that have governing responsibilities for a given area. In addition to representatives of local government, a representative from the local WAGES coalition, the regional workforce development board, local economic development councils, and a representative of each school board in the region shall also be included on the regional employment team. The team leader shall be selected by the team members.

(2)(a) Regional employment teams shall assess businesses located in the region to identify potential expansion projects that may require the assistance of the state response team. The teams shall also identify underutilized local resources.

(b) Regional employment teams shall be responsible for coordinating the efforts of local government and local agencies to attract potential new employers and shall work in conjunction with local economic development councils. Enterprise Florida, Inc., shall assist the regional employment teams by providing research and advice in fulfilling their charge.

(c) A regional employment team may propose any local opportunity for the expansion of an existing business or for the relocation to the region of an existing employer to the WAGES Targeted Employment Team to exercise the powers vested in the state team.

(d) It is the desire of the Legislature that local resources and local solutions shall be used first as the economic development resulting from the efforts of the teams will be felt greatest by local communities.

Section 26. Section 414.845, Florida Statutes, is created to read:

414.845 Local Project Teams.—

(1) Recognizing that significant job creation efforts often focus on development of specific sites and may include multiple employers, not more than 10 local project districts may be designated by the WAGES Targeted Employment Team. Not more than 3 of the local project districts may be created in Dade County. Not more than 7 may be located in legislatively designated areas of critical state economic concern, including those designated in Dade County. Such sites must be contiguous and capable of supporting businesses creating a total of 500 jobs or more.

(2) Upon designation of a local project district, a local project team shall be assembled and approved by the WAGES Targeted Employment Team, after consultation with the regional employment team. Local project leaders should look first to the regional employment teams for assistance, but may directly appeal to the WAGES Targeted Employment Team for assistance.

(3) Local project teams shall have the following powers and responsibilities:

(a) Local project teams are to aggressively solicit potential businesses for site specific projects;

(b) Local project teams shall assist potential employers in identifying and applying for all relevant incentives and permits;

(c) Local project teams, with permission of the WAGES Targeted Employment Team, may negotiate specific terms of agreement with potential employers; and

(d) Local project teams shall identify and assist in the elimination of local barriers to the location or expansion of a business at the site.

(4) In selecting potential projects, the WAGES Targeted Employment Team shall consider all projects submitted, and shall pay particular attention to projects which include elements relating to transportation distribution centers, warehousing facilities, agricultural processing and packaging, and the aquaculture industry. While traditional economic development does not usually focus on retail establishments, the team shall consider projects which provide retail employment opportunities and may select retail projects if: the projects provide significant employment opportunities for WAGES participants; the project developers either have or can obtain the necessary permits to begin construction of the project on or before December 1, 1998; and the sponsors of the project are willing to enter into a contract with the state to deliver the commitments required under this subsection. The team shall give priority attention to any retail development project if such a project: is located in an area of critical state economic concern; is designed to provide for more than 5,000 permanent jobs; provides for the right of first refusal for at least 3,000 construction jobs to WAGES participants; provides a program for the transportation of WAGES participants employed in the construction of the project to and from the construction site; provides on–the–job training for WAGES participants at the project site; provides for multiple job fairs for WAGES participants; provides that a substantial portion of operational and clerical positions hired directly by the project be WAGES participants; and provides for rent and lease incentive programs for businesses renting or leasing space in project facilities based upon the employment of WAGES participants. The team may consider any other contract provision designed to increase employment opportunities for WAGES participants. The Department of Community Affairs, on behalf of the team, shall develop a contract in consultation with the Department of Labor and Employment Security, the Department of Children and Family Services, and the Department of Transportation, which will utilize state resources such as the Department of Agriculture's Florida AgVentures Program, the Department of Community Affairs' Community Development Block Grant Loan Guarantee Program, the Department of Labor and Employment Security's Welfare–to–Work Program, additional federal funds provided to the Department of Transportation in fiscal year 1998-99, through the reauthorization of the Federal Highway Act, the Department of Environmental Protection's Sewage Treatment Facilities Revolving Loan Program, and WAGES Program support funds to facilitate projects meeting the requirements under this subsection.

Section 27. Section 414.850, Florida Statutes, is created to read:

414.850 Expiration and review of WAGES Targeted Employment Program.—Sections 414.80-414.860, expire June 30, 2002, and shall be reviewed by the Legislature and Enterprise Florida, Inc., prior to that date. In its review, the Legislature shall determine if the continued use of the WAGES Targeted Employment Program fulfills a state need. Enterprise Florida, Inc., shall assess the usefulness and applicability of the WAGES Targeted Employment Program for economic development projects.

Section 28. Section 414.860, Florida Statutes, is created to read:

414.860 Legislative oversight.—The President of the Senate shall appoint 2 members of the Senate and the Speaker of the House of Representatives shall appoint 2 members of the House of Representatives to serve as a legislative oversight committee to monitor and advise the WAGES Targeted Employment Team.

Section 29. *The WAGES Targeted Employment Team shall, from funds appropriated for the use of the team, contract with the Institute of Food and Agricultural Sciences for job creation and training activities related to the institute's Job Start, Care Giver Education, Aquaculture of High Value Species, and New Technologies in Plasticulture for Vegetable Producers programs.*

Section 30. Section 159.8083, Florida Statutes is amended to read:

159.8083 Florida First Business allocation pool.—The Florida First Business allocation pool is hereby established. The Florida First Business allocation pool shall be available solely to provide written confirmation for private activity bonds to finance Florida First Business projects certified by the Office of Tourism, Trade, and Economic Development as eligible to receive a written confirmation. Allocations from such pool shall be awarded statewide pursuant to procedures specified in s. 159.805, except that the provisions of s. 159.805(2), (3), and (6) do not apply. *The Office of Tourism, Trade, and Economic Development must give certification priority to projects recommended by the WAGES Targeted Employment Team established in s. 414.811.* Florida First Business projects that are eligible for a carryforward shall not lose their allocation on November 16 if they have applied and have been granted a carryforward. In issuing written confirmations of allocations for Florida First Business projects, the division shall use the Florida First Business allocation pool. If allocation is not available from the Florida First Business allocation pool, the division shall issue written confirmations of allocations for Florida First Business projects pursuant to s. 159.806 or s. 159.807, in such order. For the purpose of determining priority within a regional allocation pool or the state allocation pool, notices of intent to issue bonds for Florida First Business projects to be issued from a regional allocation pool or the state allocation pool shall be considered to have been received by the division at the time it is determined by the division that the Florida First Business allocation pool is unavailable to issue confirmation for such Florida First Business project. If the total amount requested in notices of intent to issue private activity bonds for Florida First Business projects exceeds the total amount of the Florida First Business allocation pool, the director shall forward all timely notices of intent to issue, which are received by the division for such projects, to the Office of Tourism, Trade, and Economic Development which shall render a decision as to which notices of intent to issue are to receive written confirmations. The Office of Tourism, Trade, and Economic Development, in consultation with the division, shall develop rules to ensure that the allocation provided in such pool is available solely to provide written confirmations for private activity bonds to finance Florida First Business projects and that such projects are feasible and financially solvent.

Section 31. Paragraph (h) of subsection (5) of section 212.08, Florida Statutes, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(5) EXEMPTIONS; ACCOUNT OF USE.—

(h) Business property used in an enterprise zone.—

1. Beginning July 1, 1995, business property purchased for use by businesses located in an enterprise zone which is subsequently used in an enterprise zone shall be exempt from the tax imposed by this chapter. This exemption inures to the business only through a refund of previously paid taxes. A refund shall be authorized upon an affirmative show-

ing by the taxpayer to the satisfaction of the department that the requirements of this paragraph have been met.

2. To receive a refund, the business must file under oath with the governing body or enterprise zone development agency having jurisdiction over the enterprise zone where the business is located, as applicable, an application which includes:

a. The name and address of the business claiming the refund.

b. The identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the business is located.

c. A specific description of the property for which a refund is sought, including its serial number or other permanent identification number.

d. The location of the property.

e. The sales invoice or other proof of purchase of the property, showing the amount of sales tax paid, the date of purchase, and the name and address of the sales tax dealer from whom the property was purchased.

f. Whether the business is a small business as defined by s. 288.703(1).

g. If applicable, the name and address of each permanent employee of the business, including, for each employee who is a resident of an enterprise zone, the identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the employee resides.

3. Within 10 working days after receipt of an application, the governing body or enterprise zone development agency shall review the application to determine if it contains all the information required pursuant to subparagraph 2. and meets the criteria set out in this paragraph. The governing body or agency shall certify all applications that contain the information required pursuant to subparagraph 2. and meet the criteria set out in this paragraph as eligible to receive a refund. If applicable, the governing body or agency shall also certify if 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary and part-time employees. The certification shall be in writing, and a copy of the certification shall be transmitted to the executive director of the Department of Revenue. The business shall be responsible for forwarding a certified application to the department within the time specified in subparagraph 4.

4. An application for a refund pursuant to this paragraph must be submitted to the department within 6 months after the business property is purchased.

5. The provisions of s. 212.095 do not apply to any refund application made pursuant to this paragraph. The amount refunded on purchases of business property under this paragraph shall be the lesser of 97 percent of the sales tax paid on such business property or $5,000, or, if no less than 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary and part-time employees, the amount refunded on purchases of business property under this paragraph shall be the lesser of 97 percent of the sales tax paid on such business property or $10,000. A refund approved pursuant to this paragraph shall be made within 30 days of formal approval by the department of the application for the refund. No refund shall be granted under this paragraph unless the amount to be refunded exceeds $100 in sales tax paid on purchases made within a 60-day time period.

6. The department shall adopt rules governing the manner and form of refund applications and may establish guidelines as to the requisites for an affirmative showing of qualification for exemption under this paragraph.

7. If the department determines that the business property is used outside an enterprise zone within 3 years from the date of purchase, the amount of taxes refunded to the business purchasing such business property shall immediately be due and payable to the department by the business, together with the appropriate interest and penalty, computed from the date of purchase, in the manner provided by this chapter. *Notwithstanding this subparagraph, in order to provide greater employment opportunities in areas of critical state economic concern, business property used exclusively in:*

a. Licensed commercial fishing vessels,

b. Fishing guide boats, or

c. Ecotourism guide boats

that leave and return to a fixed location within an area designated under s. 370.28 are eligible for the exemption provided under this paragraph if all requirements of this paragraph are met. Such vessels and boats must be owned by a business that is eligible to receive the exemption provided under this paragraph. This exemption does not apply to the purchase of a vessel or boat.

8. The department shall deduct an amount equal to 10 percent of each refund granted under the provisions of this paragraph from the amount transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund pursuant to s. 212.20 for the county area in which the business property is located and shall transfer that amount to the General Revenue Fund.

9. For the purposes of this exemption, "business property" means new or used property defined as "recovery property" in s. 168(c) of the Internal Revenue Code of 1954, as amended, except:

a. Property classified as 3-year property under s. 168(c)(2)(A) of the Internal Revenue Code of 1954, as amended;

b. Industrial machinery and equipment as defined in sub-subparagraph (b)6.a. and eligible for exemption under paragraph (b); and

c. Building materials as defined in sub-subparagraph (g)8.a.

10. The provisions of this paragraph shall expire and be void on December 31, 2005.

Section 32. Subsection (1) and paragraph (a) of subsection (3) of section 212.096, Florida Statutes, are amended to read:

212.096 Sales, rental, storage, use tax; enterprise zone jobs credit against sales tax.—

(1) For the purposes of the credit provided in this section:

(a) "Eligible business" means any sole proprietorship, firm, partnership, corporation, bank, savings association, estate, trust, business trust, receiver, syndicate, or other group or combination, or successor business, located in an enterprise zone. An eligible business does not include any business which has claimed the credit permitted under s. 220.181 for any new business employee first beginning employment with the business after July 1, 1995.

(b) "Month" means either a calendar month or the time period from any day of any month to the corresponding day of the next succeeding month or, if there is no corresponding day in the next succeeding month, the last day of the succeeding month.

(c) "New employee" means a person residing in an enterprise zone, *a qualified Job Training Partnership Act classroom training participant, or a WAGES participant* who begins employment with an eligible business after July 1, 1995, and who has not been previously employed within the preceding 12 months by the eligible business, or a successor eligible business, claiming the credit allowed by this section.

A person shall be deemed to be employed if the person performs duties in connection with the operations of the business on a regular, full-time basis, provided the person is performing such duties for an average of at least 36 hours per week each month, or a part-time basis, provided the person is performing such duties for an average of at least 20 hours per week each month throughout the year. The person must be performing such duties at a business site located in the enterprise zone.

(3) In order to claim this credit, an eligible business must file under oath with the governing body or enterprise zone development agency having jurisdiction over the enterprise zone where the business is located, as applicable, a statement which includes:

(a) For each new employee for whom this credit is claimed, the employee's name and place of residence, including the identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the employee resides *if the new employee is a person residing in an enterprise zone, and, if applicable, documentation that the employee is a qualified*

Job Training Partnership Act classroom training participant or a WAGES participant.

Section 33. Paragraph (q) of subsection (1) of section 220.03, Florida Statutes, is amended to read:

220.03 Definitions.—

(1) SPECIFIC TERMS.—When used in this code, and when not otherwise distinctly expressed or manifestly incompatible with the intent thereof, the following terms shall have the following meanings:

(q) "New employee," for the purposes of the enterprise zone jobs credit, means a person residing in an enterprise zone, *a qualified Job Training Partnership Act classroom training participant, or a WAGES participant* employed at a business located in an enterprise zone who begins employment in the operations of the business after July 1, 1995, and who has not been previously employed within the preceding 12 months by the business or a successor business claiming the credit pursuant to s. 220.181. A person shall be deemed to be employed by such a business if the person performs duties in connection with the operations of the business on a full-time basis, provided she or he is performing such duties for an average of at least 36 hours per week each month, or a part-time basis, provided she or he is performing such duties for an average of at least 20 hours per week each month throughout the year. The person must be performing such duties at a business site located in an enterprise zone. The provisions of this paragraph shall expire and be void on June 30, 2005.

Section 34. Paragraph (a) of subsection (2) of section 220.181, Florida Statutes, is amended to read:

220.181 Enterprise zone jobs credit.—

(2) When filing for an enterprise zone jobs credit, a business must file under oath with the governing body or enterprise zone development agency having jurisdiction over the enterprise zone where the business is located, as applicable, a statement which includes:

(a) For each new employee for whom this credit is claimed, the employee's name and place of residence during the taxable year, including the identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the new employee resides *if the new employee is a person residing in an enterprise zone, and, if applicable, documentation that the employee is a qualified Job Training Partnership Act classroom training participant or a WAGES participant.*

Section 35. Subsection (10) is added to section 288.047, Florida Statutes, to read:

288.047 Quick-response training for economic development.—

(10) There is created a Quick–response Training Program for Work and Gain Economic Self–sufficiency (WAGES) participants. Enterprise Florida, Inc., may, at the discretion of the WAGES Targeted Employment Team, award quick–response training grants and develop applicable guidelines for the training of participants in the WAGES Program. In addition to a local economic development organization, grants must be endorsed by the applicable local WAGES coalition and regional workforce development board.

(a) Training funded pursuant to this subsection may not exceed 12 months, and may be provided by the local community college, school district, regional workforce development board, or the business employing the participant, including on–the–job training. Training will provide entry–level skills to new workers, including those employed in retail, who are participants in the WAGES Program.

(b) WAGES participants trained pursuant to this subsection must be employed at a wage not less than $6.00 per hour.

(c) Funds made available pursuant to this subsection may be expended in connection with the relocation of a business from one community to another community if approved by the WAGES Targeted Employment Team.

Section 36. Subsection (4) of section 370.28, Florida Statutes, is amended, and subsection (5) is added to that section to read:

370.28 Enterprise zone designation; communities adversely impacted by net limitations.—

(4) Notwithstanding the enterprise zone residency requirements set out in ss. 212.096(1)(c) and 220.03(1)(q), businesses located in enterprise zones designated pursuant to this section may receive the credit provided under s. 212.096 or s. 220.181 for hiring any person within the jurisdiction of the *county within which* ~~nominating community of~~ such enterprise zone *is located*. All other provisions of ss. 212.096, 220.03(1)(q), and 220.181 apply to such businesses. *To increase employment opportunities for WAGES participants and prevent other persons from reliance on WAGES benefits, notwithstanding the requirement specified in ss. 212.08(5)(g)5. and (h)5. and (15)(a) and 220.182(1)(b) that no less than 20 percent of a business's employees, excluding temporary and part–time employees, must be residents of an enterprise zone for the business to qualify for the maximum exemption or credit provided in ss. 212.08(5)(g) and (h) and (15) and 220.182, a business that is located in an enterprise zone designated pursuant to this section shall be qualified for those maximum exemptions or credits if no less than 20 percent of such employees of the business are residents of the jurisdiction of the county within which the enterprise zone is located. All other provisions of ss. 212.08(5)(g) and (h) and (15) and 220.182 apply to such business.*

(5) Notwithstanding the time limitations contained in chapters 212 and 220, a business eligible to receive tax credits under this section from January 1, 1997, to June 1, 1998, must submit an application for the tax credits by December 1, 1998. All other requirements of the enterprise zone program apply to such a business.

Section 37. *There is appropriated $32 million from federal funds received by the state pursuant to Public Law 104-193, The Personal Responsibility and Work Opportunity Act, to the Employment Security Administration Trust Fund in the Department of Labor and Employment Security, to support the activities of local WAGES coalitions directed toward preparing, placing, and supporting WAGES participants in jobs or other approved work related activities.*

Section 38. Section 414.155, Florida Statutes, is created to read:

414.155 Relocation assistance program.—

(1) The Legislature recognizes that the need for public assistance may arise because a family is located in an area with limited employment opportunities, because of geographic isolation, because of formidable transportation barriers, because of isolation from their extended family, or because domestic violence interferes with the ability of a parent to maintain self-sufficiency. Accordingly there is established a voluntary program to assist families in relocating to communities with greater opportunities for self-sufficiency.

(2) The relocation assistance program shall involve five steps by the Department of Children and Family Services and the Department of Labor and Employment Security:

(a) A determination that the family is a WAGES participant or that all requirements of eligibility for the WAGES Program would likely be met.

(b) A determination that there is a basis for believing that relocation will contribute to the ability of the applicant to achieve self-sufficiency. For example, the applicant:

1. Is unlikely to achieve independence at the current community of residence;

2. Has secured a job that requires relocation to another community;

3. Has a family support network in another community; or

4. Is determined pursuant to criteria or procedures established by the WAGES Program State Board of Directors to be a victim of domestic violence who would experience reduced probability of further incidents through relocation.

(c) Establishment of a relocation plan, including a budget and such requirements as are necessary to prevent abuse of the benefit and to provide an assurance that the applicant will relocate. The plan may require that expenditures be made on behalf of the recipient; however, the plan must include provisions to protect the safety of victims of domestic

violence and avoid provisions that place them in anticipated danger. The payment to defray relocation expenses shall be limited to an amount not to exceed 4 months' temporary cash assistance, based on family size, and will not count towards the time limitations stated in s. 414.105. The Department of Children and Family Services may adopt rules necessary to administer this section.

(d) A determination, pursuant to criteria adopted by the WAGES Program State Board of Directors, that a Florida community receiving a relocated family has the capacity to provide needed services and employment opportunities. The Department of Labor and Employment Security may adopt rules necessary to establish criteria to be used by the WAGES Program State Board of Directors in administering this paragraph.

(e) Monitoring the relocation.

(3) A family receiving relocation assistance for reasons other than domestic violence must sign an agreement restricting the family from applying for temporary cash assistance for 6 months, unless an emergency is demonstrated to the department. If a demonstrated emergency forces the family to reapply for temporary cash assistance within 6 months after receiving a relocation assistance payment, repayment must be made on a prorated basis over an 8-month period and subtracted from any regular payment of temporary cash assistance for which the applicant may be eligible. The Department of Children and Family Services may adopt rules necessary to administer this section.

(4) Nothing herein shall be construed to allow any WAGES coalition or state agency to require relocation of a WAGES participant for the purposes of this section or any other.

(5) When the relocation plan for a WAGES participant involves relocating the participant within the state, the plan must be approved by the local WAGES coalition in the district from which the participant is moving and the local WAGES coalition in the district to which the participant is moving before the effective date of the move.

Section 39. *The following resources are designated for support of the WAGES Targeted Employment Program:*

(1) Up to $25,000,000 of funds designated for WAGES reserve is to be expended for WAGES Program job development in areas of critical state economic concern.

(2) Up to $10,000,000 of Employment Security Administration Trust Fund amounts associated with JTPA IIB, IIC and III designated for regions containing areas of active state economic concern shall be identified by the WAGES Targeted Employment Team in cooperation with the Department of Labor and Employment Security and used by the appropriate regional authority to fund programs and projects that produce jobs for WAGES participants in areas of critical state economic concern.

(3) Up to $7,500,000 from Employment Security Administration Trust Fund amounts associated with the Welfare–to–Work grant is to be reserved for activities that lead to employment of WAGES participants in areas of critical state economic concern as defined by the WAGES Targeted Employment Program. Of the $7,500,000 reserved, $500,000 is to be provided to the Department of Community Affairs for start up of the WAGES Targeted Employment Program, $2,500,000 is to be provided to the Institute of Food and Agricultural Sciences of the University of Florida for WAGES job opportunities, and $1,000,000 is to be provided to the Department of Military Affairs to provide job readiness services for WAGES participants as approved by the State WAGES Board.

Section 40. *A total of $1.9 million is appropriated from the Employment Security Administration Trust Fund to establish a life preparation program with the National Guard for children of WAGES participants and economically disadvantaged youths in concert with neighborhood revitalization efforts.*

Section 41. This act shall take effect upon becoming a law.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to the WAGES Program; amending s. 414.026, F.S.; requiring that the WAGES Program State Board of Directors approve any WAGES-related proposed administrative rules; requiring collaboration with the WAGES State Board concerning other actions by the Workforce Development Board of Enterprise Florida, Inc., and state agencies; extending the existence of the WAGES Program State Board of Directors; allowing the Governor to designate the WAGES Program State Board of Directors as a nonprofit corporation; providing requirements; amending s. 414.028, F.S.; revising requirements for a member of a local WAGES coalition in the case of a conflict of interest; providing requirements for disclosing any such conflict; providing for certain nonvoting members to be appointed to a local coalition; requiring a local coalition to deliver certain services under the WAGES Program; providing for staff support for local coalitions; requiring that the program and financial plan developed by a local WAGES coalition include provisions for providing services for victims of domestic violence and describing development of the plan; amending s. 414.065, F.S.; deleting provisions that require an employer to repay certain supplements or incentives under specified circumstances; creating a WAGES training bonus to be paid to an employer who hires certain program participants; providing protection for current employees; providing an exception from the work requirements for certain individuals at risk of domestic violence; providing an exception for a specified period for certain individuals impaired by past incidents of domestic violence, under certain circumstances; amending s. 414.20, F.S.; clarifying transportation options available to local WAGES coalitions to assist WAGES participants; amending s. 414.105, F.S.; providing for eligibility for extended temporary cash assistance under specified circumstances; providing that an individual who cares for a disabled family member is exempt from certain time limitations; permitting domestic violence victims to be granted hardship exemptions not subject to certain percentage limitations, under specified circumstances; providing legislative intent; amending s. 234.01, F.S.; authorizing school districts to provide transportation for WAGES participants; amending s. 234.211, F.S.; providing for reimbursement of school districts; amending s. 341.041, F.S.; establishing responsibilities of the Department of Transportation with respect to transit services for WAGES participants; amending s. 341.052, F.S.; relating to duties of public transit block grant recipients to coordinate with local WAGES coalitions regarding transportation services; deleting duplicative provisions; amending s. 414.026, F.S.; revising membership of the WAGES Program State Board of Directors; creating s. 414.225, F.S.; providing for the provision of transitional transportation for former WAGES participants; amending s. 427.013, F.S.; providing for the duties of the Commission for the Transportation Disadvantaged regarding WAGES transportation; amending s. 427.0155, F.S.; providing for the duties of community transportation coordinators regarding WAGES transportation; amending s. 427.0157, F.S.; providing for the duties of the local coordinating boards regarding WAGES transportation; creating s. 414.80, F.S.; designating specified sections as the "WAGES Targeted Employment Act"; creating s. 414.810, F.S.; providing legislative findings and intent; creating s. 414.811, F.S.; providing for policy and purposes relating to the WAGES Targeted Employment Program; creating s. 414.812, F.S.; limiting authority of the WAGES Targeted Employment Team; creating s. 414.813, F.S.; providing for liberal construction; creating s. 414.820, F.S.; designating areas of critical state economic concern; creating s. 414.830, F.S.; providing for WAGES Targeted Employment Team Coordinators; providing team authorities; providing for gubernatorial authorities; creating s. 414.840, F.S.; creating Regional WAGES Targeted Employment Teams; providing for responsibilities; creating s. 414.845, F.S.; creating local project teams; providing for powers and responsibilities for such teams; providing guidelines for prioritization of projects; creating s. 414.850, F.S.; providing for expiration and review of the WAGES Targeted Employment Program; creating s. 414.860, F.S.; providing for a legislative oversight committee; requiring a contract related to job creation and training activities; amending s. 159.8083, F.S.; providing certification priority; amending s. 212.08, F.S.; exempting certain property based in enterprise zones from the sales tax under certain circumstances; amending s. 212.096, F.S.; expanding enterprise zone sales tax credit to JTPA or WAGES participants not residing in an enterprise zone; requiring documentation; amending s. 220.03, F.S.; expanding enterprise zone corporate tax credit to JTPA or WAGES participants not residing in an enterprise zone; amending s. 220.181, F.S.; requiring documentation; amending s. 288.047, F.S.; creating a Quick–response Training Program for WAGES participants; providing requirements; amending s. 370.28, F.S.; providing that a business located in an enterprise zone in a community impacted by net limitations is eligible for the maximum sales tax exemption for building materials used in the rehabilitation of real property in an enterprise zone, for business property used in an enterprise zone, and for electrical energy used in an enterprise zone, and the maximum enterprise zone property tax credit against the corporate income tax, if a specified percentage of its employees are residents of the jurisdiction of the county, rather than

of the enterprise zone; requiring businesses eligible to receive certain tax credits to apply for such credits by a time certain; providing an appropriation from federal funds to support local WAGES coalitions; creating s. 414.155, F.S.; providing a relocation assistance program for families receiving or eligible to receive WAGES Program assistance; providing responsibilities of the Department of Children and Family Services and the Department of Labor and Employment Security; providing for a relocation plan and for monitoring of the relocation; requiring agreements restricting application for temporary cash assistance for a specified period; providing exceptions; requiring repayment of temporary cash assistance provided under certain circumstances, and reduced eligibility for future assistance; providing rulemaking authority for the Department of Children and Family Services and the Department of Labor and Employment Security; prescribing that the relocation assistance program shall not be construed to require relocation of a WAGES participant; requiring approval of the relocation plan of a WAGES participant; designating resources for support of the WAGES Targeted Employment Program; appropriating resources for the life preparation program; providing an effective date.

On motion by Senator McKay, by two-thirds vote **CS for SB 1114** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Diaz-Balart	Horne	Myers
Bronson	Dudley	Jones	Ostalkiewicz
Brown-Waite	Dyer	Kirkpatrick	Rossin
Burt	Forman	Klein	Scott
Campbell	Geller	Kurth	Silver
Casas	Grant	Latvala	Sullivan
Childers	Gutman	Laurent	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

On motion by Senator Harris, by two-thirds vote **HB 3931** was withdrawn from the Committees on Commerce and Economic Opportunities; Governmental Reform and Oversight; and Ways and Means.

On motion by Senator Harris, the rules were waived and—

HB 3931—A bill to be entitled An act relating to economic development grants; amending s. 14.2015, F.S.; establishing an economic development grant program under the Office of Tourism, Trade, and Economic Development; providing criteria, requirements, and restrictions with respect thereto; amending ss. 288.108 and 288.90152, F.S.; correcting cross references; providing an effective date.

—a companion measure, was substituted for **CS for SB 336** and read the second time by title.

Senators Harris, Hargrett and Meadows offered the following amendment which was moved by Senator Harris and adopted:

Amendment 1 (with title amendment)—On page 3, lines 1-19, delete those lines and insert:

Section 2. Subsection (6) of section 14.2015, Florida Statutes, is amended to read:

14.2015 Office of Tourism, Trade, and Economic Development; creation; powers and duties.—

(6)(a) In order to improve the state's regulatory environment, the Office of Tourism, Trade, and Economic Development shall consider the impact of agency rules on businesses, provide one-stop permit information and assistance, and serve as an advocate for businesses, particularly small businesses, in their dealings with state agencies.

(b) As used in this subsection, the term "permit" means any approval of an agency required as a condition of operating a business in this state, including, but not limited to, licenses and registrations.

(c) The office shall have powers and duties to:

1. Review proposed agency actions for impacts on small businesses and offer alternatives to mitigate such impacts, as provided in s. 120.54.

2. In consultation with the Governor's rules ombudsman, make recommendations to agencies on any existing and proposed rules for alleviating unnecessary or disproportionate adverse effects to businesses.

3. Make recommendations to the Legislature and to agencies for improving permitting procedures affecting business activities in the state. By October 1, 1997, and annually thereafter *as part of the report prepared pursuant to paragraph (2)(e),* the Office of Tourism, Trade, and Economic Development shall ~~submit a~~ report to the Legislature *on* ~~containing~~ the following:

a. An identification and description of methods to eliminate, consolidate, simplify, or expedite permits.

b. An identification and description of those agency rules repealed or modified during each calendar year to improve the regulatory climate for businesses operating in the state.

c. A recommendation for an operating plan and funding level for establishing an automated one-stop permit registry to provide the following services:

(I) Access by computer network to all permit applications and approval requirements of each state agency.

(II) Assistance in the completion of such applications.

(III) Centralized collection of any permit fees and distribution of such fees to agencies.

(IV) Submission of application data and circulation of such data among state agencies by computer network.

Subject to legislative appropriation, the Office of Tourism, Trade, and Economic Development is authorized to coordinate the establishment of such a one–stop permit registry, including, but not limited to, working with all appropriate state agencies on the implementation of the operating plan. If ~~the Legislature establishes~~ such a registry *is established,* subsequent annual reports *to the Legislature from the Office of Tourism, Trade, and Economic Development pursuant to this paragraph* must cover the status and performance of this registry.

4. Serve as a clearinghouse for information on which permits are required for a particular business and on the respective application process, including criteria applied in making a determination on a permit application. Each state agency that requires a permit, license, or registration for a business shall submit to the Office of Tourism, Trade, and Economic Development by August 1 of each year a list of the types of businesses and professions that it regulates and of each permit, license, or registration that it requires for a type of business or profession.

5. Obtain information and permit applications from agencies and provide such information and permit applications to the public.

6. Arrange, upon request, informal conferences between a business and an agency to clarify regulatory requirements or standards or to identify and address problems in the permit review process.

7. Determine, upon request, the status of a particular permit application.

8. Receive complaints and suggestions concerning permitting policies and activities of governmental agencies which affect businesses.

(d) Use of the services authorized in this subsection does not preclude a person or business from dealing directly with an agency.

(e) In carrying out its duties under this subsection, the Office of Tourism, Trade, and Economic Development may consult with state agency personnel appointed to serve as economic development liaisons under s. 288.021.

(f) The office shall clearly represent that its services are advisory, informational, and facilitative only. Advice, information, and assistance rendered by the office does not relieve any person or business from the

obligation to secure a required permit. The office is not liable for any consequences resulting from the failure to issue or to secure a required permit. However, an applicant who uses the services of the office and who receives a written statement identifying required state permits relating to a business activity may not be assessed a penalty for failure to obtain a state permit that was not identified, if the applicant submits an application for each such permit within 60 days after written notification from the agency responsible for issuing the permit.

Section 3. Paragraph (h) of subsection (5) of section 212.08, Florida Statutes, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(5) EXEMPTIONS; ACCOUNT OF USE.—

(h) Business property used in an enterprise zone.—

1. Beginning July 1, 1995, business property purchased for use by businesses located in an enterprise zone which is subsequently used in an enterprise zone shall be exempt from the tax imposed by this chapter. This exemption inures to the business only through a refund of previously paid taxes. A refund shall be authorized upon an affirmative showing by the taxpayer to the satisfaction of the department that the requirements of this paragraph have been met.

2. To receive a refund, the business must file under oath with the governing body or enterprise zone development agency having jurisdiction over the enterprise zone where the business is located, as applicable, an application which includes:

a. The name and address of the business claiming the refund.

b. The identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the business is located.

c. A specific description of the property for which a refund is sought, including its serial number or other permanent identification number.

d. The location of the property.

e. The sales invoice or other proof of purchase of the property, showing the amount of sales tax paid, the date of purchase, and the name and address of the sales tax dealer from whom the property was purchased.

f. Whether the business is a small business as defined by s. 288.703(1).

g. If applicable, the name and address of each permanent employee of the business, including, for each employee who is a resident of an enterprise zone, the identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the employee resides.

3. Within 10 working days after receipt of an application, the governing body or enterprise zone development agency shall review the application to determine if it contains all the information required pursuant to subparagraph 2. and meets the criteria set out in this paragraph. The governing body or agency shall certify all applications that contain the information required pursuant to subparagraph 2. and meet the criteria set out in this paragraph as eligible to receive a refund. If applicable, the governing body or agency shall also certify if 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary and part-time employees. The certification shall be in writing, and a copy of the certification shall be transmitted to the executive director of the Department of Revenue. The business shall be responsible for forwarding a certified application to the department within the time specified in subparagraph 4.

4. An application for a refund pursuant to this paragraph must be submitted to the department within 6 months after the business property is purchased.

5. The provisions of s. 212.095 do not apply to any refund application made pursuant to this paragraph. The amount refunded on purchases of business property under this paragraph shall be the lesser of 97 percent of the sales tax paid on such business property or $5,000, or, if no less than 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary and part-time employees, the amount refunded on purchases of business property under this paragraph shall be the lesser of 97 percent of the sales tax paid on such business property or $10,000. A refund approved pursuant to this paragraph shall be made within 30 days of formal approval by the department of the application for the refund. No refund shall be granted under this paragraph unless the amount to be refunded exceeds $100 in sales tax paid on purchases made within a 60-day time period.

6. The department shall adopt rules governing the manner and form of refund applications and may establish guidelines as to the requisites for an affirmative showing of qualification for exemption under this paragraph.

7. If the department determines that the business property is used outside an enterprise zone within 3 years from the date of purchase, the amount of taxes refunded to the business purchasing such business property shall immediately be due and payable to the department by the business, together with the appropriate interest and penalty, computed from the date of purchase, in the manner provided by this chapter. *Notwithstanding this subparagraph, business property used exclusively in:*

a. Licensed commercial fishing vessels,

b. Fishing guide boats, or

c. Ecotourism guide boats

that leave and return to a fixed location within an area designated under s. 370.28 are eligible for the exemption provided under this paragraph if all requirements of this paragraph are met. Such vessels and boats must be owned by a business that is eligible to receive the exemption provided under this paragraph. This exemption does not apply to the purchase of a vessel or boat.

8. The department shall deduct an amount equal to 10 percent of each refund granted under the provisions of this paragraph from the amount transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund pursuant to s. 212.20 for the county area in which the business property is located and shall transfer that amount to the General Revenue Fund.

9. For the purposes of this exemption, "business property" means new or used property defined as "recovery property" in s. 168(c) of the Internal Revenue Code of 1954, as amended, except:

a. Property classified as 3-year property under s. 168(c)(2)(A) of the Internal Revenue Code of 1954, as amended;

b. Industrial machinery and equipment as defined in sub-subparagraph (b)6.a. and eligible for exemption under paragraph (b); and

c. Building materials as defined in sub-subparagraph (g)8.a.

10. The provisions of this paragraph shall expire and be void on December 31, 2005.

Section 4. Subsection (2) of section 212.097, Florida Statutes, is amended to read:

212.097 Urban High-Crime Area Job Tax Credit Program.—

(2) As used in this section, the term:

(a) "Eligible business" means any sole proprietorship, firm, partnership, or corporation that is located in a qualified county and is predominantly engaged in, or is headquarters for a business predominantly engaged in, activities usually provided for consideration by firms classified within the following standard industrial classifications: SIC 01 through SIC 09 (agriculture, forestry, and fishing); SIC 20 through SIC 39 (manufacturing); *SIC 52 through SIC 57 and SIC 59 (retail);* SIC 422 (public warehousing and storage); SIC 70 (hotels and other lodging places); SIC 7391 (research and development); SIC 7992 (public golf courses); and SIC 7996 (amusement parks). *A call center or similar customer service operation that services a multistate market or international market is also an eligible business.* Excluded from eligible receipts

are receipts from retail sales, except such receipts for *SIC 52 through SIC 57 and SIC 59 (retail),* hotels and other lodging places classified in SIC 70, public golf courses in SIC 7992, and amusement parks in SIC 7996. For purposes of this paragraph, the term "predominantly" means that more than 50 percent of the business's gross receipts from all sources is generated by those activities usually provided for consideration by firms in the specified standard industrial classification. The determination of whether the business is located in a qualified high-crime area and the tier ranking of that area must be based on the date of application for the credit under this section. Commonly owned and controlled entities are to be considered a single business entity.

(b) "Qualified employee" means any employee of an eligible business who performs duties in connection with the operations of the business on a regular, full-time basis for an average of at least 36 hours per week for at least 3 months within the qualified high-crime area in which the eligible business is located. An owner or partner of the eligible business is not a qualified employee. The term also includes an employee leased from an employee leasing company licensed under chapter 468, if such employee has been continuously leased to the employer for an average of at least 36 hours per week for more than 6 months.

(c) "New business" means any eligible business first beginning operation on a site in a qualified high-crime area and clearly separate from any other commercial or business operation of the business entity within a qualified high-crime area. A business entity that operated an eligible business within a qualified high-crime area within the 48 months before the *period provided for* application *by subsection (3)* ~~date~~ shall not be considered a new business.

(d) "Existing business" means any eligible business that does not meet the criteria for a new business.

(e) "Qualified high-crime area" means an area selected by the Office of Tourism, Trade, and Economic Development in the following manner: every third year, the office shall rank and tier those areas nominated under subsection (8), according to the following prioritized criteria:

1. Highest arrest rates within the geographic area for violent crime and for such other crimes as drug sale, drug possession, prostitution, vandalism, and civil disturbances;

2. Highest reported crime volume and rate of specific property crimes such as business and residential burglary, motor vehicle theft, and vandalism;

3. Highest percentage of reported index crimes that are violent in nature;

4. Highest overall index crime volume for the area; and

5. Highest overall index crime rate for the geographic area.

Tier-one areas are ranked 1 through 5 and represent the highest crime areas according to this ranking. Tier-two areas are ranked 6 through 10 according to this ranking. Tier-three areas are ranked 11 through 15.

Section 5. Subsection (2) of section 212.098, Florida Statutes, is amended to read:

212.098 Rural Job Tax Credit Program.—

(2) As used in this section, the term:

(a) "Eligible business" means any sole proprietorship, firm, partnership, or corporation that is located in a qualified county and is predominantly engaged in, or is headquarters for a business predominantly engaged in, activities usually provided for consideration by firms classified within the following standard industrial classifications: SIC 01 through SIC 09 (agriculture, forestry, and fishing); SIC 20 through SIC 39 (manufacturing); SIC 422 (public warehousing and storage); SIC 70 (hotels and other lodging places); SIC 7391 (research and development); SIC 7992 (public golf courses); and SIC 7996 (amusement parks). *A call center or similar customer service operation that services a multistate market or an international market is also an eligible business.* Excluded from eligible receipts are receipts from retail sales, except such receipts for hotels and other lodging places classified in SIC 70, public golf courses in SIC 7992, and amusement parks in SIC 7996. For purposes of this paragraph, the term "predominantly" means that more than 50 percent of the business's gross receipts from all sources is generated by those activities usually provided for consideration by firms in the specified standard industrial classification. The determination of whether the business is located in a qualified county and the tier ranking of that county must be based on the date of application for the credit under this section. Commonly owned and controlled entities are to be considered a single business entity.

(b) "Qualified employee" means any employee of an eligible business who performs duties in connection with the operations of the business on a regular, full-time basis for an average of at least 36 hours per week for at least 3 months within the qualified county in which the eligible business is located. An owner or partner of the eligible business is not a qualified employee.

(c) "Qualified county" means a county that has a population of fewer than 75,000 persons, or any county that has a population of 100,000 or less and is contiguous to a county that has a population of less than 75,000, selected in the following manner: every third year, the Office of Tourism, Trade, and Economic Development shall rank and tier the state's counties according to the following four factors:

1. Highest unemployment rate for the most recent 36-month period.

2. Lowest per capita income for the most recent 36-month period.

3. Highest percentage of residents whose incomes are below the poverty level, based upon the most recent data available.

4. Average weekly manufacturing wage, based upon the most recent data available.

Tier-one qualified counties are those ranked 1 through 5 and represent the state's least-developed counties according to this ranking. Tier-two qualified counties are those ranked 6 through 10, and tier-three counties are those ranked 11 through 15.

(d) "New business" means any eligible business first beginning operation on a site in a qualified county and clearly separate from any other commercial or business operation of the business entity within a qualified county. A business entity that operated an eligible business within a qualified county within the 48 months before the *period provided for* application *by subsection (3)* ~~date~~ shall not be considered a new business.

(e) "Existing business" means any eligible business that does not meet the criteria for a new business.

Section 6. Section 288.075, Florida Statutes, is amended to read:

288.075 Confidentiality of records.—

(1) As used in this section, the term "economic development agency" means the *Office of Tourism, Trade, and Economic Development* ~~Division of Economic Development of the Department of Commerce~~, any industrial development authority created in accordance with part III of chapter 159 or by special law, the public economic development agency that advises the county commission on the issuance of industrial revenue bonds of a county that does not have an industrial development authority created in accordance with part III of chapter 159 or by special law, or any research and development authority created in accordance with part V of chapter 159. The term also includes any private agency, person, partnership, corporation, or business entity when authorized by the state, a municipality, or a county to promote the general business interests or industrial interests of the state or that municipality or county.

(2) Upon written request from a private corporation, partnership, or person, records of an economic development agency which contain or would provide information concerning plans, intentions, or interests of such private corporation, partnership, or person to locate, relocate, or expand any of its business activities in this state are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution for 24 months after the date an economic development agency receives a request for confidentiality or until disclosed by an economic development agency pursuant to subsection (4) or by the party requesting confidentiality under this section. Confidentiality must be maintained until the expiration of the 24-month period or until documents or information are otherwise disclosed, whichever occurs first. This confidentiality does not apply when any party petitions a court of competent jurisdiction and, in the opinion of the court, proves need for access to such documents. This

exemption expires October 2, 2001, and is subject to review by the Legislature under the Open Government Sunset Review Act of 1995 in accordance with s. 119.15.

(3) This section does not waive any provision of chapter 120 or any other provision of law requiring a public hearing.

(4) A public officer or employee *or any person who is an employee of an economic development agency* may not enter into a binding agreement with any corporation, partnership, or person who has requested confidentiality of information pursuant to this section, until 90 days after such information is made public*, unless such public officer or employee or economic development agency employee is acting in an official capacity*.

(5) Any person who is an employee of an economic development agency who violates the provisions of this section is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 7. Subsection (3) of section 288.095, Florida Statutes, is amended to read:

288.095 Economic Development Trust Fund.—

(3)(a) Contingent upon an annual appropriation by the Legislature, the Office of Tourism, Trade, and Economic Development may approve tax refunds pursuant to ss. 288.1045, 288.106, and 288.107. ~~The office may not approve tax refunds in excess of the amount appropriated to the Economic Development Incentives Account for such tax refunds, for a fiscal year pursuant to paragraph (b).~~

(b)*1.* The *combined* total amount of *the state share of* tax *refund claims* ~~refunds~~ approved by the Office of Tourism, Trade, and Economic Development pursuant to ss. 288.1045, 288.106, and 288.107 *for a single fiscal year* shall not exceed the amount appropriated to the Economic Development Incentives Account for such *state share of tax refunds* ~~purposes~~ for the fiscal year. In the event the Legislature does not appropriate an amount sufficient to satisfy projections by the office for tax refunds under ss. 288.1045, 288.106, and 288.107 in a fiscal year, the Office of Tourism, Trade, and Economic Development shall, not later than July 15 of such year, determine the proportion of each refund claim which shall be paid by dividing the amount appropriated for tax refunds for the fiscal year by the projected total of refund claims for the fiscal year. The amount of each claim for a tax refund shall be multiplied by the resulting quotient. If, after the payment of all such refund claims, funds remain in the Economic Development Incentives Account for tax refunds, the office shall recalculate the proportion for each refund claim and adjust the amount of each claim accordingly.

2. The Office of Tourism, Trade, and Economic Development or any of its agents shall not enter into any contract, agreement, legal consideration, or obligation that creates an obligation or expectation that the Legislature will appropriate for the state share of tax refund payments under ss. 288.1045, 288.106, and 288.107, an amount in excess of $15,000,000 for fiscal year 1999-20, and $20,000,000 for any year following fiscal year 1999-20. Any contract, agreement, legal consideration, or obligation entered by the office, pertaining to tax refund payments shall clearly state that it does not constitute a general obligation of the State of Florida, nor is it backed by the full faith and credit of the State of Florida. Further it shall state that payment of tax refunds are conditioned on and subject to specific annual appropriations by the Florida Legislature of moneys sufficient to pay amounts authorized in ss. 288.1045, 288.106, and 288.107.

(c) By September 30 of each year, the Office of Tourism, Trade, and Economic Development shall submit a complete and detailed report to the board of directors of Enterprise Florida, Inc., created under part VII of this chapter, of all applications received, final decisions issued, tax refund agreements executed, and tax refunds paid or other payments made under all programs funded out of the Economic Development Incentives Account, including analyses of benefits and costs, types of projects supported, and employment and investment created. The Office of Tourism, Trade, and Economic Development shall also include a separate analysis of the impact of such tax refunds on state enterprise zones designated pursuant to s. 290.0065. By December 1 of each year, the board of directors of Enterprise Florida, Inc., shall review and comment on the report, and the board shall submit the report, together with the comments of the board, to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report must discuss whether the authority and moneys appropriated by the Legislature to the Economic Development Incentives Account were managed and expended in a prudent, fiducially sound manner.

(d) Moneys in the Economic Development Incentives Account may be used only to pay tax refunds and other payments authorized under s. 288.1045, s. 288.106, or s. 288.107.

(e) The Office of Tourism, Trade, and Economic Development may adopt rules necessary to carry out the provisions of this subsection, including rules providing for the use of moneys in the Economic Development Incentives Account and for the administration of the Economic Development Incentives Account.

Section 8. Section 288.1045, Florida Statutes, is amended to read:

288.1045 Qualified defense contractor tax refund program.—

(1) DEFINITIONS.—As used in this section:

(a) "Consolidation of a Department of Defense contract" means the consolidation of one or more of an applicant's facilities under one or more Department of Defense contracts either from outside this state or from inside and outside this state, into one or more of the applicant's facilities inside this state.

(b) "Average wage in the area" means the average of all wages and salaries in the state, the county, or in the standard metropolitan area in which the business unit is located.

(c) "Applicant" means any business entity that holds a valid Department of Defense contract or any business entity that is a subcontractor under a valid Department of Defense contract or any business entity that holds a valid contract for the reuse of a defense-related facility, including all members of an affiliated group of corporations as defined in s. 220.03(1)(b).

(d) *"Office"* ~~"Division"~~ means the *Office of Tourism, Trade, and Economic Development* ~~Division of Economic Development of the Department of Commerce~~.

(e) "Department of Defense contract" means a competitively bid Department of Defense contract or a competitively bid federal agency contract issued on behalf of the Department of Defense for manufacturing, assembling, fabricating, research, development, or design with a duration of 2 or more years, but excluding any contract to provide goods, improvements to real or tangible property, or services directly to or for any particular military base or installation in this state.

(f) "New Department of Defense contract" means a Department of Defense contract entered into after the date application for certification as a qualified applicant is made and after January 1, 1994.

(g) "Jobs" means full-time equivalent positions, consistent with the use of such terms by the Department of Labor and Employment Security for the purpose of unemployment compensation tax, resulting directly from a project in this state. This number does not include temporary construction jobs involved with the construction of facilities for the project.

(h) "Nondefense production jobs" means employment exclusively for activities that, directly or indirectly, are unrelated to the Department of Defense.

(i) "Project" means any business undertaking in this state under a new Department of Defense contract, consolidation of a Department of Defense contract, or conversion of defense production jobs over to nondefense production jobs or reuse of defense-related facilities.

(j) "Qualified applicant" means an applicant that has been approved by the *director* ~~secretary~~ to be eligible for tax refunds pursuant to this section.

(k) *"Director"* ~~"Secretary"~~ means the *director of the Office of Tourism, Trade, and Economic Development* ~~Secretary of Commerce~~.

(l) "Taxable year" means the same as in s. 220.03(1)(z).

(m) "Fiscal year" means the fiscal year of the state.

(n) "Business unit" means an employing unit, as defined in s. 443.036, that is registered with the Department of Labor and Employment Security for unemployment compensation purposes or means a subcategory or division of an employing unit that is accepted by the Department of Labor and Employment Security as a reporting unit.

(o) "Local financial support" means funding from local sources, public or private, which is paid to the Economic Development Trust Fund and which is equal to 20 percent of the annual tax refund for a qualified applicant. Local financial support may include excess payments made to a utility company under a designated program to allow decreases in service by the utility company under conditions, regardless of when application is made. A qualified applicant may not provide, directly or indirectly, more than 5 percent of such funding in any fiscal year. The sources of such funding may not include, directly or indirectly, state funds appropriated from the General Revenue Fund or any state trust fund, excluding tax revenues shared with local governments pursuant to law.

(p) "Contract for reuse of a defense-related facility" means a contract with a duration of 2 or more years for the use of a facility for manufacturing, assembling, fabricating, research, development, or design of tangible personal property, but excluding any contract to provide goods, improvements to real or tangible property, or services directly to or for any particular military base or installation in this state. Such facility must be located within a port, as defined in s. 313.21, and have been occupied by a business entity that held a valid Department of Defense contract or occupied by any branch of the Armed Forces of the United States, within 1 year of any contract being executed for the reuse of such facility. A contract for reuse of a defense-related facility may not include any contract for reuse of such facility for any Department of Defense contract for manufacturing, assembling, fabricating, research, development, or design.

(q) "Local financial support exemption option" means the option to exercise an exemption from the local financial support requirement available to any applicant whose project is located in a county designated by the Rural Economic Development Initiative, if the county commissioners of the county in which the project will be located adopt a resolution requesting that the applicant's project be exempt from the local financial support requirement. Any applicant that exercises this option is not eligible for more than 80 percent of the total tax refunds allowed such applicant under this section.

(2) GRANTING OF A TAX REFUND; ELIGIBLE AMOUNTS.—

(a) There shall be allowed, from the Economic Development Trust Fund, a refund to a qualified applicant for the amount of eligible taxes certified by the *director* ~~secretary~~ which were paid by such qualified applicant. The total amount of refunds for all fiscal years for each qualified applicant shall be determined pursuant to subsection (3). The annual amount of a refund to a qualified applicant shall be determined pursuant to subsection (5).

(b) A qualified applicant may not be qualified for any project to receive more than $5,000 times the number of jobs provided in the tax refund agreement pursuant to subparagraph (4)(a)1. A qualified applicant may not receive refunds of more than 25 percent of the total tax refunds provided in the tax refund agreement pursuant to subparagraph (4)(a)1. in any fiscal year, provided that no qualified applicant may receive more than $2.5 million in tax refunds pursuant to this section in any fiscal year.

(c) A qualified applicant may not receive more than $7.5 million in tax refunds pursuant to this section in all fiscal years.

(d) Contingent upon an annual appropriation by the Legislature, the *director* ~~secretary~~ may approve not more ~~than the lesser of $25 million~~ in tax refunds *than* ~~or~~ the amount appropriated to the Economic Development Trust Fund for tax refunds, for a fiscal year pursuant to subsection (5) *and s. 288.095*.

(e) For the first 6 months of each fiscal year, the *director* ~~secretary~~ shall set aside 30 percent of the amount appropriated for refunds pursuant to this section by the Legislature to provide tax refunds only to qualified applicants who employ 500 or fewer full-time employees in this state. Any unencumbered funds remaining undisbursed from this set-aside at the end of the 6-month period may be used to provide tax refunds for any qualified applicants pursuant to this section.

(f) After entering into a tax refund agreement pursuant to subsection (4), a qualified applicant may receive refunds from the Economic Development Trust Fund for the following taxes due and paid by the qualified applicant beginning with the applicant's first taxable year that begins after entering into the agreement:

1. Taxes on sales, use, and other transactions paid pursuant to chapter 212.

2. Corporate income taxes paid pursuant to chapter 220.

3. Intangible personal property taxes paid pursuant to chapter 199.

4. Emergency excise taxes paid pursuant to chapter 221.

5. Excise taxes paid on documents pursuant to chapter 201.

6. Ad valorem taxes paid, as defined in s. 220.03(1)(a) on June 1, 1996.

However, a qualified applicant may not receive a tax refund pursuant to this section for any amount of credit, refund, or exemption granted such contractor for any of such taxes. If a refund for such taxes is provided by the *office* ~~Department of Commerce,~~ which *taxes* are subsequently adjusted by the application of any credit, refund, or exemption granted to the qualified applicant other than that provided in this section, the qualified applicant shall reimburse the Economic Development Trust Fund for the amount of such credit, refund, or exemption. A qualified applicant must notify and tender payment to the *office* ~~Department of Commerce~~ within 20 days after receiving a credit, refund, or exemption, other than that provided in this section.

(g) Any qualified applicant who fraudulently claims this refund is liable for repayment of the refund to the Economic Development Trust Fund plus a mandatory penalty of 200 percent of the tax refund which shall be deposited into the General Revenue Fund. Any qualified applicant who fraudulently claims this refund commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(h) Funds made available pursuant to this section may not be expended in connection with the relocation of a business from one community to another community in this state unless the Office of Tourism, Trade, and Economic Development determines that without such relocation the business will move outside this state or determines that the business has a compelling economic rationale for the relocation which creates additional jobs.

(3) APPLICATION PROCESS; REQUIREMENTS; AGENCY DETERMINATION.—

(a) To apply for certification as a qualified applicant pursuant to this section, an applicant must file an application with the *office* ~~division~~ which satisfies the requirements of paragraphs (b) and (e), paragraphs (c) and (e), or paragraphs (d) and (e). An applicant may not apply for certification pursuant to this section after a proposal has been submitted for a new Department of Defense contract, after the applicant has made the decision to consolidate an existing Department of Defense contract in this state for which such applicant is seeking certification, or after the applicant has made the decision to convert defense production jobs to nondefense production jobs for which such applicant is seeking certification.

(b) Applications for certification based on the consolidation of a Department of Defense contract or a new Department of Defense contract must be submitted to the *office* ~~division~~ as prescribed by the *office* ~~Department of Commerce~~ and must include, but are not limited to, the following information:

1. The applicant's federal employer identification number, the applicant's Florida sales tax registration number, and a notarized signature of an officer of the applicant.

2. The permanent location of the manufacturing, assembling, fabricating, research, development, or design facility in this state at which the project is or is to be located.

3. The Department of Defense contract numbers of the contract to be consolidated, the new Department of Defense contract number, or the "RFP" number of a proposed Department of Defense contract.

4. The date the contract was executed or is expected to be executed, and the date the contract is due to expire or is expected to expire.

5. The commencement date for project operations under the contract in this state.

6. The number of full-time equivalent jobs in this state which are or will be dedicated to the project during the year and the average wage of such jobs.

7. The total number of full-time equivalent employees employed by the applicant in this state.

8. The percentage of the applicant's gross receipts derived from Department of Defense contracts during the 5 taxable years immediately preceding the date the application is submitted.

9. The amount of:

a. Taxes on sales, use, and other transactions paid pursuant to chapter 212;

b. Corporate income taxes paid pursuant to chapter 220;

c. Intangible personal property taxes paid pursuant to chapter 199;

d. Emergency excise taxes paid pursuant to chapter 221;

e. Excise taxes paid on documents pursuant to chapter 201; and

f. Ad valorem taxes paid

during the 5 fiscal years immediately preceding the date of the application, and the projected amounts of such taxes to be due in the 3 fiscal years immediately following the date of the application.

10. The estimated amount of tax refunds to be claimed in each fiscal year.

11. A brief statement concerning the applicant's need for tax refunds, and the proposed uses of such refunds by the applicant.

12. A resolution adopted by the county commissioners of the county in which the project will be located, which recommends the applicant be approved as a qualified applicant, and which indicates that the necessary commitments of local financial support for the applicant exist. Prior to the adoption of the resolution, the county commission may review the proposed public or private sources of such support and determine whether the proposed sources of local financial support can be provided or, for any applicant whose project is located in a county designated by the Rural Economic Development Initiative, a resolution adopted by the county commissioners of such county requesting that the applicant's project be exempt from the local financial support requirement.

13. Any additional information requested by the *office* ~~division~~.

(c) Applications for certification based on the conversion of defense production jobs to nondefense production jobs must be submitted to the *office* ~~division~~ as prescribed by the *office* ~~Department of Commerce~~ and must include, but are not limited to, the following information:

1. The applicant's federal employer identification number, the applicant's Florida sales tax registration number, and a notarized signature of an officer of the applicant.

2. The permanent location of the manufacturing, assembling, fabricating, research, development, or design facility in this state at which the project is or is to be located.

3. The Department of Defense contract numbers of the contract under which the defense production jobs will be converted to nondefense production jobs.

4. The date the contract was executed, and the date the contract is due to expire or is expected to expire, or was canceled.

5. The commencement date for the nondefense production operations in this state.

6. The number of full-time equivalent jobs in this state which are or will be dedicated to the nondefense production project during the year and the average wage of such jobs.

7. The total number of full-time equivalent employees employed by the applicant in this state.

8. The percentage of the applicant's gross receipts derived from Department of Defense contracts during the 5 taxable years immediately preceding the date the application is submitted.

9. The amount of:

a. Taxes on sales, use, and other transactions paid pursuant to chapter 212;

b. Corporate income taxes paid pursuant to chapter 220;

c. Intangible personal property taxes paid pursuant to chapter 199;

d. Emergency excise taxes paid pursuant to chapter 221;

e. Excise taxes paid on documents pursuant to chapter 201; and

f. Ad valorem taxes paid

during the 5 fiscal years immediately preceding the date of the application, and the projected amounts of such taxes to be due in the 3 fiscal years immediately following the date of the application.

10. The estimated amount of tax refunds to be claimed in each fiscal year.

11. A brief statement concerning the applicant's need for tax refunds, and the proposed uses of such refunds by the applicant.

12. A resolution adopted by the county commissioners of the county in which the project will be located, which recommends the applicant be approved as a qualified applicant, and which indicates that the necessary commitments of local financial support for the applicant exist. Prior to the adoption of the resolution, the county commission may review the proposed public or private sources of such support and determine whether the proposed sources of local financial support can be provided or, for any applicant whose project is located in a county designated by the Rural Economic Development Initiative, a resolution adopted by the county commissioners of such county requesting that the applicant's project be exempt from the local financial support requirement.

13. Any additional information requested by the *office* ~~division~~.

(d) Applications for certification based on a contract for reuse of a defense-related facility must be submitted to the *office* ~~division~~ as prescribed by the *office* ~~Department of Commerce~~ and must include, but are not limited to, the following information:

1. The applicant's Florida sales tax registration number and a notarized signature of an officer of the applicant.

2. The permanent location of the manufacturing, assembling, fabricating, research, development, or design facility in this state at which the project is or is to be located.

3. The business entity holding a valid Department of Defense contract or branch of the Armed Forces of the United States that previously occupied the facility, and the date such entity last occupied the facility.

4. A copy of the contract to reuse the facility, or such alternative proof as may be prescribed by the *office* ~~department~~ that the applicant is seeking to contract for the reuse of such facility.

5. The date the contract to reuse the facility was executed or is expected to be executed, and the date the contract is due to expire or is expected to expire.

6. The commencement date for project operations under the contract in this state.

7. The number of full-time equivalent jobs in this state which are or will be dedicated to the project during the year and the average wage of such jobs.

8. The total number of full-time equivalent employees employed by the applicant in this state.

9. The amount of:

a. Taxes on sales, use, and other transactions paid pursuant to chapter 212.

b. Corporate income taxes paid pursuant to chapter 220.

c. Intangible personal property taxes paid pursuant to chapter 199.

d. Emergency excise taxes paid pursuant to chapter 221.

e. Excise taxes paid on documents pursuant to chapter 201.

f. Ad valorem taxes paid during the 5 fiscal years immediately preceding the date of the application, and the projected amounts of such taxes to be due in the 3 fiscal years immediately following the date of the application.

10. The estimated amount of tax refunds to be claimed in each fiscal year.

11. A brief statement concerning the applicant's need for tax refunds, and the proposed uses of such refunds by the applicant.

12. A resolution adopted by the county commissioners of the county in which the project will be located, which recommends the applicant be approved as a qualified applicant, and which indicates that the necessary commitments of local financial support for the applicant exist. Prior to the adoption of the resolution, the county commission may review the proposed public or private sources of such support and determine whether the proposed sources of local financial support can be provided or, for any applicant whose project is located in a county designated by the Rural Economic Development Initiative, a resolution adopted by the county commissioners of such county requesting that the applicant's project be exempt from the local financial support requirement.

13. Any additional information requested by the *office* ~~division~~.

(e) To qualify for review by the *office* ~~division~~, the application of an applicant must, at a minimum, establish the following to the satisfaction of the *office* ~~division~~:

1. The jobs proposed to be provided under the application, pursuant to subparagraph (b)6. or subparagraph (c)6., must pay an estimated annual average wage equaling at least 115 percent of the average wage in the area where the project is to be located.

2. The consolidation of a Department of Defense contract must result in a net increase of at least 25 percent in the number of jobs at the applicant's facilities in this state or the addition of at least 80 jobs at the applicant's facilities in this state.

3. The conversion of defense production jobs to nondefense production jobs must result in net increases in nondefense employment at the applicant's facilities in this state.

4. The Department of Defense contract cannot allow the business to include the costs of relocation or retooling in its base as allowable costs under a cost-plus, or similar, contract.

5. A business unit of the applicant must have derived not less than 70 percent of its gross receipts in this state from Department of Defense contracts over the applicant's last fiscal year, and must have derived not less than 80 percent of its gross receipts in this state from Department of Defense contracts over the 5 years preceding the date an application is submitted pursuant to this section. This subparagraph does not apply to any application for certification based on a contract for reuse of a defense-related facility.

6. The reuse of a defense-related facility must result in the creation of at least 100 jobs at such facility.

(f) Each application meeting the requirements of paragraphs (b) and (e), paragraphs (c) and (e), or paragraphs (d) and (e) must be submitted to the *office* ~~division~~ for a determination of eligibility. The *office* ~~division~~ shall review, evaluate, and score each application based on, but not limited to, the following criteria:

1. Expected contributions to the state strategic economic development plan adopted by Enterprise Florida, Inc., taking into account the extent to which the project contributes to the state's high-technology base, and the long-term impact of the project and the applicant on the state's economy.

2. The economic benefit of the jobs created or retained by the project in this state, taking into account the cost and average wage of each job created or retained, and the potential risk to existing jobs.

3. The amount of capital investment to be made by the applicant in this state.

4. The local commitment and support for the project and applicant.

5. The impact of the project on the local community, taking into account the unemployment rate for the county where the project will be located.

6. The dependence of the local community on the defense industry.

7. The impact of any tax refunds granted pursuant to this section on the viability of the project and the probability that the project will occur in this state if such tax refunds are granted to the applicant, taking into account the expected long-term commitment of the applicant to economic growth and employment in this state.

8. The length of the project, or the expected long-term commitment to this state resulting from the project.

(g) The *office* ~~division~~ shall forward its written findings and evaluation on each application meeting the requirements of paragraphs (b) and (e), paragraphs (c) and (e), or paragraphs (d) and (e) to the *director* ~~secretary~~ within 60 calendar days of receipt of a complete application. The *office* ~~division~~ shall notify each applicant when its application is complete, and when the 60-day period begins. In its written report to the *director* ~~secretary~~, the *office* ~~division~~ shall specifically address each of the factors specified in paragraph (f), and shall make a specific assessment with respect to the minimum requirements established in paragraph (e). The *office* ~~division~~ shall include in its report projections of the tax refund claims that will be sought by the applicant in each fiscal year based on the information submitted in the application.

(h) Within 30 days after receipt of the *office's* ~~division's~~ findings and evaluation, the *director* ~~secretary~~ shall enter a final order that either approves or disapproves an application. The decision must be in writing and provide the justifications for either approval or disapproval. If appropriate, the *director* ~~secretary~~ shall enter into a written agreement with the qualified applicant pursuant to subsection (4).

(i) The *director* ~~secretary~~ may not enter any final order that certifies any applicant as a qualified applicant when the *value of tax refunds to be included in that final order exceeds the available amount of authority to enter final orders as determined in s. 288.095(3)* ~~aggregate amount of tax refunds for all qualified applicants projected by the division in any fiscal year exceeds the lesser of $25 million or the amount appropriated for tax refunds for that fiscal year~~. A final order that approves an application must specify the maximum amount of a tax refund that is to be available to the contractor in each fiscal year and the total amount of tax refunds for all fiscal years.

(j) This section does not create a presumption that an applicant should receive any tax refunds under this section.

(4) QUALIFIED DEFENSE CONTRACTOR TAX REFUND AGREEMENT.—

(a) A qualified applicant shall enter into a written agreement with the *office* ~~department~~ containing, but not limited to, the following:

1. The total number of full-time equivalent jobs in this state that are or will be dedicated to the qualified applicant's project, the average wage of such jobs, the definitions that will apply for measuring the achievement of these terms during the pendency of the agreement, and a time

schedule or plan for when such jobs will be in place and active in this state. This information must be the same as the information contained in the application submitted by the contractor pursuant to subsection (3).

2. The maximum amount of a refund that the qualified applicant is eligible to receive in each fiscal year.

3. An agreement with the *office* ~~department~~ allowing the *office* ~~department~~ to review and verify the financial and personnel records of the qualified applicant to ascertain whether the qualified applicant is complying with the requirements of this section.

4. The date after which, each fiscal year, the qualified applicant may file an annual claim pursuant to subsection (5).

5. That local financial support shall be annually available and will be paid to the Economic Development Trust Fund.

(b) Compliance with the terms and conditions of the agreement is a condition precedent for receipt of tax refunds each year. The failure to comply with the terms and conditions of the agreement shall result in the loss of eligibility for receipt of all tax refunds previously authorized pursuant to this section, and the revocation of the certification as a qualified applicant by the *director* ~~secretary~~.

(c) The agreement shall be signed by the *director* ~~secretary~~ and the authorized officer of the qualified applicant.

(d) The agreement must contain the following legend, clearly printed on its face in bold type of not less than 10 points:

"This agreement is neither a general obligation of the State of Florida, nor is it backed by the full faith and credit of the State of Florida. Payment of tax refunds are conditioned on and subject to specific annual appropriations by the Florida Legislature of funds sufficient to pay amounts authorized in *s. 288.1045* ~~s. 288.104~~, Florida Statutes."

(5) ANNUAL CLAIM FOR REFUND FROM A QUALIFIED DEFENSE CONTRACTOR.—

(a) Qualified applicants who have entered into a written agreement with the *office* ~~department~~ pursuant to subsection (4) and who have entered into a valid new Department of Defense contract, commenced the consolidation of a Department of Defense contract, commenced the conversion of defense production jobs to nondefense production jobs or who have entered into a valid contract for reuse of a defense-related facility may apply once each fiscal year to the *office* ~~Department of Commerce~~ for tax refunds. The application must be made on or after the date contained in the agreement entered into pursuant to subsection (4) and must include a notarized signature of an officer of the applicant.

(b) The claim for refund by the qualified applicant must include a copy of all receipts pertaining to the payment of taxes for which a refund is sought, and data related to achieving each performance item contained in the tax refund agreement pursuant to subsection (4). The amount requested as a tax refund may not exceed the amount for the fiscal year in the written agreement entered pursuant to subsection (4).

(c) A tax refund may not be approved for any qualified applicant unless local financial support has been paid to the Economic Development Trust Fund in that fiscal year. If the local financial support is less than 20 percent of the approved tax refund, the tax refund shall be reduced. The tax refund paid may not exceed 5 times the local financial support received. Funding from local sources includes tax abatement under s. 196.1995 provided to a qualified applicant. The amount of any tax refund for an applicant approved under this section shall be reduced by the amount of any such tax abatement, and the limitations in subsection (2) and paragraph (3)(h) shall be reduced by the amount of any such tax abatement. A report listing all sources of the local financial support shall be provided to the *office* ~~division~~ when such support is paid to the Economic Development Trust Fund.

(d) The *director* ~~secretary~~, with assistance from the *office* ~~division~~, the Department of Revenue, and the Department of Labor and Employment Security, shall determine the amount of the tax refund that is authorized for the qualified applicant for the fiscal year in a written final order within 30 days after the date the claim for the annual tax refund is received by the *office* ~~Department of Commerce~~.

(e) The total amount of tax refunds approved by the *director* ~~secretary~~ under this section in any fiscal year may not exceed the amount appropriated to the Economic Development Trust Fund for such purposes for the fiscal year. If the Legislature does not appropriate an amount sufficient to satisfy projections by the *office* ~~division~~ for tax refunds in a fiscal year, the *director* ~~secretary~~ shall, not later than July 15 of such year, determine the proportion of each refund claim which shall be paid by dividing the amount appropriated for tax refunds for the fiscal year by the projected total amount of refund claims for the fiscal year. The amount of each claim for a tax refund shall be multiplied by the resulting quotient. If, after the payment of all such refund claims, funds remain in the Economic Development Trust Fund for tax refunds, the *director* ~~secretary~~ shall recalculate the proportion for each refund claim and adjust the amount of each claim accordingly.

(f) Upon approval of the tax refund pursuant to paragraphs (c) and (d), the Comptroller shall issue a warrant for the amount included in the final order. In the event of any appeal of the final order, the Comptroller may not issue a warrant for a refund to the qualified applicant until the conclusion of all appeals of the final order.

(g) A prorated tax refund, less a 5 percent penalty, shall be approved for a qualified applicant provided all other applicable requirements have been satisfied and the applicant proves to the satisfaction of the director that it has achieved at least 80 percent of its projected employment.

(6) ADMINISTRATION.—

(a) The *office may* ~~department shall~~ adopt rules pursuant to chapter 120 for the administration of this section.

(b) The *office* ~~department~~ may verify information provided in any claim submitted for tax credits under this section with regard to employment and wage levels or the payment of the taxes with the appropriate agency or authority including the Department of Revenue, the Department of Labor and Employment Security, or any local government or authority.

(c) To facilitate the process of monitoring and auditing applications made under this program, the *office* ~~department~~ may provide a list of qualified applicants to the Department of Revenue, the Department of Labor and Employment Security, or to any local government or authority. The *office* ~~department~~ may request the assistance of said entities with respect to monitoring the payment of the taxes listed in subsection (2).

(d) By December 1 of each year, the *office* ~~department~~ shall submit a complete and detailed report to the Governor, the President of the Senate, and the Speaker of the House of Representatives of all tax refunds paid under this section, including analyses of benefits and costs, types of projects supported, employment and investment created, geographic distribution of tax refunds granted, and minority business participation. The report must indicate whether the moneys appropriated by the Legislature to the qualified applicant tax refund program were expended in a prudent, fiducially sound manner.

(7) EXPIRATION.—An applicant may not be certified as qualified under this section after June 30, 1999.

Section 9. Paragraph (b) of subsection (4) of section 288.106, Florida Statutes, is amended to read:

288.106 Tax refund program for qualified target industry businesses.—

(4) APPLICATION AND APPROVAL PROCESS.—

(b) To qualify for review by the office, the application of a target industry business must, at a minimum, establish the following to the satisfaction of the office:

1. The jobs proposed to be provided under the application, pursuant to subparagraph (a)4., must pay an estimated annual average wage equaling at least 115 percent of the average private sector wage in the area where the business is to be located or the statewide private sector average wage. The office may waive this average wage requirement at the request of the local governing body recommending the project and Enterprise Florida, Inc. The wage requirement may only be waived for a project located in a rural city or county or in an enterprise zone and

only when the merits of the individual project or the specific circumstances in the community in relationship to the project warrant such action. If the local governing body and Enterprise Florida, Inc., make such a recommendation, it must be transmitted in writing and the specific justification for the waiver recommendation must be explained. If the director elects to waive the wage requirement, the waiver must be stated in writing and the reasons for granting the waiver must be explained.

2. The target industry business's project must result in the creation of at least 10 jobs at such project *and, if an expansion of an existing business, must result in a net increase in employment of not less than 10 percent at such business. Notwithstanding the definition of the term "expansion of an existing business" under paragraph (2)(g), at the request of the local governing body recommending the project and Enterprise Florida, Inc., the office may define an "expansion of an existing business" in a rural city, a rural county, or an enterprise zone as the expansion of a business resulting in a net increase in employment of less than 10 percent at such business, if the merits of the individual project or the specific circumstances in the community in relationship to the project warrant such action. If the local governing body and Enterprise Florida, Inc., make such a request, it must be transmitted in writing and the specific justification for the request must be explained. If the director elects to accept such request, such election must be stated in writing and the reason for granting the request must be explained.*

3. The business activity or product for the applicant's project is within an industry or industries that have been identified by the office to be high-value-added industries that contribute to the area and to the economic growth of the state and that produce a higher standard of living for citizens of this state in the new global economy or that can be shown to make an equivalent contribution to the area and state's economic progress.

Section 10. Subsection (1) of section 288.1221, Florida Statutes, is amended to read:

288.1221 Legislative intent.—

(1) It is the intent of the Legislature to establish a public-private partnership to provide policy direction to and technical expertise in the promotion and marketing of the state's tourism attributes. The Legislature further intends to authorize this partnership to recommend the tenets of an industry standard *4-year* ~~5-year~~ marketing plan for an annual marketing plan for tourism promotion and recommend a comparable organizational structure to carry out such a plan. The Legislature intends to have such a plan funded by that portion of the rental car surcharge annually dedicated to the Tourism Promotional Trust Fund, pursuant to s. 212.0606, and by the tourism industry. The Legislature intends that the exercise of this authority by the public-private partnership shall take into consideration the recommendations made to the 1992 Legislature in the report submitted by the Florida Tourism Commission created pursuant to chapter 91-31, Laws of Florida.

Section 11. Subsection (2) of section 288.1222, Florida Statutes, is amended to read:

288.1222 Definitions.—For the purposes of ss. 288.017, 288.121-288.1226, and 288.124, the term:

(2) "Tourist" means any person who participates in trade or recreation activities outside the *county* ~~country~~ of his or her permanent residence or who rents or leases transient living quarters or accommodations as described in s. 125.0104(3)(a).

Section 12. Paragraph (g) of subsection (2) of section 288.1223, Florida Statutes, is amended to read:

288.1223 Florida Commission on Tourism; creation; purpose; membership.—

(2)

(g) The Governor shall serve as chair of the commission. The commission shall *annually* ~~biennially~~ elect one of its tourism-industry-related members as vice chair, who shall preside in the absence of the chair.

Section 13. *(1) The Legislature finds that tourism associated with the natural, cultural, and historical assets of this state constitutes one of the fastest growing segments of the travel and tourism industry. Such ecotourism and heritage tourism hold significant potential for contributing to the economic well-being of this state and its citizens through the generation of revenues and the creation of jobs. The Legislature further finds that there are opportunities to promote travel experiences that link this state's traditional travel destinations with its ecotourism or heritage tourism destinations and to promote travel experiences that link ecotourism or heritage tourism destinations within a county or among multiple counties. Overarching these findings is the Legislature's recognition that the state's ecotourism and heritage tourism assets must be preserved and maintained if they are to be enjoyed by future generations. It is the intent of the Legislature to encourage the promotion of sustainable ecotourism and heritage tourism in this state.*

(2) The Division of Recreation and Parks of the Department of Environmental Protection is authorized to establish an ecotourism promotion program designed to encourage and facilitate visitation to state parks and to other natural resources in the state, while also safeguarding that such visitation does not jeopardize the environmental value or the sustainability of the resources. Funds appropriated for this program may be used to:

(a) Make infrastructure improvements within and to, or otherwise rehabilitate, state parks or other natural resources under the jurisdiction of the division;

(b) Develop and distribute marketing materials describing ecotourism resources under the jurisdiction of the division, including the proximity of the resources to commercial tourism sites in a region or to other ecotourism sites in a region in order to encourage travel experiences that link these sites; or

(c) Award ecotourism promotion grants to assist localities and regions in promoting ecotourism or the economic development activities related to such tourism.

1. An eligible grant applicant is a governmental or not-for-profit tourism or economic development organization in this state. An application may be submitted jointly on behalf of a combination of such organizations, in which case the organizations together shall be deemed to be one applicant. An organization may not participate in the submission of more than one application.

2. Applications submitted to the division must include a requested grant amount and a detailed plan governing the proposed use of the grant award. The division shall review each application and shall submit award recommendations to the Secretary of Environmental Protection for final approval.

3. The division shall establish guidelines for administering this program and shall establish criteria for the competitive evaluation of grant applications. Evaluation criteria must include, but need not be limited to, the extent to which the plan submitted with the application links tourism sites within the community or region or links tourism sites within two or more communities or regions.

4. Eligible uses of grant awards include:

a. Marketing ecotourism sites;

b. Marketing areas as appropriate sites for the location or expansion of businesses that are engaged in or that facilitate ecotourism activities; or

c. Establishing local or regional ecotourism and heritage tourism advisory and promotion organizations for specific state parks.

5. Each grant awarded to an applicant under this program shall not exceed $30,000.

Section 14. Section 288.90151, Florida Statutes, is amended to read:

288.90151 Funding for contracting with Enterprise Florida, Inc.—

(1)*(a)* From funds appropriated from the General Revenue Fund to the Office of Tourism, Trade, and Economic Development for the purpose of annually contracting with Enterprise Florida, Inc., 10 percent of such funds for the fiscal year 1996-1997, 20 percent of such funds for the fiscal year 1997-1998, 30 percent of such funds for the fiscal year 1998-1999,

40 percent of such funds for the fiscal year 1999-2000, and 50 percent of such funds for the fiscal year 2000-2001 shall be placed in reserve by the Executive Office of the Governor. The funds may be released through a budget amendment, in accordance with chapter 216, as requested by Enterprise Florida, Inc., through the Office of Tourism, Trade, and Economic Development if Enterprise Florida, Inc., has provided sufficient documentation that the same amount of matching private funds as the amount placed in reserve has been contributed during the same fiscal year to Enterprise Florida, Inc., in support of its economic development efforts. If sufficient documentation is not provided by the end of the fiscal year, such funds shall revert back to the General Revenue Fund.

(b) In fiscal years 1999-2000 and 2000-2001, 50 percent of the funds placed in reserve may be released by the same budget amendment process if Enterprise Florida, Inc., has provided sufficient documentation that the amount of matching private funds contributed during the same fiscal year to Enterprise Florida, Inc., is equal to 75 percent of the funds placed in reserve. The remaining funds in reserve may be released by the same budget amendment process if Enterprise Florida, Inc., meets the requirements of paragraph (a).

In each fiscal year, at least 55 percent of the matching private funds required to be documented under this subsection must be comprised of the first category of matching private funds described in subsection (3).

(2) Prior to the 1999 Regular Session of the Legislature, the Office of Program Policy Analysis and Government Accountability shall conduct a review of the contributions made to Enterprise Florida, Inc., during the prior 3 years pursuant to this section. The review must be conducted in such a manner as to determine the amount and type of matching private funds contributed and the circumstances affecting the ability to achieve or not achieve the specified amount of matching private funds for each year. Based on this information and historical data, the Office of Program Policy Analysis and Governmental Accountability shall determine whether the funding levels of matching private funds for fiscal year 1999-2000, and fiscal year 2000-2001, as specified in this section, are appropriate. This report shall be submitted by January 1, 1999, to the President of the Senate, the Speaker of the House of Representatives, the Senate Minority Leader, and the House Minority Leader.

(3) For the purposes of this section, matching private funds shall be divided into two categories. The first category of matching private funds shall include any payment of cash made ~~in response~~ to ~~a solicitation by~~ Enterprise Florida, Inc., and used ~~exclusively~~ by Enterprise Florida, Inc., in its operations or programs, excluding any payment of cash made by any entity to qualify for any Enterprise Florida, Inc., state, or local incentive, grant, or loan program, or any cash received by Enterprise Florida, Inc., pursuant to a grant or contract. The second category of matching private funds shall include a conveyance of property, or payment or distribution of property or anything of value, including contributions in-kind having an attributable monetary value in any form, and including any payment of cash not counted within the first category of matching private funds. Contributions in-kind include, but are not limited to, goods or services rendered. The cost of the contribution shall be the reasonable cost to the sponsor of the goods or services.

Section 15. Subsection (3) is added to section 288.9618, Florida Statutes, to read:

288.9618 Microenterprises.—

(3) Not more than 15 percent of the funds appropriated or otherwise available each fiscal year for activities under this section may be used for administrative expenses of the Office of Tourism, Trade, and Economic Development or for administrative expenses of the organization with which the office contracts under this section.

Section 16. Section 288.9958, Florida Statutes, is created to read:

288.9958 PRIDE Job Placement Incentive Program.—

(1) The Legislature recognizes that the location of some correctional facilities has been determined by the desire to provide employment opportunities for residents of communities that have not experienced the economic growth of other portions of the state. The Legislature further recognizes that the corporation authorized by chapter 946 to manage correctional work programs can provide expertise and assistance in the areas of on–the–job training and employment assistance. Partnerships between the state and the corporation authorized by chapter 946 to manage correctional work programs may result in increased employment opportunities for local citizens. To assist the corporation authorized by chapter 946 in economic development initiatives that specifically enhance the employment opportunities for WAGES participants, the PRIDE Job Placement Incentive Program is created. The Legislature hereby permits the corporation authorized by chapter 946 to participate in the PRIDE Job Training Placement Incentive Program.

(2) The PRIDE Job Placement Incentive Program is created to encourage the use of the corporation's expertise and resources, including correctional facilities, in job training and employment assistance in the economic development of the state. The program shall be administered by the Workforce Development Board of Enterprise Florida, Inc. The Workforce Development Board shall adopt guidelines for the administration of this program. Awarding of grants is dependent upon legislative appropriation.

(a) The Workforce Development Board may authorize a grant of $1,000 to the corporation authorized by chapter 946, or a business working in association with such corporation, for full-time employment of a WAGES participant in those workforce development regions and two sites identified by the Workforce Development Board pursuant to subsection (3). The incentive payment shall be paid incrementally, with a payment of $250 upon initial employment, $250 at an employment duration of 6 months, and $500 at an employment duration of 1 year. Such grants are provided to off-set the costs of business location and training the local workforce.

(b) The Workforce Development Board may authorize a grant of $2,400 to the corporation authorized by chapter 946, or a business working in association with such corporation for full–time employment of a WAGES participant and when the corporation provides on–the–job training to the WAGES participant.

(c) Grants may not be issued for the employment of individuals who have participated in a prison rehabilitative industry program longer that 6 months in the 2 years prior to employment.

(d) WAGES participants eligible for employment in the PRIDE Job Placement Incentive Program must be referred by local WAGES coalitions to the corporation authorized by chapter 946.

(3) The Workforce Development Board shall identify five workforce development regions in the state which have the least employment opportunities per WAGES participant and, if approved by the Workforce Development Board, two sites where the corporation authorized by chapter 946 has facilities or resources. The five workforce development regions and two sites, if applicable, designated by the Workforce Development Board as having the fewest employment opportunities per WAGES participant are those in which the corporation authorized by chapter 946 or businesses working in association with such corporation may be eligible for job placement incentives.

(4) Businesses that have accepted a job placement incentive pursuant to this section may also be eligible to apply for any tax credits, wage supplementation, wage subsidy, or employer payment for that employee which are authorized in law or by agreement with the employer.

(5) If approved by the Department of Corrections, WAGES participants may be employed by the corporation authorized by chapter 946 in those facilities not operated within the secured perimeters of the prison grounds that are managed by such corporation, and in other areas, as approved by the Department of Corrections. A safety plan for all WAGES participants in this program must be completed by the corporation in cooperation with the Department of Corrections.

(6) In carrying out the provisions of this section, the corporation shall be entitled to all the privileges and immunities as set forth in part II of chapter 946.

Section 17. *Notwithstanding any provision of law to the contrary, the governing body of a municipality or county containing a United States Environmental Protection Agency brownfield pilot project that was designated as of May 1, 1997, may apply to the Office of Tourism, Trade, and Economic Development for designation of one enterprise zone encompassing the brownfield pilot project if the project is located in a county with a population less than one million. The application must be submitted by December 31, 1999, and must comply with the requirements of section 290.0055, Florida Statutes, except section 290.0055(3), Florida Statutes. Notwithstanding the provisions of section 290.0065, Florida Statutes,*

limiting the total number of enterprise zones designated and the number of enterprise zones within a population category, the Office of Tourism, Trade, and Economic Development shall designate one enterprise zone under this section if the zone is consistent with the limitations imposed under this section. The Office of Tourism, Trade, and Economic Development shall establish the initial effective date of the enterprise zone designated pursuant to this section.

Section 18. Subsection (4) of section 370.28, Florida Statutes, is amended, and subsection (5) is added to that section to read:

370.28 Enterprise zone designation; communities adversely impacted by net limitations.—

(4) Notwithstanding the enterprise zone residency requirements set out in ss. 212.096(1)(c) and 220.03(1)(q), businesses located in enterprise zones designated pursuant to this section may receive the credit provided under s. 212.096 or s. 220.181 for hiring any person within the jurisdiction of the *county within which* ~~nominating community of~~ such enterprise zone *is located*. All other provisions of ss. 212.096, 220.03(1)(q), and 220.181 apply to such businesses. *Notwithstanding the requirement specified in ss. 212.08(5)(g)5. and (h)5. and (15)(a) and 220.182(1)(b) that no less than 20 percent of a business's employees, excluding temporary and part–time employees, must be residents of an enterprise zone for the business to qualify for the maximum exemption or credit provided in ss. 212.08(5)(g) and (h) and (15) and 220.182, a business that is located in an enterprise zone designated pursuant to this section shall be qualified for those maximum exemptions or credits if no less than 20 percent of such employees of the business are residents of the jurisdiction of the county within which the enterprise zone is located. All other provisions of ss. 212.08(5)(g) and (h) and (15) and 220.182 apply to such business.*

(5) Notwithstanding the time limitations contained in chapters 212 and 220, a business eligible to receive tax credits under this section from January 1, 1997, to June 1, 1998, must submit an application for the tax credits by December 1, 1998. All other requirements of the enterprise zone program apply to such a business.

Section 19. Subsection (1) of section 479.261, Florida Statutes, is amended to read:

479.261 Logo sign program.—

(1) The department shall establish a logo sign program for the rights-of-way of the interstate highway system to provide information to motorists about available gas, food, lodging, and camping services at interchanges, through the use of business logos, and may include additional interchanges under the program. A logo sign for nearby attractions may be added to this program if allowed by federal rules. An attraction as used in this chapter is defined as an establishment, site, facility, or landmark which is open a minimum of 5 days a week for 52 weeks a year; which charges an admission for entry; which has as its principal focus family-oriented entertainment, cultural, educational, recreational, scientific, or historical activities; and which is publicly recognized as a bona fide tourist attraction. However, the permits for businesses seeking to participate in the attractions logo sign program shall be awarded by the department annually to the highest bidders, notwithstanding the limitation on fees in subsection (5), which are qualified for available space at each qualified location, but the fees therefor may not be less than the fees established for logo participants in other logo categories. *The department shall, if approved by the Federal Highway Administration, institute a sign program to recognize regional or local heritage, historic, or scenic trails at interchanges on the interstate highway system.*

Section 20. *Enterprise Florida, Inc., shall prepare a strategic plan designed to allow Florida to capitalize on the economic opportunities associated with the Caribbean nations and South Africa. The plan should recognize the historical and cultural ties between this state and such areas and should focus on building a long–term economic relationship between these communities. The plan should also recognize existing economic infrastructure in Florida that could be applied toward trade and other business activities with the Caribbean and South Africa. In developing this plan, Enterprise Florida, Inc., shall solicit the participation and input of individuals who have expertise on these areas and their economies, including, but not limited to, business leaders in Florida who have had previous business experience in these areas. The plan may include recommendations for legislative action necessary to implement the strategic plan. The plan must be submitted to the Governor and Legislature before January 1, 1999.*

Section 21. *In anticipation of the day that the people of Cuba are no longer denied the inalienable rights and freedom that all men and women should be guaranteed, Enterprise Florida, Inc., shall prepare a strategic plan designed to allow Florida to capitalize on the economic opportunities associated with a free Cuba. The plan should recognize the historical and cultural ties between this state and Cuba and should focus on building a long–term economic relationship between these communities. The plan should also recognize existing economic infrastructure in Florida that could be applied toward trade and other business activities with Cuba. The plan should identify specific preparatory steps to be taken in advance of a lifting of the trade embargo with Cuba. In developing this plan, Enterprise Florida, Inc., shall solicit the participation and input of individuals who have expertise on Cuba and its economy, including, but not limited to, business leaders in Florida who have had previous business experience in Cuba. The plan may include recommendations for legislative action necessary to implement the strategic plan. The plan must be submitted to the Governor and Legislature before January 1, 1999.*

Section 22. Section 15.18, Florida Statutes, is amended to read:

15.18 International and cultural relations.—The Divisions of Cultural Affairs, Historical Resources, and Library and Information Services of the Department of State promote programs having substantial cultural, artistic, and indirect economic significance that emphasize American creativity. The Secretary of State, as the head administrator of these divisions, shall hereafter be known as "Florida's Chief Cultural Officer." As this officer, the Secretary of State is encouraged to initiate and develop relationships between the state and foreign cultural officers, their representatives, and other foreign governmental officials in order to promote Florida as the center of American creativity. The Secretary of State shall coordinate international activities pursuant to this section with *Enterprise Florida, Inc., and any other organization the secretary deems appropriate* ~~the Florida International Affairs Commission~~. For the accomplishment of this purpose, the Secretary of State shall have the power and authority to:

(1) Disseminate any information pertaining to the State of Florida which promotes the state's cultural assets.

(2) Plan and carry out activities designed to cause improved cultural and governmental programs and exchanges with foreign countries.

(3) Plan and implement cultural and social activities for visiting foreign heads of state, diplomats, dignitaries, and exchange groups.

(4) Encourage and cooperate with other public and private organizations or groups in their efforts to promote the cultural advantages of Florida.

(5) Establish and maintain the list prescribed in s. 55.605(2)(g), relating to recognition of foreign money judgments.

(6)~~(5)~~ Serve as the liaison with all foreign consular and ambassadorial corps, as well as international organizations, that are consistent with the purposes of this section.

(7)~~(6)~~ Provide, arrange, and make expenditures for the achievement of any or all of the purposes specified in this section.

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

Section 23. Paragraph (g) of subsection (2) of section 55.605, Florida Statutes, is amended to read:

55.605 Grounds for nonrecognition.—

(2) A foreign judgment need not be recognized if:

(g) The foreign jurisdiction where judgment was rendered would not give recognition to a similar judgment rendered in this state. *For purposes of this paragraph, the Secretary of State shall establish and maintain a list of foreign jurisdictions where the condition specified in this paragraph has been found to apply.*

Section 24. Section 257.35, Florida Statutes, is amended to read:

257.35 Florida State Archives.—

(1) There is created within the Division of Library and Information Services of the Department of State the Florida State Archives for the preservation of those public records, as defined in s. 119.011(1), manuscripts, and other archival material that have been determined by the division to have sufficient historical or other value to warrant their continued preservation and have been accepted by the division for deposit in its custody. It is the duty and responsibility of the division to:

(a) Organize and administer the Florida State Archives.

(b) Preserve and administer such records as shall be transferred to its custody; accept, arrange, and preserve them, according to approved archival practices; and permit them, at reasonable times and under the supervision of the division, to be inspected, examined, and copied. All public records transferred to the custody of the division shall be subject to the provisions of s. 119.07(1), except that any public record or other record provided by law to be confidential or prohibited from inspection by the public shall be made accessible only after a period of 50 years from the date of the creation of the record. Any nonpublic manuscript or other archival material which is placed in the keeping of the division under special terms and conditions, shall be made accessible only in accordance with such law terms and conditions and shall be exempt from the provisions of s. 119.07(1) to the extent necessary to meet the terms and conditions for a nonpublic manuscript or other archival material.

(c) Assist the records and information management program in the determination of retention values for records.

(d) Cooperate with and assist insofar as practicable state institutions, departments, agencies, counties, municipalities, and individuals engaged in activities in the field of state archives, manuscripts, and history and accept from any person any paper, book, record, or similar material which in the judgment of the division warrants preservation in the state archives.

(e) Provide a public research room where, under rules established by the division, the materials in the state archives may be studied.

(f) Conduct, promote, and encourage research in Florida history, government, *international trade* and culture and maintain a program of information, assistance, coordination, and guidance for public officials, educational institutions, libraries, the scholarly community, and the general public engaged in such research.

(g) Cooperate with and, insofar as practicable, assist agencies, libraries, institutions, and individuals in projects designed to preserve original source materials relating to Florida history, government, *international trade* and culture and prepare and publish handbooks, guides, indexes, and other literature directed toward encouraging the preservation and use of the state's documentary resources.

(h) Encourage and initiate efforts to preserve, collect, process, transcribe, index, and research the oral history of Florida government.

(i) Assist and cooperate with the records and information management program in the training and information program described in s. 257.36(1)(g).

(2) Any agency is authorized and empowered to turn over to the division any record no longer in current official use. The division, in its discretion, is authorized to accept such record and, having done so, shall provide for its administration and preservation as herein provided and, upon acceptance, shall be considered the legal custodian of such record. The division is empowered to direct and effect the transfer to the archives of any records that are determined by the division to have such historical or other value to warrant their continued preservation or protection, unless the head of the agency which has custody of the records certifies in writing to the division that the records shall be retained in the agency's custody for use in the conduct of the regular current business of the agency.

(3) Title to any record transferred to the Florida State Archives, as authorized in this chapter, shall be vested in the division.

(4) The division shall make certified copies under seal of any record transferred to it upon the application of any person, and said certificates shall have the same force and effect as if made by the agency from which the record was received. The division may charge a fee for this service based upon the cost of service.

(5) The division may establish and maintain a schedule of fees for services which shall include, but not be limited to, restoration of archival materials, storage of archival materials, special research services, and publications.

(6) The division may establish and maintain as part of the state archives a Florida State Photographic Collection. The division shall:

(a) Acquire, identify, appraise, arrange, index, restore, and preserve photographs, motion pictures, drawings, and other iconographic material considered appropriate for preservation.

(b) Initiate appropriate action to acquire, identify, preserve, recover, and restore photographs, motion pictures, and other iconographic material considered appropriate for preservation.

(c) Provide for an index to the historical photographic holdings of the Florida State Photographic Collection and the State of Florida.

Any use or reproduction of material deposited with the Florida State Photographic Collection shall be allowed pursuant to the provisions of paragraph (1)(b) and subsection (4) provided that appropriate credit for its use is given.

(7) The division shall establish and maintain, as part of the state archives, a Florida State International Archive. The division shall:

(a) Establish and maintain a mechanism by which the information contained within the Florida State International Archive may be accessed by computer via the World Wide Web. In doing so, the division shall take whatever measures it deems appropriate to insure the validity, quality, and safety of the information being accessed;

(b) The Florida Council of International Development may select materials for inclusion in the Florida State International Archive and shall be consulted closely by the division in all matters relating to its establishment and maintenance; and

(c) Records transferred shall be in a format established by the division. The Florida Council on International Development shall be responsible for the cost of any data conversion.

(8)~~(7)~~ The division shall promulgate such rules as are necessary to implement the provisions of this act.

Section 25. Present subsections (3), (4), and (5) of section 288.012, Florida Statutes, are redesignated as subsections (4), (5), and (6), respectively, and a new subsection (3) is added to that section to read:

288.012 State of Florida foreign offices.—The Legislature finds that the expansion of international trade and tourism is vital to the overall health and growth of the economy of this state. This expansion is hampered by the lack of technical and business assistance, financial assistance, and information services for businesses in this state. The Legislature finds that these businesses could be assisted by providing these services at State of Florida foreign offices. The Legislature further finds that the accessibility and provision of services at these offices can be enhanced through cooperative agreements or strategic alliances between state entities, local entities, foreign entities, and private businesses.

(3) By October 1 of each year, each foreign office shall submit to the Office of Tourism, Trade, and Economic Development a complete and detailed report on its activities and accomplishments during the preceding fiscal year. In a format provided by Enterprise Florida, Inc., the report must set forth information on:

(a) The number of Florida companies assisted.

(b) The number of inquiries received about investment opportunities in this state.

(c) The number of trade leads generated.

(d) The number of investment projects announced.

(e) The estimated U.S. dollar value of sales confirmations.

(f) The number of representation agreements.

(g) The number of company consultations.

(h) Barriers or other issues affecting the effective operation of the office.

(i) Changes in office operations which are planned for the current fiscal year.

(j) Marketing activities conducted.

(k) Strategic alliances formed with organizations in the country in which the office is located.

(l) Activities conducted with other Florida foreign offices.

(m) Any other information that the office believes would contribute to an understanding of its activities.

Section 26. Subsection (9) of section 288.8175, Florida Statutes, is amended to read:

288.8175 Linkage institutes between postsecondary institutions in this state and foreign countries.—

(9) The Department of Education shall review and make linkage-institute budget requests to the Governor and the Legislature. State appropriations for institutes created under this section must be made by a single lump-sum line item to the department, which must apportion the funds among the various institutes in accordance with criteria established by the department. *The linkage institutes shall be eligible to apply on a competitive basis to the Office of Tourism, Trade, and Economic Development for the Targeted Market Pilot Project Grants Program as defined in s. 14.2015, designed to improve short and long term international business opportunities for Florida businesses.*

Section 27. Section 288.9530, Florida Statutes, is created to read:

288.9530 The Florida Business Expansion Corporation.—

(1) The Florida Business Expansion Corporation is hereby created as a corporation not–for–profit, to be incorporated under the provisions of chapter 617. The corporation is organized on a nonstock basis. The corporation shall provide business expansion assistance to businesses in this state having job growth or emerging technology potential and fewer than 500 employees. The primary purpose of the corporation shall be to assist such Florida businesses to grow through the development of cross–border transactions which lead to increased revenues, cost reductions, sales or investments for Florida businesses. For purposes of this Act, "cross–border transactions" shall be defined as the formation of joint venture, strategic alliance, investment, technology transfer or licensing, co–development, or other commercial relationships between Florida businesses and non–Florida entities. In providing its services, the corporation shall seek to recover its costs and expenditures of state funds via fee, equity participation, or any other form of revenue generation or recovery, and to achieve the self–sufficiency of its operations. It is the intent of the Legislature that the corporation achieve self–sufficiency within three years of its establishment. For the purposes of this section, the term "self–sufficiency" shall mean that the annual expenses of operation of the corporation shall be less than or equal to the total value of the compensation derived including fee, equity participation, or any other form of revenue generation or recovery from the operations of the corporation by June 30, 2001.

(2) The corporation is intended to compliment, rather than duplicate, the services and programs of Enterprise Florida, Inc., the Florida Export Finance Corporation, and other existing economic development entities. The corporation programs are to serve small to mid–sized Florida firms in conducting transactions with entities located in other states and nations.

Section 28. Section 288.9531, Florida Statutes, is created to read:

288.9531 Powers and Duties of the Corporation.—

(1) In addition to all of the statutory powers of Florida not–for–profit corporations, the corporation shall have the power and duty to:

(a) Perform analyses of opportunities to Florida businesses from the formation of stronger and numerous commercial relationships through cross–border transactions;

(b) Locate Florida businesses which are strong candidates for business expansion and match such businesses with joint venture or strategic alliance partners, sources of investment capital, or purchasers or licensees of technology;

(c) Prepare selected Florida firms to achieve business expansion through preparation of business plans and marketing materials, arranging participation in major domestic and international events targeted towards industry participants and investors, and placement of articles in business press and trade publications;

(d) Counsel Florida businesses in the development and execution of cross–border transactions;

(e) Develop, in conjunction with target businesses, criteria for evaluation of potential cross–border transactions or strategic partners;

(f) Provide listings of strategic partners which meet agreed–upon criteria;

(g) Develop negotiating strategies and marketing materials designed to address the concerns of potential strategic partners;

(h) Approach and initiate discussions with potential strategic partners and investors;

(i) Present Florida small and medium–sized firms to potential strategic partners and investors;

(j) Identify and, in conjunction with associated professionals, provide guidance on critical business and legal issues associated with proposed transactions, including issues relating to transfers of assets, ownership of intellectual property, tax planning, and other relevant matters;

(k) Assist in the negotiation of pricing and terms of participation of the parties;

(l) Close cross–border transactions on behalf of Florida small and medium–sized firms, and manage outside professionals in the closing of the transaction;

(m) Handle issues that arise after closing to ensure continued success of the transaction; and

(n) Charge fees, in amounts to be determined by the board, to defray the operating costs of its programs.

(2) On or before December 31, 1998, the corporation shall submit to the Office of Tourism, Trade, and Economic Development a business plan providing further specifics of its operations, including, but not limited to, the following:

(a) Specific goals and outcomes to be achieved by the corporation in the accomplishment of its statutory duties;

(b) Types of specific assistance to be rendered to Florida businesses, including detailed descriptions of the specific steps required to provide each type of assistance, and the projected costs of such assistance; and

(c) Specific provisions for the self–sufficient operation of the corporation prior to July 1, 2001, including specific projections of the compensation anticipated from generation of successful cross–border transactions.

(d) A description of the manner in which the corporation will interact with existing state–sponsored economic development entities.

(3) The business plan and the data upon which it is based shall constitute a public record and shall be distributed in a manner which will provide maximum benefit to Florida businesses.

Section 29. Section 288.9532, Florida Statutes, is created to read:

288.9532 Board of directors.—

(1) The corporation shall have an initial board of directors consisting of the following persons:

(a) The President of Enterprise Florida, Inc., or his designee;

(b) The Comptroller or his designee;

(c) The Commissioner of Insurance or his designee;

(d) The chair of the Florida Black Business Investment Board or his designee;

(e) The chair of the Florida Export Finance Corporation or his designee; and

(f) The chair of the Florida First Capital Finance corporation or his designee.

(2) Notwithstanding the provisions of subsection (1), the board of directors may by resolution appoint to the board up to ten at–large members from the private sector, each of whom shall serve a 2–year term. Minority and gender representation shall be considered when making at–large appointments to the board. At–large members shall have the powers and duties of other members of the board. An at–large member is eligible for reappointment, but may not vote on his or her own reappointment.

(3) The board shall ensure that its composition is reflective of the diversity of Florida's business community, and to the greatest degree possible shall include, but not be limited to, individuals representing small and medium–sized businesses, minority businesses, universities and other institutions of higher education, and international and domestic economic development organizations. A majority of at–large members of the board shall have significant experience in international business, with expertise in the areas of trade, transportation, finance, law, or manufacturing.

(4) Members of the board of directors shall serve without compensation, but members, the president, and staff may be reimbursed for all reasonable, necessary, and actual expenses, as determined by the board of directors.

(5) A majority of currently serving members of the board shall constitute a quorum for purposes of all business of the board.

Section 30. Section 288.9533, Florida Statutes, is created to read:

288.9533 Powers and Duties of the Board of Directors.—The board shall:

(1) Prior to the expenditure of funds from the Florida Business Expansion account, adopt bylaws and internal procedures which are necessary to carry out the responsibilities of the corporation. The articles and bylaws of the corporation shall be reviewed and approved by the Office of Tourism, Trade, and Economic Development prior to final adoption by the board;

(2) Hold regularly scheduled meetings, at least quarterly, in order to carry out the objectives and duties of the board;

(3) Develop a streamlined application and review process;

(4) Adopt rules and policies, including application and award criteria, regarding eligibility of businesses to receive assistance from the corporation. Such rules and policies shall include, but not be limited to, the requirements that the target businesses:

(a) Shall have substantial operations in Florida;

(b) Shall have products, business or technology in existence at the time of application;

(c) Shall have proven management;

(d) Shall be in a stage of business which is favorable to expansion of the business into international markets;

(e) Shall have products or technologies which have a substantial potential for beneficial effect on business expansion, business revenue or employment in Florida; and

(f) Shall have products or technologies which are potential technology or market leaders with substantial commercial potential in international markets.

(5) Proposed awards of assistance shall be reviewed and approved at meetings of the board. The board shall give the highest priority to activities that offer the greatest opportunity for economic development impact and cost recovery. A business, including any affiliated corporations of such business, that has received any contractual assistance from the private sector entity selected pursuant to s. 288.9534, is not eligible to receive assistance from the corporation.

Section 31. Chapter 288.9534, Florida Statutes, is created to read:

288.9534 Management of the Corporation.—

(1) The activities of the corporation shall be administered under a contract with a private sector entity selected by the board no later than September 1, 1998. Such company shall have responsibility for performance of all statutory duties of the corporation, under the control and supervision of the board. Potential management companies shall:

(a) Have existing operations in Florida, and provide Florida–resident personnel to perform services under the contract;

(b) Have an established record of success in the creation of cross–border transactions, and at least ten years of operational experience in such business;

(c) Have staff with substantial financial and international affairs experience;

(d) Have international offices;

(e) Commit to a cash match expenditure of ten percent of the amount of the state contract issued pursuant to this section, with such cash to be provided from the capital of the contractor and expended directly in the pursuit of the statutory purposes of the corporation; and

(f) Have substantial experience in as many of the following areas as possible:

1. Arrangement of cross–border transactions;

2. Development and implementation of market entry strategies for business expansion;

3. Preparation of market analyses and strategic plans; and

4. Work with foreign and domestic financial institutions, highly regulated industries and foreign governments.

(2) The company selected pursuant to this subsection shall provide personnel to serve as officers of the corporation who shall perform on behalf of the corporation all of the customary functions of the offices they occupy.

(3) The board shall provide by contract for division with the management company of total compensation derived from the operations of the corporation. Such division shall be made quarterly, and shall involve the total compensation of the corporation which are in excess of the expenses of the corporation for that quarter.

(4) Prior to securing management services for the corporation, staffing of the corporation shall be provided by the Office of Tourism, Trade, and Economic Development, which shall provide to the board by August 7, 1998, a list of candidates qualified and desiring to perform the duties of the management company specified in this section. The Office of Tourism, Trade, and Economic Development shall also have responsibility for the establishment of performance measures and requirements which provide for the performance of the statutory duties of the corporation, as well as the following:

(a) Specific outcomes from the performance of the management company, as well as timetables for the accomplishment of such outcomes;

(b) Requirements relating to the handling of state funds and providing for third party audit and financial review of the operations of the corporation;

(c) Reversion to the state of all assets of the corporation in the event of cessation of operations of the corporation; and

(d) Termination of the management company in the event of its failure to perform the duties or deliver the outcomes provided in the management contract.

Section 32. Section 288.9535, Florida Statutes, is created to read:

288.9535 Florida Business Expansion Account.—

(1) The board shall create the Florida Business Expansion account for the purpose of receiving state, federal, and private financial resources, and the return from employment of those resources, and for the purposes of the corporation. The account shall be under the exclusive control of the board.

(2) Resources in the account shall be allocated for operating expenses of the corporation and for other statutorily authorized purposes, including costs of research, provision of business assistance to targeted businesses, and other costs.

(3) Appropriations for the corporation shall be deposited into the account.

(4) The board may establish the account and any sub–accounts necessary and convenient for the operation of the corporation with state or federally chartered financial institutions in this state and may invest the assets of the account in permissible securities.

(5) At all times, the board shall attempt to maximize the returns on funds in the account.

(6) All revenues received from the operations of the corporation shall be redeposited in the account to be used to promote the statutory purposes of the corporation.

(7) Under no circumstances shall the credit of the state be pledged by or on behalf of the corporation, nor shall the state be liable or obligated in any way for claims on the account or against the corporation.

(8) Pursuant to s. 216.351, the amount of any moneys appropriated to the account which are unused at the end of the fiscal year shall not be subject to reversion under s. 216.301. All moneys in the account are continuously appropriated to the account and may be used for the purposes specified in this section. The Office of Tourism, Trade, and Economic Development shall ensure that all funds in the account shall revert to the state in the event that the corporation is dissolved, ceases operations, or upon the evaluation of the board that such services cannot be provided on a cost–recovery basis. Such a determination shall be made only after an initial period of program setup and market research of at least one year.

Section 33. Section 288.9536, Florida Statutes, is created to read:

288.9536 Reporting and Review.—

(1) By September 1, 1999, the corporation in cooperation with the Office of Program Policy Analysis and Government Accountability shall develop a research design, including goals and measurable objectives for the corporation, which will provide the Legislature with a quantitative evaluation of the corporation. The corporation shall utilize the monitoring mechanisms and reports developed in the designs and provide these reports to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability.

(2) On January 31, 2000, and on January 31 of each succeeding year, the corporation shall prepare a report on the financial status of the corporation and the account and shall submit a copy of the report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the President of Enterprise Florida, Inc. The report shall specify the assets and liabilities of the account within the current fiscal year and shall include a list of the businesses assisted, the benefits obtained by each business assisted, including, but not limited to, increased revenues, cost reductions, sales or investment which have been realized by such businesses.

(3) Prior to the 2001 regular session of the Legislature, the Office of Program Policy Analysis and Government Accountability shall perform a review and evaluation of the corporation using the research design promulgated pursuant to this section. The report shall review and comment on the operations and accomplishments of the corporation. A report of the findings and recommendations of the Office of Program Policy Analysis and Government Accountability shall be submitted to the President of the Senate and the Speaker of the House of Representatives prior to the 2001 regular session.

Section 34. *Subject to an appropriation in the General Appropriations Act, the Office of Tourism, Trade, and Economic Development is authorized to contract with Enterprise Florida, Inc., for the award of Inner City Redevelopment Assistance Grants in connection with the urban initiative of Enterprise Florida, Inc. Such grants may only be used to fund economic development in areas that meet or exceed the criteria for areas eligible under the Urban High–Crime Area Job Tax Credit Program pursuant to section 212.097, Florida Statutes.*

Section 35. Section 118.10, Florida Statutes, is amended to read:

118.10 *Civil Law Notary* ~~Florida international notary~~.—

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

(a) "*Authentic act* ~~Authentication instrument~~" means an instrument executed by a *civil law* ~~Florida international~~ notary referencing this section, which includes the particulars and capacities to act of transacting parties, a confirmation of the full text of the instrument, the signatures of the parties or legal equivalent thereof, and the signature and seal of a *civil law* ~~Florida international~~ notary as prescribed by the Florida Secretary of State ~~for use in a jurisdiction outside the borders of the United States~~.

(b) *"Civil law notary"* ~~"Florida international notary"~~ means a person who is *a member in good standing of The Florida Bar* ~~admitted to the practice of law in this state~~, who has practiced law for at least 5 years, and who is appointed by the Secretary of State as a *civil law* ~~Florida international~~ notary.

(c) "Protocol" means a registry maintained by a *civil law* ~~Florida international~~ notary in which the acts of the *civil law* ~~Florida international~~ notary are archived.

(2) The Secretary of State shall have the power to appoint *civil law* ~~Florida international~~ notaries and administer this section.

(3) A *civil law* ~~Florida international~~ notary is authorized to issue *authentic acts and may administer an oath and make a certificate thereof whenever it is necessary for execution of any writing or document to be attested, protested, or published under the seal of a notary public. A civil law notary may also take acknowledgments of deeds and other instruments of writing for record, and solemnize the rites of matrimony, as fully as other officers of this state* ~~authentication instruments for use in non-United States jurisdictions~~. A *civil law* ~~Florida international~~ notary is not authorized to issue *authentic acts* ~~authentication instruments~~ for use in a ~~non-United States~~ jurisdiction if the United States Department of State has determined that the jurisdiction does not have diplomatic relations with the United States or is a terrorist country, or if trade with the jurisdiction is prohibited under the Trading With the Enemy Act of 1917, as amended, 50 U.S.C. ss. 1, et seq.

~~(4) The authentication instruments of a Florida international notary shall not be considered authentication instruments within the borders of the United States and shall have no consequences or effects as authentication instruments in the United States.~~

(4)~~(5)~~ The *authentic acts, oaths and acknowledgments, and solemnizations,* ~~authentication instruments~~ of a *civil law* ~~Florida international~~ notary shall be recorded in the *civil law* ~~Florida international~~ notary's protocol in a manner prescribed by the Secretary of State.

(5)~~(6)~~ The Secretary of State may adopt rules prescribing:

(a) The form and content of signatures and seals or their legal equivalents for *authentic acts, and the circumstances under which authentic acts may be issued* ~~authentication instruments~~;

(b) Procedures for the permanent archiving of *authentic acts, maintaining records of acknowledgments, oaths and solemnizations, procedures and requirement for marriage, and procedures for the administra-*

tion of oaths and taking of acknowledgments ~~authentication instruments~~;

(c) The charging of reasonable fees to be retained by the Secretary of State for the purpose of administering this section;

(d) Educational requirements and procedures for testing applicants' knowledge of the *requirements, procedures, and* effects and consequences associated with *authentic acts, oaths, acknowledgments, and solemnizations of matrimony* ~~authentication instruments in jurisdictions outside the United States~~;

(e) Procedures for the disciplining of *civil law* ~~Florida international~~ notaries, including the suspension and revocation of appointments for misrepresentation or fraud regarding the *civil law* ~~Florida international~~ notary's authority, the effect of the *civil law* ~~Florida international~~ notary's *authentic acts* ~~authentication instruments~~, or the identities or acts of the parties to a transaction; and

(f) Other matters necessary for administering this section.

(6)~~(7)~~ The Secretary of State shall not regulate, discipline or attempt to discipline, or establish any educational requirements for any *civil law* ~~Florida international~~ notary for, or with regard to, any action or conduct that would constitute the practice of law in this state, *except by agreement with The Florida Bar*. The Secretary of State shall not establish as a prerequisite to the appointment of a *civil law* ~~Florida international~~ notary any test containing any question that inquires of the applicant's knowledge regarding the practice of law in the United States, *except by agreement with The Florida Bar*.

(7) The powers of civil law notaries shall include but not be limited to all of the powers of a notary public under any law of this state.

(8) This section shall not be construed as abrogating the provisions of any other act relating to notaries public, attorneys, or the practice of law in this state.

Section 36. Subsection (7) of section 163.3178, Florida Statutes, is amended to read:

163.3178 Coastal management.—

(7) Each *port listed in s. 311.09(1), and each* local government in the coastal area which has spoil disposal responsibilities shall provide for or identify disposal sites for dredged materials in the future land use and port elements of the local comprehensive plan as needed to assure proper long-term management of material dredged from navigation channels, sufficient long-range disposal capacity, environmental sensitivity and compatibility, and reasonable cost and transportation. The disposal site selection criteria shall be developed in consultation with navigation and inlet districts and other appropriate state and federal agencies and the public. *For areas owned or controlled by ports listed in s. 311.09(1), and proposed port expansion areas, compliance with the provisions of this subsection shall be achieved through comprehensive master plans prepared by each port and integrated with the appropriate local plan pursuant to s. 163.3178(2)(k).*

Section 37. Paragraph (g) is added to subsection (1) and paragraph (d) is added to subsection (6) of section 163.3187, Florida Statutes, to read:

163.3187 Amendment of adopted comprehensive plan.—

(1) Amendments to comprehensive plans adopted pursuant to this part may be made not more than two times during any calendar year, except:

(g) Any comprehensive plan amendments for port transportation facilities and projects which are eligible for funding by the Florida Seaport Transportation and Economic Development Council pursuant to the provisions of s. 311.07.

(6) No local government may amend its comprehensive plan after the date established by rule for submittal of its evaluation and appraisal report unless it has submitted its report or addendum to the state land planning agency as prescribed by s. 163.3191, except for:

(d) Plan amendments for port transportation facilities and projects which are eligible for funding by the Florida Seaport Transportation and Economic Development Council pursuant to the provisions of s. 311.07. When the agency has determined that the report or addendum has sufficiently addressed all pertinent provisions of s. 163.3191, the local government may proceed with plan amendments in addition to those necessary to implement recommendations in the report or addendum.

Section 38. Subsection (3) is added to section 288.8155, Florida Statutes, to read:

288.8155 International Trade Data Resource and Research Center.—Enterprise Florida, Inc., and the Florida Seaport Transportation and Economic Development Council may establish a comprehensive trade data resource and research center to be known as the "International Trade Data Resource and Research Center." The center may join with other public sector or private sector entities, domestic or foreign, to accomplish its purposes.

(3) The center may create an Internet-based system to form an information partnership between this state and its strategic trading partners in the Western Hemisphere. Prior to creating the system, the center shall prepare a comprehensive plan for the development and operation of the system that includes a cost analysis, performance measures, and objective outcomes for the system. The plan shall be approved by the board and copies of the plan shall be delivered to the Legislature and the Office of Tourism, Trade, and Economic Development prior to the release of any funds for the system.

Section 39. Paragraph (a) of subsection (7) of section 288.9607, Florida Statutes, is amended to read:

288.9607 Guaranty of bond issues.—

(7)(a) The corporation is authorized to enter into an investment agreement with the Department of Transportation and the State Board of Administration concerning the investment of the earnings accrued and collected upon the investment of the minimum balance of funds required to be maintained in the State Transportation Trust Fund pursuant to s. 339.135(7)(b). Such investment shall be limited as follows:

1. Not more than $4 million of the investment earnings earned on the investment of the minimum balance of the State Transportation Trust Fund in a fiscal year shall be at risk at any time on one or more bonds or series of bonds issued by the corporation.

2. The investment earnings shall not be used to guarantee any bonds issued after June 30, *2002* ~~1998~~, and in no event shall the investment earnings be used to guarantee any bond issued for a maturity longer than 15 years.

3. The corporation shall pay a reasonable fee, set by the State Board of Administration, in return for the investment of such funds. The fee shall not be less than the comparable rate for similar investments in terms of size and risk.

4. The proceeds of bonds, or portions thereof, issued by the corporation for which a guaranty has been or will be issued pursuant to s. 288.9606, s. 288.9608, or this section used to make loans to any one person, including any related interests, as defined in s. 658.48, of such person, shall not exceed 20 percent of the principal of all such outstanding bonds of the corporation issued prior to the first composite bond issue of the corporation, or December 31, 1995, whichever comes first, and shall not exceed 15 percent of the principal of all such outstanding bonds of the corporation issued thereafter, in each case determined as of the date of issuance of the bonds for which such determination is being made and taking into account the principal amount of such bonds to be issued. The provisions of this subparagraph shall not apply when the total amount of all such outstanding bonds issued by the corporation is less than $10 million. For the purpose of calculating the limits imposed by the provisions of this subparagraph, the first $10 million of bonds issued by the corporation shall be taken into account.

5. The corporation shall establish a debt service reserve account which contains not less than 6 months' debt service reserves from the proceeds of the sale of any bonds, or portions thereof, guaranteed by the corporation.

6. The corporation shall establish an account known as the Revenue Bond Guaranty Reserve Account, the Guaranty Fund. The corporation shall deposit a sum of money or other cash equivalents into this fund and maintain a balance of money or cash equivalents in this fund, from

sources other than the investment of earnings accrued and collected upon the investment of the minimum balance of funds required to be maintained in the State Transportation Trust Fund, not less than a sum equal to 1 year of maximum debt service on all outstanding bonds, or portions thereof, of the corporation for which a guaranty has been issued pursuant to ss. 288.9606, 288.9607, and 288.9608. In the event the corporation fails to maintain the balance required pursuant to this subparagraph for any reason other than a default on a bond issue of the corporation guaranteed pursuant to this section or because of the use by the corporation of any such funds to pay insurance, maintenance, or other costs which may be required for the preservation of any project or other collateral security for any bond issued by the corporation, or to otherwise protect the Revenue Bond Guaranty Reserve Account from loss while the applicant is in default on amortization payments, or to minimize losses to the reserve account in each case in such manner as may be deemed necessary or advisable by the corporation, the corporation shall immediately notify the Department of Transportation of such deficiency. Any supplemental funding authorized by an investment agreement entered into with the Department of Transportation and the State Board of Administration concerning the use of investment earnings of the minimum balance of funds is void unless such deficiency of funds is cured by the corporation within 90 days after the corporation has notified the Department of Transportation of such deficiency.

The corporation shall include, as part of the annual report prepared pursuant to s. 288.9610, a detailed report concerning the use of guaranteed bond proceeds for loans guaranteed or issued pursuant to any agreement with the Florida Black Business Investment Board, including the percentage of such loans guaranteed or issued and the total volume of such loans guaranteed or issued.

Section 40. Section 288.9614, Florida Statutes, is amended to read:

288.9614 Authorized programs.—

(1) The capital development board may take any action that it deems necessary to achieve the purposes of this act in partnership with private enterprises, public agencies, and other organizations, including, but not limited to, efforts to address the long-term debt needs of small-sized and medium-sized firms, to address the needs of microenterprises, to expand availability of venture capital, and to increase international trade and export finance opportunities for firms critical to achieving the purposes of this act.

(2) The capital development board or Enterprise Florida, Inc., shall not expend any state appropriated funds on any venture capital fund created by Enterprise Florida, Inc., and its affiliates or any other entity that does not solely invest in businesses located in this state.

Section 41. Subsection (4) of section 253.77, Florida Statutes, is created to read:

253.77 State lands; state agency authorization for use prohibited without consent of agency in which title vested; concurrent processing requirements.—

(4) Notwithstanding any other provision of this Chapter, Chapter 373 or chapter 403, Florida Statutes, for activities authorized by a permit or exemption pursuant to chapter 373 or 403, ports listed in subsection 403.021(9)(b), and inland navigation districts created pursuant to subsection 374.975(3), shall not be required to pay any fees for activities involving the use of sovereign lands, including leases, easements or consents of use.

Section 42. Section 311.07, Florida Statutes, is amended to read:

311.07 Florida seaport transportation and economic development funding.—

(1) There is created the Florida Seaport Transportation and Economic Development Program within the Department of Transportation to finance port transportation ~~or port~~ facilities *and* projects that will improve the movement and intermodal transportation of cargo or passengers in commerce and trade and that will support the interests, purposes, and requirements of ports located in this state.

(2) A minimum of $8 million per year shall be made available from the State Transportation Trust Fund to fund the Florida Seaport Transportation and Economic Development Program.

(3)(a) Program funds shall be used to fund approved projects on a 50-50 matching basis with any of the deepwater ports, as listed in s. 403.021(9)(b), which is governed by a public body or any other deepwater port which is governed by a public body and which complies with the water quality provisions of s. 403.061, the comprehensive master plan requirements of s. 163.3178(2)(k), the local financial management and reporting provisions of part III of chapter 218, and the auditing provisions of s. 11.45(3)(a)4. Program funds also may be used by the Seaport Transportation and Economic Development Council to develop with the Florida Trade Data Center such trade data information products which will assist Florida's seaports and international trade.

(b) Projects eligible for funding by grants under the program are limited to the following port *transportation* facilities *and* ~~or port transportation~~ projects:

1. Transportation facilities within the jurisdiction of the port.

2. The dredging or deepening of channels, turning basins, or harbors.

3. The construction or rehabilitation of wharves, docks, structures, jetties, piers, storage facilities, cruise terminals, automated people mover systems, or any facilities necessary or useful in connection with any of the foregoing.

4. The acquisition of container cranes or other mechanized equipment used in the movement of cargo or passengers in international commerce.

5. The acquisition of land to be used for port purposes *as described in, or consistent with, port master plans.*

6. The acquisition, improvement, enlargement, or extension of existing port facilities *as described in, or consistent with, port master plans.*

7. Environmental protection projects which are necessary because of requirements imposed by a state agency as a condition of a permit or other form of state approval; which are necessary for environmental mitigation required as a condition of a state, federal, or local environmental permit; which are necessary for the acquisition of spoil disposal sites and improvements to existing and future spoil sites; or which result from the funding of eligible projects listed herein.

8. Transportation facilities as defined in s. 334.03(31) which are not otherwise part of the Department of Transportation's adopted work program.

9. Seaport intermodal access projects identified in the 5-year Florida Seaport Mission Plan as provided in s. 311.09(3).

(c) To be eligible for consideration by the council pursuant to this section, a project must be consistent with the port comprehensive master plan which is incorporated as part of the approved local government comprehensive plan as required by s. 163.3178(2)(k) or other provisions of the Local Government Comprehensive Planning and Land Development Regulation Act, part II of chapter 163.

(4) A port eligible for matching funds under the program may receive a distribution of not more than $7 million during any 1 calendar year and a distribution of not more than $30 million during any 5-calendar-year period.

(5) Any port which receives funding under the program shall institute procedures to ensure that jobs created as a result of the state funding shall be subject to equal opportunity hiring practices in the manner provided in s. 110.112.

(6) The Department of Transportation shall subject any project that receives funds pursuant to this section to a final audit. The department may adopt rules and perform such other acts as are necessary or convenient to ensure that the final audits are conducted and that any deficiency or questioned costs noted by the audit are resolved.

Section 43. Subsection (9) of section 311.09, Florida Statutes, is amended to read:

311.09 Florida Seaport Transportation and Economic Development Council.—

(9) The council shall review the findings of the Department of Community Affairs; the Office of Tourism, Trade, and Economic Development; and the Department of Transportation. Projects found to be inconsistent pursuant to subsections (6), (7), and (8) and projects which have been determined not to offer an economic benefit to the state pursuant to subsection (8) shall not be included in the list of projects to be funded. *Projects found to be consistent pursuant to subsection (6), (7), and (8) shall be presumed in the public interest.*

Section 44. *Sections 288.99, 288.9951, 288.9952, 288.9953, 288.9954, 288.9955, 288.9956, and 288.9957, Florida Statutes, are designated as part XI of chapter 288, Florida Statutes, and the Division of Statutory Revision is requested to designate that part "Workforce Development Board."*

Section 45. Section 288.9620, Florida Statutes, is transferred, renumbered as section 288.99, Florida Statutes, and amended to read:

(Substantial rewording of section. See s. 288.9620, F.S., for present text.)

288.99 Workforce Development Board.—

(1) The Legislature finds that the growth and competitive strength of Florida's economy depend upon the state's ability to attract and support industries that add to the value of the state's social capital as well as to its economic capital. It is crucial to the retention and growth of these high-value-added industries to assure that skilled human resources are adequate in quality and quantity. The Legislature intends to adopt a uniform policy to guide education, training, and employment programs, so that the combined efforts of all the programs accomplish the following objectives:

(a) Provide for a skilled workforce to enable Florida to compete in a global economy.

(b) Respond to changes in technology and to emerging industries.

(c) Promote the development of market-driven programs through a planning and funding system based upon products of the Occupational Forecasting Conference created in s. 216.136.

(d) Base evaluations of program success on student and participant outcomes rather than processes.

(e) Coordinate state, federal, local, and private funds for maximum impact.

(f) Encourage the participation, education, and training of members of populations selected by state or federal policy to receive additional resources, guidance, or services. The selected populations must include people with disabilities or economic disadvantages, especially those who are participants in the WAGES Program, are eligible for public assistance, or are dislocated workers.

(2) There is created within the nonprofit corporate structure of Enterprise Florida, Inc., a nonprofit public-private Workforce Development Board. The purpose of the Workforce Development Board, also known as the Jobs and Education Partnership, is to create a Florida economy characterized by better employment opportunities leading to higher wages by creating and maintaining a highly skilled workforce that responds to the rapidly changing technology and diversified market opportunities critical to this mission.

(3)(a) The Workforce Development Board shall be governed by a board of directors consisting of the following members:

1. The Commissioner of Education.

2. The Secretary of the Department of Elderly Affairs.

3. The Secretary of the Department of Children and Family Services.

4. The Secretary of the Department of Labor and Employment Security.

5. The Chancellor of the State University System or the Chancellor's designee.

6. The Executive Director of the State Community College System or the executive director's designee.

7. A member of the Senate, to be appointed by the President of the Senate as an ex officio member of the board and serve at the pleasure of the President.

8. A member of the House of Representatives, to be appointed by the Speaker of the House of Representatives as an ex officio member of the board and serve at the pleasure of the Speaker.

9. Eleven to 13 members from the public and private sectors who possess an understanding of the broad spectrum of education, training, and employment needs of the residents of the state, with the majority from the private sector, to be appointed by the Governor, subject to Senate confirmation. Membership must be consistent with Pub. L. No. 97-300, as amended, including the requirement that organized labor representatives must constitute not less than 15 percent of the membership and represent those industries critical to the state's economic base, as well as that portion of the state's population which has limited employment skills and work experience. The members from the public sector must also include an occupational dean of a community college and a school district vocational director with responsibility for postsecondary programs. The members from the private sector must include a private business representative from a private industry council, at least one representative of a regional workforce development board, a representative of organized labor, as well as two representatives from licensed, private postsecondary institutions in the state currently participating in vocational education and job training programs provided that at least one of these members is recommended by the Florida Association of Postsecondary Schools and Colleges.

(b) Additional members may be appointed, subject to Senate confirmation, when necessary to conform to the requirements of the Job Training Partnership Act or the requirements of any other federal act establishing or designating a Human Resources Investment Council or other federal workforce development board.

(c) Private-sector members appointed by the Governor must be appointed for 4-year, staggered terms. Public-sector members appointed by the Governor must be appointed to 4-year terms. At least 50 percent of the Governor's appointees must be members of regional workforce development boards. The regional workforce development boards may nominate members for the Governor's consideration.

(d) The chair of the board of directors of the Workforce Development Board and the vice chair of the board of directors of Enterprise Florida, Inc., shall jointly select a list of nominees for appointment to the board of directors of the Workforce Development Board from a slate of candidates submitted by the board of directors of Enterprise Florida, Inc. The chair of the board of directors of the Workforce Development Board and vice chair of the board of directors of Enterprise Florida, Inc., may request that additional candidates be submitted by the board of directors of Enterprise Florida, Inc., if the chair and vice chair cannot agree on a list of nominees submitted. Appointments to the board of directors of the Workforce Development Board shall be made by the Governor from the list of nominees jointly selected by the chair of the board of directors of the Workforce Development Board and vice chair of the board of directors of Enterprise Florida, Inc. Appointees shall represent all geographic regions of the state, including both urban and rural regions. The importance of minority and gender representation shall be considered when making nominations for each position on the board of directors of the Workforce Development Board. A vacancy on the board of directors of the Workforce Development Board shall be filled for the remainder of the unexpired term in the same manner as the original appointment.

(e) The Governor shall appoint members from the public sector and private sector to the board of directors of the Workforce Development Board within 30 days after the receipt of the nominations from the board of directors of Enterprise Florida, Inc.

(f) A member of the board of directors of the Workforce Development Board may be removed by the Governor for cause. Absence from three consecutive meetings results in automatic removal.

(4) The board of directors of the Workforce Development Board may appoint subcommittees to fulfill its responsibilities, to comply with federal requirements, or to obtain technical assistance and must incorporate members of regional workforce development boards and former boards and commissions into its structure. These subcommittees may provide the board of directors of the Workforce Development Board with technical

advice, policy consultation, and information about workforce development issues.

(5)(a) The board of directors of the Workforce Development Board shall be chaired by a board member designated by the Governor.

(b) The president of the Workforce Development Board shall be hired by the president of Enterprise Florida, Inc., and shall serve in the capacity of an executive director and secretary of the Workforce Development Board. The president of Enterprise Florida, Inc., shall hire any additional staff within the parameters established by the board of directors of Enterprise Florida, Inc.

(c) The board of directors of the Workforce Development Board shall meet at least quarterly and at other times upon call of its chair.

(d) A majority of the total current membership of the board of directors of the Workforce Development Board comprises a quorum of the board.

(e) A majority of those voting is required to organize and conduct the business of the Workforce Development Board, except that a majority of the entire board of directors of the Workforce Development Board is required to adopt or amend the operational plan.

(f) Except as delegated or authorized by the board of directors of the Workforce Development Board, individual members have no authority to control or direct the operations of the Workforce Development Board or the actions of its officers and employees, including the president.

(g) The board of directors of the Workforce Development Board may delegate to its president those powers and responsibilities it deems appropriate.

(h) Members of the board of directors of the Workforce Development Board and its subcommittees shall serve without compensation, but these members, the president, and all employees of the Workforce Development Board may be reimbursed for all reasonable, necessary, and actual expenses, as determined by the board of directors of Enterprise Florida, Inc.

(i) The board of directors of the Workforce Development Board may establish an executive committee consisting of the chair and at least two additional board members selected by the board of directors. The executive committee shall have such authority as the board of directors of the Workforce Development Board delegates to it, except that the board of directors may not delegate to the executive committee authority to take action that requires approval by a majority of the entire board of directors.

(j) Each member of the board of directors of the Workforce Development Board who is not otherwise required to file a financial disclosure pursuant to s. 8, Art. II of the State Constitution or s. 112.3144 must file disclosure of financial interests pursuant to s. 112.3145.

(6) The Workforce Development Board shall have all the powers and authority, not explicitly prohibited by statute, necessary or convenient to carry out and effectuate the purposes of this section, as well as its functions, duties, and responsibilities, including, but not limited to, the following:

(a) Advising and assisting in the formulation and coordination of the state's economic policy regarding workforce development critical to achieve the purposes of the board, as stated in this section and consistent with the policies of the board of directors of Enterprise Florida, Inc.

(b) Using a corporate seal.

(c) Advising and assisting in developing the state's strategic workforce development plan and subsequent implementation plans as part of the strategic economic development plan of Enterprise Florida, Inc.

(d) Designing the state's workforce development strategy as the state's Human Resource Investment Council, recommending a market–driven, placement–based, community–managed, and customer–focused workforce development system and promoting that system's implementation at the state and local level. The strategy should establish standards and measures for job placement cost, direct customer service costs, and overall service delivery costs to measure performance for various categories of workers as well as performance when taking into account the difficulties confronted by workers. Unless otherwise required by federal law, at least 90 percent of the funding covered by this strategy must go into direct customer service costs. Of the allowable administrative overhead, appropriate amounts shall be expended to procure independent job placement performance evaluations.

(e) Evaluating the performance and effectiveness of Florida's workforce development programs.

(f) Reporting to the board of directors of Enterprise Florida, Inc., regarding its recommendations, functions, duties, and responsibilities.

(g) Soliciting, borrowing, accepting, receiving, investing, and expending funds from any public or private source.

(h) Contracting with public and private entities as necessary to further the directives of this section, except that any contract made with an organization represented on the board of directors of Enterprise Florida, Inc., or on the board of directors of the Workforce Development Board must be approved by a two-thirds vote of the entire board of directors of the Workforce Development Board, and, if applicable, the board member representing such organization shall abstain from voting. No more than 65 percent of the dollar value of all contracts or other agreements entered into in any fiscal year, exclusive of grant programs, shall be made with an organization represented on the board of directors of Enterprise Florida, Inc., or the board of directors of the Workforce Development Board. An organization represented on the board of directors of the Workforce Development Board or on the board of directors of Enterprise Florida, Inc., may not enter into a contract to receive a state-funded economic development incentive or similar grant, unless such incentive award is specifically endorsed by a two-thirds vote of the entire board of directors of the Workforce Development Board. The member of the board of directors of the Workforce Development Board representing such organization, if applicable, shall abstain from voting and refrain from discussing the issue with other members of the board. No more than 50 percent of the dollar value of grants issued by the board in any fiscal year may go to businesses associated with members of the board of directors of the Workforce Development Board.

(i) Approving an annual budget.

(j) Carrying forward any unexpended state appropriations into succeeding fiscal years.

(k) Providing an annual report to the board of directors of Enterprise Florida, Inc., by November 1 which includes a copy of an annual financial and compliance audit of its accounts and records conducted by an independent certified public accountant and performed in accordance with rules adopted by the Auditor General.

(l) Serving as the designated State Human Resource Investment Council, as described in Pub. L. No. 102–367, Title VII, with responsibility for policy, planning, and accountability for the state's workforce development strategy.

(m) Working with affected communities, councils, and agencies to develop and implement a transition plan consolidating and coordinating these groups and their funding into the state's workforce development strategy.

(n) Implementing a charter process that uses regional workforce development boards whose membership, responsibilities, and authority must be consistent with federal and state law. Such charter process must align local workforce groups' resources and services under the regional workforce development boards' plans to eliminate unwarranted duplication, minimize administrative costs, and increase responsiveness to business, communities, and workers.

(o) Identifying resources that can be directed to charters and designs that can make state expenditures more job–placement–focused and performance–based.

(p) Establishing procedures to award resources and incentives to chartered communities and to measure the job placement outcomes of those charters, rewarding positive outcomes, and penalizing negative outcomes, ultimately revoking failing charters. Notwithstanding s. 216.351, to allow time for documenting program performance, funds allocated for the incentives provided in this section and s. 239.249 must be carried forward to the next fiscal year and must be awarded for the

current year's performance, unless federal law requires the funds to revert at the year's end.

(q) Developing workforce development innovations in consultation with business, labor, community groups, workforce development groups, educational institutions, research groups, and agencies.

(7) The Workforce Development Board may take any action that it deems necessary to achieve the purposes of this section and consistent with the policies of the board of directors of Enterprise Florida, Inc., in partnership with private enterprises, public agencies, and other organizations. The Workforce Development Board shall advise and make recommendations to the board of directors of Enterprise Florida, Inc., and through that board of directors to the State Board of Education and the Legislature concerning action needed to bring about the following benefits to the state's social and economic resources:

(a) A state employment, education, and training policy that ensures that programs to prepare workers are responsive to present and future business and industry needs and complement the initiatives of the boards of Enterprise Florida, Inc.

(b) A funding system that provides incentives to improve the outcomes of vocational education programs, and of registered apprenticeship and work–based learning programs, and that focuses resources on occupations related to new or emerging industries that add greatly to the value of the state's economy.

(c) A comprehensive approach to the education and training of target populations such as those who have disabilities, are economically disadvantaged, receive public assistance, are not proficient in English, or are dislocated workers. This approach should ensure the effective use of federal, state, local, and private resources in reducing the need for public assistance.

(d) The designation of institutes of applied technology composed of postsecondary institutions working together with business and industry to ensure that technical and vocational education programs use the most advanced technology and instructional methods available and respond to the changing needs of business and industry.

(e) A system to project and evaluate labor market supply and demand using the results of the Occupational Forecasting Conference created in s. 216.136 and the career education performance standards identified in s. 239.233.

(f) A review of the performance of public programs that are responsible for economic development, education, employment, and training. The review must include an analysis of the return on investment of these programs.

(8) By December 1 of each year, Enterprise Florida, Inc., shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Senate Minority Leader, and the House Minority Leader a complete and detailed report by the Workforce Development Board setting forth:

(a) The audit in subsection (9), if conducted.

(b) The operations and accomplishments of the partnership including the programs or entities listed in subsection (7).

(9) The Auditor General may, pursuant to his or her own authority or at the direction of the Legislative Auditing Committee, conduct an audit of the Workforce Development Board or the programs or entities created by the Workforce Development Board.

(10) The Workforce Development Board, in collaboration with the regional workforce development boards, the Office of Program Policy Analysis and Government Accountability, and appropriate state agencies and local public and private service providers, must establish uniform measures and standards, to gauge the performance of the workforce development strategy. These measures and standards must be organized into three outcome tiers.

(a) The first tier must be organized to provide benchmarks for systemwide outcomes. The Workforce Development Board must, in collaboration with the Office of Program Policy Analysis and Government Accountability, establish goals for the tier one outcomes. The resources of the University of Florida Bureau of Economics and Business Research, the Department of Labor and Employment Security, the Commission on Government Accountability to the People, the Florida Education and Training Placement Information Program, and the Occupational Forecasting Conference, as well as any other relevant federal, state, or private sources, may be consulted for assistance in establishing standards and measures, for providing data collection and ensuring data reliability, or for data evaluation and interpretation by the Workforce Development Board. Systemwide outcomes may include employment in occupations demonstrating continued growth in wages, continued employment after 3, 6, 12, and 24 months, reduction in and elimination of public assistance reliance, job placement, employer satisfaction, and positive return on investment of public resources.

(b) The second tier must be organized to provide a set of benchmark outcomes for each of the four strategic components of the workforce development strategy. A set of standards and measures must be developed for One–Stop Career Centers, School–to–Work, Welfare–to–Work, and High Skills/High Wage, targeting the specific goals of that particular strategy. Cost per entered employment, earnings at placement, retention in employment, job placement, and entered employment rate must be included among the performance outcome measures. The resources of the University of Florida Bureau of Economics and Business Research, the Department of Labor and Employment Security, the Commission on Government Accountability to the People, the Florida Education and Training Placement Information Program, and the Occupational Forecasting Conference, as well as any other relevant federal, state, or private sources, may be consulted for assistance in establishing standards and measures, for providing data collection and ensuring data reliability, or for data evaluation and interpretation by the Workforce Development Board.

1. Appropriate measures for One–Stop Career Centers may include direct job placements at minimum wage, at a wage level established by the Occupational Forecasting Conference, and at a wage level above the level established by the Occupational Forecasting Conference.

2. Appropriate measures for the School–to–Work component may include the number of students enrolling and completing work–based programs including apprenticeship programs, job placement rate, job retention rate, wage at placement, and wage growth.

3. Welfare–to–Work measures may include job placement rate, job retention rate, wage at placement, wage growth, reduction and elimination of reliance on public assistance, and savings resulting from reduced reliance on public assistance.

4. High Skills/High Wage measures may include job placement rate, job retention rate, wage at placement, and wage growth.

(c) A third tier of measures and standards shall be the operational and output measures to be used by the agency implementing programs, and it may be specific to federal requirements. The tier three standards must be developed by the agencies implementing programs, and the Workforce Development Board may be consulted in this effort. Such outputs must be reported to the Workforce Development Board by the appropriate implementing agency.

(d) Regional differences must be reflective of the establishment of performance goals and may include job availability, unemployment rates, average worker wage, and available employable population. All performance goals must be derived from the goals, principles, and strategies established in the Workforce Florida Act of 1996.

(e) Job placement must be reported pursuant to s. 229.8075. Positive outcomes for providers of education and training must be consistent with ss. 239.233 and 239.245.

(f) The uniform measures of success that are adopted by the Workforce Development Board or the regional workforce development boards must be developed in a manner that provides for an equitable comparison of the relative success or failure of any service provider in terms of positive outcomes.

Section 46. Section 446.601, Florida Statutes, is transferred, renumbered as section 288.9951, Florida Statutes, and amended to read:

288.9951 ~~446.601~~ Short title; legislative intent.—

(1) This section may be cited as the "Workforce Florida Act of 1996."

(2) The goal of this section is to utilize the workforce development system to upgrade dramatically Floridians' workplace skills, economically benefiting the workforce, employers, and the state.

(3) These principles should guide the state's efforts:

(a) Floridians must upgrade their skills to succeed in today's workplace.

(b) In business, workforce skills are the key competitive advantage.

(c) Workforce skills will be Florida's key job-creating incentive for business.

(d) Budget cuts, efficiency, effectiveness, and accountability mandate the consolidation of program services and the elimination of unwarranted duplication.

(e) Streamlined state and local partnerships must focus on outcomes, not process.

(f) Locally designed, customer-focused, market-driven service delivery works best.

(g) Job training curricula must be developed in concert with the input and needs of existing employers and businesses, and must consider the anticipated demand for targeted job opportunities, as specified by the Occupational Forecasting Conference under s. 216.136.

(h) Job placement, job retention, and return-on-investment should control workforce development expenditures and be a part of the measure for success and failure.

(i) Success will be rewarded and failure will have consequences.

(j) Job placement success will be publicly measured and reported to the Legislature.

(k) Apprenticeship programs, pursuant to s. 446.011, which provide a valuable opportunity for preparing citizens for productive employment, will be encouraged.

(4) The workforce development strategy shall be designed by the *Workforce Development Board* ~~Enterprise Florida Jobs and Education Partnership~~ pursuant to *s. 288.99* ~~s. 288.0475~~, and shall be centered around the four integrated strategic components of One-Stop Career Centers, School-to-Work, Welfare-to-Work, and High Skills/High Wage Jobs.

(a) One-Stop Career Centers are the state's initial customer-service contact strategy for offering every Floridian access, through service sites, telephone, or computer networks, to the following services:

1. Job search, referral, and placement assistance.

2. Career counseling and educational planning.

3. Consumer reports on service providers.

4. Recruitment and eligibility determination.

5. Support services, including child care and transportation.

6. Employability skills training.

7. Adult education and basic skills training.

8. Technical training leading to a certification and degree.

9. Claim filing for unemployment compensation services.

10. Temporary income, health, nutritional, and housing assistance.

11. Child care and transportation assistance to gain employment.

12. Other appropriate and available workforce development services.

(b) School-to-Work is the state's youth and adult workforce education strategy for coordinating business, education, and the community to support students in achieving long-term career goals, and for ensuring the workforce is prepared with the academic and occupational skills required for success.

(c) Welfare-to-Work is the state's strategy for encouraging self-sufficiency and minimizing dependence upon public assistance by emphasizing job placement and transition support services for welfare recipients.

(d) High Skills/High Wage is the state's strategy for aligning education and training programs with the Occupational Forecasting Conference under s. 216.136, for meeting the job demands of the state's existing businesses, and for providing a ready workforce which is integral to the state's economic development goal of attracting new and expanding businesses.

(5) The workforce development system shall utilize a charter process approach aimed at encouraging local design and control of service delivery and targeted activities. The *Workforce Development Board* ~~Enterprise Florida Jobs and Education Partnership~~ shall be responsible for granting charters to regional workforce development boards which have a membership consistent with the requirements of federal and state law and which have developed a plan consistent with the state's workforce development strategy and with the strategic components of One-Stop Career Centers, School-to-Work, Welfare-to-Work, and High Skills/High Wage. The plan shall specify methods for allocating the resources and programs in a manner that eliminates unwarranted duplication, minimizes administrative costs, meets the existing job market demands and the job market demands resulting from successful economic development activities, ensures access to quality workforce development services for all Floridians, and maximizes successful outcomes. As part of the charter process, the *Workforce Development Board* ~~Enterprise Florida Jobs and Education Partnership~~ shall establish incentives for effective coordination of federal and state programs, outline rewards for successful job placements, and institute collaborative approaches among local service providers. Local decisionmaking and control shall be important components for inclusion in this charter application.

Section 47. Section 446.602, Florida Statutes, is transferred, renumbered as section 288.9952, Florida Statutes, and amended to read:

288.9952 ~~446.602~~ Regional workforce development boards.—

(1) One regional workforce development board shall be appointed in each designated service delivery area. The membership and responsibilities of the board shall be consistent with Pub. L. No. 97-300, as amended. The board shall be appointed by the chief elected official or his or her designee of the local county or city governing bodies or consortiums of county and/or city governmental units that exist through interlocal agreements and shall include:

(a) At least 51 percent of the members of each board being from the private sector and being chief executives, chief operating officers, owners of business concerns, or other private sector executives with substantial management or policy responsibility.

(b) Representatives of organized labor and community-based organizations, who shall constitute not less than 15 percent of the board members.

(c) Representatives of educational agencies, including presidents of local community colleges, superintendents of local school districts, licensed private postsecondary educational institutions participating in vocational education and job training in the state and conducting programs on the Occupational Forecasting Conference list or a list validated by the regional workforce development board; vocational rehabilitation agencies; economic development agencies; public assistance agencies; and public employment service. One of the representatives from licensed private postsecondary educational institutions shall be from a degree-granting institution, and one from an institution offering certificate or diploma programs. One of these members shall be a nonprofit, community-based organization which provides direct job training and placement services to hard-to-serve individuals including the target population of people with disabilities.

The current Private Industry Council may be restructured, by local agreement, to meet the criteria for a regional workforce development board.

(2) In addition to the duties and functions specified by the *Workforce Development Board* ~~Enterprise Florida Jobs and Education Partnership~~

and by the interlocal agreement approved by the local county or city governing bodies, the regional workforce development board shall have the following responsibilities:

(a) Review, approve, and ratify the local Job Training Partnership Act plan which also must be signed by the chief elected officials.

(b) Conclude agreements necessary to designate the fiscal agent and administrative entity.

(c) Complete assurances required for the *Workforce Development Board* ~~Enterprise Florida Jobs and Education Partnership~~ charter process and provide ongoing oversight related to administrative costs, duplicated services, career counseling, economic development, equal access, compliance and accountability, and performance outcomes.

(3) The *Workforce Development Board* ~~Enterprise Florida Jobs and Education Partnership~~ shall~~, by January 1, 1997,~~ design and implement a training program for the regional workforce development boards to familiarize board members with the state's workforce development goals and strategies.

The regional workforce development board shall designate all local service providers and shall not transfer this authority to a third party. In order to exercise independent oversight, the regional workforce development board shall not be a direct provider of intake, assessment, eligibility determinations, or other direct provider services.

Section 48. Section 446.603, Florida Statutes, is transferred, renumbered as section 288.9953, Florida Statutes, and amended to read:

288.9953 ~~446.603~~ Untried Worker Placement and Employment Incentive Act.—

(1) This section may be cited as the "Untried Worker Placement and Employment Incentive Act."

(2) For purposes of this section, the term "untried worker" means a person who is a hard-to-place participant in the welfare-to-work programs of the Department of Labor and Employment Security or the Department of *Children and Family* ~~Health and Rehabilitative~~ Services because they have limitations associated with the long-term receipt of welfare and difficulty in sustaining employment.

(3) The Department of Labor and Employment Security and the Department of *Children and Family* ~~Health and Rehabilitative~~ Services, working with the *Workforce Development Board* ~~Enterprise Florida Jobs and Education Partnership~~, shall develop five Untried Worker Placement and Employment Incentive pilot projects in at least five different counties.

(4) In these pilots, incentive payments will be made to for-profit or not-for-profit agents selected by the regional workforce development boards who successfully place untried workers in full-time employment for 6 months with an employer after the employee successfully completes a probationary placement of no more than 6 months with that employer. Full-time employment that includes health care benefits will receive an additional incentive payment.

(5) The for-profit and not-for-profit agents shall contract to provide services for no more than 1 year. Contracts may be renewed upon successful review by the contracting agent.

(6) The Department of Labor and Employment Security and the Department of *Children and Family* ~~Health and Rehabilitative~~ Services, working with the *Workforce Development Board* ~~Enterprise Florida Jobs and Education Partnership~~, shall develop an incentive schedule that costs the state less per placement than the state's 12-month expenditure on a welfare recipient.

(7) During an untried worker's probationary placement, the for-profit or not-for-profit agent shall be the employer of record of that untried worker~~,~~ and shall provide workers' compensation and unemployment compensation coverage as provided by law. The business employing the untried worker through the agent may be eligible to apply for any tax credits, wage supplementation, wage subsidy, or employer payment for that employee that are authorized in law or by agreement with the employer. After satisfactory completion of such a probationary period, an untried worker shall not be considered an untried worker.

(8) This section shall not be used for the purpose of displacing or replacing an employer's regular employees, and shall not interfere with executed collective bargaining agreements. Untried workers shall be paid by the employer at the same rate as similarly situated and assessed workers in the same place of employment.

(9) An employer that demonstrates a pattern of unsuccessful placements shall be disqualified from participation in these pilots because of poor return on the public's investment.

(10) The Department of Labor and Employment Security and the Department of *Children and Family* ~~Health and Rehabilitative~~ Services, working with the *Workforce Development Board* ~~Enterprise Florida Jobs and Education Partnership~~, may offer to any employer that chooses to employ untried workers such incentives and benefits that are available and provided in law, as long as the long-term, cost savings can be quantified with each such additional inducement.

(11) Unless otherwise reenacted, this section shall be repealed on July 1, 1999.

Section 49. Section 446.604, Florida Statutes, is transferred, renumbered as section 288.9954, Florida Statutes, and amended to read:

288.9954 ~~446.604~~ One-Stop Career Centers.—

(1) The Department of Management Services shall coordinate among the agencies a plan for a One-Stop Career Center Electronic Network made up of One-Stop Career Centers that are operated by the Department of Labor and Employment Security, the Department of *Children and Family* ~~Health and Rehabilitative~~ Services, the Department of Education, and other authorized public or private for-profit or not-for-profit agents. The plan shall identify resources within existing revenues to establish and support such electronic network for service delivery that includes the Florida Communities Network.

(2) The network shall assure that a uniform method is used to determine eligibility for and management of services provided by agencies that conduct workforce development activities. The Department of Management Services shall develop strategies to allow access to the databases and information management systems of the following systems in order to link information in those databases with the One-Stop Career Centers:

(a) The Unemployment Compensation System of the Department of Labor and Employment Security.

(b) The Job Service System of the Department of Labor and Employment Security.

(c) The FLORIDA System and the components related to Aid to Families with Dependent Children, food stamps, and Medicaid eligibility.

(d) The Workers' Compensation System of the Department of Labor and Employment Security.

(e) The Student Financial Assistance System of the Department of Education.

(f) Enrollment in the public postsecondary education system.

The systems shall be fully coordinated at both the state and local levels by July 1, 1999.

Section 50. Section 446.605, Florida Statutes, is transferred, renumbered as section 288.9955, Florida Statutes, and amended to read:

288.9955 ~~446.605~~ Applicability of Workforce Florida Act of 1996.—Unless otherwise provided herein, the Workforce Florida Act of 1996 shall apply to the State Human Resource Investment Council and any regional workforce development boards in existence on the effective date of such act. Regional workforce development boards shall be reconstituted, if necessary, to meet the requirements of the Workforce Florida Act of 1996. In addition, the *Workforce Development Board* ~~Enterprise Florida Jobs and Education Partnership~~ shall review each charter granted prior to the effective date of the Workforce Florida Act of 1996 to assure its compliance with the provisions of such act.

Section 51. Section 446.606, Florida Statutes, is transferred, renumbered as section 288.9956, Florida Statutes, and amended to read:

288.9956 ~~446.606~~ Designation of primary service providers.—Designation of primary service providers shall not be made until the regional workforce development boards have been reconstituted in compliance with the Workforce Florida Act of 1996.

Section 52. Section 446.607, Florida Statutes, is transferred, renumbered as section 288.9957, Florida Statutes, and amended to read:

288.9957 ~~446.607~~ Consultation, consolidation, and coordination.—The *Workforce Development Board* ~~Enterprise Florida Jobs and Education Partnership~~ and any state public assistance policy board established pursuant to law shall consult with each other in developing each of their statewide implementation plans and strategies. The regional workforce development boards and any local public assistance policy boards established pursuant to law may elect to consolidate into one board provided that the consolidated board membership complies with the requirements of Pub. L. No. 97-300, as amended, and with any other law delineating the membership requirements for either of the separate boards. The regional workforce development boards and any respective local public assistance policy board established pursuant to law shall collaboratively coordinate, to the maximum extent possible, the local services and activities provided by and through each of these boards and their designated local service providers.

Section 53. Subsection (5) of section 288.902, Florida Statutes, is amended to read:

288.902 Enterprise Florida Nominating Council.—

(5) Notwithstanding the provisions of ss. 288.901, 288.9412, 288.9512, *and* 288.9611~~, and 288.9620~~ regarding the process of selecting nominees for a board, all nominations shall be conducted in accordance with the provisions of this section. All statutory requirements of board members and all statutory requirements regarding the composition of all boards shall be considered and complied with throughout the nominating process.

Section 54. Section 288.125, Florida Statutes, is created to read:

288.125 Short title.—Sections 288.1251 through 288.1255 shall be known and may be cited as the "Florida Entertainment Industry Growth Act."

Section 55. Section 288.1251, Florida Statutes, is created to read:

288.1251 Definitions.—For the purposes of this act, the term:

(1) "Entertainment industry" means any person engaged in the operation of motion picture or television studios or recording studios, or any person engaged in the production of motion pictures, made–for–TV motion pictures, television series, commercial advertising, music videos, or sound recordings.

(2) "Motion picture or television studio" means a facility in which film or video tape productions or parts of productions are made and which contains the necessary equipment and personnel for this purpose and also means a mobile unit or vehicle that is equipped in much the same manner as a stationary studio and used in the making of film or video tape productions.

(3) "Motion picture" means any live-action or animated feature-length or short subject audiovisual work at any stage of the production, consisting of a series of related images, either on film, tape, or other embodiment, including, but not limited to, all items comprising part of the work and film–related products derived therefrom as well as duplicates and prints thereof and all sound recordings created to accompany a motion picture, which is produced, adapted, or altered for exploitation in, on, or through any medium or device and at any location, primarily for entertainment, commercial, industrial, or educational purposes.

(4) "Commercial advertising production" means any film, video, audio, or photographic production that is created to promote statewide, nationally, or internationally specific brands, products, services, retailers, or advocacy positions for commercial purposes.

(5) "Recording studio" means a place where, by means of mechanical or electronic devices, voices, music, or other sounds are transmitted to tapes, records, or other devices capable of storing and reproducing sound.

(6) "Recording industry" means any person engaged in an occupation or business of making recordings embodying sound for a livelihood or for a profit.

(7) "Sound recording" means a recording of voices, music, or other sounds by mechanical or electronic transmission to tapes, records, or other devices capable of storing and reproducing sound.

(8) "Music video production" means a cohesive compilation of motion pictures with a specific sound recording product for the purpose of broadcasting on a music television network or for commercial distribution.

(9) "Production" means any production, or part thereof, of motion pictures, made–for–TV motion pictures, television series, commercial advertising productions, music videos, or sound recordings as defined by this act.

(10) "Preproduction activities" means those preliminary activities performed directly in connection with the production of a motion picture, made–for–TV motion picture, television series, commercial advertising production, music video, or sound recording, which include, but are not limited to, obtaining story rights, scriptwriting, storyboarding, budgeting, scheduling, and assembling the financing, producers, director, and prime talent.

(11) "Production activities" means those activities performed in direct connection with the production, or any part thereof, of a motion picture, made–for–TV motion picture, television series, commercial advertising production, music video, or sound recording, which include, but are not limited to, location scouting and managing, set construction and acquisition, props acquisition, wardrobe construction and acquisition, hair and makeup design and execution, cinematography, photography, videography, sound recording, and personnel travel and meal acquisition and related activities.

(12) "Postproduction activities" means those activities performed directly in connection with transforming the individual images and sounds recorded during production into a cohesive body, which include, but are not limited to, editing, dubbing, creating supplementary sound tracks, automated dialogue replacement, foley stage recording, sound mixing, creating special effects, two-dimensional and three-dimensional graphics and animation, and creating credit titles.

(13) "Producer" means any person who causes to be made a motion picture, made–for–TV motion picture, television series, commercial advertising, music video, or sound recording, or any part thereof, primarily for entertainment, commercial, industrial, or educational purposes.

(14) "Council" means the Entertainment Florida Council.

(15) These terms and the provisions of this act do not include television, cable or radio companies licensed by the Federal Communications Commission in their capacities as broadcast companies, but may include such companies in their capacities as producers of entertainment industry products created primarily for entertainment, commercial, industrial, or educational purposes for statewide, national, or international distribution.

Section 56. Section 288.1252, Florida Statutes, is created to read:

288.1252 Entertainment Florida Council; creation; purpose; membership; powers and duties.—

(1) CREATION.—There is hereby created within the Office of Tourism, Trade, and Economic Development of the Executive Office of the Governor, for administrative purposes only, the Entertainment Florida Council.

(2) PURPOSE.—The purpose of the council shall be to serve as an advisory body to the Office of Tourism, Trade, and Economic Development; to promote the growth of the entertainment industry in Florida; to service the state's entertainment industry; and to provide private-sector supplemental financial support to programs under the direction of the council.

(3) MEMBERSHIP.—

(a) The council shall consist of 11 members, to be appointed by the Governor and confirmed by the Senate, with the initial appointments being made no later than July 1, 1998.

(b) When making appointments to the council, the Governor shall appoint persons who are residents of the state and who are highly knowledgeable of, active in, and recognized leaders in Florida's motion picture, television, video, sound recording or other entertainment industries. These persons shall include, but not be limited to, representatives of local government film commissions, representatives of entertainment associations, and board chairs, presidents, chief executive officers, chief operating officers, or persons of comparable executive position or stature of leading or otherwise important entertainment industry businesses. Council members shall be appointed in such a manner as to equitably represent the broadest spectrum of the entertainment industry and geographic areas of the state.

(c) Council members shall serve for 4-year terms, except that the initial terms shall be staggered. The Governor shall appoint two members for 1-year terms, three members for 2-year terms, three members for 3-year terms, and three members for 4-year terms.

(d) Absence from three consecutive meetings shall result in automatic removal from the council.

(e) A vacancy on the council shall be filled for the remainder of the unexpired term in the same manner as the original appointment.

(f) No more than one member of the council may be an employee of any one company, organization, or association.

(g) Any member shall be eligible for reappointment but may not serve more than two full consecutive terms.

(h) The council shall meet no less frequently than once each quarter of the calendar year, but may meet more often as set by the council.

(i) The council shall annually elect one member to serve as chair of the council and one member to serve as vice chair.

(j) A majority of the members of the council shall constitute a quorum.

(k) Members of the council shall serve without compensation, but shall be entitled to reimbursement for per diem and travel expenses in accordance with s. 112.061 while in performance of their duties.

(l) Each member of the council shall file disclosure of financial interests pursuant to s. 112.3145.

(m) The Entertainment Industry Commissioner shall be an ex officio nonvoting member of the council.

(4) POWERS AND DUTIES.—Entertainment Florida Council shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this act, including, but not limited to, the power to:

(a) Adopt bylaws for the governance of its affairs and the conduct of its business and rules to implement the provisions of this act.

(b) Make and execute contracts and other instruments necessary or convenient for the exercise of its powers and functions, including, but not limited to, a contract with a direct-support organization.

(c) Create a direct-support organization to raise funds to provide supplemental support for the operation and programs of the council and serve as the board of directors of such an organization, which shall:

1. Be a Florida corporation not for profit, incorporated under the provisions of chapter 617 and approved by the Department of State.

2. Be organized and operated exclusively to receive, hold, invest, and administer property, to raise funds and accept gifts, and to make expenditures to implement the activities, services, functions, and programs approved by the council.

3. Be certified annually by the Office of Tourism, Trade, and Economic Development as operating in a manner consistent with the goals of the approved strategic plan for the council.

4. Be governed by a board of directors whose membership is synonymous with the membership of the Entertainment Florida Council.

5. Make provisions for an annual postaudit of its financial accounts to be conducted by an independent certified public accountant in accordance with rules promulgated by the Auditor General. The annual audit report shall include a management letter and shall be submitted to the Auditor General and the Office of Tourism, Trade, and Economic Development for review. The Office of Tourism, Trade, and Economic Development and the Auditor General shall have the authority to require and receive from the organization or its independent auditor any detail or supplemental data relative to the operation of the organization.

6. Not be considered an agency for the purposes of chapters 120, 216, and 287; ss. 255.21, 255.25, and 255.254, relating to leasing of buildings; ss. 283.33 and 283.35, relating to bids for printing; s. 215.31; and parts I, II, and IV through VIII of chapter 112.

(d) Develop a 5-year strategic plan, by no later than June 30, 1999, to guide the activities of the council. The plan shall:

1. Be annual in construction and ongoing in nature.

2. Include recommendations relating to the organizational structure of the council.

3. Include an annual budget projection for the council for each year of the plan.

4. Include an operational model for the council to use in implementing programs designed to:

a. Develop and promote the state's entertainment industry.

b. Have the council serve as a liaison between the entertainment industry and other state and local governmental agencies and labor organizations.

c. Gather statistical information related to the state's entertainment industry.

d. Provide information and service to businesses, communities, organizations and individuals engaged in entertainment industry activities.

5. Include recommendations regarding specific performance standards and measurable outcomes for the programs to be implemented by the council.

(e) Contract, notwithstanding the provisions of part I of chapter 287, with the direct-support organization created under paragraph (c) or with a designated Florida not-for-profit corporation with experience in promotion and development of the entertainment industry in Florida to carry out the purpose and duties of the council, including, but not limited to, implementation of the strategic plan prepared under paragraph (d). The council shall serve as contract administrator, subject to oversight by the Office of Tourism, Trade, and Economic Development. Any contract entered into by the council under this paragraph must include:

1. Specific and quantifiable performance measures to assess the progress toward achievement of contract deliverables;

2. Sanctions for failure to satisfy contract requirements or deliverables;

3. Provisions to ensure that any state appropriations in support of such contract are used exclusively for activities in fulfillment of the contract;

4. Provisions for an annual accounting of expenditures of any state funds appropriated in support of such contract; and

5. Provisions to ensure that all records and meetings directly related to the contracted responsibilities are open and public, unless otherwise exempted by general law.

(f) Appear on its own behalf before boards, commissions, departments, or other agencies of municipal, county, or state government, or the Federal Government.

(g) Do any and all things necessary or convenient to carry out the purposes of and exercise the powers granted in this act.

Section 57. Section 288.12285, Florida Statutes, is renumbered as section 288.1253, Florida Statutes, and amended to read:

288.1253 ~~288.12285~~ Promotion and development of entertainment industries; direct–support organization; confidentiality of donor identities.—The identity of a donor or prospective donor to the direct-support organization authorized under *s. 288.1252* ~~s. 288.1228~~ who desires to remain anonymous and all information identifying such donor or prospective donor are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Such anonymity shall be maintained in audit reports. This section expires October 2, 2001, and is subject to review by the Legislature under the Open Government Sunset Review Act of 1995 in accordance with s. 119.15 before that date.

Section 58. Section 288.1254, Florida Statutes, is created to read:

288.1254 Promotion and development of entertainment industry; Entertainment Industry Commissioner; creation; purpose; powers and duties.—

(1) CREATION.—

(a) There is hereby created within the Office of Tourism, Trade, and Economic Development the position of Entertainment Industry Commissioner for the purpose of assisting the Entertainment Florida Council in developing, promoting, and providing services to the state's entertainment industry. The Entertainment Industry Commissioner shall function as a liaison for the Governor and the Office of Tourism, Trade, and Economic Development to coordinate efforts of other governmental bodies with those of the Entertainment Florida Council.

(b) The Office of Tourism, Trade, and Economic Development shall conduct a search for a qualified person to fill the position of Entertainment Industry Commissioner, and the Director of the Office of Tourism, Trade, and Economic Development shall appoint the Entertainment Industry Commissioner.

(2) POWERS AND DUTIES.—

(a) The Entertainment Industry Commissioner, in performance of his or her duties, shall:

1. Develop and facilitate a smooth working relationship between state agencies and local governments in cooperation with local film commission offices for out-of-state and indigenous entertainment industry production entities.

2. Represent the state's indigenous entertainment industry to key decisionmakers within the national and international entertainment industry, and to state and local officials.

3. Serve as liaison between entertainment industry producers and labor organizations.

(b) The Entertainment Industry Commissioner, in the performance of his or her duties, may:

1. Exercise the powers granted by this act in any state, territory, district, or possession of the United States.

2. Carry out any program of information, special events, or publicity designed to attract entertainment industry to Florida.

3. Encourage and cooperate with other public and private organizations or groups in their efforts to publicize to the entertainment industry in this state, other states, and other countries the depth of Florida's entertainment industry talent, crew, production companies, production equipment resources, related businesses, and support services, including the establishment of and expenditure for a program of cooperative advertising with these public and private organizations and groups in accordance with the provisions of chapter 120.

Section 59. Section 288.1255, Florida Statutes, is created to read:

288.1255 Travel and entertainment expenses.—

(1) As used in this section:

(a) "Business client" means any person, other than a state official or state employee, who receives the services of, or is the subject of solicitation by, the Entertainment Florida Council in connection with the performance of the council's statutory duties, including persons or representatives of entertainment industry companies considering or being solicited for location, relocation, or expansion of an entertainment industry business within the state.

(b) "Entertainment expenses" means the actual, necessary, and reasonable costs of providing hospitality for business clients or guests, which costs are defined and prescribed by rules adopted by the Office of Tourism, Trade, and Economic Development, subject to approval by the Comptroller.

(c) "Guest" means a person, other than a state official or state employee, authorized by the Office of Tourism, Trade, and Economic Development to receive the hospitality of the Entertainment Florida Council in connection with the performance of the council's statutory duties.

(d) "Travel expenses" means the actual, necessary, and reasonable costs of transportation, meals, lodging, and incidental expenses normally incurred by a traveler, which costs are defined and prescribed by rules adopted by the Office of Tourism, Trade, and Economic Development, subject to approval by the Comptroller.

(2) Notwithstanding the provisions of s. 112.061, the Office of Tourism, Trade, and Economic Development shall adopt rules by which it may make expenditures by advancement or reimbursement, or a combination thereof, to:

(a) State officers and state employees for travel expenses or entertainment expenses incurred by such officers and employees in connection with the performance of the statutory duties of the Entertainment Florida Council.

(b) State officers and state employees for travel expenses or entertainment expenses incurred by such officers and employees on behalf of guests, business clients, or authorized persons as defined in s. 112.061(2)(e) in connection with the performance of the statutory duties of the Entertainment Florida Council.

(c) Third party vendors for the travel or entertainment expenses of guests, business clients, or authorized persons as defined in s. 112.061(2)(e) incurred while such persons are participating in activities or events carried out by the Entertainment Florida Council in connection with the council's statutory duties.

The rules shall be subject to approval by the Comptroller prior to promulgation. The rules shall require the submission of paid receipts, or other proof of expenditure prescribed by the Comptroller, with any claim for reimbursement and shall require, as a condition for any advancement of funds, an agreement to submit paid receipts or other proof of expenditure and to refund any unused portion of the advancement within 15 days after the expense is incurred or, if the advancement is made in connection with travel, within 10 working days after the traveler's return to headquarters. However, with respect to an advancement of funds made solely for travel expenses, the rules may allow paid receipts or other proof of expenditure to be submitted, and any unused portion of the advancement to be refunded, within 10 working days after the traveler's return to headquarters. Operational or promotional advancements, as defined in s. 288.35(4), obtained pursuant to this section shall not be commingled with any other state funds.

(3) The Office of Tourism, Trade, and Economic Development shall prepare an annual report of the expenditures of the Entertainment Florida Council and provide such report to the Legislature no later than December 30 of each year for the expenditures of the previous fiscal year. The report shall consist of a summary of all travel, entertainment, and incidental expenses incurred within the United States and all travel, entertainment, and incidental expenses incurred outside the United States.

(4) Any claim submitted under this section shall not be required to be sworn to before a notary public or other officer authorized to administer oaths, but any claim authorized or required to be made under any provision of this section shall contain a statement that the expenses were actually incurred as necessary travel or entertainment expenses in the performance of official duties of the Entertainment Florida Council and shall be verified by written declaration that it is true and correct as to every material matter. Any person who willfully makes and subscribes to any claim which he or she does not believe to be true and correct as to

every material matter or who willfully aids or assists in, procures, or counsels or advises with respect to, the preparation or presentation of a claim pursuant to this section that is fraudulent or false as to any material matter, whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present the claim, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Whoever receives an advancement or reimbursement by means of a false claim is civilly liable, in the amount of the overpayment, for the reimbursement of the public fund from which the claim was paid.

Section 60. *Florida Entertainment Industry Model Permitting Task Force; creation; membership; powers and duties; report.—There is created within the Office of Tourism, Trade, and Economic Development, for a period of one year, a task force for the purpose of developing a model for uniform permits for use by state agencies and county and municipal governments.*

(1) Members of the task force shall be appointed by the Governor no later than July 1, 1998, for a period of 1 year and shall include one representative from each of the following:

(a) The Office of Tourism, Trade, and Economic Development.

(b) The Department of Environmental Protection.

(c) The Division of Recreation and Parks of the Department of Environmental Protection.

(d) The Department of Transportation.

(e) The Office of the State Fire Marshal.

(f) The Board of Regents.

(g) The Florida League of Cities.

(h) The Florida Association of Counties.

(i) The Department of Highway Safety and Motor Vehicles.

(j) The Division of Law Enforcement of the Department of Environmental Protection.

(k) The Department of Community Affairs.

(l) The Department of Corrections.

(m) The Florida Film Commissioner's Association.

(n) Each of the state's two largest motion-picture production studios.

(o) The Florida Motion Picture and Television Association.

(p) The recording industry.

(q) The commercial advertising industry.

(2) The task force shall meet as often as necessary to develop a report which shall be given to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than June 30, 1999, which shall include:

(a) A recommendation for model permits for use by state agencies and county and municipal governments in granting temporary permits to entertainment industry businesses in the process of production activities.

(b) Cost recommendations for use of state and local government buildings, property, and personnel.

(c) Recommendations for developing a timetable for securing state and local environmental permits during the preproduction and production stages of an entertainment industry project.

(3) The task force shall elect a chair who will set the meeting schedules for the task force.

(4) The Office of Tourism, Trade, and Economic Development may provide staff assistance to the task force for the purpose of recording the minutes of each meeting.

(5) Members of the task force shall serve without compensation, but shall be entitled to reimbursement for per diem and travel expenses in accordance with s. 112.061 while in the performance of their duties.

Section 61. Subsection (2) of section 14.2015, Florida Statutes, is amended to read:

14.2015 Office of Tourism, Trade, and Economic Development; creation; powers and duties.—

(2) The purpose of the Office of Tourism, Trade, and Economic Development is to assist the Governor in working with the Legislature, state agencies, business leaders, and economic development professionals to formulate and implement coherent and consistent policies and strategies designed to provide economic opportunities for all Floridians. To accomplish such purposes, the Office of Tourism, Trade, and Economic Development shall:

~~(a) Contract, notwithstanding the provisions of part I of chapter 287, with the direct-support organization created under s. 288.1228, or a designated Florida not-for-profit corporation whose board members have had prior experience in promoting, throughout the state, the economic development of the Florida motion picture, television, radio, video, recording, and entertainment industries, to guide, stimulate, and promote the entertainment industry in the state.~~

(a)~~(b)~~ Contract, notwithstanding the provisions of part I of chapter 287, with the direct-support organization created under s. 288.1229 to guide, stimulate, and promote the sports industry in the state.

(b)~~(c)~~ Monitor the activities of public-private partnerships and state agencies in order to avoid duplication and promote coordinated and consistent implementation of programs in areas including, but not limited to, tourism; international trade and investment; business recruitment, creation, retention, and expansion; minority and small business development; and rural community development.

(c)~~(d)~~ Facilitate the direct involvement of the Governor and the Lieutenant Governor in economic development projects designed to create, expand, and retain Florida businesses and to recruit worldwide business.

(d)~~(e)~~ Assist the Governor, in cooperation with Enterprise Florida, Inc., and the Florida Commission on Tourism, in preparing an annual report to the Legislature on the state of the business climate in Florida and on the state of economic development in Florida which will include the identification of problems and the recommendation of solutions. This report shall be submitted to the President of the Senate, the Speaker of the House of Representatives, the Senate Minority Leader, and the House Minority Leader by January 1 of each year, and it shall be in addition to the Governor's message to the Legislature under the State Constitution and any other economic reports required by law.

(e)~~(f)~~ Plan and conduct at least three meetings per calendar year of leaders in business, government, and economic development called by the Governor to address the business climate in the state, develop a common vision for the economic future of the state, and identify economic development efforts to fulfill that vision.

(f)~~(g)~~1. Administer the Florida Enterprise Zone Act under ss. 290.001-290.016, the community contribution tax credit program under ss. 220.183 and 624.5105, the tax refund program for qualified target industry businesses under s. 288.106, contracts for transportation projects under s. 288.063, the sports franchise facility program under s. 288.1162, the professional golf hall of fame facility program under s. 288.1168, the Florida Jobs Siting Act under ss. 403.950-403.972, the Rural Community Development Revolving Loan Fund under s. 288.065, the Regional Rural Development Grants Program under s. 288.018, the Florida State Rural Development Council, and the Rural Economic Development Initiative.

2. The office may enter into contracts in connection with the fulfillment of its duties concerning the Florida First Business Bond Pool under chapter 159, tax incentives under chapters 212 and 220, foreign offices under chapter 288, the Enterprise Zone program under chapter 290, the Seaport Employment Training program under chapter 311, the Florida Professional Sports Team License Plates under chapter 320, Spaceport Florida under chapter 331, Job Siting and Expedited Permitting under

chapter 403, and in carrying out other functions that are specifically assigned to the office by law.

(g)~~(h)~~ Serve as contract administrator for the state with respect to contracts with Enterprise Florida, Inc., the Florida Commission on Tourism, *the Entertainment Florida Council,* and all direct-support organizations under this act, excluding those relating to tourism, *and provide oversight for any contract that the Entertainment Florida Council may enter into with a direct–support organization or with a designated Florida not–for–profit corporation under s. 288.1252(4)(e).* To accomplish the provisions of this act and applicable provisions of chapter 288, and notwithstanding the provisions of part I of chapter 287, the office shall enter into specific contracts with Enterprise Florida, Inc., the Florida Commission on Tourism, *the Entertainment Florida Council,* and other appropriate direct-support organizations. Such contracts may be multiyear and shall include specific performance measures for each year. The office shall provide the President of the Senate and the Speaker of the House of Representatives with a report by February 1 of each year on the status of these contracts, including the extent to which specific contract performance measures have been met by these contractors.

(h)~~(i)~~ Prepare and submit as a separate budget entity a unified budget request for tourism, trade, and economic development in accordance with chapter 216 for, and in conjunction with, Enterprise Florida, Inc., and its boards, the Florida Commission on Tourism and its direct-support organization, the Florida Black Business Investment Board, *the Entertainment Florida Council,* and the direct-support *organization* ~~organizations~~ created to promote the ~~entertainment and~~ sports industries.

(i)~~(j)~~ Promulgate rules to carry out its functions in connection with the administration of the Qualified Target Industry program, the Qualified Defense Contractor program, the Enterprise Zone program, and the Florida First Business Bond pool.

Section 62. Paragraph (e) of subsection (6) of section 288.108, Florida Statutes, is amended to read:

288.108 High-impact business.—

(6) SELECTION AND DESIGNATION OF HIGH-IMPACT SECTORS.—

(e) The study and its findings and recommendations and the recommendations gathered from the sector-business network must be discussed and considered during at least one of the ~~quarterly~~ meetings required in *s. 14.2015(2)(e)* ~~s. 14.2015(2)(h)~~.

Section 63. Subsection (7) of section 288.90152, Florida Statutes, is amended to read:

288.90152 Pilot matching grant program.—

(7) Upon completing all training funded under this pilot program, the Office of Tourism, Trade, and Economic Development shall report on the outputs and outcomes for this program as part of the annual report prepared under *s. 14.2015(2)(d)* ~~s. 14.2015(2)(g)~~. Such report must include a recommendation on whether it would be sound public policy to continue or discontinue funding for the program.

Section 64. *Sections 288.051, 288.052, 288.053, 288.054, 288.055, 288.056, 288.057, and 288.1228, Florida Statutes, are repealed.*

Section 65. *(1) From the funds appropriated to the International Trade and Economic Development Board of Enterprise Florida, Inc., for fiscal year 1998–99 for International Representation and Advocacy, $150,000 shall be provided to the Florida Delegation of the Southeast U.S./Japan Association, Inc., and $100,000 shall be provided to the Florida Delegation of the Florida/Korea Economic Cooperation Committee.*

(2) Notwithstanding the instructions in the General Appropriations Act for fiscal year 1998-99 relating to funds appropriated for the International Trade and Economic Development Board, the Technology Development Board, the Workforce Development Board, and the Capital Development Board of Enterprise Florida, Inc., prohibiting the release or advancement of appropriated funds from fiscal year 1998–99 until such time as all balances of any appropriations made to Enterprise Florida, Inc., during fiscal year 1997–98 which are not contracted to be expended prior to June 30, 1998, are deposited into the State Treasury, no funds which are under contract or otherwise legally obligated as of June 30, 1998, shall be returned to the State Treasury. All funds appropriated in fiscal year 1997–98 to Enterprise Florida, Inc., not under contract or otherwise legally obligated, must be deposited in the State Treasury, prior to the release of funds appropriated for the 1998–99 fiscal year.

(3) There is appropriated $1.2 million from General Revenue funds to the Office of Tourism, Trade, and Economic Development which shall be used to fund the activities of the Technology Research and Development Authority (TRDA).

(4) The sum of $3 million is hereby appropriated from the General Revenue Fund to the Office of Tourism, Trade, and Economic Development for fiscal year 1998-99 for the following:

(a) $2.4 million to the Florida Business Expansion Corporation. Ninety percent of such funds must be used to provide assistance to eligible businesses pursuant to s. 288.9533.

(b) $100,000 to the Department of State to establish and maintain a Florida State International Archive.

(c) $400,000 to the Florida Trade Data Center to finance an electronic commerce support and information system.

(d) $100,000 for the ecotourism promotion program established in this act to the Division of Recreation and Parks of the Department of Environmental Protection.

Section 66. Section 290.0301, Florida Statutes, is amended to read:

290.0301 Short title.—Sections 290.0311 through 290.0395 shall be known and may be cited as the "*Invest in Neighborhood Vitality and Economies Act* ~~Community Development Corporation Support and Assistance Program Act~~." This section shall stand repealed on June 30, *2007* ~~1998~~.

Section 67. Subsections (5), (10), and (11) of section 290.0311, Florida Statutes, are amended to read:

290.0311 Legislative findings.—The Legislature finds that:

(5) This deterioration contributes to the decline of neighborhoods *in both rural and urban* ~~and surrounding~~ areas, causes a reduction of the value of property comprising the tax base of local communities, and eventually requires the expenditure of disproportionate amounts of public funds for health, social services, and police protection to prevent the development of slums and the social and economic disruption found in slum communities.

(10) A viable means of eliminating or reducing these deteriorating economic conditions and encouraging local resident participation and support is to provide support assistance and resource investment to *community-based* ~~community~~ development *organizations* ~~corporations~~. *The Legislature also finds that community-based development organizations can contribute to the creation of jobs in response to federal welfare reform and state WAGES legislation and economic development activities related to urban and rural economic initiatives.*

(11) This section shall stand repealed on June 30, *2007* ~~1998~~.

Section 68. Section 290.032, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 290.032, F.S., for present text.)

290.032 Policy and purpose.—It is the policy of this state to improve the quality of neighborhoods as environments in which children and families live, by supporting and fostering positive change in a broad range of domains to achieve comprehensive improvements in conditions throughout the neighborhood over time. Such community or neighborhood redevelopment shall be based on the following principles:

(1) Bottom-up, community-focused approach.

(2) Enables and supports the effort of the neighborhoods to make improvements.

(3) Requires a holistic focus on the neighborhood to address all needs in coordinated fashion, including:

(a) Need for community-based leadership.

(b) Empower neighborhood governance of the process.

(c) Human service delivery.

(d) Public infrastructure.

(e) Housing and safety.

(f) Economic development.

(4) Mandates neighborhood collaboration of all partners.

(5) Empowers residents to make decisions on improvements.

(6) Builds consensus for a shared vision for the future of the neighborhood.

(7) Sets definitive performance goals to achieve specific outcomes for the neighborhood.

The purpose of this act is to assist community-based development organizations in undertaking projects, in concert with state and local government and private enterprise, designed to create and maintain a sound industrial base, to revitalize the health of established commercial areas, to promote and retain employment opportunities, to preserve and rehabilitate existing residential neighborhoods, and to provide safe, decent, affordable housing for residents of these areas. The Legislature, therefore, declares that the development, redevelopment, preservation, restoration, and revitalization of such communities and all the purposes of this act are public purposes for which public moneys may be used. This section shall stand repealed on June 30, 2007.

Section 69. Section 290.033, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 290.033, F.S., for present text.)

290.033 Definitions.—As used in this act, the term:

(1) "Department" means the Department of Community Affairs.

(2) "Community-based development organization" means a community-based nonprofit organization, which may also be known as a "CBDO," that is committed to or engaged in developing or managing real estate or business enterprises in economically distressed neighborhoods. To qualify, an agency must be community based in that the majority of the board is elected by a mix of stakeholders consisting of area residents, area business and property owners, and persons employed in the service area and demonstrate an ability to undertake affordable housing, business assistance, or commercial developments.

(3) "Fund" means the Operating Trust Fund.

(4) "Neighborhood comprehensive revitalization plan" means a long-term holistic, integrated, and collaborative strategic plan for the improvement of a defined service area or neighborhood that was prepared by and approved by a collaborative partnership of residents, community-based organizations, local government representatives, churches, schools, businesses, and other community stakeholders that sets forth the shared vision for the service area and identifies specific, measurable outcomes. This comprehensive, holistic plan shall address the wide array of interrelated needs including, but not limited to, human services, jobs and economic development, housing, safety, public infrastructure, health care, education, community organization, neighborhood governance, and social organizations. The plan must describe an organization's mission; include strategies to maintain community involvement; demonstrate innovation, efficiency, and accountability to the benefit of the service area stakeholders; and identify sources of anticipated revenue.

(5) "Project" means a public and private activity or series of activities, designed to be carried out in a specific, definable location, that achieve objectives which are consistent with the agency's neighborhood comprehensive revitalization plan and the provisions and intent of this act.

(6) "Secretary" means the Secretary of Community Affairs.

(7) "Service area" or "target area" means the entire area in which a community-based development organization operates and in which community development grant and loan funds are to be spent.

(8) "Permanent job" means a full-time position, the duration of which exceeds 12 months and which consists of an average of at least 30 hours per week of employment.

(9) "Temporary job" means a full-time or part-time position, the duration of which exceeds 45 days, which consists of an average of at least 15 hours per week of employment, and which is not a permanent job.

(10) This section shall stand repealed on June 30, 2007.

Section 70. Section 290.035, Florida Statutes, is amended to read:

290.035 Eligibility for assistance.—*Community-based* ~~community~~ development *organizations* ~~corporations~~ meeting the following requirements shall be eligible for assistance:

(1) The *community-based* ~~community~~ development *organization* ~~corporation~~ must be a nonprofit corporation under state law ~~or a local development company established under state law and certified to be eligible to participate in the Small Business Administration Loan Program under s. 502 of the Small Business Investment Act of 1958, as amended,~~ and must meet the following further requirements:

(a) Its membership must be open to all service area residents 18 years of age or older.

(b) A majority of its board members must be elected by those members of the corporation who are *stakeholders comprised of a mix of* service area residents, *area business and property owners, and area employees*.

~~(c) Elections must be held annually for at least a third of the elected board members so that elected members serve terms of no more than 3 years.~~

~~(d) Elections must be adequately publicized within the service area, and ample opportunity must be provided for full participation.~~

~~(e) At least one of the board members shall be appointed by the Governor.~~

(2) The *community-based* ~~community~~ development *organization* ~~corporation~~ shall maintain a service area in which economic development projects are located which meets one or more of the following criteria:

(a) The area has been designated pursuant to s. 163.355 as a slum area or a blighted area as defined in s. 163.340(7) or (8) or is located completely within the boundaries of a slum or blighted area.

(b) The area is a community development block grant program area in which community development block grant funds are currently being spent or have been spent during the last 3 years as certified by the local government in which the service area is located.

(c) The area is a neighborhood housing service district.

(d) The area is contained within *a state* ~~an~~ enterprise zone designated *on or after July 1, 1995, in accordance with* ~~pursuant to~~ s. 290.0065.

(e) The area is contained in federal empowerment zones and enterprise communities.

(3) This section shall stand repealed on June 30, *2007* ~~1998~~.

Section 71. Section 290.036, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 290.036, F.S., for present text.)

290.036 Community-based development organization support program; administrative grants and procedures.—

(1) The department is authorized to award core and project administrative grants and project implementation loans. Administrative grants shall be used for staff salaries and administrative expenses for eligible community-based development organizations selected through a competitive three-tiered process. The department shall develop a set of criteria for three-tiered funding that shall ensure equitable geographic distribution of the funding throughout the state. This three-tiered plan shall include emerging, intermediate, and mature community-based development organizations recognizing the varying needs of the three tiers. Funding

shall be provided for core administrative grants for tier I and tier II community-based development organizations. Priority shall be given to those organizations that demonstrate community-based high performance. However, if all qualified tier I and tier II community-based development organizations have been funded, qualified tier III community-based development organizations may receive core administrative grants. Project administrative grants tied to project implementation loans shall be available to all levels of community-based development organizations depending upon their capacity. Extensive training and technical assistance shall be available to all community-based development organizations. Persons, equipment, supplies, and other resources funded in whole or in part by grant funds shall then be utilized to further the purposes of this act. Eligible activities include, but are not limited to:

(a) Preparing grant and loan applications, proposals, fundraising letters, and other documents essential to securing additional administrative or project funds to further the purposes of this act.

(b) Monitoring and administrating grants and loans, providing technical assistance to businesses, and any other administrative tasks essential to maintaining funding eligibility or meeting contractual obligations.

(c) Developing local programs to encourage the participation of financial institutions, insurance companies, attorneys, architects, engineers, planners, law enforcement officers, developers, and other professional firms and individuals providing services beneficial to redevelopment efforts.

(d) Providing management, technical, accounting, and financial assistance and information to businesses and entrepreneurs interested in locating, expanding, or operating in the service area.

(e) Coordinating with state, federal, and local governments and other nonprofit organizations to ensure that activities meet local plans and ordinances and to avoid duplication of tasks.

(f) Preparing plans or performing research to identify critical needs within the service area and developing approaches to address those needs.

(g) Assisting service area residents in identifying and determining eligibility for state, federal, and local housing programs including rehabilitation, weatherization, homeownership, rental assistance, or public housing programs.

(h) Developing, owning, and managing housing designed for very-low-income persons, low-income persons, or WAGES recipients; or developing, owning, and managing industrial parks providing jobs to very-low-income persons, low-income persons, or WAGES recipients.

(i) Preparing the neighborhood comprehensive revitalization plan with baseline data, outcome measures, and estimates of service area impact as a result of job-generating or revenue-generating businesses, or enterprise assistance, or units of commercial, industrial, or affordable housing developments.

(2) A community-based development organization applying for an administrative grant pursuant to this section must submit a proposal to the department which includes:

(a) A map and narrative description of the service areas for the community-based development organization.

(b) A copy of the documents creating the community-based development organization.

(c) A listing of the membership of the board, including individual terms of office.

(d) An annual plan that describes the expenditure of the funds, including goals, objectives, and expected results, and which has a clear relationship to the agency's neighborhood comprehensive revitalization strategy.

(e) Other supporting information which may be required by the department.

(3) The amount of any core administrative grant to an emerging community-based development organization in any 1 year shall be no more than $50,000. The amount of any core administrative grant to an intermediate community-based development organization shall be no more than $45,000. The amount of core administrative grant to a mature community-based development organization shall be no more than $40,000. The department may fund as many community-based development organizations each year as is permitted based on the level of funds provided for in the General Appropriations Act.

(4) The amount of any project administrative grant to any community-based development organization shall be no more than $15,000 for every $100,000 of project implementation loans.

(5) A community-based development organization that receives funding hereunder shall submit to the department an annual year-end audit performed by an independent certified public accountant.

(6) In evaluating proposals pursuant to this section, the department shall develop and consider scoring criteria including, but not limited to, the following:

(a) The relative degree of distress of the service areas of the community-based development organization.

(b) The demonstrable capacity of the community-based development organization to improve the economic health of the service area and carry out the activities contained in the long-term revitalization plan.

(c) The degree to which the community-based development organization would provide assistance to very-low-income persons, low-income persons, and particularly WAGES recipients.

(d) The service area of the community-based development organization which is located in whole or in part within a state enterprise zone designated pursuant to s. 290.0065, a federal empowerment zone, or an enterprise community.

(e) The extent to which the proposal would further the policy and purposes of this act.

(7) The department is authorized to award project administrative grants from the fund to community-based development organizations for staff salaries, administrative expenses, and the added cost of technical assistance directly related to job-generating and revenue-generating enterprises, including business, commercial, or affordable housing developments. Eligible organizations shall apply for competitive funding under the three categories of: business assistance, commercial, and affordable housing development. The allocations of funds to these three categories will be made by the department subject to funding availability and trends in the amount of qualified proposals submitted under each category. Community-based development organizations receiving funds under this section shall be subject to all applicable requirements of ss. 290.034(1), 290.035, 290.037, 290.038, and 290.039, as determined by the department.

(8) The department shall award funding hereunder based upon a three-tiered approach which recognizes the differing capacities of new and emerging, intermediate, and mature community-based development organizations. No community-based development organization may apply for funding in more than one tier in any 1 fiscal year.

(a) Tier I, for new and emerging community-based development organizations, shall offer, on a competitive basis, a minimum of five core administrative grants of up to $50,000, annually. Once tier I community-based development organizations have achieved a minimum level of capacity, they shall be eligible to apply for, on a competitive funding basis, a project implementation loan of no more than $100,000 and an accompanying project administrative grant of up to $15,000. Tier I community-based development organizations shall also receive extensive training and technical assistance designed to enhance the organization's capacity and thereby enable it to undertake more complex development projects.

(b) Tier II, for intermediate level community-based development organizations, shall be eligible to apply on a competitive basis for core administrative grants of up to $45,000, annually, and shall be eligible to apply for, on a competitive basis, project implementation loans of up to $300,000, annually, per community-based development organization and an accompanying project administrative grant of up to $45,000. Tier II community-based development organizations shall also receive training and technical assistance services hereunder.

(c) Tier III, for mature level community-based development organizations, shall be eligible to apply, on a competitive basis, for core administrative grants of up to $40,000, annually. Such community-based development organizations shall be eligible to apply for, on a competitive basis, project implementation loans of up to $400,000, annually, per community-based development organization and an accompanying project administrative grant of up to $60,000. Tier III community-based development organizations shall also receive training and technical assistance services hereunder.

(d) No development project funded hereunder shall exceed $200,000, annually, per community-based development organization. A community-based development organization can apply for project implementation loans in up to three categories of business development, affordable housing, and commercial development, within the dollar limitations contained herein. Project implementation grants shall be based on up to $15,000 in grant funds for every $100,000 awarded in loan funds.

(9) A community-based development organization applying for project administrative grants pursuant to this section must submit a proposal to the department which includes:

(a) A map and narrative description of the target areas for the community-based development organization.

(b) A copy of the documents creating the community-based development organization.

(c) A listing of the membership of the board, including individual terms of office.

(d) A copy of the community-based development organization's neighborhood comprehensive revitalization plan.

(e) A description of the location, financing plan, and potential impact of the business enterprise or residential, commercial, or industrial development which shows a clear relationship to the organization's neighborhood comprehensive revitalization plan and demonstrates how the proposed expenditures are directly related to the project.

(10) In evaluating proposals pursuant to this section, the department shall develop and consider scoring criteria, including, but not limited to, the following:

(a) The reasonableness of project goals and production schedules.

(b) Prior experience and performance of the applicant in the production of similar housing, commercial, or business developments.

(c) The extent of financial leveraging with private and public funding.

(d) The demonstrable capacity of the community-based development organization to improve the economic health of the target area as seen by the reasonableness of its comprehensive neighborhood revitalization plan and the impact of the proposed project.

(e) The degree to which the project will benefit very-low-income persons, low-income persons, and particularly WAGES recipients.

(f) The location of the target area of the community-based development organization, in whole or in part, in a state enterprise zone designated on or after July 1, 1995, in accordance with s. 290.0065 or a federal empowerment zone or enterprise community.

(g) The extent to which the proposal would further the policy and purposes of this act.

(11) This section shall stand repealed on June 30, 2007.

Section 72. Section 290.0365, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 290.0365, F.S., for present text.)

290.0365 Community-based development training and technical assistance program.—

(1) LEGISLATIVE FINDINGS.—In addition to the legislative findings set forth in s. 290.0311, the Legislature finds and declares that:

(a) Significant declines in resources make it difficult for community-based development organizations to generate sufficient revenues from business enterprises or real estate ventures in low-income neighborhoods to fund the predevelopment costs, technical assistance, and other administrative expenses needed to foster new developments.

(b) The financing and planning of large-scale developments is becoming increasingly complex and community-based development organizations, even those with considerable experience, often lack the expertise to structure project financing, partnerships, and joint ventures to accelerate and expand development activities in distressed communities.

(c) Local governments and private lenders are demonstrating a willingness to provide risk capital and project financing, but they are seldom able to provide technical support and training to the staff of community-based development organizations.

(2) PURPOSE.—The purpose of this section is to provide community-based development organizations with the necessary training and technical support to plan, implement, and manage job-generating and revenue-generating developments in distressed neighborhoods. This will strengthen the organizational capacity of community-based development organizations, assist local governments to enhance and expand revitalization efforts, and contribute to expanding the base of commerce, business, and affordable housing that will benefit persons who are very-low-income, low-income, or WAGES recipients.

(3) TRAINING AND TECHNICAL ASSISTANCE PROGRAM.—The Department of Community Affairs shall be responsible for securing the necessary expertise, which may include subcontracts with nonprofit organizations, to provide training and technical support to the staff and board of community-based development organizations, as appropriate, and to persons forming such organizations, which are formed for the purpose of redeveloping commercial and residential areas and revitalizing businesses within distressed neighborhoods for the benefit of very-low-income residents, low-income residents, and WAGES recipients.

(a) The training component of the program shall assist organizations receiving administrative grants through a developmental curriculum to build board and staff capacities to implement or manage affordable housing, commercial, or business enterprises. Training will include, but not be limited to, resource development, project management, real estate financing, business or venture plan development, strategic planning for community economic development, and community leadership and participation.

(b) The technical assistance provider shall conduct onsite assessments, involving the board and staff, to prepare a technical assistance plan for new and emerging organizations. The scope and nature of the training will compliment the annual performance objectives of the organizations from the development of a neighborhood comprehensive revitalization plan.

(c) Technical support shall be provided to community-based development organizations receiving project administrative grants, as appropriate, in methods of financing and structuring housing, business, or commercial development projects. This will be in the form of one-on-one technical assistance secured by either the department or by the community-based development organization.

(d) The department shall coordinate the technical assistance and training in support of affordable housing development with programs funded under s. 420.606.

(e) The department may permit other community-based development organizations to participate in the training based on the availability of classes, funding, and the priority of need.

(4) REPEAL.—This section shall stand repealed on June 30, 2007.

Section 73. Section 290.037, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 290.037, F.S., for present text.)

290.037 Community development project implementation loan program.—

(1) The department is authorized to make loans, within the limits of specific appropriations, to eligible applicants for the following purposes:

(a) Financial assistance to a new or existing business venture located within a community-based development organization service area;

(b) New construction or substantial rehabilitation of housing to be utilized by very-low-income and low-income families and individuals, and WAGES recipients; and

(c) Commercial developments located within the community-based development organization's service area.

(2) A community-based development organization applying for a loan pursuant to this section must submit the information required by s. 290.036(2).

(3) In no case shall loans to one community-based development organization exceed 40 percent of the total annual appropriation for loans during any given year or $400,000, whichever is less.

(4) A community-based development organization that receives a loan shall submit to the department an annual audit performed by an independent certified public accountant; however, this subsection shall not be construed to require the submittal of more than one audit by an individual community-based development organization submitting pursuant to s. 290.036.

(5) In evaluating proposals pursuant to this section, the department shall consider:

(a) The economic feasibility of the project and the capacity of the venture to repay the loan.

(b) The relative degree of distress of the target area.

(c) The ratio of private and nonstate public money committed to a project to the amount of state money to be committed.

(d) The demonstrated inability of the borrower to secure funding from conventional sources at the terms offered by the community-based development organization.

(e) The number of temporary and permanent jobs generated by the project.

(f) The overall net positive impact of the project long term on local economic and social conditions.

(g) The degree to which the project directly benefits or provides assistance to very-low-income individuals, low-income individuals, or job-displaced individuals or WAGES recipients.

(h) The demonstrable capacity of the community-based development organization and technical assistance providers to see that the project is successfully carried out and managed.

(6) Loans permitted under this section for affordable housing may be used for the purpose of providing first, second, or other subordinated mortgage loans or loan guarantees in the construction of single-family homeownership or multifamily rental units affordable to very-low-income persons and low-income persons and WAGES recipients in the target area.

(7) All loans to a community-based development organization shall be at interest rates not to exceed 3 percent and shall be repaid within 15 years or on a basis approved by the department, except as provided in subsection (8).

(8) Upon the termination of any project as a result of the sale or failure of the business, all recoverable state funds shall be returned to the department for deposit into the Operating Trust Fund. When losses are incurred, the community-based development organization shall make a diligent and good-faith effort to recover the full indebtedness from the business venture, including foreclosure of security and recovery from guarantors. Upon completion of all such efforts to the satisfaction of the department, the department shall write off the unpaid balance of the loan.

(9) This section shall stand repealed on June 30, 2007.

Section 74. Paragraph (f) of subsection (2) and subsection (3) of section 290.038, Florida Statutes, are amended to read:

290.038 Authority and duties of the department.—

(2) The department may:

(f) Assist in training employees of *community-based* ~~community~~ development *organizations* ~~corporations~~ to help achieve and increase their capacity to administer programs pursuant to this act and provide technical assistance and advice to *community-based* ~~community~~ development *organizations* ~~corporations~~ involved with these programs.

(3) This section shall stand repealed on June 30, *2007* ~~1998~~.

Section 75. Section 290.039, Florida Statutes, is amended to read:

(Substantial rewording of section. See

s. 290.039, F.S., for present text.)

290.039 Reporting requirements.—

(1) Community-based development organizations which receive funds under INVEST shall provide the following information to the department annually:

(a) A listing of business firms and individuals assisted by the community-based development organization during the reporting period.

(b) A listing of the type, source, purpose, and amount of each individual grant, loan, or donation received by the community-based development organization during the reporting period.

(c) The number of paid and voluntary positions within the community-based development organization.

(d) A listing of the salaries and administrative expenses of the community-based development organization.

(e) An identification and explanation of changes to the target area boundaries.

(f) The amount of assets and liabilities and the fund balance for the community-based development organization at the beginning and end of the reporting period.

(g) The number and description of projects attempted, the number and description of projects completed, and a written explanation of the reasons that caused projects not to be completed.

(h) The impact on target area residents and its relationship to expected outcomes listed in the agency's comprehensive neighborhood revitalization plan, as a result of receiving INVEST funding.

(2) Community-based development organizations which receive project administrative grants shall provide the following general information to the department annually:

(a) A listing of salaries and administrative expenses of the community-based development organization on approved projects that receive project administrative grant funding.

(b) An identification and explanation of changes to the target area boundaries.

(c) The impact of the completed project on target area residents and its relationship to expected outcomes listed in the agency's comprehensive neighborhood revitalization plan.

(3) Community-based development organizations which receive project administrative grants, or a combination of core administrative and project and grant funds, shall provide the following information on applicable projects to the department annually:

(a) The number of housing units rehabilitated or constructed by the community-based development organization within the service area during the reporting period.

(b) The number and amount of loans made to businesses or individual entrepreneurs in the target area during the reporting period.

(c) The number of outstanding loans made to businesses or individuals in the service area by the community-based development organiza-

tion, the balance of the loans, and the payment history of the borrowers during the reporting period.

(d) The number of jobs, both permanent and temporary, received by individuals who were directly assisted by the community-based development organization through assistance to the business such as a loan or other credit assistance.

(e) An identification and explanation of changes to the service area boundaries.

(f) The impact of the completed project on target area residents and its relationship to expected outcomes listed in the agency's comprehensive neighborhood revitalization plan.

(g) Such other information as the department may require.

(4) The department shall submit an annual report to the Speaker of the House of Representatives and the President of the Senate which contains the cumulative data submitted by the individual community-based development organizations pursuant to subsection (1). The report shall be submitted by January 1 of each year.

(5) This section shall stand repealed on June 30, 2007.

Section 76. Section 290.0395, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 290.0395, F.S., for present text.)

290.0395 Program performance review and evaluation.—

(1) Each community-based development organization which receives funding under the Invest in Neighborhood Vitality and Economies Program shall be subject to an annual performance review by the department. At a minimum, the review shall determine whether contract objectives are being or have been met in a timely and efficient manner, expected project outcomes are being or have been realized, and the impact of completed projects produced the results desired by the community-based development organization as stated in its comprehensive neighborhood revitalization plan and other supporting documentation for receipt of the grants or loans.

(2) Prior to the 2007 Regular Session of the Legislature, the Office of Program Policy Analysis and Government Accountability shall perform an evaluation of ss. 290.0301-290.039, using the reporting data specified in s. 290.039 and any other data identified by the department and the Office of Program Policy Analysis and Government Accountability as crucial to the evaluation of this program. The report shall critique the Invest in Neighborhood Vitality and Economies Program and shall include an analysis of the improvements in the service area as a result of the holistic and collaborative efforts of the organizations and partners within the service area.

(3) A report of the findings and recommendations of the Office of Program Policy Analysis and Government Accountability shall be submitted to the President of the Senate and the Speaker of the House of Representatives prior to the 2007 Regular Session.

(4) This section shall stand repealed on June 30, 2007.

Section 77. *Section 290.034, Florida Statutes, is repealed.*

Section 78. Section 189.427, Florida Statutes, is amended to read:

189.427 Fee schedule; Operating Trust Fund.—The Department of Community Affairs, by rule, shall establish a schedule of fees to pay one-half of the costs incurred by the department in administering this act, except that the fee may not exceed $175 per district per year. The fees collected under this section shall be deposited in the Operating Trust Fund ~~established under s. 290.034~~, which shall be administered by the Department of Community Affairs. Any fee rule must consider factors such as the dependent and independent status of the district and district revenues for the most recent fiscal year as reported to the Department of Banking and Finance. The department may assess fines of not more than $25, with an aggregate total not to exceed $50, as penalties against special districts that fail to remit required fees to the department. It is the intent of the Legislature that general revenue funds will be made available to the department to pay one-half of the cost of administering this act.

Section 79. Subsection (7) of section 252.82, Florida Statutes, is amended to read:

252.82 Definitions.—As used in this part:

(7) "Trust fund" means the Operating Trust Fund ~~established in s. 290.034~~.

Section 80. Subsection (1) of section 943.25, Florida Statutes, is amended to read:

943.25 Criminal justice trust funds; source of funds; use of funds.—

(1) The Department of Community Affairs may approve, for disbursement from the Operating Trust Fund ~~established pursuant to s. 290.034~~, those appropriated sums necessary and required by the state for grant matching, implementing, administering, evaluating, and qualifying for such federal funds. Disbursements from the trust fund for the purpose of supplanting state general revenue funds may not be made without specific legislative appropriation.

Section 81. Section 420.0007, Florida Statutes, is created to read:

420.0007 Exemption from property taxation for charitable non-profit low income housing properties. Properties owned entirely by non-profit corporations which are defined as charitable organizations under s. 501(c)(3) of the Internal Revenue Code and comply with the Internal Revenue Procedure 96-32 and which provide housing to low and very low income person, as defined in s. 420.0004, shall be considered charitable and exempt from ad valorem taxation under Chapter 196, F.S., to the extent authorized under s. 196.192.

Section 82. *If no community-based development organizations qualify for core administrative grants in a distressed region of the state, the Department of Community Affairs must identify potentially qualified community-based development organizations in those regions and provide assistance to enable them to compete for core administrative grants in the next funding cycle. For the purposes of this section, distressed regions include those regions that qualify for urban high crime area job tax credits or areas that have experienced civil disturbances within the past three years.*

Section 83. Sections 163.2511, 163.2514, 163.2517, 163.2520, 163.2523, and 163.2526, Florida Statutes, are created to read:

163.2511 Urban infill and redevelopment.—

(1) Sections 163.2511-163.2526 may be cited as the "Urban Infill and Redevelopment Act."

(2) It is found and declared that:

(a) Fiscally strong urban centers are beneficial to regional and state economies and resources, are a method for reduction of future urban sprawl, and should be promoted by state, regional, and local governments.

(b) The health and vibrancy of the urban cores benefit their respective regions and the state. Conversely, the deterioration of those urban cores negatively impacts the surrounding area and the state.

(c) In recognition of the interwoven destiny between the urban center, the suburbs, the region, and the state, the respective governments need to establish a framework and work in partnership with communities and the private sector to revitalize urban centers.

(d) State urban policies should guide the state, regional agencies, local governments, and the private sector in preserving and redeveloping existing urban centers and promoting the adequate provision of infrastructure, human services, safe neighborhoods, educational facilities, and economic development to sustain these centers into the future.

(e) Successfully revitalizing and sustaining the urban centers is dependent on addressing, through an integrated and coordinated community effort, a range of varied components essential to a healthy urban environment, including cultural, educational, recreational, economic, transportation, and social service components.

(f) Infill development and redevelopment are recognized as one of the important components and useful mechanisms to promote and sustain

urban centers. State and regional entities and local governments should provide incentives to promote urban infill and redevelopment. Existing programs and incentives should be integrated to the extent possible to promote urban infill and redevelopment and to achieve the goals of the state urban policy.

163.2514 Definitions.—As used in ss. 163.2511-163.2526:

(1) "Local government" means any county or municipality.

(2) "Urban infill and redevelopment area" means an area or areas designated by a local government for the development of vacant, abandoned, or significantly underutilized parcels located where:

(a) Public services such as water and wastewater, transportation, schools, and recreation are already available or are scheduled to be provided in an adopted 5-year schedule of capital improvements and are located within the existing urban service area as defined in the local government's comprehensive plan;

(b) The area contains not more than 10 percent developable vacant land;

(c) The residential density is at least five dwelling units per acre and the average nonresidential intensity is at least a floor area ratio of 1.00; and

(d) The land area designated as an urban infill and redevelopment area does not exceed 2 percent of the land area of the local government jurisdiction or a total area of 3 square miles, whichever is greater.

163.2517 Designation of urban infill and redevelopment area.—

(1) A local government may designate a geographic area or areas within its jurisdiction as an urban infill and redevelopment area for the purpose of targeting economic, job creation, housing, transportation, and land-use incentives to encourage urban infill and redevelopment within the urban core.

(2) A local government seeking to designate a geographic area within its jurisdiction as an urban infill and redevelopment area shall first prepare a plan that describes the infill and redevelopment objectives of the local government within the proposed area. In lieu of preparing a new plan, the local government may demonstrate that an existing plan or combination of plans associated with a community development area, Florida Main Street program, sustainable community, enterprise zone, or neighborhood improvement district includes the factors listed in paragraphs (a)-(j), or amend such existing plans to include the factors listed in paragraphs (a)-(j). The plan shall demonstrate the local government and community's commitment to comprehensively addressing the urban problems within the urban infill and redevelopment area and identify activities and programs to accomplish locally identified goals such as code enforcement; improved educational opportunities; reduction in crime; provision of infrastructure needs, including mass transit and multimodal linkages; and mixed-use planning to promote multifunctional redevelopment to improve both the residential and commercial quality of life in the area. The plan shall also:

(a) Contain a map depicting the geographic area or areas to be included within the designation.

(b) Identify the relationship between the proposed area and the existing urban service area defined in the local government's comprehensive plan.

(c) Identify existing enterprise zones, community redevelopment areas, community development corporations, brownfield areas, downtown redevelopment districts, safe neighborhood improvement districts, historic preservation districts, and empowerment zones located within the area proposed for designation as an urban infill and redevelopment area and provide a framework for coordinating infill and redevelopment programs within the urban core.

(d) Identify a memorandum of understanding between the district school board and the local government jurisdiction regarding public school facilities located within the urban infill and redevelopment area to identify how the school board will provide priority to enhancing public school facilities and programs in the designated area, including the reuse of existing buildings for schools within the area.

(e) Identify how the local government intends to implement affordable housing programs, including, but not limited to, the State Housing Initiatives Partnership Program, and economic and community development programs administered by the Department of Community Affairs, within the urban infill and redevelopment area.

(f) If applicable, provide guidelines for the adoption of land development regulations specific to the urban infill and redevelopment area which include, for example, setbacks and parking requirements appropriate to urban development.

(g) Identify any existing transportation concurrency exception areas, and any relevant public transportation corridors designated by a metropolitan planning organization in its long-range transportation plans or by the local government in its comprehensive plan for which the local government seeks designation as a transportation concurrency exception area.

(h) Identify and adopt a package of financial and local government incentives which the local government will offer for new development, expansion of existing development, and redevelopment within the urban infill and redevelopment area. Examples of such incentives include:

1. Waiver of license and permit fees.

2. Waiver of delinquent taxes, other than ad valorem, or fees to promote the return of property to productive use.

3. Expedited permitting.

4. Prioritization of infrastructure spending within the urban infill and redevelopment area.

5. Local government absorption of developers' concurrency costs.

(i) Identify how activities and incentives within the urban infill and redevelopment area will be coordinated and what administrative mechanism the local government will use for the coordination.

(j) Identify performance measures to evaluate the success of the local government in implementing the urban infill and redevelopment plan.

(3) After the preparation of an urban infill and redevelopment plan or designation of an existing plan and before the adoption hearing required for comprehensive plan amendments, the local government must conduct a public hearing in the area targeted for designation as an urban infill and redevelopment area to provide an opportunity for public input on the size of the area; the objectives for urban infill and redevelopment; coordination with existing redevelopment programs; goals for improving transit and transportation; the objectives for economic development; job creation; crime reduction; and neighborhood preservation and revitalization. The purpose of the public hearing is to encourage communities within the proposed urban infill and redevelopment area to participate in the design and implementation of the plan, including a "visioning" of the community core, before redevelopment. Notice for the public hearing must be in the form established in s. 166.041(3)(c)2., for municipalities, and s. 125.66(4)(b)2. for counties.

(4) In order for a local government to designate an urban infill and redevelopment area, it must amend its comprehensive land use plan under s. 163.3187 to adopt the urban infill and redevelopment area plan and delineate the urban infill and redevelopment area within the future land use element of its comprehensive plan. If the local government elects to employ an existing or amended community redevelopment, Florida Main Street program, sustainable community, enterprise zone, or neighborhood improvement district plan or plans in lieu of preparation of an urban infill and redevelopment plan, the local government must amend its comprehensive land use plan under s. 163.3187 to delineate the urban infill and redevelopment area within the future land use element of its comprehensive plan. An amendment to the local comprehensive plan to designate an urban infill and redevelopment area is exempt from the twice-a-year amendment limitation of s. 163.3187.

163.2520 Economic incentive; State agency reporting.—

(1) A local government with an adopted urban infill and redevelopment plan or plan employed in lieu thereof may exercise the powers granted under s. 163.514 for community redevelopment neighborhood improvement districts, including the authority to levy special assessments.

(2) State agencies that provide infrastructure funding, cost reimbursement, grants, or loans to local governments, including, but not limited to, the Department of Environmental Protection (Clean Water State Revolving Fund, Drinking Water State Revolving Fund, and the State of Florida Pollution Control Bond Program); the Department of Community Affairs (State Housing Initiatives Partnership, Florida Communities Trust); and the Department of Transportation (Intermodal Transportation Efficiency Act funds), are directed to report to the President of the Senate and the Speaker of the House of Representatives by January 1, 1999, regarding statutory and rule changes necessary to give urban infill and redevelopment areas identified by local governments under this act an elevated priority in infrastructure funding, loan, and grant programs.

163.2523 Grant program.—

(1) An Urban Infill and Redevelopment Assistance Grant Program is created for local governments with adopted urban infill and redevelopment areas. Ninety percent of the general revenue appropriated for this program shall be available for fifty/fifty matching grants for planning and implementing urban infill and redevelopment projects that further the objectives set forth in the local government's adopted urban infill and redevelopment plan or plan employed in lieu thereof. The remaining 10 percent of the revenue must be used for outright grants for projects requiring under $50,000. Projects that provide employment opportunities to clients of the WAGES program and projects within urban infill and redevelopment areas that include a community redevelopment area, Florida Main Street Program, sustainable community, enterprise zone, or neighborhood improvement district must be given an elevated priority in the scoring of competing grant applications. The Division of Housing and Community Development of the Department of Community Affairs shall administer the grant program. The Department of Community Affairs shall adopt rules establishing grant review criteria consistent with this section.

(2) If the local government fails to implement the urban infill and redevelopment plan, the Department of Community Affairs may seek to rescind the economic and regulatory incentives granted to an urban infill and redevelopment area, subject to the provisions of chapter 120. The action to rescind may be initiated 90 days after issuing a written letter of warning to the local government.

163.2526 Review and evaluation.—Before the 2003 Regular Session of the Legislature, the Office of Program Policy Analysis and Government Accountability shall perform a review and evaluation of ss. 163.2511-163.2526, including the financial incentives listed in s. 163.2520. The report must evaluate the effectiveness of the designation of urban infill and redevelopment areas in stimulating urban infill and redevelopment and strengthening the urban core. A report of the findings and recommendations of the Office of Program Policy Analysis and Government Accountability shall be submitted to the President of the Senate and the Speaker of the House of Representatives before the 2003 Regular Session of the Legislature.

Section 84. Subsection (5) of section 163.3180, Florida Statutes, is amended to read:

163.3180 Concurrency.—

(5)(a) The Legislature finds that under limited circumstances dealing with transportation facilities, countervailing planning and public policy goals may come into conflict with the requirement that adequate public facilities and services be available concurrent with the impacts of such development. The Legislature further finds that often the unintended result of the concurrency requirement for transportation facilities is the discouragement of urban infill development and redevelopment. Such unintended results directly conflict with the goals and policies of the state comprehensive plan and the intent of this part. Therefore, exceptions from the concurrency requirement for transportation facilities may be granted as provided by this subsection.

(b) A local government may grant an exception from the concurrency requirement for transportation facilities if the proposed development is otherwise consistent with the adopted local government comprehensive plan and is a project that promotes public transportation or is located within an area designated in the comprehensive plan for:

1. Urban infill development,

2. Urban redevelopment, ~~or~~

3. Downtown revitalization, *or*~~,~~

4. Urban infill and redevelopment under s. 163.2517.

(c) The Legislature also finds that developments located within urban infill, urban redevelopment, existing urban service, or downtown revitalization areas *or areas designated as urban infill and redevelopment areas under s. 163.2517* which pose only special part-time demands on the transportation system should be excepted from the concurrency requirement for transportation facilities. A special part-time demand is one that does not have more than 200 scheduled events during any calendar year and does not affect the 100 highest traffic volume hours.

(d) A local government shall establish guidelines for granting the exceptions authorized in paragraphs (b) and (c) in the comprehensive plan. These guidelines must include consideration of the impacts on the Florida Intrastate Highway System, as defined in s. 338.001. The exceptions may be available only within the specific geographic area of the jurisdiction designated in the plan. Pursuant to s. 163.3184, any affected person may challenge a plan amendment establishing these guidelines and the areas within which an exception could be granted.

Section 85. Subsection (1) of section 163.3187, Florida Statutes, is amended to read:

163.3187 Amendment of adopted comprehensive plan.—

(1) Amendments to comprehensive plans adopted pursuant to this part may be made not more than two times during any calendar year, except:

(a) In the case of an emergency, comprehensive plan amendments may be made more often than twice during the calendar year if the additional plan amendment receives the approval of all of the members of the governing body. “Emergency” means any occurrence or threat thereof whether accidental or natural, caused by humankind, in war or peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property or public funds.

(b) Any local government comprehensive plan amendments directly related to a proposed development of regional impact, including changes which have been determined to be substantial deviations and including Florida Quality Developments pursuant to s. 380.061, may be initiated by a local planning agency and considered by the local governing body at the same time as the application for development approval using the procedures provided for local plan amendment in this section and applicable local ordinances, without regard to statutory or local ordinance limits on the frequency of consideration of amendments to the local comprehensive plan. Nothing in this subsection shall be deemed to require favorable consideration of a plan amendment solely because it is related to a development of regional impact.

(c) Any local government comprehensive plan amendments directly related to proposed small scale development activities may be approved without regard to statutory limits on the frequency of consideration of amendments to the local comprehensive plan. A small scale development amendment may be adopted only under the following conditions:

1. The proposed amendment involves a use of 10 acres or fewer and:

a. The cumulative annual effect of the acreage for all small scale development amendments adopted by the local government shall not exceed:

(I) A maximum of 120 acres in a local government that contains areas specifically designated in the local comprehensive plan for urban infill, urban redevelopment, or downtown revitalization as defined in s. 163.3164, *urban infill and redevelopment areas designated under s. 163.2517,* transportation concurrency exception areas approved pursuant to s. 163.3180(5), or regional activity centers and urban central business districts approved pursuant to s. 380.06(2)(e); however, amendments under this paragraph may be applied to no more than 60 acres annually of property outside the designated areas listed in this sub-sub-subparagraph.

(II) A maximum of 80 acres in a local government that does not contain any of the designated areas set forth in sub-sub-subparagraph (I).

(III) A maximum of 120 acres in a county established pursuant to s. 9, Art. VIII of the State Constitution.

b. The proposed amendment does not involve the same property granted a change within the prior 12 months.

c. The proposed amendment does not involve the same owner's property within 200 feet of property granted a change within the prior 12 months.

d. The proposed amendment does not involve a text change to the goals, policies, and objectives of the local government's comprehensive plan, but only proposes a land use change to the future land use map for a site-specific small scale development activity.

e. The property that is the subject of the proposed amendment is not located within an area of critical state concern.

f. If the proposed amendment involves a residential land use, the residential land use has a density of 10 units or less per acre, except that this limitation does not apply to small scale amendments described in sub-sub-subparagraph a.(I) that are designated in the local comprehensive plan for urban infill, urban redevelopment, or downtown revitalization as defined in s. 163.3164, *urban infill and redevelopment areas designated under s. 163.2517,* transportation concurrency exception areas approved pursuant to s. 163.3180(5), or regional activity centers and urban central business districts approved pursuant to s. 380.06(2)(e).

2.a. A local government that proposes to consider a plan amendment pursuant to this paragraph is not required to comply with the procedures and public notice requirements of s. 163.3184(15)(c) for such plan amendments if the local government complies with the provisions in s. 125.66(4)(a) for a county or in s. 166.041(3)(c) for a municipality. If a request for a plan amendment under this paragraph is initiated by other than the local government, public notice is required.

b. The local government shall send copies of the notice and amendment to the state land planning agency, the regional planning council, and any other person or entity requesting a copy. This information shall also include a statement identifying any property subject to the amendment that is located within a coastal high hazard area as identified in the local comprehensive plan.

3. Small scale development amendments adopted pursuant to this paragraph require only one public hearing before the governing board, which shall be an adoption hearing as described in s. 163.3184(7), and are not subject to the requirements of s. 163.3184(3)-(6) unless the local government elects to have them subject to those requirements.

(d) Any comprehensive plan amendment required by a compliance agreement pursuant to s. 163.3184(16) may be approved without regard to statutory limits on the frequency of adoption of amendments to the comprehensive plan.

(e) A comprehensive plan amendment for location of a state correctional facility. Such an amendment may be made at any time and does not count toward the limitation on the frequency of plan amendments.

(f) Any comprehensive plan amendment that changes the schedule in the capital improvements element, and any amendments directly related to the schedule, may be made once in a calendar year on a date different from the two times provided in this subsection when necessary to coincide with the adoption of the local government's budget and capital improvements program.

(g) A comprehensive plan amendment for the purpose of designating an urban infill and redevelopment area under s. 163.2517 may be approved without regard to the statutory limits on the frequency of amendments to the comprehensive plan.

Section 86. Subsection (17) of section 187.201, Florida Statutes, is amended to read:

187.201 State Comprehensive Plan adopted.—The Legislature hereby adopts as the State Comprehensive Plan the following specific goals and policies:

(17) *URBAN REDEVELOPMENT AND* DOWNTOWN REVITALIZATION.—

(a) Goal.—In recognition of the importance of Florida's *vital urban centers and of the need to develop and redevelop* ~~developing and redeveloping~~ downtowns to the state's ability to use existing infrastructure and to accommodate growth in an orderly, efficient, and environmentally acceptable manner, Florida shall encourage the centralization of commercial, governmental, retail, residential, and cultural activities within downtown areas.

(b) Policies.—

1. Provide incentives to encourage private sector investment in the preservation and enhancement of downtown areas.

2. Assist local governments in the planning, financing, and implementation of development efforts aimed at revitalizing distressed downtown areas.

3. Promote state programs and investments which encourage redevelopment of downtown areas.

4. Promote and encourage communities to engage in a redesign step to include public participation of members of the community in envisioning redevelopment goals and design of the community core before redevelopment.

5. Ensure that local governments have adequate flexibility to determine and address their urban priorities within the state urban policy.

6. Enhance the linkages between land use, water use, and transportation planning in state, regional, and local plans for current and future designated urban areas.

7. Develop concurrency requirements for urban areas that promote redevelopment efforts where the requirements do not compromise public health and safety.

8. Promote processes for the state, general purpose local governments, school boards, and local community colleges to coordinate and cooperate regarding educational facilities in urban areas, including planning functions, the development of joint facilities, and the reuse of existing buildings.

9. Encourage the development of mass transit systems for urban centers, including multimodal transportation feeder systems, as a priority of local, metropolitan, regional, and state transportation planning.

10. Locate appropriate public facilities within urban centers to demonstrate public commitment to the centers and to encourage private sector development.

11. Integrate state programs that have been developed to promote economic development and neighborhood revitalization through incentives to promote the development of designated urban infill areas.

12. Promote infill development and redevelopment as an important mechanism to revitalize and sustain urban centers.

Section 87. Paragraph (b) of subsection (19) of section 380.06, Florida Statutes, is amended to read:

380.06 Developments of regional impact.—

(19) SUBSTANTIAL DEVIATIONS.—

(b) Any proposed change to a previously approved development of regional impact or development order condition which, either individually or cumulatively with other changes, exceeds any of the following criteria shall constitute a substantial deviation and shall cause the development to be subject to further development-of-regional-impact review without the necessity for a finding of same by the local government:

1. An increase in the number of parking spaces at an attraction or recreational facility by 5 percent or 300 spaces, whichever is greater, or an increase in the number of spectators that may be accommodated at such a facility by 5 percent or 1,000 spectators, whichever is greater.

2. A new runway, a new terminal facility, a 25-percent lengthening of an existing runway, or a 25-percent increase in the number of gates of an existing terminal, but only if the increase adds at least three

additional gates. However, if an airport is located in two counties, a 10-percent lengthening of an existing runway or a 20-percent increase in the number of gates of an existing terminal is the applicable criteria.

3. An increase in the number of hospital beds by 5 percent or 60 beds, whichever is greater.

4. An increase in industrial development area by 5 percent or 32 acres, whichever is greater.

5. An increase in the average annual acreage mined by 5 percent or 10 acres, whichever is greater, or an increase in the average daily water consumption by a mining operation by 5 percent or 300,000 gallons, whichever is greater. An increase in the size of the mine by 5 percent or 750 acres, whichever is less.

6. An increase in land area for office development by 5 percent or 6 acres, whichever is greater, or an increase of gross floor area of office development by 5 percent or 60,000 gross square feet, whichever is greater.

7. An increase in the storage capacity for chemical or petroleum storage facilities by 5 percent, 20,000 barrels, or 7 million pounds, whichever is greater.

8. An increase of development at a waterport of wet storage for 20 watercraft, dry storage for 30 watercraft, or wet/dry storage for 60 watercraft in an area identified in the state marina siting plan as an appropriate site for additional waterport development or a 5-percent increase in watercraft storage capacity, whichever is greater.

9. An increase in the number of dwelling units by 5 percent or 50 dwelling units, whichever is greater.

10. An increase in commercial development by 6 acres of land area or by 50,000 square feet of gross floor area, or of parking spaces provided for customers for 300 cars or a 5-percent increase of any of these, whichever is greater.

11. An increase in hotel or motel facility units by 5 percent or 75 units, whichever is greater.

12. An increase in a recreational vehicle park area by 5 percent or 100 vehicle spaces, whichever is less.

13. A decrease in the area set aside for open space of 5 percent or 20 acres, whichever is less.

14. A proposed increase to an approved multiuse development of regional impact where the sum of the increases of each land use as a percentage of the applicable substantial deviation criteria is equal to or exceeds 100 percent. The percentage of any decrease in the amount of open space shall be treated as an increase for purposes of determining when 100 percent has been reached or exceeded.

15. A 15-percent increase in the number of external vehicle trips generated by the development above that which was projected during the original development-of-regional-impact review.

16. Any change which would result in development of any area which was specifically set aside in the application for development approval or in the development order for preservation or special protection of endangered or threatened plants or animals designated as endangered, threatened, or species of special concern and their habitat, primary dunes, or archaeological and historical sites designated as significant by the Division of Historical Resources of the Department of State. The further refinement of such areas by survey shall be considered under sub-subparagraph (e)5.b.

The substantial deviation numerical standards in subparagraphs 4., 6., 10., 14., excluding residential uses, and 15., are increased by 100 percent for a project certified under s. 403.973 which creates jobs and meets criteria established by the Office of Tourism, Trade, and Economic Development as to its impact on an area's economy, employment, and prevailing wage and skill levels. *The substantial deviation numerical standards in subparagraphs 4., 6., 9., 10., 11., and 14. are increased by 50 percent for a project located wholly within an urban infill and redevelopment area designated on the applicable adopted local comprehensive plan future land use map and not located within the coastal high hazard area.*

Section 88. Subsection (1) of section 163.375, Florida Statutes, is amended to read:

163.375 Eminent domain.—

(1) Any county or municipality, or any community redevelopment agency pursuant to specific approval of the governing body of the county or municipality which established the agency, as provided by any county or municipal ordinance has the right to acquire by condemnation any interest in real property, including a fee simple title thereto, which it deems necessary for, or in connection with, community redevelopment and related activities under this part. Any county or municipality, or any community redevelopment agency pursuant to specific approval by the governing body of the county or municipality which established the agency, as provided by any county or municipal ordinance may exercise the power of eminent domain in the manner provided in chapters 73 and 74 and acts amendatory thereof or supplementary thereto, or it may exercise the power of eminent domain in the manner now or which may be hereafter provided by any other statutory provision for the exercise of the power of eminent domain. *Property in unincorporated enclaves surrounded by the boundaries of a community redevelopment area may be acquired when it is determined necessary by the agency to accomplish the community redevelopment plan.* Property already devoted to a public use may be acquired in like manner. However, no real property belonging to the United States, the state, or any political subdivision of the state may be acquired without its consent.

Section 89. Section 171.0413, Florida Statutes, is amended to read:

171.0413 Annexation procedures.—Any municipality may annex contiguous, compact, unincorporated territory in the following manner:

(1) An ordinance proposing to annex an area of contiguous, compact, unincorporated territory shall be adopted by the governing body of the annexing municipality pursuant to the procedure for the adoption of a nonemergency ordinance established by s. 166.041. *Prior to the adoption of the ordinance of annexation, the local governing body shall hold at least two advertised public hearings on the proposed annexation. The first public hearing shall be on a weekday at least 7 days after the day that the first advertisement is published. The second public hearing shall be held on a weekday at least 5 days after the day that the second advertisement is published. The governing body of the annexing municipality may choose to submit the ordinance of annexation to a separate vote of the registered electors of the annexing municipality.* Each such ordinance shall propose only one reasonably compact area to be annexed. However, prior to the ordinance of annexation becoming effective, a referendum on annexation shall be held as set out below, and, if approved by the referendum, the ordinance shall become effective 10 days after the referendum or as otherwise provided in the ordinance, but not more than 1 year following the date of the referendum.

(2) Following the final adoption of the ordinance of annexation by the governing body of the annexing municipality, the ordinance shall be submitted to a vote of the registered electors of the area proposed to be annexed. ~~If the proposed ordinance would cause the total area annexed by a municipality pursuant to this section during any one calendar year period cumulatively to exceed more than 5 percent of the total land area of the municipality or cumulatively to exceed more than 5 percent of the municipal population, the ordinance shall be submitted to a separate vote of the registered electors of the annexing municipality and of the area proposed to be annexed.~~ The referendum on annexation shall be called and conducted and the expense thereof paid by the governing body of the annexing municipality.

(a) The referendum on annexation shall be held at the next regularly scheduled election following the final adoption of the ordinance of annexation by the governing body of the annexing municipality or at a special election called for the purpose of holding the referendum. However, the referendum, whether held at a regularly scheduled election or at a special election, shall not be held sooner than 30 days following the final adoption of the ordinance by the governing body of the annexing municipality.

(b) The governing body of the annexing municipality shall publish notice of the referendum on annexation at least once each week for 2 consecutive weeks immediately preceding the date of the referendum in a newspaper of general circulation in the area in which the referendum is to be held. The notice shall give the ordinance number, the time and places for the referendum, and a brief, general description of the area

proposed to be annexed. The description shall include a map clearly showing the area and a statement that the complete legal description by metes and bounds and the ordinance can be obtained from the office of the city clerk.

(c) On the day of the referendum on annexation there shall be prominently displayed at each polling place a copy of the ordinance of annexation and a description of the property proposed to be annexed. The description shall be by metes and bounds and shall include a map clearly showing such area.

(d) Ballots or mechanical voting devices used in the referendum on annexation shall offer the choice "For annexation of property described in ordinance number .... of the City of ...." and "Against annexation of property described in ordinance number .... of the City of ...." in that order.

(e) If the referendum ~~is~~ held ~~only~~ in the area proposed to be annexed ~~and~~ receives a majority vote~~, or if the ordinance is submitted to a separate vote of the registered electors of the annexing municipality and the area proposed to be annexed and there is a separate majority vote for annexation in the annexing municipality and in the area proposed to be annexed,~~ the ordinance of annexation shall become effective on the effective date specified therein. If there is *a* ~~any~~ majority vote against annexation, the ordinance shall not become effective, and the area proposed to be annexed shall not be the subject of an annexation ordinance by the annexing municipality for a period of 2 years from the date of the referendum on annexation.

(3) Any parcel of land which is owned by one individual, corporation, or legal entity, or owned collectively by one or more individuals, corporations, or legal entities, proposed to be annexed under the provisions of this act shall not be severed, separated, divided, or partitioned by the provisions of said ordinance, but shall, if intended to be annexed, or if annexed, under the provisions of this act, be annexed in its entirety and as a whole. However, nothing herein contained shall be construed as affecting the validity or enforceability of any ordinance declaring an intention to annex land under the existing law that has been enacted by a municipality prior to July 1, 1975. The owner of such property may waive the requirements of this subsection if such owner does not desire all of the tract or parcel included in said annexation.

(4) Except as otherwise provided in this law, the annexation procedure as set forth in this section shall constitute a uniform method for the adoption of an ordinance of annexation by the governing body of any municipality in this state, and all existing provisions of special laws which establish municipal annexation procedures are repealed hereby; except that any provision or provisions of special law or laws which prohibit annexation of territory that is separated from the annexing municipality by a body of water or watercourse shall not be repealed.

(5) If more than 70 percent of the land in an area proposed to be annexed is owned by individuals, corporations, or legal entities which are not registered electors of such area, such area shall not be annexed unless the owners of more than 50 percent of the land in such area consent to such annexation. Such consent shall be obtained by the parties proposing the annexation prior to the referendum to be held on the annexation.

(6) Notwithstanding subsections (1) and (2), if the area proposed to be annexed does not have any registered electors on the date the ordinance is finally adopted, a vote of electors of the area proposed to be annexed is not required. In addition to the requirements of subsection (5), the area may not be annexed unless the owners of more than 50 percent of the parcels of land in the area proposed to be annexed consent to the annexation. ~~If a referendum of the annexing municipality is not required as well pursuant to subsection (2), then~~ The property owner consents required pursuant to subsection (5) shall be obtained by the parties proposing the annexation prior to the final adoption of the ordinance, and the annexation ordinance shall be effective upon becoming a law or as otherwise provided in the ordinance.

Section 90. *Efficiency and accountability in local government services.—*

(1) The intent of this section is to provide and encourage a process that will:

(a) Allow municipalities and counties to resolve conflicts among local jurisdictions regarding the delivery and financing of local services.

(b) Increase local government efficiency and accountability.

(c) Provide greater flexibility in the use of local revenue sources for local governments involved in the process.

(2) Any county or combination of counties, and the municipalities therein, may use the procedures provided by this section to develop and adopt a plan to improve the efficiency, accountability, and coordination of the delivery of local government services. The development of such a plan may be initiated by a resolution adopted by a majority vote of the governing body of each of the counties involved, by resolutions adopted by a majority vote of the governing bodies of a majority of the municipalities within each county, or by resolutions adopted by a majority vote of the governing bodies of the municipality or combination of municipalities representing a majority of the municipal population of each county. The resolution shall specify the representatives of the county and municipal governments, of any affected special districts, and of any relevant local government agencies who will be responsible for developing the plan. The resolution shall include a proposed timetable for development of the plan and shall specify the local government support and personnel services which will be made available to the representatives developing the plan.

(3) Upon adoption of a resolution or resolutions as provided in subsection (2), the designated representatives shall develop a plan for delivery of local government services. The plan shall:

(a) Designate the areawide and local government services which are the subject of the plan.

(b) Describe the existing organization of such services and the means of financing the services, and create a reorganization of such services and the financing thereof that will meet the goals of this section.

(c) Designate the local agency that should be responsible for the delivery of each service.

(d) Designate those services that should be delivered regionally or countywide. No provision of the plan shall operate to restrict the power of a municipality to finance and deliver services in addition to, or at a higher level than, the services designated for regional or countywide delivery under this paragraph.

(e) Provide means to reduce the cost of providing local services and enhance the accountability of service providers.

(f) Include a multiyear capital outlay plan for infrastructure.

(g) Specifically describe any expansion of municipal boundaries that would further the goals of this section. Any area proposed to be annexed must meet the standards for annexation provided in chapter 171, Florida Statutes. The plan shall not contain any provision for contraction of municipal boundaries or elimination of any municipality.

(h) Provide specific procedures for modification or termination of the plan.

(i) Specify the effective date of the plan.

(4)(a) A plan developed pursuant to this section must conform to all comprehensive plans that have been found to be in compliance under part II of chapter 163, Florida Statutes, for the local governments participating in the plan.

(b) No provision of a plan developed pursuant to this section shall restrict the authority of any state or regional governmental agency to perform any duty required to be performed by that agency by law.

(5)(a) A plan developed pursuant to this section must be approved by a majority vote of the governing body of each county involved in the plan, and by a majority vote of the governing bodies of a majority of municipalities in each county, and by a majority vote of the governing bodies of the municipality or municipalities that represent a majority of the municipal population of each county.

(b) After approval by the county and municipal governing bodies as required by paragraph (a), the plan shall be submitted for referendum approval in a countywide election in each county involved. The plan shall

not take effect unless approved by a majority of the electors of each county who vote in the referendum, and also by a majority of the electors of the municipalities that represent a majority of the municipal population of each county who vote in the referendum. If approved by the electors as required by this paragraph, the plan shall take effect on the date specified in the plan.

(6) If a plan developed pursuant to this section includes areas proposed for municipal annexation that meet the standards for annexation provided in chapter 171, Florida Statutes, such annexation shall take effect upon approval of the plan as provided in this section, notwithstanding the procedures for approval of municipal annexation specified in chapter 171, Florida Statutes.

Section 91. Section 166.251, Florida Statutes, is amended to read:

166.251 Service fee for dishonored check.—The governing body of a municipality may adopt a service fee *not to exceed the service fees authorized under s. 832.08(5)* ~~of $20~~ or 5 percent of the face amount of the check, draft, or order, whichever is greater, for the collection of a dishonored check, draft, or other order for the payment of money to a municipal official or agency. The service fee shall be in addition to all other penalties imposed by law. Proceeds from this fee, if imposed, shall be retained by the collector of the fee.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 9, after the semicolon and insert: relating to economic development; amending s. 14.2015, F.S.; revising the reporting requirements of the Office of Tourism, Trade, and Economic Development relating to permits and rules; authorizing the Office of Tourism, Trade, and Economic Development to coordinate establishment of a one–stop permit registry; amending s. 212.08, F.S.; exempting certain property based in enterprise zones from the sales tax under certain circumstances; amending ss. 212.097 and 212.098, F.S.; clarifying the definition of a "new business" under the Urban High-Crime Area Job Tax Credit Program and the Rural Job Tax Credit Program; providing that certain call centers or similar customer service operations are eligible businesses under these programs; providing that certain retail businesses are eligible businesses under the Urban High–Crime Area Job Tax Credit Program; amending s. 288.075, F.S.; replacing a reference to the Department of Commerce with a reference to the Office of Tourism, Trade, and Economic Development in the definition of "economic development agency" under a provision relating to the confidentiality of certain economic development information; specifying that the prohibition against contracting with entities that have requested confidentiality concerning certain economic development information does not apply to a public officer or employee or an economic development agency employee acting in his or her official capacity; amending s. 288.095, F.S.; establishing a cap on the total amount of the state share of tax refunds which may be approved for a single fiscal year under the tax refund programs for qualified defense contractors, qualified target industry businesses, and brownfield redevelopment; amending s. 288.1045, F.S.; conforming the limitation on the amount of tax refunds approved for payment under the qualified defense contractor tax refund program to the amount appropriated by the Legislature for such refunds; correcting references relating to program administration; amending s. 288.106, F.S.; authorizing a reduced employment threshold for expanding businesses in certain rural areas or enterprise zones under the tax refund program for qualified target industry businesses; amending s. 288.1221, F.S.; conforming legislative intent on the time period covered by a tourism promotion marketing plan to the time period covered by the marketing plan prepared by the Florida Commission on Tourism under s. 288.1224, F.S.; amending s. 288.1222, F.S.; revising the definition of "tourist" to clarify that the term applies to a person participating in trade or recreation activities outside the county of permanent residence; amending s. 288.1223, F.S.; providing that the commission shall elect a vice chairman annually; providing legislative findings and intent on the potential economic development benefits of ecotourism; authorizing the Division of Recreation and Parks of the Department of Environmental Protection, subject to legislative appropriation, to establish an ecotourism promotion program; providing for eligible uses of funds under such program; authorizing funds to be used to award ecotourism promotion grants; prescribing grant application procedures and eligible uses of grant awards; amending s. 288.90151, F.S.; revising the matching private funding requirements for Enterprise Florida, Inc.; providing for partial release of funds placed in reserve under specified circumstances; amending s. 288.9618, F.S.; limiting the amount of appropriations for the microenterprise program that may be used for administrative expenses; creating s. 288.9958, F.S.; establishing the PRIDE Job Placement Incentive Program; providing for designation of an enterprise zone that encompasses a brownfield project under certain circumstances; amending s. 370.28, F.S.; providing that a business located in an enterprise zone in a community impacted by net limitations is eligible for the maximum sales tax exemption for building materials used in the rehabilitation of real property in an enterprise zone, for business property used in an enterprise zone, and for electrical energy used in an enterprise zone, and the maximum enterprise zone property tax credit against the corporate income tax, if a specified percentage of its employees are residents of the jurisdiction of the county, rather than of the enterprise zone; requiring businesses eligible to receive certain tax credits to apply for such credits by a time certain; amending s. 479.261, F.S.; directing the Department of Transportation, subject to federal approval, to establish a highway sign program to recognize certain heritage, historic, or scenic trails; requiring Enterprise Florida, Inc., to develop a strategic plan designed to help Florida capitalize on economic opportunities with the Caribbean and South Africa; requiring Enterprise Florida, Inc., to develop a strategic plan that will allow Florida to capitalize on the economic opportunities associated with a post–embargo Cuba; amending s. 15.18, F.S.; providing for coordination of international activities of the Department of State; requiring the Secretary of State to maintain lists relating to foreign money judgments; amending s. 55.605, F.S.; requiring the Secretary of State to create and maintain a specified list relative to foreign money judgments; amending s. 257.35, F.S.; creating the Florida State International Archive; providing requirements for the archive; providing for access to the archive; amending s. 288.012, F.S., relating to State of Florida foreign offices; directing each office to report annually to the Office of Tourism, Trade, and Economic Development on activities and accomplishments; prescribing the contents of such reports; amending s. 288.8175, F.S.; authorizing linkage institutes to competitively apply for Targeted Market Pilot Projects Grants; creating s. 288.9530, F.S.; providing for the creation of the Florida Business Expansion Corporation to provide business expansion assistance to businesses in the state having job growth or emerging technology potential; creating s. 288.9531, F.S.; providing for powers and duties of the corporation; creating s. 288.9532, F.S., and s. 288.9533, F.S.; creating the corporation board of directors and providing for their powers and duties; creating s. 288.9534, F.S.; providing that the corporation contracts with an experienced management company to administer and perform the duties of the corporation; creating s. 288.9535, F.S.; creating the Florida Business Expansion Account to receive state, federal, and private financial resources for the purpose of funding the objectives of the corporation; creating s. 288.9536, F.S.; providing for the reporting and review requirements of the corporation; authorizing the Office of Tourism, Trade, and Economic Development to contract with Enterprise Florida, Inc., for the award of Inner City Redevelopment Assistance Grants; amending s. 118.10, F.S.; revising definitions; clarifying eligibility and authority for certain civil law notaries; amending s. 163.3178, F.S.; requiring certain ports to identify certain spoil disposal sites; requiring such ports to prepare comprehensive master plans; amending s. 163.3187, F.S.; exempting comprehensive plan amendments for port transportation facilities and projects from a time limitation; amending s. 288.8155, F.S.; authorizing the International Trade Data Resource and Research Center to create an Internet-based information system; amending s. 288.9607, F.S.; extending the expiration date on the use of certain State Transportation Trust Fund investment earnings; amending s. 288.9614, F.S.; providing that state appropriated funds may not be expended by Enterprise Florida, Inc., or its affiliates on certain venture capital funds; amending s. 253.77, F.S.; exempting certain port projects from payments of fees for activities involving the use of sovereign lands; amending s. 311.07, F.S.; providing that projects eligible for funding under the Florida Seaport Transportation and Economic Development Program must be consistent with port master plans; exempting certain port transportation facilities and projects from review as developments of regional impact; amending s. 311.09, F.S.; declaring that projects eligible for funding under the Florida Seaport Transportation and Economic Development Program are presumed to be in the public interest; requesting designation of part XI of chapter 288 as the workforce development board; transferring and amending s. 288.9620, F.S.; providing legislative findings; creating the Workforce Development Board within Enterprise Florida, Inc.; providing for a board of directors and for officers and employees; providing duties of the board and of its board of directors; providing for reports and audits; requiring measures and standards of workforce development strategy; transferring and amending ss. 446.601, 446.602, 446.603, 446.604, 446.605, 446.606, 446.607, F.S.; conforming terminology and

cross-references; amending s. 288.902, F.S.; deleting an obsolete cross-reference; creating s. 288.125, F.S.; providing a short title for the Florida Entertainment Industry Growth Act; creating s. 288.1251, F.S.; providing definitions; creating s. 288.1252, F.S.; creating the Entertainment Florida Council within the Office of Tourism, Trade, and Economic Development of the Executive Office of the Governor; providing purpose, membership, terms, organization, powers, and duties of the council; renumbering and amending s. 288.12285, F.S.; changing a reference; conforming application of a provision granting confidentiality to the identities of certain donors or prospective donors to a direct-support organization; creating s. 288.1254, F.S.; creating the position of Entertainment Industry Commissioner; providing procedure for appointment of the Entertainment Industry Commissioner; providing powers and duties of the commissioner; creating s. 288.1255, F.S.; requiring the Office of Tourism, Trade, and Economic Development to adopt rules by which it may make specified expenditures for expenses incurred in connection with the performance of the duties of the Entertainment Florida Council; requiring approval of such rules by the Comptroller; requiring an annual report; providing certain requirements with respect to claims for expenses; providing a penalty for false or fraudulent claims; providing for civil liability; creating the Florida Entertainment Industry Model Permitting Task Force; providing purpose of the task force; providing for appointment of members to the task force; amending s. 14.2015, revising purposes of the Office of Tourism, Trade, and Economic Development of the Executive Office of the Governor; amending ss. 288.108 and 288.90152, F.S.; conforming cross–references; repealing s. 288.051, F.S., which provides a short title; repealing s. 288.052, F.S., relating to legislative findings and intent with respect to the "Florida Film and Television Investment Act"; repealing s. 288.053, F.S., relating to the Florida Film and Television Investment Board; repealing s. 288.054, F.S., relating to the administration and powers of the Florida Film and Television Investment Board; repealing s. 288.055, F.S., relating to the Florida Film and Television Investment Trust Fund; repealing s. 288.056, F.S., relating to conditions for film and television investment by the board; repealing s. 288.057, F.S., which requires an annual report by the board; repealing s. 288.1228, F.S., relating to the direct-support organization authorized by the Office of Tourism, Trade, and Economic Development to assist in the promotion and development of the entertainment industry; providing appropriations; amending s. 290.0301, F.S.; changing the title of the "Community Development Corporation Support and Assistance Program Act" to the "Invest in Neighborhood Vitality and Economies Act"; advancing the date of the repeal of the act to June 30, 2007; amending s. 290.0311, F.S.; revising language with respect to legislative findings; providing reference to community-based development organizations; amending s. 290.032, F.S.; revising language with respect to policy and purpose; amending s. 290.033, F.S.; providing definitions; amending s. 290.035, F.S.; revising language with respect to eligibility for assistance; amending s. 290.036, F.S.; providing for the community-based development organization support program; providing for core and project administrative grants and procedures; amending s. 290.0365, F.S.; providing for a community-based development training and technical assistance program; amending s. 290.037, F.S.; providing for a community development project implementation loan program; amending s. 290.038, F.S.; revising language with respect to the authority and duties of the Department of Community Affairs; amending s. 290.039, F.S.; revising language with respect to reporting requirements; amending s. 290.0395, F.S.; providing for program performance review and evaluation; repealing s. 290.034, F.S., relating to funding and use of the Operating Trust Fund; amending ss. 189.427, 252.82, and 943.25 to conform to this act; creating s. 420.0007, F.S.; providing an exemption from property taxation for charitable non-profit low income housing properties; relating to local government; creating ss. 163.2511, 163.2514, 163.2517, 163.2520, 163.2523, and 163.2526, F.S., the Urban Infill and Redevelopment Act; providing legislative findings; providing definitions; authorizing counties and municipalities to designate urban infill and redevelopment areas based on specified criteria; requiring preparation of a plan or designation of an existing plan and providing requirements with respect thereto; requiring a public hearing; providing for amendment of the local comprehensive plan; requiring a report by certain state agencies; providing a program for grants to counties and municipalities with urban infill and redevelopment areas; providing for review and evaluation of the act and requiring a report; amending s. 163.3180, F.S.; authorizing exemptions from the transportation facilities concurrency requirement for developments located in an urban infill and redevelopment area; amending s. 163.3187, F.S.; providing that comprehensive plan amendments to designate such areas are not subject to statutory limits on the frequency of plan amendments; including such areas within certain limitations relating to small scale development amendments; amending s. 187.201, F.S.; including policies relating to urban policy in the State Comprehensive Plan; amending s. 380.06, F.S., relating to developments of regional impact; increasing certain numerical standards for determining a substantial deviation for projects located in certain urban infill and redevelopment areas; amending s. 163.375, F.S.; authorizing acquisition by eminent domain of property in unincorporated enclaves surrounded by a community redevelopment area when necessary to accomplish a community development plan; amending s. 171.0413, F.S., relating to municipal annexation procedures; deleting a requirement that a separate referendum be held in the annexing municipality when the annexation exceeds a certain size; providing procedures by which a county or combination of counties and the municipalities therein may develop and adopt a plan to improve the efficiency, accountability, and coordination of the delivery of local government services; providing for initiation of the process by resolution; providing requirements for the plan; requiring approval by the local governments' governing bodies and by referendum; authorizing municipal annexation through such plan; amending s. 166.251, F.S.; revising provisions with respect to service fees for dishonored checks;

Senator Klein moved the following amendment which was adopted:

Amendment 2 (with title amendment)—On page 3, between lines 19 and 20, insert:

Section 4. *Exemption from property taxation for charitable nonprofit low income housing properties.—Properties owned entirely by nonprofit corporations that are defined as charitable organizations under s. 501(c)(3) of the Internal Revenue Code and comply with the Internal Revenue Procedure 96-32 and which provide housing to low and very-low income persons, as defined in section 420.0004, Florida Statutes, shall be considered charitable and exempt from ad valorem taxation under chapter 196, Florida Statutes, to the extent authorized under section 196.192, Florida Statutes.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 9, after the semicolon (;) insert: providing a tax exemption for specified low income housing properties;

On motion by Senator Harris, by two-thirds vote **HB 3931** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Diaz-Balart	Horne	Myers
Bronson	Dudley	Jones	Ostalkiewicz
Brown-Waite	Dyer	Kirkpatrick	Rossin
Burt	Forman	Klein	Scott
Campbell	Geller	Kurth	Silver
Casas	Grant	Latvala	Sullivan
Childers	Gutman	Laurent	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

MOTION

On motion by Senator Bankhead, by two-thirds vote all bills remaining on the Special Order Calendar this day were established as the Special Order Calendar for Friday, May 1.

REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Special Order Calendar for Thursday, April 30, 1998: SB 404, CS for SB 1516, CS for SB 2100, CS for CS for SB 2198, SB 1954, CS for SB 462, CS for SB 1748, CS for SB 268, CS for SB 2342, CS for SB 270, CS for SB 1114, SR 2108, CS for SB 2080, CS for CS for SB 2336, CS for SB 2170, CS for SB 1814, SJR 82, SB 1302, HB 1747, SB 1080, CS for SB 336, SJR 2140, SB 2302, SB 1034, CS for SB 1664, CS for SB 1486, SB 1032, CS for SB 1066, SB 1416, CS for SB 792, CS

for SB 1396, SB 1220, CS for SB 562, CS for SB 1620, CS for SB 1134, CS for SB 924, CS for SB 1932, SB 464, CS for SB 2132, SJR 1610, SB 1940, CS for SB 986, SB 732, CS for SB 1934, CS for CS for SB 1994, CS for SB 2150, CS for SB 300, CS for CS for SB 2352, CS for SB 1028, HB 3689, CS for SB 710, SB 612, CS for SB 1636, CS for SB 1572, CS for SB 1426, CS for SB 1142, CS for SB 2076, CS for SB 296, CS for CS for SB 388, SB 970, CS for SB 1742, CS for SB 524, CS for SB 2214, SJR 610, SB 2090, CS for SB 994, CS for CS for SB 1554, CS for SB 2158, CS for SB 1868, CS for SB 680, CS for SB 2084, SB 2190, CS for CS for SB 1456, CS for SB 2054, CS for SB 1612, CS for SB 1614, CS for CS for CS for SB 92, CS for CS for CS for SB 938, CS for SB 380

Respectfully submitted,
W. G. (Bill) Bankhead, Chairman

MESSAGES FROM THE GOVERNOR AND OTHER EXECUTIVE COMMUNICATIONS

The Governor advised that he had filed with the Secretary of State SB 142 which he approved on April 29, 1998.

The Governor advised that he had filed with the Secretary of State SB 222, CS for SB 482, CS for CS for SB 626, SB 712, SB 734, SB 768, SB 770, CS for CS for SB 1046, CS for SB 1052, SB 1334, SB 1336 and SB 1350 which became law without his signature on April 30, 1998.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

FIRST READING

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for HB 4283; has passed as amended CS for HB 945, HB 3523, CS for HB 3883, HB 3999, HB 4261, HB 4315, HB 4439 and requests the concurrence of the Senate.

John B. Phelps, Clerk

By the Committee on Elder Affairs and Long Term Care; and Representative Peaden and others—

CS for HB 4283—A bill to be entitled An act relating to long-term care; creating s. 430.801, F.S.; creating the Florida Employee Long-Term-Care Plan Act; directing the Department of Elderly Affairs to develop, implement, and administer the long-term care plan for public employees; authorizing the department to contract for such administration; providing duties of the department; requiring the department to appoint a Florida Employee Long-Term-Care Plan Advisory Council for certain purposes; authorizing the department to contract with the State Board of Administration to invest certain funds; providing limitations; creating a Florida Employee Long-Term-Care Plan Board of Directors; providing for board membership and duties; providing trustees' duties, powers, and responsibilities; requiring an annual report; providing for terms of trustees; providing for expenses of the board of trustees; prohibiting use of state funds for certain costs; providing an effective date.

—was referred to the Committees on Governmental Reform and Oversight; and Ways and Means.

By the Committee on Environmental Protection and Representative Eggelletion and others—

CS for HB 945—A bill to be entitled An act relating to environmental equity and justice; creating s. 760.854, F.S.; creating the Center for Environmental Equity and Justice; providing purpose of the center; providing an effective date.

—was referred to the Committees on Governmental Reform and Oversight; and Ways and Means.

By Representative Fuller and others—

HB 3523—A bill to be entitled An act relating to landscape design; amending s. 481.303, F.S.; providing definitions; amending s. 481.329, F.S., providing exemptions from licensure and regulation under part II, ch. 489, F.S.; providing an effective date.

—was referred to the Committees on Regulated Industries; and Ways and Means.

By the Committee on Family Law and Children; and Representative Lynn and others—

CS for HB 3883—A bill to be entitled An act relating to protection of children; reorganizing and revising ch. 39, F.S.; providing for pt. I of said chapter, entitled "General Provisions"; amending ss. 39.001, 39.002, and 415.501, F.S.; revising purposes and intent; providing for personnel standards and screening and for drug testing; amending s. 39.01, F.S.; revising definitions; renumbering and amending s. 39.455, F.S., relating to immunity from liability for agents of the Department of Children and Family Services or a social service agency; amending s. 39.012, F.S., and creating s. 39.0121, F.S.; providing authority and requirements for department rules; renumbering and amending s. 39.40, F.S., relating to procedures and jurisdiction; providing for right to counsel; renumbering s. 39.4057, F.S., relating to permanent mailing address designation; renumbering and amending s. 39.411, F.S., relating to oaths, records, and confidential information; renumbering s. 39.414, F.S., relating to court and witness fees; renumbering and amending ss. 39.415 and 39.474, F.S., relating to compensation of appointed counsel; renumbering and amending s. 39.418, F.S., relating to the Operations and Maintenance Trust Fund; renumbering and amending s. 415.5015, F.S., relating to child abuse prevention training in the district school system; providing for pt. II of ch. 39, F.S., entitled "Reporting Child Abuse"; renumbering and amending s. 415.504, F.S., relating to mandatory reports of child abuse, abandonment, or neglect; renumbering and amending s. 415.511, F.S., relating to immunity from liability in cases of child abuse, abandonment, or neglect; renumbering and amending s. 415.512, F.S., relating to abrogation of privileged communications in cases of child abuse, abandonment, or neglect; renumbering and amending s. 415.513, F.S.; providing penalties relating to reporting of child abuse, abandonment, or neglect; deleting the requirement for the Department of Children and Family Services to provide information to the state attorney; providing for the Department of Children and Family Services to report annually to the Legislature the number of reports referred to law enforcement agencies; providing for investigation by local law enforcement agencies of possible false reports; providing for law enforcement agencies to refer certain reports to the state attorney for prosecution; providing for law enforcement entities to handle certain reports of abuse or neglect during the pendency of such an investigation; providing procedures; specifying the penalty for knowingly and willfully making, or advising another to make, a false report; providing for state attorneys to report annually to the Legislature the number of complaints that have resulted in informations or indictments and the disposition of those complaints; renumbering and amending s. 415.5131, F.S., increasing an administrative fine for false reporting; providing for pt. III of ch. 39, F.S., entitled "Protective Investigations"; creating s. 39.301, F.S.; providing for child protective investigations; creating s. 39.302, F.S.; providing for protective investigations of institutional child abuse, abandonment, or neglect; renumbering and amending s. 415.5055, F.S., relating to child protection teams and services and eligible cases; creating s. 39.3035, F.S.; providing standards for child advocacy centers eligible for state funding; renumbering and amending s. 415.507, F.S., relating to photographs, medical examinations, X rays, and medical treatment of an abused, abandoned, or neglected child; renumbering and amending s. 415.5095, F.S., relating to a model plan for intervention and treatment in sexual abuse cases; creating s. 39.306, F.S.; providing for working agreements with local law enforcement to perform criminal investigations; renumbering and amending s. 415.50171, F.S., relating to reports of child-on-child sexual abuse; providing for pt. IV of ch. 39, F.S., entitled "Family Builders Program"; renumbering and amending s. 415.515, F.S., relating to establishment of the program; renumbering and amending s. 415.516, F.S., relating to goals of the program; renumbering and amending s. 415.517, F.S., relating to contracts for services; renumbering and amending s. 415.518, F.S., relating to family eligibility; renumbering s. 415.519, F.S., relating to delivery of services; renumbering and amending s. 415.520, F.S., relating to qualifications of program workers; renumbering s. 415.521, F.S., relating to outcome evaluation; renumbering and amending s. 415.522, F.S., relating to funding; providing for pt. V of ch. 39, F.S., entitled "Taking Children into Custody and Shelter Hearings"; creating s. 39.395, F.S.; providing for medical or hospital

personnel taking a child into protective custody; amending s. 39.401, F.S.; providing for law enforcement officers or authorized agents of the department taking a child alleged to be dependent into custody; amending s. 39.402, F.S., relating to placement in a shelter; amending s. 39.407, F.S., relating to physical and mental examination and treatment of a child and physical or mental examination of a person requesting custody; renumbering and amending s. 39.4033, F.S., relating to referral of a dependency case to mediation; providing for pt. VI of ch. 39, F.S., entitled "Petition, Arraignment, Adjudication, and Disposition"; renumbering and amending s. 39.404, F.S., relating to petition for dependency; renumbering and amending s. 39.405, F.S., relating to notice, process, and service; renumbering and amending s. 39.4051, F.S., relating to procedures when the identity or location of the parent, legal custodian, or caregiver is unknown; renumbering and amending s. 39.4055, F.S., relating to injunction pending disposition of a petition for detention or dependency; renumbering and amending s. 39.406, F.S., relating to answers to petitions or other pleadings; renumbering and amending s. 39.408(1), F.S., relating to arraignment hearings; renumbering and amending ss. 39.408(2) and 39.409, F.S., relating to adjudicatory hearings and orders; renumbering and amending ss. 39.408(3) and (4) and 39.41, F.S., relating to disposition hearings and powers of disposition; creating s. 39.5085, F.S.; establishing the Relative Caregiver Program; directing the Department of Children and Family Services to establish and operate the Relative-Caregiver Program; providing financial assistance within available resources to relatives caring for children; providing for financial assistance and support services to relatives caring for children placed with them by the child protection system; providing for rules establishing eligibility guidelines, caregiver benefits, and payment schedule; renumbering and amending s. 39.4105, F.S., relating to grandparents rights; renumbering and amending s. 39.413, F.S., relating to appeals; providing for pt. VII of ch. 39, F.S., entitled "Case Plans"; renumbering and amending ss. 39.4031 and 39.451, F.S., relating to case plan requirements and case planning for children in out-of-home care; renumbering and amending s. 39.452(1)-(4), F.S., relating to case planning for children in out-of-home care when the parents, legal custodians, or caregivers do not participate; renumbering and amending s. 39.452(5), F.S., relating to court approvals of case planning; providing for pt. VIII of ch. 39, F.S., entitled "Judicial Reviews"; renumbering and amending s. 39.453, F.S., relating to judicial review of the status of a child; renumbering and amending s. 39.4531, F.S., relating to citizen review panels; renumbering and amending s. 39.454, F.S., relating to initiation of proceedings for termination of parental rights; renumbering and amending s. 39.456, F.S.; revising exemptions from judicial review; providing for pt. IX of ch. 39, F.S., entitled "Termination of Parental Rights"; renumbering and amending ss. 39.46 and 39.462, F.S., relating to procedures, jurisdiction, and service of process; renumbering and amending ss. 39.461 and 39.4611, F.S., relating to petition for termination of parental rights, and filing and elements thereof; creating s. 39.803, F.S.; providing procedures when the identity or location of the parent is unknown after filing a petition for termination of parental rights; renumbering s. 39.4627, F.S., relating to penalties for false statements of paternity; renumbering and amending s. 39.463, F.S., relating to petitions and pleadings for which no answer is required; renumbering and amending s. 39.464, F.S., relating to grounds for termination of paternal rights; renumbering and amending s. 39.465, F.S., relating to right to counsel and appointment of a guardian ad litem; renumbering and amending s. 39.466, F.S., relating to advisory hearings; renumbering and amending s. 39.467, F.S., relating to adjudicatory hearings; renumbering and amending s. 39.4612, F.S., relating to the manifest best interests of the child; renumbering and amending s. 39.469, F.S., relating to powers of disposition and order of disposition; renumbering and amending s. 39.47, F.S., relating to post disposition relief; creating s. 39.813, F.S.; providing for continuing jurisdiction of the court which terminates parental rights over all matters pertaining to the child's adoption; renumbering s. 39.471, F.S., relating to oaths, records, and confidential information; renumbering and amending s. 39.473, F.S., relating to appeal; creating s. 39.816, F.S.; authorizing certain pilot and demonstration projects contingent on receipt of federal grants or contracts; creating s. 39.817, F.S.; providing for a foster care demonstration pilot project; providing for pt. X of ch. 39, F.S., entitled "Guardians Ad Litem and Guardian Advocates"; creating s. 39.820, F.S.; providing definitions; renumbering s. 415.5077, F.S., relating to qualifications of guardians ad litem; renumbering and amending s. 415.508, F.S., relating to appointment of a guardian ad litem for an abused, abandoned, or neglected child; renumbering and amending s. 415.5082, F.S., relating to guardian advocates for drug dependent newborns; renumbering and amending s. 415.5083, F.S., relating to procedures and jurisdiction; renumbering s. 415.5084, F.S., relating to petition for appointment of a guardian advocate; renumbering s. 415.5085, F.S., relating to process and service; renumbering and amending s. 415.5086, F.S., relating to hearing for appointment of a guardian advocate; renumbering and amending s. 415.5087, F.S., relating to grounds for appointment of a guardian advocate; renumbering s. 415.5088, F.S., relating to powers and duties of the guardian advocate; renumbering and amending s. 415.5089, F.S., relating to review and removal of a guardian advocate; providing for pt. XI of ch. 39, F.S., entitled "Domestic Violence"; renumbering s. 415.601, F.S., relating to legislative intent regarding treatment and rehabilitation of victims and perpetrators; renumbering and amending s. 415.602, F.S., relating to definitions; renumbering and amending s. 415.603, F.S., relating to duties and functions of the department; renumbering and amending s. 415.604, F.S., relating to an annual report to the Legislature; renumbering and amending s. 415.605, F.S., relating to domestic violence centers; renumbering s. 415.606, F.S., relating to referral to such centers and notice of rights; renumbering s. 415.608, F.S., relating to confidentiality of information received by the department or a center; amending ss. 20.43, 61.13, 61.401, 61.402, 63.052, 63.092, 90.5036, 154.067, 216.136, 232.50, 318.21, 384.29, 392.65, 393.063, 395.1023, 400.4174, 400.556, 402.165, 402.166, 409.1672, 409.176, 409.2554, 409.912, 409.9126, 414.065, 447.401, 464.018, 490.014, 491.014, 741.30, 744.309, 784.075, 933.18, 944.401, 944.705, 984.03, 984.10, 984.15, 984.24, 985.03, and 985.303, F.S.; correcting cross references; conforming related provisions and references; amending s. 20.19, F.S.; providing for certification programs for family safety and preservation employees of the department; providing for rules; amending ss. 213.053 and 409.2577, F.S.; authorizing disclosure of certain confidential taxpayer and parent locator information for diligent search activities under ch. 39, F.S.; creating s. 435.045, F.S.; providing background screening requirements for prospective foster or adoptive parents; amending s. 943.045, F.S.; providing that the Department of Children and Family Services is a "criminal justice agency" for purposes of the criminal justice information system; providing an appropriation; repealing s. 39.0195, F.S., relating to sheltering unmarried minors and aiding unmarried runaways; repealing s. 39.0196, F.S., relating to children locked out of the home; repealing ss. 39.39, 39.449, and 39.459, F.S., relating to definition of "department"; repealing s. 39.403, F.S., relating to protective investigation; repealing s. 39.4032, F.S., relating to multidisciplinary case staffing; repealing s. 39.4052, F.S., relating to affirmative duty of written notice to adult relatives; repealing s. 39.4053, F.S., relating to diligent search after taking a child into custody; repealing s. 39.45, F.S., relating to legislative intent regarding foster care; repealing s. 39.457, F.S., relating to a pilot program in Leon County to provide additional benefits to children in foster care; repealing s. 39.4625, F.S., relating to identity or location of parent unknown after filing of petition for termination of parental rights; repealing s. 39.472, F.S., relating to court and witness fees; repealing s. 39.475, F.S., relating to rights of grandparents; repealing ss. 415.5016, 415.50165, 415.5017, 415.50175, 415.5018, 415.50185, and 415.5019, F.S., relating to purpose and legislative intent, definitions, procedures, confidentiality of records, district authority and responsibilities, outcome evaluation, and rules for the family services response system; repealing s. 415.502, F.S., relating to legislative intent for comprehensive protective services for abused or neglected children; repealing s. 415.503, F.S., relating to definitions; repealing s. 415.505, F.S., relating to child protective investigations and investigations of institutional child abuse or neglect; repealing s. 415.506, F.S., relating to taking a child into protective custody; repealing s. 415.5075, F.S., relating to rules for medical screening and treatment of children; repealing s. 415.509, F.S., relating to public agencies' responsibilities for prevention, identification, and treatment of child abuse and neglect; repealing s. 415.514, F.S., relating to rules for protective services; providing effective dates.

—was referred to the Committees on Judiciary; Children, Families and Seniors; and Rules and Calendar.

By Representative Sindler and others—

HB 3999—A bill to be entitled An act relating to termination of pregnancies; providing a short title; amending s. 390.011, F.S.; defining additional terms; amending s. 390.0111, F.S.; revising provisions relating to terminations of pregnancies; prohibiting the performing or inducement of a termination of pregnancy upon a minor without specified notice; providing disciplinary action for violation; providing notice requirements; providing exceptions; providing procedure for judicial waiver of notice; providing for notice of right to counsel; prohibiting court from requiring counties to pay for such counsel; providing for confidentiality of proceedings; providing for issuance of a court order authorizing consent to a termination of pregnancy without notification; providing for dismissal of petition; requiring the issuance of written findings of fact and legal conclusions; providing for expedited confidential appeal; providing for waiver of filing fees; requesting the Supreme Court to adopt rules; providing for severability; providing an effective date.

—was referred to the Committees on Health Care; Judiciary; and Ways and Means.

By Representative Bronson and others—

HB 4261—A bill to be entitled An act relating to ad valorem taxation; providing for the partial abatement of taxes on certain property destroyed or damaged by a tornado; providing procedures; providing for expiration of the act; providing an effective date.

—was referred to the Committees on Community Affairs; and Ways and Means.

By the Committee on Juvenile Justice and Representative Bainter and others—

HB 4315—A bill to be entitled An act relating to juvenile justice education programs; requiring the Juvenile Justice Advisory Board to conduct a study relating to education programs for juvenile offenders; requiring findings and recommendations; requiring a performance review by the Office of Program Policy Analysis and Government Accountability; providing an appropriation; amending s. 230.23, F.S., relating to district school board duties; revising provisions relating to alternative education programs for students in residential care facilities; amending s. 230.2316, F.S.; providing for certain coordination with school district dropout prevention programs; amending s. 230.23161, F.S.; revising provisions relating to educational services in Department of Juvenile Justice programs; providing findings relating to juvenile assessment centers; providing school board and school district duties; providing requirements relating to teachers assigned to juvenile justice education programs; providing for the operation of specified education programs by the Department of Education; amending s. 402.22, F.S.; revising provisions relating to education programs for students who reside in residential care facilities operated by the Department of Children and Family Services; creating s. 985.317, F.S.; requiring the development of a Juvenile Offender Functional Literacy Program; providing intent, eligibility, and program requirements; requiring initial assessment; providing for exemption from the program; providing for evaluation and reporting; amending s. 985.404, F.S.; revising provisions relating to a cost data report; providing definitions; prohibiting a state agency from expanding the existing Orlando Regional Juvenile Detention Center; prohibiting a state agency from building a new detention center or other commitment facility on property contiguous to the existing detention center; prohibiting a state agency from using property contiguous to the existing detention center to operate a detention center or other commitment facility; providing an effective date.

—was referred to the Committees on Governmental Reform and Oversight; and Ways and Means.

By the Committee on Business Regulation and Consumer Affairs; and Representative Ogles and others—

HB 4439—A bill to be entitled An act relating to contracting; amending s. 468.603, F.S.; revising and providing definitions relating to electrical inspectors; amending s. 468.432, F.S.; requiring registration of community association management entities; creating s. 468.604, F.S.; providing responsibilities of building code administrators, plans examiners, and inspectors; amending s. 468.605, F.S.; revising membership of the Florida Building Code Administrators and Inspectors Board; amending s. 468.609, F.S.; revising and providing requirements for certification as a building code administrator, plans examiner, or inspector, including provisional certification; amending s. 468.617, F.S.; revising provisions relating to local governments contracting for building code, examination, and inspection services; amending s. 468.627, F.S.; revising and eliminating fees; amending s. 468.629, F.S.; prohibiting making or attempting to make a certificateholder violate a local or state building code; prohibiting acting or practicing as a building code administrator or building official, plans examiner, or inspector without being an active certificateholder; providing penalties; amending s. 469.001, F.S.; redefining the terms "abatement" and "survey"; defining the term "project designer"; amending s. 469.002, F.S., relating to exemptions from state regulation of asbestos abatement; revising an exemption applicable to certain asbestos-related activities done by government employees; revising certain existing exemptions; amending s. 469.004, F.S.; eliminating provisions relating to prerequisites to issuance of a license and to continuing education; amending s. 469.005, F.S.; revising licensure requirements for asbestos consultants and asbestos contractors relating to required coursework; amending s. 469.006, F.S.; requiring applicants for business licensure to submit evidence of financial responsibility and an affidavit attesting to having obtained the required workers' compensation, public liability, and property damage insurance; amending s. 469.013, F.S.; revising continuing education requirements applicable to asbestos surveyors, management planners, and project monitors; repealing s. 469.015, F.S., relating to seals; amending ss. 255.551, 376.60, and 469.014, F.S.; correcting cross references; creating s. 471.026, F.S.; allowing engineers to perform building inspection duties; amending s. 475.276, F.S; providing an exception to requirement that real estate licensees provide a notice of nonrepresentation; creating s. 481.222, F.S.; allowing architects to perform duties of building code inspectors; amending s. 489.103, F.S.; providing exemptions from regulation under pt. I, ch. 489, F.S., relating to construction contracting; amending s. 489.105, F.S.; revising and providing definitions applicable to contractors; amending s. 489.107, F.S.; requiring the Construction Industry Licensing Board and the Electrical Contractors' Licensing Board to each appoint a committee to meet jointly at least twice a year; amending s. 489.113, F.S.; providing that expansion of the scope of practice of any type of contractor does not limit the scope of practice of any existing type of contractor unless the Legislature expressly provides such limitation; repealing s. 489.1135, F.S., relating to designation and certification of underground utility and excavation contractors; creating s. 489.1136, F.S.; providing for medical gas certification for plumbing contractors who install, improve, repair, or maintain conduits used to transport gaseous or partly gaseous substances for medical purposes; requiring certain coursework; requiring an examination for certain persons; providing for discipline and penalties; providing a definition; amending s. 553.06, F.S.; providing that plumbing contractors who install, improve, repair, or maintain such conduits shall be governed by the National Fire Prevention Association Standard 99C; amending s. 489.115, F.S.; authorizing certificateholders and registrants to apply continuing education courses earned under other regulatory provisions under certain circumstances; amending s. 489.119, F.S.; detailing what constitutes an incomplete contract for purposes of work allowed a business organization under temporary certification or registration; amending s. 489.140, F.S.; eliminating a provision that requires the transfer of surplus moneys from fines into the Construction Industries Recovery Fund; amending s. 489.141, F.S.; clarifying provisions relating to conditions for recovery from the fund; eliminating a notice requirement; revising a limitation on the making of a claim; amending s. 489.142, F.S.; revising a provision relating to powers of the Construction Industry Licensing Board with respect to actions for recovery from the fund, to conform; amending s. 489.143, F.S.; revising provisions relating to payment from the fund; amending s. 489.503, F.S.; providing exemptions from regulation under pt. II, ch. 489, F.S., relating to electrical and alarm system contracting; revising an exemption that applies to telecommunications, community antenna television, and radio distribution systems, to include cable television systems; amending s. 489.505, F.S., and repealing subsection (24), relating to the definition of "limited burglar alarm system contractor"; redefining terms applicable to electrical and alarm system contracting; defining the terms "monitoring" and "fire alarm system agent"; amending s. 489.507, F.S.; requiring the Electrical Contractors' Licensing Board and the Construction Industry Licensing Board to each appoint a committee to meet jointly at least twice a year; amending s. 489.509, F.S.; eliminating reference to the payment date of the biennial renewal fee for certificateholders and registrants; eliminating an inconsistent provision relating to failure to renew an active or inactive certificate or registration; providing for transfer of a portion of certain fees applicable to regulation of electrical and alarm system contracting to fund certain projects relating to the building construction industry and continuing education programs related thereto; amending s. 489.511, F.S.; revising eligibility requirements for certification as an electrical or alarm system contractor; authorizing the taking of the certification examination more than three times and providing requirements with respect thereto; eliminating an obsolete provisions; amending s. 489.513, F.S.; revising registration requirements for electrical contractors; amending s. 489.517, F.S.; authorizing certificateholders and registrants to apply continuing education courses earned under other regulatory provisions under certain circumstances; providing for verification of public liability and property damage insurance; creating s. 489.5185, F.S.; providing requirements for fire alarm system agents, including specified training and fingerprint and criminal background checks; providing for fees for approval of training providers and courses; providing applicability to applicants, current employees, and various licensees; requiring an identification card and providing requirements therefor; providing continuing education requirements; providing disciplinary penalties; amending s. 489.519, F.S.; authorizing certificateholders and registrants to apply for voluntary inactive status at any time during the period of certification or registration; authorizing a person passing the certification examination and applying for licensure to place his or her license on inactive status without having to qualify a business; amending s. 489.521, F.S.; providing conditions on qualifying agents qualifying more than one business organization; providing for revocation or suspension of such qualification for improper supervision; providing technical changes; amending s. 489.525, F.S.; revising reporting requirements of the Department of

Business and Professional Regulation to local boards and building officials; providing applicability with respect to information provided on the Internet; amending s. 489.533, F.S.; revising and providing grounds for discipline; providing penalties; reenacting s. 489.518(5), F.S., relating to alarm system agents, to incorporate the amendment to s. 489.533, F.S., in a reference thereto; amending s. 489.537, F.S.; authorizing registered electrical contractors to install raceways for alarm systems; providing that licensees under pt. II, ch. 489, F.S., are subject, as applicable, to certain provisions relating to local occupational license taxes; amending s. 205.0535, F.S.; providing that businesses providing local exchange telephone service or pay telephone service may not be assessed an occupational license tax on a per-instrument basis; amending s. 553.19, F.S.; updating electrical and alarm standards; adding a national code relating to fire alarms to the minimum electrical and alarm standards required in this state; amending 553.73, F.S; adding an exception from the Florida Building Code; creating s. 501.935, F.S.; providing requirements relating to home-inspection reports; providing legislative intent; providing definitions; providing exemptions; requiring, prior to inspection, provision of inspector credentials, a caveat, a disclosure of conflicts of interest and certain relationships, and a statement or agreement of scope, limitations, terms, and conditions; requiring a report on the results of the inspection; providing prohibited acts, for which there are civil penalties; providing that failure to comply is a deceptive and unfair trade practice; creating s. 501.937, F.S.; providing requirements for use of professional titles by industrial hygienists and safety professionals; providing definitions; providing that violation of such requirements is a deceptive and unfair trade practice; creating s. 715.15, F.S.; providing that certain provisions in contracts for improvement of real property are void; providing applicability; An act relating to fire prevention and control; amending s. 633.021, F.S.; defining the term "fire extinguisher"; amending s. 633.061, F.S.; requiring an individual or organization that hydrotests fire extinguishers and preengineered systems to obtain a permit or license from the State Fire Marshal; revising the services that may be performed under certain licenses and permits issued by the State Fire Marshal; providing additional application requirements; providing requirements for obtaining an upgraded license; amending ss. 633.065, 633.071, F.S.; providing requirements for installing and inspecting fire suppression equipment; amending s. 633.162, F.S.; prohibiting an owner, officer, or partner of a company from applying for licensure if the license held by the company is suspended or revoked; revising the grounds upon which the State Fire Marshal may deny, revoke, or suspend a license or permit; providing restrictions on activities of former licenseholders and permittees; amending s. 633.171, F.S.; revising the prohibition against rendering a fire extinguisher or preengineered system inoperative to conform to changes made by the act; amending s. 633.547, F.S.; providing the State Fire Marshal authority to suspend and revoke certificates; providing restrictions on the activities of former certificateholders whose certificates are suspended or revoked; amending s. 489.105, F.S., relating to contracting; conforming a cross-reference to changes made by the act; amending s. 468.385, F.S.; revising provisions relating to the written examination required for licensure as an auctioneer; amending s. 468.388, F.S.; eliminating exemptions from the requirement that a written agreement be executed prior to conducting an auction; amending s. 468.389, F.S.; revising a ground for disciplinary action relating to failure to account for or to pay certain money, to include reference to property belonging to another; providing penalties; reenacting ss. 468.385(3)(b) and 468.391, F.S., relating to licensure as an auctioneer and to a criminal penalty, respectively, to incorporate the amendment to s. 468.389, F.S., in references thereto; amending s. 468.393, F.S.; reducing the level at which the Auctioneer Recovery Fund must be maintained and for which surcharges are levied; reenacting s. 468.392(5), F.S., relating to moneys in the Auctioneer Recovery Fund, to incorporate the amendment to s. 468.393, F.S., in references thereto; amending s. 468.395, F.S.; revising circumstances under which recovery from the Auctioneer Recovery Fund may be obtained; reducing the amount per claim or claims arising out of the same transaction or auction and the aggregate lifetime limit with respect to any one licensee that may be paid from the fund; amending s. 468.396, F.S., relating to claims against a single licensee in excess of the dollar limitation, to conform; eliminating semiannual identification and payment of claims; amending s. 468.397, F.S., relating to payment of claim; correcting language; creating s. 205.1945, F.S.; prohibiting local jurisdiction from charging an occupational license tax under certain circumstances; amending s. 489.129, F.S.; providing procedures and responsibilities when the department undertakes an investigation of a contractor; deleting a ground for disciplinary action; amending s. 489.131, F.S.; requiring that bids for public projects be accompanied by certain evidence; requiring local boards or agencies that license contractors to transmit quarterly reports; clarifying the department's authority to initiate disciplinary actions; providing that local boards that license and discipline contractors must have at least 2 consumer representatives; providing effective dates.

—was referred to the Committee on Community Affairs.

RETURNING MESSAGES—FINAL ACTION

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 28, CS for SB 154, CS for SB's 312 and 2298, CS for SB 552, SB 704, CS for SB 1230, CS for SB 1450, SB 1462, CS for SB 1684, CS for SB 1686, CS for SB 1688, CS for SB 1690, CS for SB 1692, CS for SB 1694, CS for SB 1696, CS for SB 1710, CS for CS for SB 1796, SB 1976, CS for SB 1992 and CS for SB 2484.

John B. Phelps, Clerk

The bills contained in the foregoing message were ordered enrolled.

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has accepted the Conference Committee Report as an entirety and passed CS for SB 874, as amended by the Conference Committee Report.

John B. Phelps, Clerk

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate amendment(s) to House Amendment(s) and passed CS for SB 1014 as further amended.

John B. Phelps, Clerk

The bills contained in the foregoing messages were ordered engrossed and then enrolled.

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate amendment(s) and passed CS for HB 209, CS for CS for HB 315, HB 367, HB 755, CS for HB 935, CS for HB 1377, HB 1403, CS for CS for HB 1637, CS for CS for HB 1639, CS for HB 3035, CS for HB 3065, CS for HB 3085, HB 3275, CS for CS for HB 3321, CS for HB 3395, CS for CS for HB 3491, CS for HB 3673, CS for HB 3709, HB 3737, HB 3971, CS for HB 4027, HB 4039, HB 4365, CS for HB 4413, HB 4475 and HB 4837, as amended.

John B. Phelps, Clerk

ENROLLING REPORTS

SB 830 and SB 1436 have been enrolled, signed by the required Constitutional Officers and presented to the Governor on April 30, 1998.

Faye W. Blanton, Secretary

CORRECTION AND APPROVAL OF JOURNAL

The Journal of April 29 was corrected and approved.

CO-SPONSORS

Senators Crist—SJR 82; Forman—SB 404, SB 656, CS for SB 710, CS for SB 1540, SB 1874, SB 1876, SB 2302

RECESS

On motion by Senator Bankhead, the Senate recessed at 7:50 p.m. to reconvene at 9:00 a.m., Friday, May 1.