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CALL TO ORDER

The Senate was called to order by President Jennings at 9:00 a.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

Excused: Senator Holzendorf at 3:45 p.m.

PRAYER

The following prayer was offered by Faye Blanton, Secretary of the Senate:

Dear God, it is our prayer that your will has been done during the 60 days of this session, and that we have truly served the people of our great State.

Please guide and bless each member of this Legislature, their staff, and even the members of the Third House, as they return to their homes and their families.

We pray also that our point is well taken and that you concur as we send the final message for this 1998 Legislative Session—we did our best.

God bless us all and the citizens of the State of Florida that we serve. In your name we pray. Amen.

PLEDGE

Senate Pages Stephenie Ford of Bristol and Kyra Jennings of Tallahassee, led the Senate in the pledge of allegiance to the flag of the United States of America.

By direction of the President, the rules were waived and the Senate proceeded to—

SPECIAL ORDER CALENDAR

CS for CS for HB's 683 and 2131—A bill to be entitled An act relating to school readiness; creating the "Children First Act of 1998; renaming ch. 411, F.S.; creating s. 411.01, F.S.; providing legislative intent relating to early childhood health care, child care, and education; providing that early childhood health care, child care, and education programs shall be school readiness programs; creating the Florida Partnership for Children First, Inc. (Children First Partnership); creating the Children First Governing Board to operate as the board of directors of the Children First Partnership; providing Children First Partnership and governing board responsibilities and duties; providing membership of the governing board and meeting requirements; providing that the Children First Partnership is subject to public records and public meeting requirements; providing for hiring of certain employees; providing powers as a corporation; providing for staff of the governing board and Children First Partnership; requiring the Children First Partnership to phase in a program meeting specified requirements; requiring recommendations to revise provision of services to children of teenage parents; providing for establishment of a Children First Coalition in each county or combination of counties; specifying services to be provided by coalitions; providing for designation and approval of a fiscal agent; providing for the transfer of funds; providing for coalition initiation grants to develop children first plans and block grant funding to implement such plans; providing for award of an incentive bonus; providing requirements for such plans; providing for parental choice and payment arrangements; providing for evaluation and performance measures; providing responsibility for implementation; providing for phase-out of the State Coordinating Council for Early Childhood Services; creating s. 411.02, F.S.; providing for a Children First Appropriation Allocation Conference; amending s. 216.136, F.S.; creating the School Readiness Program Estimating Conference; providing duties and principals; conforming provisions; amending and renumbering s. 230.2303, F.S., relating to the Florida First Start Program; revising provisions; providing for implementation pursuant to a children first plan developed by the Children First Coalition and approved by the Children First Partnership; amending and renumbering s. 230.2305, F.S., relating to the prekindergarten early intervention program; revising provisions; providing for administration by a district school board or other Children First Coalition provider; providing Children First Coalition responsibility for programs; providing for oversight by the Children First Partnership and Children First Coalition and specifying duties; creating s. 411.05, F.S.; requiring the Department of Education to adopt the school readiness screening instruments developed by the Children First Partnership and to require their use by the school districts; creating s. 411.06, F.S.; recognizing the nationwide Parents as Teachers Program; establishing the Florida Parents as Teachers Program under the jurisdiction of the Children First Partnership; providing program requirements; amending and renumbering s. 402.281, F.S., relating to the Gold Seal Quality Care program; providing duties of the Children First Partnership; amending s. 411.202, F.S.; revising definitions; amending s. 411.203, F.S.; revising provisions relating to a continuum of comprehensive services; amending ss. 411.24 and 411.242, F.S., to conform; amending and renumbering s. 402.305, F.S., relating to licensing standards for child care facilities; providing duties of the Children First Partnership; removing provisions relating to a child care technical review panel; amending and renumbering s. 402.3052, F.S., relating to child development associate training grants; providing for consultation with the Children First Partnership; amending s. 20.19, F.S., relating to the Department of Children and Family Services; requiring cooperation with the Children First Partnership and Children First Coalitions; amending s. 229.591, F.S., relating to the school improvement and education accountability system; conforming school readiness goals; amending s. 288.9620, F.S., relating to

the workforce development board; providing for a report to the Children First Partnership; amending ss. 232.01, 383.14, and 397.901, F.S., to conform; amending ss. 414.027, 414.028, 414.055, and 414.22, F.S., relating to the WAGES Program; providing for coordination with the Children First Partnership and Children First Coalitions; amending s. 446.601, F.S., relating to the "Workforce Florida Act of 1996"; providing for coordination with the Children First Partnership and Children First Coalitions; amending s. 624.91, F.S., relating to the "Florida Healthy Kids Corporation Act"; providing a goal to work cooperatively with the Children First Partnership; repealing s. 228.061(1), F.S., relating to preschool programs, s. 230.2306, F.S., relating to prekindergarten children service needs assessments and accommodation efforts by school districts, s. 391.304, F.S., relating to coordination of the developmental evaluation and intervention program, s. 402.26, F.S., relating to legislative intent with respect to child care, s. 402.28, F.S., relating to Child Care Plus facilities, s. 411.201, F.S., the short title for the Florida Prevention, Early Assistance, and Early Childhood Act, s. 411.204, F.S., relating to program evaluation under the act, s. 411.205, F.S., relating to rules, s. 411.22, F.S., relating to legislative intent with respect to prevention and early assistance, s. 411.221, F.S., relating to preparation of the prevention and early assistance strategic plan, s. 411.223, F.S., relating to uniform standards for preventive health care, s. 411.224, F.S., relating to the family support planning process, and ss. 411.23, 411.231, and 411.232, F.S., the Children's Early Investment Act, effective July 1, 1998; repealing s. 402.47, F.S., relating to foster grandparent and retired senior volunteer services to high-risk and handicapped children, s. 411.222, F.S., relating to the Offices of Prevention, Early Assistance, and Child Development and the State Coordinating Council for Early Childhood Services and their duties, and s. 411.3015(9), F.S., relating to collaborative agreements and plans with respect to subsidized child care programs, effective July 1, 1999; renumbering ss. 402.301, 402.3015, 402.302, 402.3025, 402.3026, 402.3051, 402.3055, 402.3057, 402.3058, 402.306, 402.307, 402.308, 402.309, 402.310, 402.311, 402.312, 402.3125, 402.313, 402.3135, 402.314, 402.3145, 402.315, 402.316, 402.318, 402.319, and 402.45, F.S.; requiring amendment recommendations regarding s. 411.301, F.S., relating to legislative intent with respect to child care facilities, s. 411.3015, F.S., relating to the subsidized child care program, s. 411.302, F.S., relating to definitions, s. 411.3025, F.S., relating to public and nonpublic schools in relation to child care requirements, s. 411.3026, F.S., relating to establishment of full-service schools, s. 411.305, F.S., relating to licensing standards for child care facilities, s. 411.3051, F.S., relating to child care market rate reimbursement and grants, s. 411.3052, F.S., relating to the child development associate training grants program, s. 411.3055, F.S., relating to child care personnel requirements, s. 411.306, F.S., relating to designation of the licensing agency and dissemination of information, s. 411.307, F.S., relating to approval of the licensing agency, s. 411.308, F.S., relating to issuance of a license, s. 411.309, F.S., relating to provisional licenses, s. 411.310, F.S., relating to disciplinary actions, s. 411.311, F.S., relating to inspection of facilities, s. 411.312, F.S., relating to injunctive relief, s. 411.3125, F.S., relating to display and appearance of license, s. 411.313, F.S., relating to family day care homes, s. 411.3135, F.S., relating to the subsidized child care case management program, s. 411.314, F.S., relating to supportive services, s. 411.3145, F.S., relating to the subsidized child care transportation program, s. 411.315, F.S., relating to funding and license fees, s. 411.316, F.S., relating to exemptions, s. 411.318, F.S., relating to prohibited advertisement, s. 411.319, F.S., relating to penalties, s. 411.33, F.S., relating to authority to charge fees, s. 411.45, F.S., relating to the community resource mother or father program, and s. 409.178, F.S., relating to the Child Care Partnership Act, by March 1, 2000; requiring legislative review of such recommendations; requiring review of s. 402.27, F.S., by March 1, 1999, and recommendation to the Legislature regarding optimal coordination of resource and referral functions; providing appropriations; providing effective dates.

—was read the second time by title.

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

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

Section 1. *This act may be cited as the "School Readiness Act of 1998." Nothing in this act is intended to impede or curtail the state's ability to draw down federal funds.*

Section 2. Section 411.01, Florida Statutes, is created to read:

411.01 Florida Partnership for School Readiness, Inc.; School Readiness Coalitions.—

(1) *LEGISLATIVE INTENT.—*

(a) *It is the intent of the Legislature that the early childhood health care, child care, and education of children from birth to 5 years of age or until the child attains school readiness, whichever is later, become a top priority.*

(b) *Recognizing that high-quality early childhood health care, child care, and education experiences increase children's chances of educational success and reduce the need for costly future intervention and remediation, it is the intent of the Legislature that all children in Florida, from birth until they are ready for school, have access to quality early childhood health care, child care, and education to enhance their readiness to succeed in school.*

(c) *Recognizing that parents are responsible for the early childhood health care, child care, and education of their children, but also recognizing that the condition of children in Florida must be improved, it is the intent of the Legislature that local communities offer assistance to families to improve the early childhood health care, child care, and education of children under 5 years of age and the school readiness of all children who enter the state's public school system. High-quality early childhood experiences and care should be provided with a minimum of governmental interference.*

(d) *The Legislature finds that for families to move to and maintain economic self-sufficiency, Florida must have an efficient way for these families to access quality early childhood health care, child care, and education services. The Legislature recognizes that significant benefits will accrue to children and families who have efficient access to quality early childhood health care, child care, and education arrangements.*

(e) *It is the intent of the Legislature that all early childhood health care, child care, and education programs and services serving Florida children in the first 5 years of life or until the child attains school readiness, whichever is later, are considered school readiness programs. The Legislature finds that despite the efforts of hundreds of thousands of Floridians and increased collaboration among service providers, services for young children remain uncoordinated, uneven in quality, and inaccessible to many. It is the intent of the Legislature that a true continuum of high-quality, coordinated, and comprehensive early childhood health care, child care, and education be available to all children from birth to 5 years of age or until the child attains school readiness, whichever is later.*

(f) *The Legislature recognizes new brain development research emphasizing the critical importance of the first years of life in children's emotional, social, and cognitive development, and that these scientific discoveries create an opportunity to apply the findings to all programs and services for children from birth to 5 years of age. The Legislature also recognizes that the period of time from birth to 3 years of age is an optimal time for learning in the areas of motor development, emotional control, vision, social attachment, vocabulary, second language, and logic.*

(g) *Publicly funded early education and child care programs are defined as prekindergarten early intervention programs, Head Start programs, programs offered by public or private providers of child care, preschool programs for children with disabilities, programs for migrant children, Title I programs, subsidized child care programs, teen parent programs, and other services.*

(2) *SCHOOL READINESS PROGRAMS.—For purposes of this chapter, all early childhood health care, child care, and education programs which are funded with state, federal, lottery, or local public funds and which provide services to children from birth to 5 years of age or until the child attains school readiness, whichever is later, shall be school readiness programs and shall work to achieve their part of the goal of children entering school with healthy bodies and healthy minds, ready to succeed in school.*

(3) *SCHOOL READINESS GOVERNING BOARD.—*

(a) *There is created a School Readiness Governing Board to operate as the board of directors of the Florida Partnership for School Readiness,*

Inc., with responsibility for adopting and maintaining coordinated programmatic, administrative, and fiscal policies and standards for all school readiness programs, while allowing a wide range of programmatic flexibility and differentiation.

(b)1. *As a condition for receiving funds appropriated to the Florida Partnership for School Readiness, Inc., the members of the School Readiness Governing Board shall include the Governor, the Commissioner of Education, the Secretary of Children and Family Services, the chair of the WAGES Program State Board of Directors, and the chair of the Florida Council of 100.*

2. *The governing board shall also include ten members of the public who shall be business, community, and civic leaders in the state who are not elected to public office and who do not earn their income in the early education and child care industry. The members must be geographically and demographically representative of the state. Each member shall be appointed by the Governor. Eight of the members shall be appointed from a list of 10 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. Members shall be appointed to 4-year terms of office. However, of the initial appointees, two shall be appointed to 1-year terms, two shall be appointed to 2-year terms, three shall be appointed to 3-year terms, and three shall be appointed to 4-year terms. The members of the governing board shall elect a chairperson annually. Any vacancy on the governing board shall be filled in the same manner as the original appointment.*

(c) *The governing board shall meet quarterly and may meet as often as it deems necessary to carry out its duties and responsibilities. Members of the governing board shall participate without proxy at the quarterly meetings. The governing board may take official action by a majority vote of the members present at any meeting at which a quorum is present. The governing board shall hold its first meeting by August 1, 1998.*

(d) *Members of the governing board are subject to the ethics provisions in part III of chapter 112, and no member may derive any financial benefit from the funds administered by the School Readiness Partnership.*

(e) *Members of the governing board shall serve without compensation but are entitled to reimbursement for per diem and travel expenses incurred in the performance of their duties as provided in s. 112.061.*

(f) *For the purposes of tort liability, the members of the governing board and its employees shall be governed by s. 768.28.*

(g)1. *The governing board shall appoint an executive director to serve at its pleasure who shall perform the duties assigned to him or her by the governing board. The executive director shall be responsible for appointing all employees and staff members who shall serve under his or her direction and control.*

2. *Governing board members shall serve without compensation but are entitled to receive reimbursement for per diem and travel expenses as provided by s. 112.061 and for other reasonable, necessary, and actual expenses.*

(h) *The governing board has complete fiscal control over the Florida Partnership for School Readiness, Inc., and is responsible for all corporate operations. The governing board is responsible for the prudent use of all public and private funds and shall ensure that the use of such funds is in accordance with all legal and contractual requirements.*

(4) **FLORIDA PARTNERSHIP FOR SCHOOL READINESS, INC. (SCHOOL READINESS PARTNERSHIP).—**

(a) *The Legislature hereby creates the Florida Partnership for School Readiness, Inc. (School Readiness Partnership), which shall be a public-private nonprofit organization, which shall be registered, incorporated, organized, and operated in compliance with chapter 617, and which shall not be a unit or entity of state government. The Legislature determines, however, that public policy dictates that the School Readiness Partnership operate in the most open and accessible manner consistent with its public purpose. To this end, the Legislature specifically declares that the School Readiness Partnership is subject to the provisions of chapter 119, relating to public records, and those provisions of chapter 286 relating to public meetings and records.*

(b) *The Florida Partnership for School Readiness, Inc., shall establish one or more corporate offices, at least one of which shall be located in Leon County.*

(c) *The Florida Partnership for School Readiness, Inc., is the principal organization responsible for the enhancement of school readiness for the state's children, and shall work actively with each School Readiness Coalition to achieve its mission. It shall be the responsibility of the School Readiness Governing Board to provide leadership for enhancement of school readiness in Florida by aggressively establishing a unified approach to Florida's efforts of enhancement of school readiness; by aggressively seeking potential new school readiness programs; and by aggressively assisting in the retention and expansion of effective existing school readiness programs. In support of this effort, the Florida Partnership for School Readiness, Inc., may develop and implement specific programs or strategies that address the creation, expansion, and preservation of Florida's school readiness programs, including recommendations to move agency staff from the Department of Education or the Department of Children and Family Services to the partnership. This approach must ensure the effective use of federal, state, local, and private resources in reducing the need for school readiness programs.*

(d) *The governing board and staff of the Florida Partnership for School Readiness, Inc., shall have specific responsibility for implementing policies, monitoring progress toward achievement of the established goals, assessing gaps in current early childhood health care, child care, and education statewide, recommending quality standards and monitoring their implementation, assisting the formation of and approving plans of School Readiness Coalitions created in this act, facilitating local implementation, providing technical assistance to School Readiness Coalitions, and recommending common eligibility requirements for similar programs while seeking a diversity of programs to meet the varieties of need, within the established guidelines.*

(e) *The School Readiness Partnership shall have all powers necessary to carry out the purposes of this section, 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 section.*

(f) *The Florida Partnership for School Readiness, Inc., shall be an independent nonpartisan body and shall not be identified or affiliated with any one agency, program, or group.*

(g) *The Florida Partnership for School Readiness, Inc., shall have a budget, shall be financed through an annual appropriation made for this purpose in the General Appropriations Act, and shall be subject to compliance audits and annual financial audits by the Auditor General.*

(h) *The partnership shall coordinate the efforts toward school readiness in this state and provide independent policy analyses and recommendations to the Governor, the State Board of Education, and the Legislature.*

(i) *The partnership shall prepare and submit to the State Board of Education a system for measuring school readiness. The system must include a screening instrument, or instruments, which shall provide objective data regarding the following expectations for school readiness:*

1. *The child's immunizations and other health requirements as necessary.*
2. *The child's display of physical development appropriate for kindergarten.*
3. *The child's compliance with rules, limitations, and routines.*
4. *The child's successful engagement in kindergarten tasks.*
5. *The child's demonstration of appropriate interactions with adults.*
6. *The child's demonstration of appropriate interactions with peers.*
7. *The child's effective coping with challenges and frustrations.*
8. *The child's demonstration of appropriate self-help skills.*
9. *The child's ability to express his needs appropriately.*

10. The child's demonstration of verbal communication skills necessary to succeed in kindergarten.

11. The child's demonstration of problem-solving skills necessary to succeed in kindergarten.

12. The child's following of verbal directions.

13. The child's demonstration of curiosity, persistence, and exploratory behavior.

14. The child's demonstration of an interest in books and other printed materials.

15. The child's paying attention to stories.

16. The child's participation in art and music activities.

(j) The partnership shall prepare a plan for implementing the system for measuring school readiness in such a way that all children in this state have the opportunity to undergo the screening in the year prior to their entry into kindergarten. Participants in publicly funded school readiness programs and children whose family income is at, or below, 150 percent of the federal poverty level shall undergo the screening at no cost. Other children may undergo the screening if their parents pay a nominal fee. The plan must include a way to make the screening instrument and the training required to administer it available to public and private providers of preschool and child care programs, and a way to make the screening available to children who do not participate in such programs. Because children with disabilities may not be able to meet all of the identified expectations for school readiness, the plan for measuring school readiness shall incorporate mechanisms for recognizing the potential variations in expectations for school readiness when serving children with disabilities and shall provide for communities to serve children with disabilities.

(k) The partnership shall establish a method for collecting data from the screening instrument and establish guidelines for using the data so that the measurement, the data collection, and the use of the data serve the statewide goal that all children will be ready for school. The criteria for determining which data to collect should be the usefulness of the data to state policymakers and program administrators in administering programs and allocating state funds.

(l) The partnership shall contract with an independent entity for an evaluation of the measurement system. The evaluation must provide the information that local and state agencies, the Governor, and the Legislature need to provide for the effective administration of programs that serve preschool children. The evaluation must provide information that will assist providers of private preschool and child care programs in assessing the success of preschool and child care programs and making decisions about improving program services to prepare children for school.

(m) The partnership shall recommend to the Governor, the Commissioner of Education, and the State Board of Education rules, and revisions or repeal of rules, which would increase the effectiveness of programs that prepare children for school.

(n) The partnership shall conduct studies and planning activities related to the overall improvement and effectiveness of school-readiness measures.

(o) The partnership shall work with the Department of Management Services for electronic funds transfer.

(p) The partnership shall recommend to the Legislature the feasibility of combining funding streams for school readiness programs into a School Readiness Trust Fund.

(q) The partnership shall submit an annual report of its activities to the Governor, the executive director of the Florida Healthy Kids Corporation, the President of the Senate, the Speaker of the House of Representatives, and the minority leaders of both houses of the Legislature. In addition, the partnership's reports and recommendations shall be made available to the State Board of Education, other appropriate state agencies and entities, district school boards, central agencies for child care, and county public health units.

To ensure that the system for measuring school readiness is comprehensive and appropriate statewide, as the system is developed and implemented, the partnership must consult with representatives of district school systems, providers of public and private child care, health care providers, large and small employers, experts in education for children with disabilities, and experts in child development.

(r) The partnership may adopt rules necessary to administer the provisions of this section relating to preparation and implementation of the system for school readiness, data collection, approving local coalition plans, providing a method whereby a coalition could serve two or more counties, awarding incentives to coalitions, and contracting for an evaluation.

(5) CREATION OF OPTIONAL PROGRAM; EXEMPTIONS.—The school readiness program consisting of publicly funded programs listed in paragraph (1)(g) is established. The school readiness program is an optional program.

(a) School readiness coalitions.—

1.a. Each School Readiness Coalition must consist of at least nine and no more than 15 members. Two members shall be appointed by the district school board, two members shall be appointed by the county commission, and two members shall be appointed by the Department of Children and Family Services district administrator. The six members thus appointed shall appoint the remaining members of the coalition.

b. School Readiness Coalition membership shall include, in addition to private-sector business leaders, the local public and private leaders in health care, education, disabilities, and child welfare systems in each county. Three members of the coalition must be administrators from each of the following entities: The central agency for child care, the district school board, and the Head Start program. School Readiness Coalition membership must include representatives from programs serving children in the early education and child care programs, must include a representative from the Department of Health, and may include representatives from organizations such as Children's Services Councils, Central Agencies for Child Care, Healthy Start Coalitions, district school boards, child care licensing boards, local WAGES Coalitions, Head Start, municipal and county governments, the Department of Children and Family Services, the County Public Health Unit, and chambers of commerce. Thirty percent of the coalition members shall be from the private sector.

2. The School Readiness Coalition will replace the district interagency coordinating council in any county where a school readiness program is implemented.

(b) Program eligibility.—The school readiness program shall be established for children from birth to 5 and one-half years of age. The program shall consist of the programs listed in paragraph (1)(g), be administered by the School Readiness Coalition, and receive funds pursuant to SB 180 or similar legislation. Within funding limitations, the School Readiness Coalition, along with all providers, shall make reasonable efforts to accommodate the needs of children for extended-day and extended-year services without compromising the quality of the program.

(c) Standards; outcome measures.—

1. All publicly funded school readiness programs must meet the following performance standards and outcome measures developed by the Department of Education and the Department of Children and Family Services:

a. They must help prepare preschool children to enter kindergarten ready to learn, as measured by criteria established by the School Readiness Partnership or, in the absence of such criteria, by the School Readiness Checklist of the Department of Education.

b. They must provide extended-day and extended-year services to the maximum extent possible.

c. There must be coordinated staff development and teaching opportunities.

d. There must be expanded access to community services and resources for families to help achieve economic self-sufficiency.

e. There must be a single point of entry and unified waiting list.

f. If funding remains constant, they must serve at least as many children as were served prior to implementation of the program.

2. All participating publicly funded school readiness programs must implement a comprehensive program of children and family services that enhance the cognitive and physical development of children to achieve the performance standards and outcome measures specified in paragraph (a). At a minimum, these programs must contain the following elements:

- a. Developmentally appropriate curriculum.*
- b. An appropriate staff-to-child ratio, as required by the respective participating programs.*
- c. A healthy and safe environment.*
- d. A resource and referral network to assist parents in making an informed choice pursuant to s. 402.27.*

(d) Implementation.—

1. The school readiness program may be implemented in any county by a School Readiness Coalition with agreement of the district school board and the Department of Children and Family Services district, and with approval of the School Readiness Partnership. Approval by the School Readiness Partnership must be predicated on the submission of a plan of implementation prepared and submitted by the School Readiness Coalition.

2. Each School Readiness Coalition shall develop a plan for implementing the school readiness program to meet the requirements of this section. The plan shall include a written description of the role of the program in the district's effort to meet the first state education goal, readiness to start school, including a description of the plan to involve prekindergarten early intervention programs, Head Start programs, programs offered by public or private providers of child care, preschool programs for children with disabilities, programs for migrant children, Title I programs, subsidized child care programs, and teen parent programs. The plan shall also demonstrate how the program will ensure that each 3-year-old and 4-year-old child in a publicly funded early education and child care program receives scheduled activities and instruction designed to prepare children to enter kindergarten ready to learn. Prior to implementation of the program, the School Readiness Coalition must submit the plan to the School Readiness Partnership for approval. The plan shall be reviewed and revised as necessary, but not less than every 3 years.

3. The plan for the school readiness program shall include the following minimum standards and provisions:

- a. A sliding fee scale, which is the same for all programs, to be implemented and reflected in each program's budget.*
- b. A choice of settings and locations in licensed, registered, religious exempt, or school-based programs to be provided to parents.*
- c. Instructional staff who have completed the training course as required in s. 402.305(2)(d)1., as well as staff who have additional training or credentials as required by the respective programs.*

4. Persons with an early childhood teaching certificate may provide support and supervision to other staff in the early education and child care program.

(e) Reimbursement rate.—The School Readiness Coalition shall develop a reimbursement rate schedule that encompasses all publicly funded early education and child care programs and complies with applicable state and federal laws and regulations. The reimbursement rate schedule must include the projected number of children to be served and must be submitted to the School Readiness Partnership for approval. Informal child care arrangements shall be reimbursed at not more than 50 percent of the rate developed for family child care. A school readiness program may not expend more than 15 percent of program funds in any one fiscal year for administrative costs.

(f) Requirements relating to fiscal agents.—The fiscal agent may be a public entity or a private nonprofit organization. A private, for-profit organization may serve as a fiscal agent if at least 50 percent of the organization's governing board members live in the coalition's service

area. The fiscal agent shall be required to provide all administrative and direct funding services as determined by the School Readiness Coalition. The cost of these services shall be negotiated between the fiscal agent and the School Readiness Coalition. The fiscal agent shall be responsible for monitoring all providers to ensure that coalition funds are expended in the manner and for the purpose required by the funding source. Funds from the School Readiness Trust Fund may not be paid to a provider unless the provider agrees to allow the fiscal agent access to fulfill its monitoring responsibilities.

(g) Coalition initiation grants; incentive bonuses.—

1. School Readiness Coalitions that are approved by the Florida Partnership for School Readiness, Inc., by October 1, 1998, shall be eligible for a \$25,000 initiation grant to support the School Readiness Coalition in developing its school readiness plan. Upon approval by the School Readiness Partnership of any coalition's plan that clearly shows enhancement in the quality and standards of the school readiness programs without diminishing the number of children served in the programs, the School Readiness Partnership shall award the coalition an incentive bonus on a per-student served basis, subject to appropriation.

2. School Readiness Coalitions that have their plans approved by the Florida Partnership for School Readiness, Inc., by March 1, 1999, shall receive incentive bonus funding on a per-student basis, with a minimum amount of \$25,000 per coalition. Funds shall be available to a coalition 30 days after its plan is approved.

3. In fiscal year 2000-2001, and each year thereafter, any increases in funding for the prekindergarten early intervention program and the subsidized child care program shall be administered through School Readiness Coalitions, if the Florida Partnership for School Readiness, Inc., approves this method of funding.

(h) Parental choice; payment arrangement.—The school readiness program shall be provided in a manner that ensures, to the maximum extent possible, parental choice through flexibility in early education and child care arrangements and payment arrangements. Payment arrangements must be in accordance with all federal and state laws that govern the respective participating programs.

(i) Evaluation and annual report.—Each School Readiness Coalition shall conduct an evaluation of the effectiveness of the school readiness program, including performance standards and outcome measures, and shall provide an annual report and fiscal statement to the School Readiness Partnership, the Governor, and the President of the Senate and the Speaker of the House of Representatives for review by the Legislature. This report must conform to the content and format specifications set by the School Readiness Partnership.

(7) CONFLICTING PROVISIONS.—In the event of a conflict between the provisions of this section and federal requirements, the federal requirements shall control.

Section 3. Section 411.05, Florida Statutes, is created to read:

411.05 School readiness screening instruments.—The Department of Education shall adopt the school readiness screening instruments developed by the Florida Partnership for School Readiness, Inc., and shall require that:

- (1) All school districts administer the kindergarten screening instrument to each kindergarten student in the district school system.*
- (2) All school districts that operate preschool programs administer the age-appropriate screening instrument to each preschool student in the district's preschool programs.*

Section 4. Section 411.06, Florida Statutes, is created to read:

411.06 Florida Parents as Teachers Program.—

(1) The Legislature recognizes that the nationwide Parents as Teachers Program has demonstrated that it is a cost-effective program that produces outstanding results and long-term cost savings. There is established the Florida Parents as Teachers Program under the jurisdiction of the Florida Partnership for School Readiness, Inc., which shall make funding for the program available to each School Readiness Coalition.

(2) *The purposes of the Florida Parents as Teachers Program are:*

(a) *To provide parents with the latest information on child development from birth to 5 years of age and suggest learning opportunities, based on the latest brain development research, that encourage language and intellectual growth and the development of physical and social skills.*

(b) *To provide all families within the jurisdiction of the School Readiness Coalition with the opportunity to have their children screened for school readiness, either through the child's participation in a children first plan program or by payment of a nominal fee, at the ages of 3 1/2 years and 4 1/2 years.*

(3) *The Florida Parents as Teachers Program shall include personalized home visits by certified parent educators trained in child development, to help parents understand what to expect during each stage of their child's development and to offer practical tips on how to encourage learning, manage behavior, and promote strong parent-child relationships. The program shall also include group meetings, periodic screenings, a resource network, and followup studies, including tracking the school readiness screenings administered after the child is in kindergarten, to measure school readiness outcomes.*

Section 5. *School Readiness Program Needs Assessment Conference.—*

(1) *DUTIES.—*

(a) *The School Readiness Program Needs Assessment Conference shall develop official information relating to the state's system of school readiness program services, including forecasts of school readiness program needs, as the conference determines is needed for the state planning and budgeting system. Such official information shall include but not be limited to subsidized child care, Head Start, prekindergarten early intervention, prekindergarten disabilities, Even-Start literacy, First Start, migrant prekindergarten, and Title I prekindergarten needs.*

(b) *In addition, the School Readiness Program Needs Assessment Conference shall estimate the unduplicated count of children eligible for school readiness program services.*

(c) *The Florida Partnership for School Readiness, Inc., shall provide information on needs and waiting lists for school readiness program services requested by the School Readiness Program Needs Assessment Conference or individual conference principals, in a timely manner.*

(2) *PRINCIPALS.—The Executive Office of the Governor, the Director of Economic and Demographic Research, and professional staff, who have forecasting expertise, from the Florida Partnership for School Readiness, Inc., the Department of Children and Family Services, the Department of Education, the Senate, and the House of Representatives, or their designees, are the principals of the School Readiness Program Needs Assessment Conference. The principal representing the Executive Office of the Governor shall preside over sessions of the conference.*

Section 6. 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 director of the Office of Tourism, Trade, and Economic Development.*
7. *The president of the Enterprise Florida workforce development board, established under s. 288.9620.*

8. *The chair of the Florida Partnership for School Readiness, Inc.*

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.

(b) *The board of directors shall annually elect a chairperson from among the members appointed by the Governor. The board of directors shall meet at least once each quarter. A member appointed by the Governor may not authorize a designee to attend a meeting of the board in place of the member. The Governor may remove an appointed member for cause, and an absence from three consecutive meetings results in automatic removal, unless the member is excused by the chairperson.*

(c) *Members of the board shall serve without compensation, but are entitled to reimbursement for per diem and travel expenses as provided in s. 112.061.*

Section 7. Subsection (2) of section 624.91, Florida Statutes, is amended to read:

624.91 *The Florida Healthy Kids Corporation Act.—*

(2) *LEGISLATIVE INTENT.—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 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 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 to cooperate with any existing preventive service programs funded by the public or the private sector and to work cooperatively with the Florida Partnership for School Readiness, Inc.*

Section 8. *From the funds appropriated in Specific Appropriation 8 in HB 4201, the sum of \$250,000 is appropriated for use by the Partnership for School Readiness, Inc. Contingent on passage of SB 180 or similar legislation becoming law creating the School Readiness Trust Fund, the Executive Office of the Governor shall transfer this \$250,000 appropriation from the Educational Enhancement Trust Fund to the School Readiness Trust Fund.*

Section 9. *The sum of \$3 million in Specific Appropriation 8A in HB 4201 is transferred from the Educational Enhancement Trust Fund to the School Readiness Trust Fund for coalition incentive grants.*

Section 10. *The sum of \$2 million in Specific Appropriation 130A in HB 4201 is transferred from the Educational Enhancement Trust Fund to the School Readiness Trust Fund for coalition incentive grants.*

Section 11. *From the funds appropriated in Specific Appropriation 8 in HB 4201, the sum of \$125,000 is appropriated for evaluation research design for an instrument to assess school readiness. Contingent on passage of SB 180 or similar legislation becoming law creating the School Readiness Trust Fund, the Executive Office of the Governor shall transfer this \$125,000 appropriation from the Educational Enhancement Trust Fund to the School Readiness Trust Fund.*

Section 12. *From the funds appropriated in Specific Appropriation 8 in HB 4201, the sum of \$427,000 shall be used for coordination of early childhood services.*

Section 13. *From funds appropriated in Specific Appropriation 8 in HB 4201, the sum of \$96,375,328 shall be appropriated for allocation to each eligible school district on the basis of full-time equivalent (FTE) students served consistent with the provisions of section 230.2305, Florida Statutes, except that a school district may not expend more than 15 percent of its allocation for administration of the program. For the purpose of this appropriation, an FTE is defined as 6 hours per day of quality contact time in a developmentally appropriate program for 180 days. The calculation of a district's entitlement shall be based on \$3,200 per FTE. For the 1998-1999 fiscal year, the minimum amount for each school district shall be \$65,000.*

Section 14. *From the funds appropriated in Specific Appropriation 8 in HB 4201, the sum of \$3 million shall be used for the Florida First Start Program. The Commissioner of Education shall allocate these funds to the existing 24 Florida First Start programs in amounts equal to, or proportional to, the amount those programs received in the 1997-1998 fiscal year.*

Section 15. *From the funds appropriated in Specific Appropriation 8 in HB 4201, the sum of \$3,295,172 is provided to continue the Migrant Education for 3 and 4 Year Old's Program.*

Section 16. *From the funds appropriated in Specific Appropriation 8 in HB 4201, the sum of \$300,000 is provided for Children's Resource Fund, Inc.*

Section 17. *Special readiness grants.—*

(1)(a) *The School Readiness Partnership shall make available to parents whose 4-year old child experiences difficulty in achieving readiness objectives a special readiness grant for up to 12 months of early childhood education services from a provider that meets applicable licensure or registration requirements and whose education program is appropriate to fulfill the child's need for remediation. Each special readiness grant will carry a value of no more than \$3,500. This amount will remain constant regardless of the rate charged by the alternative provider.*

(b) *The special readiness grant is not intended to provide an additional year of early childhood services, but, rather, to give options to parents as to the setting in which early childhood services will be delivered. For that reason, 4-year-old children whose parents elect to receive a special readiness grant are expected to enter kindergarten ready to learn upon expiration of this special readiness grant.*

(c) *The special readiness grants shall be available in pilot programs in two counties where School Readiness Coalitions have been formed, one large, urban county and one small, rural or suburban county. The pilot program shall begin September 1, 1998, and continue through August 31, 1999. Up to 200 special readiness grants shall be available in the large county and up to 100 special readiness grants shall be available in the small county.*

(d) *The Office of Program Policy Analysis and Government Accountability must assess both the implementation and the outcome of the pilot project and report findings to the President of the Senate and the Speaker of the House of Representatives by January 1, 2000.*

(2) *The sum of \$1,050,000 is appropriated from the tobacco-settlement revenues to the Executive Office of the Governor for use by the School Readiness Partnership in creating two pilot programs for special readiness grants. This is a nonrecurring appropriation for the 1998-1999 fiscal year.*

Section 18. *The Department of Children and Family Services shall contract with a private nonprofit corporation to implement the Healthy Families Florida Program. The private nonprofit corporation shall be incorporated for the purpose of identifying, funding, supporting, and evaluating programs and community initiatives to improve the development and life outcomes of children and to preserve and strengthen families with a primary emphasis on prevention. The private nonprofit corporation shall implement the program. The program shall work in partnership with existing community-based home visitation and family support resources to provide assistance to families in an effort to prevent child abuse. The program shall be voluntary for participants and shall require the informed consent of the participants at the initial contact. The Kempe Family Stress Checklist shall not be used.*

Section 19. *The sum of \$10 million is appropriated from tobacco-settlement revenues to the Department of Children and Family Services to fund the Healthy Families Program for fiscal year 1998-1999.*

Section 20. *Nothing in this act shall have the effect of increasing the standards that must be met by family child care providers; however, children who receive child care services from family child care providers will participate in school readiness assessment upon entering public or private kindergarten or the first grade.*

Section 21. *By December 31, 1998, the State Coordinating Council for Early Childhood Services shall submit a final report of recommendations regarding early childhood health care, child care, and education programs to the School Readiness Governing Board. The State Coordinating Council for Early Childhood Services shall cease to exist after December 31, 1998.*

Section 22. *Effective July 1, 1998, subsection (4) of section 411.222, Florida Statutes, is repealed.*

Section 23. *Except as otherwise expressly 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 school readiness; creating the Florida Partnership for School Readiness, Inc.; creating the School Readiness Governing Board to operate as the board of directors of the School Readiness Partnership; providing School Readiness Partnership and governing board responsibilities and duties; providing membership of the governing board and meeting requirements; providing that the School Readiness Partnership is subject to public records and public meeting requirements; providing for hiring of certain employees; providing powers as a corporation; requiring the partnership to prepare a system for measuring school readiness; specifying objectives to be measured by such system; requiring the partnership to contract with an independent entity to evaluate the measurement system; requiring the partnership to make recommendations to the Governor and the State Board of Education; authorizing the partnership to adopt rules; providing for voluntary establishment of a School Readiness Coalition in each county; specifying services to be provided by coalitions; providing for designation and approval of a fiscal agent; providing for coalition initiation grants to develop school readiness plans; providing for award of an incentive bonus; providing requirements for such plans; providing for parental choice; providing for evaluation and performance measures; providing responsibility for implementation; providing for phase-out of the State Coordinating Council for Early Childhood Services; providing for a School Readiness Needs Assessment Conference; creating s. 411.05, F.S.; requiring the Department of Education to adopt the school readiness screening instruments developed by the School Readiness Partnership and to require their use by the school districts; creating s. 411.06, F.S.; recognizing the nationwide Parents as Teachers Program; establishing the Florida Parents as Teachers Program under the jurisdiction of the School Readiness Partnership; providing program requirements; providing that federal requirements control in the case of conflict; exempting family child care providers from increased standards; amending s. 624.91, F.S.; requiring the Healthy Kids Corporation to work cooperatively with the Florida Partnership for School Readiness, Inc.; amending s. 414.026, F.S.; requiring the chair of the Partnership for School Readiness, Inc., to serve on the WAGES Program State Board of Directors; repealing s. 411.222(4), F.S., relating to the State Coordinating Council for Early Childhood Services; providing appropriations; providing for special readiness grants in pilot programs in two counties; requiring the Department of Children and Family Services to contract with a private

nonprofit corporation to provide the Healthy Families Florida Program; providing an effective date.

WHEREAS, the bridge to opportunity for every child must be anchored in a healthy body and a healthy mind and must lead to the child's readiness to learn in school, and

WHEREAS, it is widely acknowledged that entering school ready to learn is crucial to a child's success both in school and in life, and

WHEREAS, the state's system of public education could better perform its mission of educating its K-12 students if more students enter school healthy and ready to learn, and

WHEREAS, as emphasized by the Governor, the President of the Senate, and the Speaker of the House of Representatives, a child's health in both body and mind is essential to the child's ability to learn, and

WHEREAS, we can make great strides to improve school readiness by addressing child care, child health, and school readiness education in one single, accountable continuum, NOW, THEREFORE,

On motion by Senator Holzendorf, by two-thirds vote **CS for CS for HB's 683 and 2131** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

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

Nays—None

SENATOR BANKHEAD PRESIDING

Consideration of **CS for SB 2080** was deferred.

HB 1747—A bill to be entitled An act relating to pari-mutuel wagering; amending s. 550.2625, F.S.; revising standing requirements for stallion awards; amending s. 550.09512, F.S.; repealing the expiration of that section; amending s. 550.09514, F.S., relating to greyhound purse requirements; amending s. 26, ch. 96-364, Laws of Florida, relating to tax on handle of live thoroughbred performances, live jai alai performances, and intertrack wagering; providing effective dates.

—was read the second time by title.

THE PRESIDENT PRESIDING

The Committee on Regulated Industries recommended the following amendment which was moved by Senator Scott:

Amendment 1 (with title amendment)—On page 3, line 23 through page 5, line 4, delete those lines and insert:

Section 3. Subsection (2) of section 550.09514, Florida Statutes, is amended to read:

550.09514 Greyhound dogracing taxes; purse requirements.—

(2)(a) The division shall determine for each greyhound permitholder the annual purse percentage rate of live handle for the state fiscal year 1993-1994 by dividing total purses paid on live handle by the permitholder, exclusive of payments made from outside sources, during the 1993-1994 state fiscal year by the permitholder's live handle for the 1993-1994 state fiscal year. Each permitholder shall pay as purses for live races conducted during its current race meet a percentage of its live

handle not less than the percentage determined under this paragraph, exclusive of payments made by outside sources, for its 1993-1994 state fiscal year.

(b)1. Except as otherwise provided herein, in addition to the minimum purse percentage required by paragraph (a), each permitholder shall pay as purses, for fiscal year 1996-1997, an amount equal to 75 percent of the permitholder's tax credit pursuant to s. 550.0951(1).

2. Except as otherwise set forth herein, in addition to the minimum purse percentage required by paragraph (a), beginning July 1, 1997, each permitholder shall pay as purses an amount equal to 75 percent of the daily license fees paid by each permitholder for the 1994-1995 fiscal year. *This purse supplement shall be disbursed weekly during the permitholder's race meet and determined by dividing the purse supplement by the number of performances approved for the permitholder pursuant to its annual license and multiplied by the number of performances conducted each week.* For the greyhound permitholders in the county where there are two greyhound permitholders located as specified in s. 550.615(6), such permitholders shall pay in the aggregate an amount equal to 75 percent of the daily license fees paid by such permitholders for the 1994-1995 fiscal year. These permitholders shall be jointly and severally liable for such purse payments.

The additional purses provided by this paragraph must be used exclusively for purses other than stakes. The division shall conduct audits necessary to ensure compliance with this section.

(c)1. The division shall require sufficient documentation from each greyhound permitholder regarding purses paid on live racing and greyhound intertrack and simulcast broadcasts to assure that the annual purse percentage rates paid by each permitholder on the intertrack or simulcast broadcasts are not reduced below those paid during the 1993-1994 state fiscal year. In addition, each greyhound permitholder when conducting *at least three live performances during any week live races* shall pay purses on wagers it accepts as a guest track on intertrack and simulcast greyhound races at the same rate as it pays on live races. Each greyhound permitholder acting as a host track shall pay purses, at the same rate as it pays on live races, on wagers accepted on *greyhound such* races at a guest track which is not conducting live racing and is located within the same market area as the host.

2. *For the purposes of this section, the term "net proceeds" means the amount of contractual fee received by the host for its services excluding the payment of pari-mutuel taxes and the transmission cost of sending the broadcasts. One quarter of the net proceeds received by a greyhound host track on greyhound simulcast races shall be paid as purses at the host track. Whenever net proceeds are retained by a greyhound host track on greyhound intertrack broadcasts sent outside of its market area, the host track shall pay purses at the host track in an amount not less than .75 percent of the handle on such greyhound races at the guest facility.*

(d) *Each greyhound permitholder shall, during the permitholder's race meet, supply kennel operators and the Division of Pari-Mutuel Wagering with a weekly report showing purses paid on live greyhound races and all greyhound intertrack and simulcast broadcasts, including both as a guest and a host together with the handle or commission calculations on which such purses were paid, so that the kennel operators may determine statutory and contractual compliance.*

(e) *Each greyhound permitholder shall make direct payment of purses to the greyhound owners who have filed with such permitholder appropriate federal taxpayer identification information based on the percentage amount agreed upon between the kennel operator and the greyhound owner.*

(f)(~~d~~) *Each greyhound permitholder who conducted live racing in state fiscal year 1993-1994 shall submit to the division by September 1, 1996, purse payment records and copies of purse contracts pertaining to greyhound racing that were in effect during state fiscal year 1993-1994.*

And the title is amended as follows:

On page 1, delete line 7 and insert: providing a formula for the distribution of greyhound purses; requiring greyhound permitholders to produce weekly purse payment reports; requiring greyhound permitholders to make direct payment of purses to greyhound owners based on certain amounts;

The Committee on Ways and Means recommended the following substitute amendment which was moved by Senator Scott and failed:

Amendment 2 (with title amendment)—On page 3, line 23 through page 5, line 4, delete those lines and insert:

Section 3. Subsection (2) of section 550.09514, Florida Statutes, is amended to read:

550.09514 Greyhound dogracing taxes; purse requirements.—

(2)(a) The division shall determine for each greyhound permitholder the annual purse percentage rate of live handle for the state fiscal year 1993-1994 by dividing total purses paid on live handle by the permitholder, exclusive of payments made from outside sources, during the 1993-1994 state fiscal year by the permitholder's live handle for the 1993-1994 state fiscal year. Each permitholder shall pay as purses for live races conducted during its current race meet a percentage of its live handle not less than the percentage determined under this paragraph, exclusive of payments made by outside sources, for its 1993-1994 state fiscal year.

(b)1. Except as otherwise provided herein, in addition to the minimum purse percentage required by paragraph (a), each permitholder shall pay as purses, for fiscal year 1996-1997, an amount equal to 75 percent of the permitholder's tax credit pursuant to s. 550.0951(1).

2. Except as otherwise set forth herein, in addition to the minimum purse percentage required by paragraph (a), beginning July 1, 1997, each permitholder shall pay as purses an amount equal to 75 percent of the daily license fees paid by each permitholder for the 1994-1995 fiscal year. *This purse supplement shall be disbursed weekly during the permitholder's race meet and determined by dividing the purse supplement by the number of performances approved for the permitholder pursuant to its annual license and multiplied by the number of performances conducted each week.* For the greyhound permitholders in the county where there are two greyhound permitholders located as specified in s. 550.615(6), such permitholders shall pay in the aggregate an amount equal to 75 percent of the daily license fees paid by such permitholders for the 1994-1995 fiscal year. These permitholders shall be jointly and severally liable for such purse payments.

The additional purses provided by this paragraph must be used exclusively for purses other than stakes. The division shall conduct audits necessary to ensure compliance with this section.

~~(c)1. The division shall require sufficient documentation from each greyhound permitholder regarding purses paid on live racing and greyhound intertrack and simulcast broadcasts to assure that the annual purse percentage rates paid by each permitholder on the intertrack or simulcast broadcasts are not reduced below those paid during the 1993-1994 state fiscal year. In addition, Each greyhound permitholder when conducting at least three live performances during any week live races shall pay purses in that week on wagers it accepts as a guest track on intertrack and simulcast greyhound races at the same rate as it pays on live races. Each greyhound permitholder when conducting at least three live performances during any week acting as a host track shall pay purses in that week, at the same rate as it pays on live races, on wagers accepted on greyhound such races at a guest track which is not conducting live racing and is located within the same market area as the greyhound permitholder conducting at least three live performances during any week host.~~

2. *For the purposes of this subparagraph, the term "net proceeds" means the amount of contractual fee received by the host for its services excluding the payment of pari-mutuel taxes and the transmission cost of sending the broadcasts. One quarter of the net proceeds received by a greyhound host track on greyhound simulcast races shall be paid as purses at the host track. Whenever net proceeds are retained by a greyhound host track on greyhound intertrack broadcasts sent outside of its market area, the host track shall pay purses at the host track in an amount not less than .75 percent of the handle on such greyhound races at the guest facility.*

(d) *The division shall require sufficient documentation from each greyhound permitholder regarding purses paid on live racing to assure that the annual purse percentage rates paid by each permitholder on the live races are not reduced below those paid during the 1993-94 state fiscal year. The division shall require sufficient documentation from each greyhound permitholder to assure that the purses paid by each permitholder*

on the greyhound intertrack and simulcast broadcasts are in compliance with the requirements of paragraph (c) of this section.

~~(e)(d)~~ Each greyhound permitholder who conducted live racing in state fiscal year 1993-1994 shall submit to the division by September 1, 1996, purse payment records and copies of purse contracts pertaining to greyhound racing that were in effect during state fiscal year 1993-1994.

(f) Each greyhound permitholder shall, during the permitholder's race meet, supply kennel operators and the Division of Pari-Mutuel Wagering with a weekly report showing purses paid on live greyhound races and all greyhound intertrack and simulcast broadcasts, including both as a guest and a host together with the handle or commission calculations on which such purses were paid, so that the kennel operators may determine statutory and contractual compliance.

(g) Each greyhound permitholder shall make direct payment of purses to the greyhound owners who have filed with such permitholder appropriate federal taxpayer identification information based on the percentage amount agreed upon between the kennel operator and the greyhound owner.

And the title is amended as follows:

On page 1, delete line 7 and insert: providing a formula for the distribution of greyhound purses; requiring greyhound permitholders to produce weekly purse payment reports; requiring greyhound permitholders to make direct payment of purses to greyhound owners based on certain amounts;

The question recurred on **Amendment 1** which failed.

The Committee on Ways and Means recommended the following amendments which were moved by Senator Scott and failed:

Amendment 3 (with title amendment)—On page 5, between lines 4 and 5, insert:

Section 4. Paragraph (e) is added to subsection (2) of section 550.09514, Florida Statutes, to read:

550.09514 Greyhound dogracing taxes; purse requirements.—

(2)

(e) At the request of a majority of kennel operators under contract with a greyhound permitholder, the permitholder shall make deductions from purses paid to each kennel operator electing such deduction and shall make a direct payment of such deductions to the local association of greyhound kennel operators formed by a majority of kennel operators under contract with the permitholder. The amount of the deduction shall be at least 1 percent of purses, as determined by the local association of greyhound kennel operators. No deductions will be taken pursuant to this paragraph without a kennel operator's specific approval before or after the effective date of this act.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 7, after the semicolon (;) insert: amending s. 550.09514, F.S.; providing for a greyhound permitholder, under certain conditions, to make deductions from purses paid to kennel operators and to make payments to a local association of greyhound kennel operators;

Amendment 4 (with title amendment)—On page 5, between lines 4 and 5, insert:

Section 4. Section 550.6308, Florida Statutes, is created to read:

550.6308 Limited intertrack wagering license.—In recognition of the economic importance of the thoroughbred breeding industry to this state, its positive impact on tourism, and of the importance of a permanent thoroughbred sales facility as a key focal point for the activities of the industry, a limited license to conduct intertrack wagering is established to ensure the continued viability and public interest in thoroughbred breeding in Florida.

(1) Upon application to the division on or before January 31 of each year, any person that is licensed to conduct public sales of thoroughbred horses pursuant to s. 535.01, that has conducted at least 15 days of

thoroughbred horse sales at a permanent sales facility in this state for at least 3 consecutive years, and that has conducted at least 1 day of non-wagering thoroughbred racing in this state, with a purse structure of at least \$250,000 per year for 2 consecutive years before such application, shall be issued a license to conduct intertrack wagering for thoroughbred racing for up to 21 days in connection with thoroughbred sales, to conduct intertrack wagering at such permanent sales facility between November 1 and May 8, to conduct intertrack wagering at such permanent sales facility between May 9 and October 31 at such times and on such days as any thoroughbred, jai alai, or a greyhound permitholder in the same county is not conducting live performances, and to conduct intertrack wagering under the provisions of this subsection during the weekend of the Kentucky Derby, the Preakness, the Belmont, and a Breeders' Cup Meet that is conducted before November 1 and after May 8, subject to conditions set forth in this section but no more than one such license may be issued and no such license may be issued for a facility located within 50 miles of any thoroughbred permitholder's track.

(2) If more than one application is submitted for such license, the division shall determine which applicant shall be granted the license. In making its determination, the division shall grant the license to the applicant demonstrating superior capabilities, as measured by the length of time the applicant has been conducting thoroughbred sales within this state or elsewhere, the applicant's total volume of thoroughbred horse sales, within this state or elsewhere, the length of time the applicant has maintained a permanent thoroughbred sales facility in this state, and the quality of the facility.

(3) The applicant must comply with the provisions of ss. 550.125 and 550.1815.

(4) Intertrack wagering under this section may be conducted only on thoroughbred horse racing.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 7, after the semicolon (;) insert: creating s. 550.6308, F.S.; providing for issuance of a limited intertrack wagering license;

Senator Scott moved the following amendment which was adopted:

Amendment 5 (with title amendment)—On page 3, line 23 through page 5, line 4, delete those lines and insert:

Section 3. Subsection (2) of section 550.09514, Florida Statutes, is amended to read:

550.09514 Greyhound dogracing taxes; purse requirements.—

(2)(a) The division shall determine for each greyhound permitholder the annual purse percentage rate of live handle for the state fiscal year 1993-1994 by dividing total purses paid on live handle by the permitholder, exclusive of payments made from outside sources, during the 1993-1994 state fiscal year by the permitholder's live handle for the 1993-1994 state fiscal year. Each permitholder shall pay as purses for live races conducted during its current race meet a percentage of its live handle not less than the percentage determined under this paragraph, exclusive of payments made by outside sources, for its 1993-1994 state fiscal year.

(b)1. Except as otherwise provided herein, in addition to the minimum purse percentage required by paragraph (a), each permitholder shall pay as purses, for fiscal year 1996-1997, an amount equal to 75 percent of the permitholder's tax credit pursuant to s. 550.0951(1).

2. Except as otherwise set forth herein, in addition to the minimum purse percentage required by paragraph (a), beginning July 1, 1997, each permitholder shall pay as purses an annual amount equal to 75 percent of the daily license fees paid by each permitholder for the 1994-1995 fiscal year. This purse supplement shall be disbursed weekly during the permitholder's race meet in an amount determined by dividing the annual purse supplement by the number of performances approved for the permitholder pursuant to its annual license and multiplying that amount by the number of performances conducted each week. For the greyhound permitholders in the county where there are two greyhound permitholders located as specified in s. 550.615(6), such permitholders shall pay in the aggregate an amount equal to 75 percent of the daily license fees paid by such permitholders for the 1994-1995 fiscal year.

These permitholders shall be jointly and severally liable for such purse payments.

The additional purses provided by this paragraph must be used exclusively for purses other than stakes. The division shall conduct audits necessary to ensure compliance with this section.

(c)1. ~~The division shall require sufficient documentation from each greyhound permitholder regarding purses paid on live racing and greyhound intertrack and simulcast broadcasts to assure that the annual purse percentage rates paid by each permitholder on the intertrack or simulcast broadcasts are not reduced below those paid during the 1993-1994 state fiscal year. In addition, Each greyhound permitholder when conducting at least three live performances during any week live races shall pay purses in that week on wagers it accepts as a guest track on intertrack and simulcast greyhound races at the same rate as it pays on live races. Each greyhound permitholder when conducting at least three live performances during any week acting as a host track shall pay purses in that week, at the same rate as it pays on live races, on wagers accepted on greyhound such races at a guest track which is not conducting live racing and is located within the same market area as the greyhound permitholder conducting at least three live performances during any week host.~~

2. Each host greyhound permitholder shall pay purses on its simulcast and intertrack broadcasts of greyhound races to guest facilities that are located outside its market area in an amount equal to one quarter of an amount determined by subtracting the transmission costs of sending the simulcast or intertrack broadcasts from an amount determined by adding the fees received for greyhound simulcast races plus 3 percent of the greyhound intertrack handle at guest facilities that are located outside the market area of the host and that paid contractual fees to the host for such broadcasts of greyhound races.

(d) The division shall require sufficient documentation from each greyhound permitholder regarding purses paid on live racing to assure that the annual purse percentage rates paid by each permitholder on the live races are not reduced below those paid during the 1993-94 state fiscal year. The division shall require sufficient documentation from each greyhound permitholder to assure that the purses paid by each permitholder on the greyhound intertrack and simulcast broadcasts are in compliance with the requirements of paragraph (c) of this section.

(e)(4) Each greyhound permitholder who conducted live racing in state fiscal year 1993-1994 shall submit to the division by September 1, 1996, purse payment records and copies of purse contracts pertaining to greyhound racing that were in effect during state fiscal year 1993-1994.

(f) Each greyhound permitholder shall, during the permitholder's race meet, supply kennel operators and the Division of Pari-Mutuel Wagering with a weekly report showing purses paid on live greyhound races and all greyhound intertrack and simulcast broadcasts, including both as a guest and a host together with the handle or commission calculations on which such purses were paid and the transmission costs of sending the simulcast or intertrack broadcasts, so that the kennel operators may determine statutory and contractual compliance.

(g) Each greyhound permitholder shall make direct payment of purses to the greyhound owners who have filed with such permitholder appropriate federal taxpayer identification information based on the percentage amount agreed upon between the kennel operator and the greyhound owner.

(h) At the request of a majority of kennel operators under contract with a greyhound permitholder, the permitholder shall make deductions from purses paid to each kennel operator electing such deduction and shall make a direct payment of such deductions to the local association of greyhound kennel operators formed by a majority of kennel operators under contract with the permitholder. The amount of the deduction shall be at least 1 percent of purses, as determined by the local association of greyhound kennel operators. No deductions may be taken pursuant to this paragraph without a kennel operator's specific approval before or after the effective date of this act.

Section 4. Section 550.6308, Florida Statutes, is created to read:

550.6308 Limited intertrack wagering license.—In recognition of the economic importance of the thoroughbred breeding industry to this state, its positive impact on tourism, and of the importance of a permanent

thoroughbred sales facility as a key focal point for the activities of the industry, a limited license to conduct intertrack wagering is established to ensure the continued viability and public interest in thoroughbred breeding in Florida.

(1) Upon application to the division on or before January 31 of each year, any person who is licensed to conduct public sales of thoroughbred horses pursuant to s. 535.01, who has conducted at least 15 days of thoroughbred horse sales at a permanent sales facility in this state for at least 3 consecutive years, and who has conducted at least 1 day of non-wagering thoroughbred racing in this state, with a purse structure of at least \$250,000 per year for 2 consecutive years before such application, shall be issued a license to conduct intertrack wagering for thoroughbred racing for up to 21 days in connection with thoroughbred sales, to conduct intertrack wagering at such permanent sales facility between November 1 and May 8, to conduct intertrack wagering at such permanent sales facility between May 9 and October 31 at such times and on such days as any thoroughbred, jai alai, or a greyhound permitholder in the same county is not conducting live performances, and to conduct intertrack wagering under the provisions of this subsection during the weekend of the Kentucky Derby, the Preakness, the Belmont, and a Breeders' Cup Meet that is conducted before November 1 and after May 8, subject to conditions set forth in this section but no more than one such license may be issued and no such license may be issued for a facility located within 50 miles of any thoroughbred permitholder's track.

(2) If more than one application is submitted for such license, the division shall determine which applicant shall be granted the license. In making its determination, the division shall grant the license to the applicant demonstrating superior capabilities, as measured by the length of time the applicant has been conducting thoroughbred sales within this state or elsewhere, the applicant's total volume of thoroughbred horse sales, within this state or elsewhere, the length of time the applicant has maintained a permanent thoroughbred sales facility in this state, and the quality of the facility.

(3) The applicant must comply with the provisions of ss. 550.125 and 550.1815.

(4) Intertrack wagering under this section may be conducted only on thoroughbred horse racing.

Section 5. Subsection (1) of section 550.0951, Florida Statutes is amended to read:

550.0951 Payment of daily license fee and taxes.—

(1)(a) DAILY LICENSE FEE.—Each person engaged in the business of conducting race meetings or jai alai games under this chapter, hereinafter referred to as the "permitholder," "licensee," or "permittee," shall pay to the division, for the use of the division, a daily license fee on each live or simulcast pari-mutuel event of \$100 for each horserace and \$80 for each dograce and \$40 for each jai alai game conducted at a racetrack or fronton licensed under this chapter. Effective October 1, 1996, in addition to the tax exemption specified in s. 550.09514(1) of \$360,000 or \$500,000 per greyhound permitholder per state fiscal year, each greyhound permitholder shall receive in the current state fiscal year a tax credit equal to the number of live greyhound races conducted in the previous state fiscal year times the daily license fee specified for each dograce in this subsection applicable for the previous state fiscal year. This tax credit and the exemption in s. 550.09514(1) shall be applicable to the tax on live handle under subsection (3) except during any charity or scholarship performances conducted pursuant to s. 550.0351. Effective October 1, 1996, each permitholder shall pay daily license fees not to exceed \$500 per day on any simulcast races or games on which such permitholder accepts wagers regardless of the number of out-of-state events taken or the number of out-of-state locations from which such events are taken. This license fee shall be deposited with the Treasurer to the credit of the Pari-mutuel Wagering Trust Fund.

(b) Each permitholder authorized a maximum tax savings of \$500,000 per state fiscal year pursuant to s. 550.09514(1) or the greyhound permitholder that had the lowest live handle during the preceding state fiscal year, which cannot utilize the full amount of the daily license fee credit, may, after notifying the division in writing, elect once per state fiscal year on a form provided by the division to transfer such credit or any portion thereof to any greyhound permitholder which acts as a host track to such permitholder for the purpose of intertrack wagering. Once an election to transfer such credit is filed with the division it shall not be

rescinded. The division shall disapprove the credit transfer when the amount of credit or portion thereof is unavailable to the transferring permitholder or when the permitholder, who is entitled to transfer the credit or who is entitled to receive the credit, owes taxes to the state pursuant to a deficiency letter or administrative complaint issued by the division. Upon approval of the transfer by the division, the transferred tax credit shall be effective for the first performance of the next biweekly pay period as specified in subsection (5). The daily license fee credit transferred to such host track may be applied by such host track against its taxes on live racing as provided in this subsection. The greyhound permitholder host track to which such daily license fee credit is transferred shall reimburse such permitholder the exact monetary value of such transferred credit as actually applied against the taxes of the host track. The division shall ensure that all transfers of credit are made in accordance with this subsection and shall have the authority to adopt rules to ensure the implementation of this section.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, delete line 7 and insert: providing a formula for the distribution of greyhound purses; requiring greyhound permitholders to produce weekly purse payment reports; requiring greyhound permitholders to make direct payment of purses to greyhound owners based on certain amounts; providing for a greyhound permitholder, under certain conditions, to make deductions from purses paid to kennel operators and to make payments to a local association of greyhound kennel operators; creating s. 550.6308, F.S.; providing for issuance of a limited intertrack wagering license; amending s. 550.0951, F.S.; authorizing certain permitholders to transfer daily license fee tax credits to other permitholders and to receive reimbursement;

On motion by Senator Scott, by two-thirds vote **HB 1747** as amended was read the third time by title and further consideration was deferred.

SENATOR BANKHEAD PRESIDING

On motion by Senator Silver, by two-thirds vote **CS for HB 3663** was withdrawn from the Committees on Regulated Industries; and Ways and Means.

On motion by Senator Silver—

CS for HB 3663—A bill to be entitled An act relating to jai alai permitholders; amending s. 550.01215, F.S.; allowing any jai alai permitholder to apply, during a specified period, for licensure to conduct performances in fiscal year 1998-1999; requiring the Division of Pari-mutuel Wagering to issue the license within a specified period of time; amending s. 550.09511, F.S.; qualifying the provision that jai alai permitholders should pay their fair share of taxes on pari-mutuel wagering; providing that the amount of taxes on handle and admissions which is imposed on such a permitholder should not exceed the permitholder's operating earnings and that permitholders may apply any excess amount against future taxes due; defining the term "operating earnings"; providing an effective date.

—a companion measure, was substituted for **SB 1080** and read the second time by title. On motion by Senator Silver, by two-thirds vote **CS for HB 3663** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Bankhead	Diaz-Balart	Jones	Myers
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	
Crist	Holzendorf	Meadows	

Nays—3

Dudley	Horne	Ostalkiewicz
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Consideration of **SJR 2140**, **SB 1034** and **HB 4153** was deferred.

THE PRESIDENT PRESIDING

LOCAL BILL CALENDAR

MOTION

On motion by Senator Childers, by two-thirds vote **CS for SB 2132** was removed from the Special Order Calendar and placed on the Local Bill Calendar.

SB 1520—A bill to be entitled An act relating to Hillsborough County; authorizing the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation to issue an alcoholic beverage license to the Museum of Science and Industry Foundation, Inc., for use at the present location of the Museum of Science and Industry for special events only; providing for payment of the license fee; providing for sale of beverages for consumption on premises; prohibiting sales for consumption off premises; providing for transfer of the license; providing an effective date.

—was read the second time by title. On motion by Senator Lee, by two-thirds vote **SB 1520** 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

SB 2586—A bill to be entitled An act relating to Hillsborough County; amending chapter 96-519, Laws of Florida; revising the Hillsborough County Civil Service Act to exempt the judiciary from the act; providing for review of certain actions adversely affecting certain employees within the Administrative Office of the Courts; providing an effective date.

—was read the second time by title. On motion by Senator Lee, by two-thirds vote **SB 2586** 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

SB 2594—A bill to be entitled An act relating to Hillsborough County; relating to the regulation of providers that transport transportation disadvantaged clients under a contract with the community transportation coordinator; providing that the notice of award of a contract between the community transportation coordinator and a transportation pro-

vider establishes public convenience and necessity as required for obtaining a certificate of public convenience and necessity; authorizing the community transportation coordinator to exempt certain transportation providers from obtaining a certificate of public convenience and necessity from the Hillsborough County Public Transportation Commission when specified conditions have been met; providing an effective date.

—was read the second time by title. On motion by Senator Hargrett, by two-thirds vote **SB 2594** 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

SB 2596—A bill to be entitled An act relating to Hillsborough County; authorizing the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation to issue an alcoholic beverage license to the Circulo Cubano de Tampa, Inc., for use at its present location only; providing for payment of the license fee; providing that license is not transferable; providing for sale of beverages for consumption on the premises and prohibiting sales for consumption off the premises; providing an effective date.

—was read the second time by title. On motion by Senator Hargrett, by two-thirds vote **SB 2596** 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

SB 2598—A bill to be entitled An act relating to Hillsborough County; authorizing the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation to issue an alcoholic beverage license to La Sociedad La Union Marti-Maceo, Inc., for use at its present location only; providing for payment of the license fee; providing that license is not transferable; providing for sale of beverages for consumption on the premises and prohibiting sales for consumption off the premises; providing an effective date.

—was read the second time by title. On motion by Senator Hargrett, by two-thirds vote **SB 2598** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Casas	Dudley	Hargrett
Bankhead	Childers	Dyer	Harris
Bronson	Clary	Forman	Holzendorf
Brown-Waite	Cowin	Geller	Horne
Burt	Crist	Grant	Jones
Campbell	Diaz-Balart	Gutman	Kirkpatrick

Klein	Lee	Ostalkiewicz	Sullivan
Kurth	McKay	Rossin	Thomas
Latvala	Meadows	Scott	Turner
Laurent	Myers	Silver	Williams

Nays—None

SB 2600—A bill to be entitled An act relating to Hillsborough County; authorizing the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation to issue an alcoholic beverage license to the Italian Club of Tampa, Inc., for use at its present location only; providing for payment of the license fee; providing that license is not transferable; providing for sale of beverages for consumption on the premises and prohibiting sales for consumption off the premises; providing an effective date.

—was read the second time by title. On motion by Senator Hargrett, by two-thirds vote **SB 2600** 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

SB 2602—A bill to be entitled An act relating to Hillsborough County; authorizing the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation to issue an alcoholic beverage license to The Centro Asturiano de Tampa, Inc., for use at its present location only; providing for payment of the license fee; providing that license is not transferable; providing for sale of beverages for consumption on the premises and prohibiting sales for consumption off the premises; providing an effective date.

—was read the second time by title. On motion by Senator Hargrett, by two-thirds vote **SB 2602** 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

SB 2672—A bill to be entitled An act relating to Volusia County; creating the Volusia County Health Care District; providing taxing authority; specifying use for taxes collected; providing for a board of directors; reducing millage rates for certain existing special taxing districts; prohibiting the sale or lease of certain hospital facilities; allowing certain exceptions to the West Volusia Hospital Authority in regard to leases with Memorial Health Systems; repealing the tax levying and collecting authority of certain specified special taxing districts; providing for a study; requiring a study report by a specified date; requiring the Auditor General to contract for a financial-related audit for each of the hospital districts in Volusia County for specified periods; providing

for a report to the Volusia County Legislative Delegation; providing for the appointment of specified persons to assist the Auditor General; providing contents of the audit; providing a referendum; providing an effective date.

—was read the second time by title. On motion by Senator Burt, by two-thirds vote **SB 2672** 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

SB 2734—A bill to be entitled An act relating to Pinellas County; amending chapter 75-491, Laws of Florida, as amended; providing that property not receiving any benefits from the Pinellas Park Water Management District may be removed from the district by amendment to its charter; removing provisions which provide a method for deletion of taxable property from the district's tax rolls if over 50 percent of the property drains outside the district; providing an effective date.

—was read the second time by title. On motion by Senator Latvala, by two-thirds vote **SB 2734** 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

HB 3433—A bill to be entitled An act relating to the East County Water Control District, Lee and Hendry counties; amending chapter 87-477, Laws of Florida, as amended; providing for a change in the date of election of members of the district board of supervisors for each seat to conform with the state general election cycle; providing for extension of terms of the current members of the district board of supervisors; providing an effective date.

—was read the second time by title. On motion by Senator Rossin, by two-thirds vote **HB 3433** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

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	Myers

Ostalkiewicz	Scott	Sullivan	Turner
Rossin	Silver	Thomas	Williams

Nays—None

HB 3435—A bill to be entitled An act relating to Lee County Mosquito Control District, an independent special district; providing for a codified charter of its special acts in a single act and repealing all prior special acts relating to the Lee County Mosquito Control District as required by chapter 97-255, Laws of Florida; creating and establishing a mosquito control district in said county and excepting therefrom certain territory of said county and fixing the boundaries of said district; dividing said district into areas for the purpose of electing members of the board of commissioners; providing for the terms of office and qualifications of the members of the board of commissioners and providing the method and times of elections; prescribing the powers and duties of the board; setting the compensation of the board; providing for audit of books and time of meetings; providing procedure for adopting a budget; giving the board the power to tax and to levy assessments for special benefits and providing the methods, procedure, and limitations thereon; authorizing the board to contract and cooperate with county, state, and other governmental agencies in regard to mosquito control or suppression; charging the Lee County Health Unit or Health Department with the responsibility with reference to mosquito control; determining the status of employees and providing a method by which such responsibility shall terminate and declaring the legislative policy with reference thereto; providing penalty for damage to property; providing that the records shall be filed in the public records of Lee County; providing limitations of actions; providing for the repeal of all special acts relating to the Lee County Mosquito Control District; granting to the district created herein such powers as are provided for mosquito control districts under the laws of Florida; providing for severability; providing that such act shall be construed liberally; providing an effective date.

—was read the second time by title. On motion by Senator Rossin, by two-thirds vote **HB 3435** 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

HB 3513—A bill to be entitled An act relating to the Lee County Hyacinth Control District, an independent district; providing for a codified charter of its special acts in a single act and repealing all prior special acts relating to the Lee County Hyacinth Control District as required by chapter 97-255, Laws of Florida; providing for continuation of a hyacinth control district in the county from the effective date of this act; providing for a governing board; prescribing the powers, organization, and duties of the board; setting the compensation of the board; providing for audit of books and time of meetings; providing for a budget; granting eminent domain; giving the board the power to tax and to levy assessments for special benefits and providing the methods, procedures, and limitations thereon; providing for a limited millage; providing for employees; providing for cooperation with local, state, and federal agencies and entities; providing that the legal authority for the Lee County Hyacinth Control District shall be construed liberally to accomplish continuation of the work of the Lee County Hyacinth Control District; providing for the repeal of all special acts relating to the Lee County Hyacinth Control District; providing an effective date.

—was read the second time by title. On motion by Senator Rossin, by two-thirds vote **HB 3513** 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

HB 3541—A bill to be entitled An act relating to Brevard County; amending chapter 94-442, Laws of Florida, as amended by chapter 95-499, Laws of Florida; revising legislative intent; clarifying the limits on and the procedures for imposing certain distribution differential surcharge rates by a potable water utility; providing an effective date.

—was read the second time by title. On motion by Senator Kurth, by two-thirds vote **HB 3541** 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

HB 3543—A bill to be entitled An act relating to the Bonita Springs Fire Control and Rescue District, Lee County; providing for a codification of special laws relating to the Bonita Springs Fire Control and Rescue District pursuant to s. 191.015, F.S.; providing legislative intent; codifying reenacting and amending all prior special acts; creating and establishing a fire control and rescue district in said county and fixing the boundaries of district; providing for a governing body; prescribing the powers of the board; authorizing the board to establish and maintain emergency medical services and equipment; authorizes the board to make rules and regulations; providing procedure for adopting a budget, giving the board the power to tax; providing procedure for assessing and collecting taxes; limiting tax collector's responsibility; providing for payment of expenses; requiring the treasurer to post a bond; providing that such act shall be construed liberally; providing for severability; providing for the repeal of chapters 65-1828, 68-90, 69-1242, 81-414, 96-500, and 96-545, Laws of Florida, and section 6 of 87-447, Laws of Florida; providing an effective date.

—was read the second time by title. On motion by Senator Dudley, by two-thirds vote **HB 3543** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

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	Myers

Ostalkiewicz	Scott	Sullivan	Turner
Rossin	Silver	Thomas	Williams

Nays—None

HB 3637—A bill to be entitled An act relating to the Hillsborough County School District; providing for a seven-member district school board, with five members elected from single-member residence areas and two members elected from the county at large, notwithstanding the provisions of s. 230.061, 230.10, and 230.105, F.S.; providing for implementation at specified elections; providing that school board members shall continue to be elected on a nonpartisan basis and shall be elected in conjunction with the first primary and general elections; providing qualifying and other applicable election procedures; providing for future reapportionment of the single-member residence areas; repealing ss. 1, 2, 3, 4, 5, 6, and 7 of chapter 67-945, Laws of Florida, as amended by chapter 75-393, Laws of Florida, relating to the district school board; providing for a referendum; providing an effective date.

—was read the second time by title. On motion by Senator Lee, by two-thirds vote **HB 3637** 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

HB 3647—A bill to be entitled An act relating to the City of Jacksonville, amending chapter 92-341, Laws of Florida, as amended; amending the Charter of the City of Jacksonville, providing that the mayor's veto power shall not apply to zoning variances and quasi-judicial decisions by the city council; providing an effective date.

—was read the second time by title. On motion by Senator Horne, by two-thirds vote **HB 3647** 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

HB 3649—A bill to be entitled An act relating to the City of Jacksonville Beach, Duval County; amending chapter 27643, Laws of Florida, 1951, as amended, the Employees' Retirement System of the City of Jacksonville Beach; specifying that benefits may be payable to a participant's Deferred Retirement Option Program; specifying that the option selection for payment of benefits shall be final at the time a benefit payment is assigned to the Deferred Retirement Option Program; specifying death benefits applicable to Deferred Retirement Option Program participants; providing overview of the Deferred Retirement Option Program; providing eligibility criteria; providing for procedures for election of participation; providing for benefits payable; providing for death benefits; providing limitations on employment after participation; specifying

contribution rates; specifying that Deferred Retirement Option Program participation does not exempt such participants from the forfeiture of benefits under the provisions of s. 112.3173, F.S.; providing for administration of the program; providing an effective date.

—was read the second time by title. On motion by Senator Horne, by two-thirds vote **HB 3649** 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

HB 3651—A bill to be entitled An act relating to Duval County; providing that specified general law supersedes special acts applicable to Duval County with respect to school district personnel; providing for certain employees to retain rights under special acts; providing an effective date.

—was read the second time by title. On motion by Senator Horne, by two-thirds vote **HB 3651** 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

HB 3669—A bill to be entitled An act relating to Orange County; amending chapter 96-521, Laws of Florida, relating to the issuance of special alcoholic beverage vendor licenses to entities located within an entertainment/resort complex located in Orange County and to the conditions therefor; redefining a term and expanding boundaries; providing an effective date.

—was read the second time by title. On motion by Senator Dyer, by two-thirds vote **HB 3669** 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

HB 3725—A bill to be entitled An act relating to North Bay Fire Control District, Okaloosa County; recreating and reenacting the North Bay Fire Control District as an independent fire control district operating pursuant to the terms of chapter 191, Florida Statutes; describing the boundaries of said district; establishing a governing body for the district; authorizing the district to levy up to 2 mills of ad valorem tax as previously approved by referendum vote; providing severability; providing an effective date.

—was read the second time by title. On motion by Senator Clary, by two-thirds vote **HB 3725** 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

HB 3767—A bill to be entitled An act relating to Hillsborough County; amending s. 7, ch. 95-488, Laws of Florida, as amended; revising powers of the Tampa Port Authority; authorizing certain transfers of property and interests in property; amending s. 15, ch. 95-488, Laws of Florida; prescribing procedures for the Tampa Port Authority to use in awarding contracts; providing an effective date.

—was read the second time by title. On motion by Senator Lee, by two-thirds vote **HB 3767** 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

HB 3769—A bill to be entitled An act relating to Barefoot Bay Recreation District, Brevard County; providing for the issuance of a special alcoholic beverage license to a mobile home park recreation district operating within Brevard County; providing restrictions; providing an effective date.

—was read the second time by title. On motion by Senator Kurth, by two-thirds vote **HB 3769** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

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	Myers

Ostalkiewicz	Scott	Sullivan	Turner
Rossin	Silver	Thomas	Williams

Nays—None

HB 3823—A bill to be entitled An act relating to the Cedar Key Special Water and Sewerage District in Levy County; codifying laws governing the independent special district; revising the name of the district; establishing revised district boundaries; revising the election procedures for district commissioners; providing for administrative secretary; granting power and duties to Board; authorizing district to issue bonds and to prescribe duties and procedures; giving the Board the power to tax and providing procedures; requiring the advertising and bidding on district work over a certain amount; granting additional powers to Board; providing the qualifications of district electors; stating the Legislature is not restricted in its ability to modify boundaries and bond principal maximums; exempting the district from paying taxes on its property and income; providing for severability; repealing chapters 63-1569, 75-426, 76-416, 80-531, and 87-528, Laws of Florida; providing an effective date.

—was read the second time by title.

Senator Williams moved the following amendment which was adopted:

Amendment 1—On page 19, lines 10 and 22, delete “*Comptroller of the state*” and insert: *Department of Revenue*

On motion by Senator Williams, by two-thirds vote **HB 3823** 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

HB 3829—A bill to be entitled An act relating to the Zellwood Drainage and Water Control District, Orange County; repealing chapter 20715, Laws of Florida, 1941, chapter 24323, Laws of Florida, 1947; providing for dissolution of the district contingent upon purchase or acquisition of all property within district boundaries by the St. Johns River Water Management District on or before September 30, 1998; providing for a plan to allocate district assets and liabilities; providing an effective date.

—was read the second time by title. On motion by Senator Dyer, by two-thirds vote **HB 3829** 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

HB 3831—A bill to be entitled An act relating to the Carrollwood Recreation District, Hillsborough County; consolidating, compiling, and codifying extant laws pertaining to the district; providing legislative intent; deleting provisions that have expired, have had their effect, have served their purpose, or have been impliedly repealed or superseded; replacing incorrect cross-references and citations; correcting grammatical, typographical, and like errors; removing inconsistencies, redundancies, and unnecessary repetition; improving clarity and facilitating correct interpretation; providing notice that the district is an independent special district approved by referendum; adding definitions; providing for election of trustees; revising ballot language requirements; providing that the district elect one secretary; providing that the board is a public body and shall conduct its business accordingly; conforming the law to s. 768.28, F.S., relating to trustees' civil liability and immunity from suit; consolidating the powers and duties of the board into a single section; conforming the law to the actual business practices of the district, routine in nature but not previously enumerated, including the power and duty to perform duties required by general law, when applicable, relating to special districts and to the levy of non-ad valorem assessments, to operate, supervise, and maintain recreational facilities or to contract for same, to insure the facilities, properties, operation, and trustees of the district, to establish, charge, and collect fees for use of the facilities, to direct the supervisor to place certain referenda on the ballot, and to employ personnel, including security guards and certified law enforcement officers; conforming the law to the requirements of ch. 197, F.S., relating to non-ad valorem assessments; providing for dissolution of the district in accordance with general law; providing a savings clause; repealing chs. 72-565, 75-385, 81-394, 84-445, Laws of Florida, relating to the district; providing an effective date.

—was read the second time by title. On motion by Senator Grant, by two-thirds vote HB 3831 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Table with 4 columns: Madam President, Crist, Holzendorf, Meadows. Lists names of senators: Bankhead, Bronson, Brown-Waite, Burt, Campbell, Casas, Childers, Clary, Cowin.

Nays—None

HB 3833—A bill to be entitled An act relating to the Tampa Sports Authority; amending sections 13A and 13C of chapter 96-520, Laws of Florida; adding mandatory components of performance audits; clarifying requirements for contracting for performance audits; providing an effective date.

—was read the second time by title. On motion by Senator Grant, by two-thirds vote HB 3833 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Table with 4 columns: Madam President, Crist, Holzendorf, Meadows. Lists names of senators: Bankhead, Bronson, Brown-Waite, Burt, Campbell, Casas, Childers, Clary, Cowin.

Nays—None

HB 3835—A bill to be entitled An act relating to the Hillsborough County Public Transportation Commission; amending chapter 94-408,

Laws of Florida, as amended; adding mandatory components of performance audits; clarifying requirements for contracting for performance audits; providing an effective date.

—was read the second time by title. On motion by Senator Grant, by two-thirds vote HB 3835 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Table with 4 columns: Madam President, Crist, Holzendorf, Meadows. Lists names of senators: Bankhead, Bronson, Brown-Waite, Burt, Campbell, Casas, Childers, Clary, Cowin.

Nays—None

HB 3837—A bill to be entitled An act relating to the Tampa Port Authority, Hillsborough County; amending chapter 95-488, Laws of Florida, as amended; adding mandatory components of performance audits; clarifying requirements for contracting for performance audits; providing an effective date.

—was read the second time by title. On motion by Senator Grant, by two-thirds vote HB 3837 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Table with 4 columns: Madam President, Crist, Holzendorf, Meadows. Lists names of senators: Bankhead, Bronson, Brown-Waite, Burt, Campbell, Casas, Childers, Clary, Cowin.

Nays—None

HB 3839—A bill to be entitled An act relating to the Hillsborough County Hospital Authority; amending chapter 96-449, Laws of Florida; adding mandatory components of performance audits; clarifying requirements for contracting for performance audits; providing an effective date.

—was read the second time by title. On motion by Senator Grant, by two-thirds vote HB 3839 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Table with 4 columns: Madam President, Crist, Holzendorf, Meadows. Lists names of senators: Bankhead, Bronson, Brown-Waite, Burt, Campbell, Casas, Childers, Clary, Cowin.

Nays—None

HB 3841—A bill to be entitled An act relating to the Hillsborough County City-County Planning Commission; amending chapter 97-351,

Laws of Florida; adding mandatory components of performance audits; clarifying requirements for contracting for performance audits; providing an effective date.

—was read the second time by title. On motion by Senator Grant, by two-thirds vote **HB 3841** 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

HB 3843—A bill to be entitled An act relating to the Hillsborough County Civil Service Board; amending chapter 96-519, Laws of Florida; adding mandatory components of performance audits; clarifying requirements for contracting for performance audits; providing an effective date.

—was read the second time by title. On motion by Senator Grant, by two-thirds vote **HB 3843** 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

HB 3845—A bill to be entitled An act relating to the Hillsborough County Aviation Authority; amending chapter 94-412, Laws of Florida, as amended; adding mandatory components of performance audits; clarifying requirements for contracting for performance audits; providing an effective date.

—was read the second time by title. On motion by Senator Grant, by two-thirds vote **HB 3845** 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

HB 3847—A bill to be entitled An act relating to Collier County, Florida; amending chapter 89-449, Laws of Florida, as amended, to allow

domesticated animals in county parks for animal shows and other substantially similar special events, and to authorize the director of parks and recreation to authorize special event bonfires on a case-by-case basis, all of the above in accordance with the then applicable rules of the parks and recreation department and as approved by the board of county commissioners; providing an effective date.

—was read the second time by title. On motion by Senator Dudley, by two-thirds vote **HB 3847** 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

HB 3851—A bill to be entitled An act relating to Pinellas County; providing a short title; providing background and purpose of the act; providing for the annexation of certain small enclaves within the municipalities of Pinellas County; providing for the act to apply to a specified type of enclave; providing prerequisites for annexation; requiring the governing body of a municipality to provide certain incentives within the area to be annexed; providing for certain exemptions; providing for expiration of specified provisions of the act; providing severability; providing an effective date.

—was read the second time by title. On motion by Senator Latvala, by two-thirds vote **HB 3851** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Madam President	Diaz-Balart	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—1

Crist

HB 3855—A bill to be entitled An act relating to Brevard County; amending ch. 94-419, Laws of Florida, as amended; providing certain restrictions and requirements on licensure on the harvesting of clams; providing penalties; providing an effective date.

—was read the second time by title. On motion by Senator Bronson, by two-thirds vote **HB 3855** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Childers	Forman	Horne
Bankhead	Clary	Geller	Jones
Bronson	Cowin	Grant	Kirkpatrick
Brown-Waite	Crist	Gutman	Klein
Burt	Diaz-Balart	Hargrett	Kurth
Campbell	Dudley	Harris	Latvala
Casas	Dyer	Holzendorf	Laurent

Lee	Myers	Scott	Thomas
McKay	Ostalkiewicz	Silver	Turner
Meadows	Rossin	Sullivan	Williams

Nays—None

HB 3857—A bill to be entitled An act relating to the City of Orlando and Orange County; repealing chapter 55-31098, Laws of Florida, relating to the number of licenses which may be granted for the sale of intoxicating beverages therein; providing a grandfather clause; providing an effective date.

—was read the second time by title. On motion by Senator Dyer, by two-thirds vote **HB 3857** 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

HB 3859—A bill to be entitled An act relating to Lee County and the City of Fort Myers; providing for the annexation of the enclaves known as “Dunbar” and “Belle Vue” by interlocal agreement between the city and county, subject to approval by referendum; providing for procedures for adoption of the agreement and for a referendum; providing for authority for assumption of municipal service duties and transfer of infrastructure; providing an effective date.

—was read the second time by title. On motion by Senator Rossin, by two-thirds vote **HB 3859** 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

HB 3917—A bill to be entitled An act relating to Collier County; providing that certain fire districts of the county may be governed by a three-member board; providing for a referendum vote; providing form of ballot; providing an effective date.

—was read the second time by title. On motion by Senator Dudley, by two-thirds vote **HB 3917** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Campbell	Crist	Geller
Bankhead	Casas	Diaz-Balart	Grant
Bronson	Childers	Dudley	Gutman
Brown-Waite	Clary	Dyer	Hargrett
Burt	Cowin	Forman	Harris

Holzendorf	Kurth	Meadows	Silver
Horne	Latvala	Myers	Sullivan
Jones	Laurent	Ostalkiewicz	Thomas
Kirkpatrick	Lee	Rossin	Turner
Klein	McKay	Scott	Williams

Nays—None

HB 3919—A bill to be entitled An act relating to Hillsborough County; amending chapter 67-945, Laws of Florida, as amended; providing for the election of school board members at the time of the first primary and general elections as provided by law; providing for any runoff to be held at the same time as the general election; providing an effective date.

—was read the second time by title. On motion by Senator Grant, by two-thirds vote **HB 3919** 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

HB 3957—A bill to be entitled An act relating to the Greater Orlando Aviation Authority; amending sections 2 and 3 of House Bill 3959, 1998 Regular Session, the Greater Orlando Aviation Authority charter; providing that the Greater Orlando Aviation Authority is an independent special district, as defined in chapter 189, Florida Statutes; revising the definition of the term “cost” as applied to a project acquired, constructed, extended or enlarged; providing an effective date.

—was read the second time by title. On motion by Senator Dyer, by two-thirds vote **HB 3957** 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

HB 3959—A bill to be entitled An act relating to the Greater Orlando Aviation Authority; consolidating the provisions of chapters 57-1658, 61-2599, 67-1834, 69-1389, 75-464, 77-612, 78-578, 80-553, 80-554, 82-347, 87-555, 88-474, 91-369, and 91-391, Laws of Florida, s. 14 of chapter 71-133, Laws of Florida, and s. 9 of chapter 92-152, Laws of Florida, into a codified charter, such charter consisting of all special acts of the Legislature relating to the Greater Orlando Aviation Authority, and those specified sections of general law having local application to the Greater Orlando Aviation Authority; renumbering the provisions of such special acts; conforming references; repealing chapters 57-1658, 61-2599, 67-1834, 69-1389, 75-464, 77-612, 78-578, 80-553, 80-554, 82-347, 87-555, 88-474, 91-369, and 91-391, Laws of Florida; providing an effective date.

—was read the second time by title. On motion by Senator Dyer, by two-thirds vote **HB 3959** 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

HB 3961—A bill to be entitled An act relating to Collier County; providing for a three-member district board for the Big Corkscrew Island Fire Control and Rescue District, an independent special fire control district and a body of corporate and politic; providing an effective date.

—was read the second time by title.

Senator Dudley moved the following amendment which was adopted:

Amendment 1 (with title amendment)—On page 1, lines 13-18, delete those lines and insert: *and a body corporate and politic, may, pursuant to the provisions of s. 191.005(1)(a), Florida Statutes, and this act, be governed by a three-member board if proposed by resolution of the governing board of a district adopted no later than 30 days after the effective date of this act and approved by vote of the electors of the district in a referendum to be held at the same time as the first primary election in 1998. The ballot question shall read:*

The governing board of the _____ District proposes that the district continue to be governed by a three-member governing board. If approved by the electorate, the governing board will have three members and _____ seats will be open on the 1998 general election ballot. If not approved, the governing board will have five members and _____ seats will be open on the 1998 general election ballot. Are you in favor of keeping the board a three-member board?

Yes _____

No _____

Section 2. *If a referendum proposing to keep the governing board at three members is approved by the voters, the candidates who qualified for the fourth and fifth seats on the board shall be refunded any qualifying fees paid, and no vote shall occur for the fourth and fifth seats at the general election. Elections held for the governing board after the 1998 general election shall be in accordance with the terms of s. 191.005, Florida Statutes.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 6, after the semicolon (;) insert: providing for a referendum; providing for the form of the ballot

On motion by Senator Dudley, by two-thirds vote **HB 3961** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

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	Myers

Ostalkiewicz	Scott	Sullivan	Turner
Rossin	Silver	Thomas	Williams

Nays—None

HB 3963—A bill to be entitled An act relating to the City of Marco Island, Collier County; amending chapter 97-367, Laws of Florida; providing for waiver of s. 218.23(1), F.S., relating to eligibility for participation in state revenue sharing beyond the minimum entitlement, and s. 218.26(3), F.S., relating to calculation of apportionment factors, for additional fiscal years; providing an effective date.

—was read the second time by title. On motion by Senator Dudley, by two-thirds vote **HB 3963** 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

HB 3965—A bill to be entitled An act relating to the Immokalee Water and Sewer District, an independent special district in Collier County, as created by chapter 78-494, Laws of Florida, as amended; providing for a codified charter of its special acts in a single act and repealing all prior special acts relating to the Immokalee Water and Sewer District, as required by chapter 97-255, Laws of Florida; defining its boundaries; providing definitions; authorizing the district to operate a water and sewer system; providing for a governing board of the district; restricting the use of funds of the district; providing the powers of the board; providing for water rates and service charges; providing for special assessments; providing for the collection of rates and charges; requiring certain persons to connect to the sewer system established under the act under certain circumstances; providing a declaration of policy; providing for annual audits; providing for a referendum; providing an effective date.

—was read the second time by title. On motion by Senator Geller, by two-thirds vote **HB 3965** 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

HB 3967—A bill to be entitled An act relating to Central County Water Control District in Hendry County; amending chapter 70-702, Laws of Florida, as amended; requiring that two of the five supervisors of the district be elected by a vote of qualified electors residing in the district and establishing qualifications and procedures therefor; changing the annual meeting date; requiring payment of special assessments as a condition for voting at an annual meeting; providing for a referendum; providing an effective date.

—was read the second time by title. On motion by Senator Geller, by two-thirds vote **HB 3967** 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

HB 4029—A bill to be entitled An act relating to the St. Lucie County Port and Airport Authority; providing for the dissolution of the St. Lucie County Port and Airport Authority; providing for the transfer of assets, including real property and liabilities of the authority, to the Board of County Commissioners of St. Lucie County; providing for contracts of this authority to remain in effect; providing for liberal construction; providing for the repeal of chapter 97-377, Laws of Florida; providing for severability; providing an effective date.

—was read the second time by title. On motion by Senator Kurth, by two-thirds vote **HB 4029** 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

HB 4033—A bill to be entitled An act relating to the City of Pensacola, Escambia County; amending subsection (2) of s. 4 and subsection (6) of s. 100 of chapter 15425, Laws of Florida, 1931, as amended; providing for establishing the date of city council elections and alternative method of qualifying a candidate for ballot by city ordinance; providing for repeal of conflicting laws; providing for severability; providing an effective date.

—was read the second time by title. On motion by Senator Childers, by two-thirds vote **HB 4033** 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

HB 4081—A bill to be entitled An act relating to Hillsborough County; authorizing the board of county commissioners of Hillsborough County to provide by ordinance for liens in favor of all operators of hospitals in Hillsborough County and in favor of Hillsborough County when it pays for medical care, treatment, or maintenance of qualifying residents of the county upon all causes of action, suits, claims, counterclaims, and demands accruing to persons to whom care, treatment, or maintenance is furnished by such hospital or is paid for by Hillsborough County on behalf of a qualifying resident of the county, or accruing to the legal representatives of such persons, and upon all judgments, settlements, and settlement agreements entered into by virtue thereof on account of illness, injury, deformity, infirmity, abnormality, disease, or pregnancy giving rise to such causes of action, suits, claims, counterclaims, demands, judgments, settlements, or settlement agreements, and which necessitated such care, treatment, or maintenance; authorizing the board of county commissioners of Hillsborough County to provide by ordinance for the attachment, perfection, priority, and enforcement of such liens and for such procedural and other matters as may be necessary or appropriate to carry out the purposes of the ordinance; requiring the ordinance to provide identical remedies to the hospitals and the County Indigent Health Care Plan; providing an effective date.

—was read the second time by title.

Senator Grant moved the following amendment which was adopted:

Amendment 1—On page 2, line 27, after the period (.) insert: *If the patient is covered by or is a beneficiary of commercial, nongovernmental health insurance coverage through a health maintenance organization or other nongovernmental entity that is under contract with the hospital to provide care to the patient at the time care and treatment are delivered, then the lien shall be limited to the covered charges in effect at the time care and treatment were delivered, and the lien shall not exceed the amount that the hospital has contracted to accept from all sources for the care and treatment of the patient. In the event of a claim or action by the patient against a third party for which the settlement or judgment is less than or equal to a sum of the debt actually due and owing the hospital, the settlement or judgment will be equitably distributed based on the pro rata reduction in the amount due the hospital and the patient, including a pro rata reduction in the amount of reasonable attorney's fees and costs due the patient's attorney on that portion of the settlement or judgment attributable to the hospital lien. In the event of a claim or action by the patient against a third party for which the settlement or judgment exceeds the debt actually due and owing the hospital but is not adequate to cover the amount actually due and owing the hospital, as well as the patient's attorney's fees, then the settlement or judgment will be equitably distributed based on a pro rata share of the amount due the hospital and the patient, including a pro rata share for the amount of reasonable attorney's fees and costs due the patient's attorney and the hospital's attorney. In the event litigation is filed to recover a plaintiff's damages through settlement or judgment, then the hospital's lien actually collected shall be subject to assessment, by reduction, for plaintiff's attorney's fees, which for the lien assessment shall be capped at 25 percent.*

On motion by Senator Grant, by two-thirds vote **HB 4081** 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

HB 4097—A bill to be entitled An act relating to the West Parkland Water Management District, Broward County; repealing chapter 75-353, Laws of Florida, which creates the West Parkland Water Management District, to abolish the West Parkland Water Management Dis-

trict; transferring all obligations and assets to the City of Parkland; providing an effective date.

—was read the second time by title. On motion by Senator Campbell, by two-thirds vote **HB 4097** 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

HB 4099—A bill to be entitled An act relating to the Central Broward Water Control District, Broward County; amending section 4g. of charter; deleting the provision for expense reimbursement; amending section 4j. of charter, to provide for assumption of office at the first regular meeting following the election; amending section 7 of charter, to provide for an organizational meeting annually at the first regular meeting following the first Tuesday after the first Monday in November; deleting obsolete provisions; codifying the Charter of the Central Broward Water Control District, an independent special district; codifying chapter 61-1439, Laws of Florida, as amended; consolidating amendments thereto contained in this act and chapters 65-1006, 67-1002, 69-528, 70-479, 71-388, 72-486, 79-432, 80-462, 82-268, 85-388, 86-359, 86-363, 87-506, 88-523, 91-350, 94-426, and 96-536, Laws of Florida; repealing chapters 61-1439, 65-1006, 67-1002, 69-528, 70-479, 71-388, 72-486, 79-432, 80-462, 82-268, 85-388, 86-359, 86-363, 87-506, 88-523, 91-350, 94-426, and 96-536, Laws of Florida; providing that this act shall take precedence over any conflicting law to the extent of such conflict; providing severability; providing an effective date.

—was read the second time by title. On motion by Senator Campbell, by two-thirds vote **HB 4099** 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

HB 4103—A bill to be entitled An act relating to Alachua County; codifying and reenacting chapters 85-376 and 87-529, Laws of Florida, relating to the Alachua County Library District; repealing chapters 85-376 and 87-529, Laws of Florida, and s. 2 of chapter 90-501, Laws of Florida, relating to the Alachua County Library District; providing an effective date.

—was read the second time by title.

Senator Kirkpatrick moved the following amendment which was adopted:

Amendment 1—Delete everything after the enacting clause and insert:

Section 1. Short title.—This act shall be known and may be cited as the “Alachua County Library District Act.”

Section 2. Alachua County Library District; establishment; boundaries; governing board.—

(1) ESTABLISHMENT.—There is hereby created the Alachua County Library District, which is an independent special taxing district created for the purpose of providing the only library system services and facilities for all citizens of Alachua County, excluding the school library system, pursuant to this act.

(2) BOUNDARIES.—The Alachua County Library District shall be composed of all areas of Alachua County, Florida.

(3) GOVERNING BOARD.—The Governing Board of the Alachua County Library District, hereinafter referred to as the “governing board,” shall be composed of three members of the Board of County Commissioners of Alachua County, to be selected by the board, and two members of the Gainesville City Commission, to be selected by the commission, who, when acting together as the governing board, shall sit not as county or city commissioners, but as members of the governing board of the district.

Section 3. Powers of the governing board.—The governing board shall have the power to:

(1) Annually levy an ad valorem tax upon taxable real property within the district in the same manner as other county and municipal ad valorem taxes are levied, provided that:

(a) The millage allocated to annual operating and maintenance expenses of the district shall not exceed 1.5 mills.

(b) The millage allocated to debt service shall not exceed the amount necessary to pay the principal of, and interest on, bonds issued under subsections (4) and (5).

(c) The millage allocated to capital improvements shall not exceed 0.5 mill annually until April 1, 2001, and shall then be terminated. During any year in which the governing body levies ad valorem taxes for the purpose of servicing debt issued pursuant to subsection (5) of this section, the maximum annual capital improvement millage authorized by this subsection shall be reduced by the millage actually levied to service such debt.

(2) Purchase, lease, lease-purchase, construct, or otherwise acquire capital projects related to the library services and facilities of the district, and convey such capital projects to the Alachua County Library Board of Trustees in trust for the benefit of the residents in the district. Lease-purchase arrangements may include such contracts and agreements deemed necessary or convenient by the governing board; any rental or other payments required thereunder may be secured by any lawfully available funds of the district.

(3) Appropriate and expend revenue of the district, subject to the limitations of this act.

(4) Issue limited tax bonds, notes, any other certificates of indebtedness, or any form of limited tax or bond anticipation notes or certificates payable from all or any portion of the 0.5 mill capital improvement millage provided for in paragraph (1)(c), but only when the proceeds of such bonds, notes, certificates of indebtedness, or tax or bond anticipation notes or certificates are used to finance or refinance capital projects related to library services or facilities of the district. Bonds issued hereunder shall be payable from taxes to be levied on all taxable property in the district, but said taxes shall be limited to a maximum levy of 0.5 mill. In issuing such bonds or other forms of indebtedness, the governing board may pledge the faith and credit of the district for service of the debt to be incurred, up to the 0.5 mill limit.

(5) Issue bonds, notes, any other certificates of indebtedness, or any form of tax or bond anticipation notes or certificates payable from all or any portion of the ad valorem tax revenues of the district, provided that if such bonds, notes, certificates of indebtedness, or tax anticipation notes or certificates mature more than 12 months after issuance:

(a) The issuance thereof shall be approved by a majority of the electors voting in a bond referendum conducted pursuant to law; and

(b) The proceeds thereof shall be used only to finance or refinance capital projects related to library services or facilities of the district.

Bonds or other forms of indebtedness issued pursuant to this subsection shall be payable from ad valorem taxes to be levied on all taxable property in the district without limitation as to rate or amount. In issuing such bonds or other forms of indebtedness, the governing board may pledge the full faith and credit of the district for service of the debt to be incurred.

(6) Issue revenue bonds, notes, including bond anticipation notes, or other certificates of indebtedness payable from the proceeds of any fees, charges, fines, rentals, grants, or other sources of revenue, except ad valorem taxes, which may be or may become available to the district and, in connection therewith, to:

(a) Pledge such revenues to the payment of such revenue bonds, notes, or other certificates of indebtedness;

(b) Make all customary or necessary covenants for the security of such revenue bonds, notes, or other certificates of indebtedness, including covenants to assure the adequacy of such revenues and the proper collection, holding, and disposition thereof;

(c) Agree to pay some or all expenses of maintenance and operation from sources other than pledged revenues, and not to diminish the rate of taxation available therefor;

(d) Capitalize interest and reserves in such amounts as the governing board may deem necessary;

(e) Pay all costs of issuance of such bonds, notes, or other certificates of indebtedness, including fiscal, legal, bond insurance, and printing expenses, from the proceeds of such bonds, notes, or other certificates of indebtedness or other sources; and

(f) Apply the proceeds of said revenue bonds, notes, or other certificates of indebtedness to the payment of the cost of any or all facilities or property, real or personal, including books, which said district is empowered to acquire, including all architectural, legal, engineering, and other professional costs incurred in connection therewith, or to the refunding of previously issued revenue bonds, notes, or other certificates of indebtedness.

(7) Issue such bonds, revenue bonds, tax or bond anticipation notes, or other forms of indebtedness at such interest rate or rates as the governing board may determine appropriate.

(8) Appoint members to the Alachua County Library Board of Trustees as provided in section 5.

(9) Adopt an annual budget for the district and establish service levels which shall meet or exceed the operating standards established by Division of Library Services of the Department of State under authority contained in s. 257.15, Florida Statutes.

(10) Appropriate and convey revenue of the district to the Alachua County Library Board of Trustees for the operation and maintenance of library services and facilities. When so conveyed to the board of trustees, such revenues shall be deemed revenues of the board of trustees, to be expended by the trustees in accordance with the adopted budget and at their discretion pursuant to the powers granted under section 6, subject to limitations contained in section 4.

(11) Adopt a long-range facilities and development plan for the library district, to be known as the "Alachua County Long-Range Library Facilities and Development Plan."

(12) Exercise powers of eminent domain over private property pursuant to law, but only where such property will be used for a public purpose related to library services and facilities. This power of eminent domain shall not extend to property owned by any municipality.

(13) Provide for the management, administration, operation, supervision, oversight, and maintenance of all library facilities, and the services, programs, and functions thereof, for the benefit of the residents of the Alachua County Library District.

(14) Purchase, lease, or otherwise acquire real and personal property, and generally take all other actions regarding such property as may be necessary in the prudent management, operation, and maintenance of

library district services and facilities. However, all property, real or personal, acquired by the Alachua County Library Board of Trustees, from whatever source or by whatever means, shall be deemed to be held in trust for the benefit of the residents of the district for library purposes. If the Legislature should ever rescind or dissolve, for whatever reason, all right, title, and interest of the trustees in all property then owned by the trustees, such right, title, and interest shall revert automatically to the governing board, or its successor, to be held in trust for the benefit of the residents of the district for library purposes.

(15) Dispose of personal property as necessary for the prudent management, operation, and maintenance of library services and facilities.

(16) Provide for the employment of personnel and all matters relative thereto through the development of a personnel system structured to the operation and development of a library district in accordance with current Alachua County Personnel Regulations.

(17) Retain attorneys, accountants, architects, engineers, and other consultants and professionals, pursuant to applicable general law.

(18) Contract with any county, city, or other public body for the provision of library services within or outside the district, provided that library services outside the district shall not be subsidized by the ad valorem revenues of the district.

(19) Apply for and accept any grant of money or property from any governmental body or private organization and enter into contracts incidental thereto.

(20) Adopt rules for the regulation of its affairs and the conduct of its business and perform all other acts necessary to enable the governing board to properly carry out the purposes of this act.

Section 4. Use of tax revenues; supplemental appropriations and in-kind services.—Ad valorem tax revenue of the district shall be used for the following purposes only:

(1) Operation and maintenance expenses of library district services and facilities.

(2) Capital expenditures related to library district services and facilities.

(3) Servicing debt incurred pursuant to this act.

Notwithstanding any other provision of this act, any county or city may appropriate, and the Alachua County Library Board of Trustees may accept and expend, funds for library facilities, services, programs, and operations which are supplemental to ad valorem tax revenues otherwise collected pursuant to this act. Further, any county or city may provide to the board of trustees services and in-kind contributions of any nature whatsoever in support of library facilities, services, programs, and operations.

Section 5. Alachua County Library Board of Trustees; establishment and purpose; appointment of members, terms, removal, and vacancies; compensation; quorum, rules of procedure, and seal.—

(1) ESTABLISHMENT AND PURPOSE.—There is hereby established the Alachua County Library Board of Trustees, a public body corporate and politic, hereinafter referred to as the "board of trustees." The board of trustees shall be deemed a public instrumentality, and exercise by the trustees of the powers conferred by this act shall be deemed the performance of an essential public function.

(2) APPOINTMENT OF MEMBERS, TERMS, REMOVAL, AND VACANCIES.—The board of trustees shall consist of seven members appointed by the governing board, three of whom shall be selected from a group of five persons nominated by the Board of County Commissioners of Alachua County, three of whom shall be selected from a group of five persons nominated by the Gainesville City Commission, and one of whom shall be selected from a group of three persons nominated by the organization representing the other municipalities of Alachua County.

(a) Upon expiration of initial terms, all members shall serve terms of 3 years, except that each member shall continue to serve beyond his or her term until a successor is nominated and appointed in the same manner as provided for initial appointments, and the term of the successor shall be reduced by the amount of the predecessor's holdover. Nominations

shall be submitted within 90 days after the expiration of a term. No member shall serve more than two full terms consecutively, or more than 8 consecutive years. No person employed by either Alachua County or the City of Gainesville shall serve on the board of trustees during the time of such employment. Further, no elected official of any county or municipality may serve on the board of trustees during the term of elected office.

(b) Any trustee may be removed by majority vote of the governing board for good cause affecting his or her ability to perform his or her duties as a member, or for misfeasance, malfeasance, or nonfeasance in office, but only after a hearing at which the trustee is given the right to present evidence in his or her own behalf and only upon a finding by majority vote of the governing board that good cause for removal affecting the member's ability to perform the duties as a member exists, or upon a finding that the member is guilty of misfeasance, malfeasance, or nonfeasance in office.

(c) Within 90 days after the occurrence or discovery of a vacancy on the board of trustees, by removal or otherwise, the Board of County Commissioners of Alachua County, the Gainesville City Commission, or the organization representing the other municipalities within the county, as appropriate, shall nominate a group of three persons from which an individual shall be selected to fill the vacancy, who shall be appointed by the governing board to serve during the unexpired portion of the term.

(d) If required nominations are not received by the governing board within the 90-day period specified in paragraph (a) or paragraph (c), the governing board shall be authorized to make the appointment or appointments, at its discretion, for which such nominations were required.

(3) **COMPENSATION.**—Trustees shall serve without compensation, except that they may be reimbursed for reasonable travel and per diem expenses incurred in the course of their duties and responsibilities as trustees, on behalf of the governing board or otherwise, in engaging in the business of the district. Any such reimbursement for travel or per diem expenses shall be in amounts authorized pursuant to s. 112.061, Florida Statutes.

(4) **QUORUM, RULES OF PROCEDURE, AND SEAL.**—A quorum shall consist of four members of the board of trustees, and official action shall be taken only upon majority vote of the trustees present and voting. The board of trustees shall adopt bylaws for election of officers and for the conduct of orderly proceedings and shall adopt a common seal for certification of its actions.

Section 6. Powers of the Alachua County Library Board of Trustees.—The board of trustees shall have the power to:

(1) Review annually the Alachua County Long-Range Library Facilities and Development Plan, and recommend amendments to the governing board.

(2) Develop and submit to the governing board an annual Library Services Level Plan.

(3) Develop and submit to the governing board for its approval an annual library budget, based on the Library Services Level Plan.

(4) Provide a recommendation to the governing board whenever a library director is to be selected, after first advertising for the position and conducting interviews, such recommendation to contain a list of three potential candidates from which the governing board may choose, and conduct an annual review and evaluation of the person occupying the position of library director, submitting an evaluation report to the governing board.

(5) In accordance with the policy of the district, receive gifts of money or property and submit the same with recommendations to the governing board for acceptance and direction as to the manner in which the governing board wishes such money or property to be utilized in providing library facilities, materials, or other library-oriented programs; spend money, grants, proceeds, or gifts; and administer any other form of property provided to the district by a gift, trust, deed, or will, pursuant to the direction provided by the governing board.

(6) Serve as agent for, and enter into contracts on behalf of, the governing board, but only to the extent expressly approved by the governing board.

(7) Adopt and implement rules, regulations, policies, and procedures, with the approval of the governing board, for the management, operation, and maintenance of library services and facilities in the district, including, but not limited to, lending policies, gift policies, and book selection policies.

(8) With approval of the governing board, set fees, fines, and other charges in connection with the operations and services of the Alachua County library system.

(9) Receive and expend moneys, sue and be sued, and generally perform all other acts necessary or incidental to the express powers and duties granted or imposed by this act or by any instrument of trust.

(10) Lease, grant, sell, or otherwise convey real property upon approval of the governing board.

Section 7. Duties of the Alachua County Library Board of Trustees.—

(1) Each member of the board of trustees, before entering upon his or her duties, shall take and subscribe to the oath or affirmation required by the State Constitution. A record of each oath shall be filed with the Department of State and with the Clerk of Alachua County.

(2) The board of trustees shall perform fully all duties prescribed by any trust instruments which may from time to time convey property to the trustees from the governing board or from other public or private persons or entities, but only to the extent that such trust instruments and the duties prescribed therein are not inconsistent with this act.

(3) The board of trustees shall be bound by all covenants securing any revenue bonds issued from time to time by the governing board.

Section 8. Support services.—

(1) The governing board shall arrange for the provision of budgeting, building and grounds maintenance, personnel, purchasing, and similar general government services to the library district.

(2) The Alachua County Attorney shall provide legal services to the library district.

(3) Accounting and treasury services for the board of trustees shall be provided in the same manner as such services are provided for the Alachua County General Fund.

(4) The audit of the library district's financial statements shall be performed as a part of the annual audit of Alachua County's financial statements.

Section 9. Entitlement of district residents to library services; enforcement; limitation on trustee liability.—

(1) **ENTITLEMENT OF DISTRICT RESIDENTS TO LIBRARY SERVICES.**—For as long as the governing board levies an ad valorem tax pursuant to section 3 for the operation and maintenance of library services and facilities, all residents of the district shall be entitled to use of the general library services and facilities without charge. However, nothing in this subsection shall be construed as prohibiting the board of trustees from imposing fines for delinquent library materials or establishing charges for library services and facilities which are specialized and of a type not typically used by the general public. Further, such entitlement shall cease and shall not apply if and when ad valorem tax revenues are used solely for servicing debt incurred in the acquisition or refinancing of capital projects.

(2) **ENFORCEMENT.**—Except as otherwise provided by the trust instrument, the provisions and requirements of any trust for which the board of trustees acts as trustee may be enforced only by the governing board.

(3) **LIMITATION ON TRUSTEE LIABILITY.**—Absent personal negligence, no member of the Alachua County Library Board of Trustees shall incur any personal liability for the tortious acts or violations of fiduciary duty of any employee of the board of trustees.

Section 10. Severability.—If any portion of this act is held invalid or unconstitutional by any court of law, all remaining portions of the act shall remain in full force and effect if, and only if, the intent of the Legislature can continue to be effected.

Section 11. Prohibition on taxing power; future referenda.—

(1) PROHIBITION ON TAXING POWER.—As long as the governing board levies the ad valorem tax authorized by this act, the Board of County Commissioners of Alachua County, the Gainesville City Commission, and all other taxing authorities in the Alachua County Library District are hereby prohibited from levying any tax for library facilities, services, or other library purposes, excluding the library facilities, services, and other library purposes of the school library system.

(2) REFERENDA ON AUTHORITY TO ISSUE BONDS, ETC.—In the event that the question as to the authority to issue bonds or other forms of indebtedness under subsection (5) of section 3 is not approved at a referendum held pursuant thereto, the governing board may, in its discretion, call subsequent referenda on such question as authorized by this act.

Section 12. Chapters 85-376 and 87-529, Laws of Florida, are repealed.

Section 13. This act shall take effect upon becoming a law.

On motion by Senator Kirkpatrick, by two-thirds vote HB 4103 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Table with 4 columns: 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

HB 4127—A bill to be entitled An act relating to the Delray Beach Downtown Development Authority, Palm Beach County; amending chapter 71-604, Laws of Florida, as amended, by amending the Delray Beach Downtown Development Authority area description to provide for inclusion of properties west of Swinton Avenue westward of the current Downtown Development Authority area to include those properties lying approximately south of N.W. 1st Street, and properties lying north of S.W. 1st Street, bounded generally on the west by Interstate 95, all such properties lying within the municipal boundaries of the City of Delray Beach; providing for seven members on the board for the Delray Beach Downtown Development Authority; providing that four members of the Board of Directors of the Delray Beach Downtown Development Authority shall be owners of realty within the Downtown Area, a lessee required by the lease to pay taxes, or a director, officer, or managing agent of an owner or of a lessee thereof so required to pay taxes thereon; requiring at least four affirmative votes of the authority to take any action; authorizing the authority to actively participate in plans and programs to encourage economic development and the promotion of downtown; providing an effective date.

—was read the second time by title. On motion by Senator Klein, by two-thirds vote HB 4127 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Table with 4 columns: 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, Myers

Table with 4 columns: Ostalkiewicz, Scott, Sullivan, Turner, Rossin, Silver, Thomas, Williams, Nays—None

HB 4133—A bill to be entitled An act relating to the City of Ceder Key, Levy County; repealing chapter 69-929, Laws of Florida, and replacing same with a new charter; providing for the powers and duties of the city commission; providing for appointment of administrative officials; establishing special provisions; providing a transition schedule; providing severability; providing an effective date.

—was read the second time by title. On motion by Senator Williams, by two-thirds vote HB 4133 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Table with 4 columns: 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

HB 4171—A bill to be entitled An act relating to the Hernando County Law Library; amending ch. 65-1627, Laws of Florida, as amended; providing membership of the law library board; revising powers and duties of the board; providing for fees to fund the library; providing for determination of fee amounts; revising powers and duties of the board of county commissioners with respect to the library; providing an effective date.

—was read the second time by title. On motion by Senator Brown-Waite, by two-thirds vote HB 4171 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Table with 4 columns: 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

HB 4243—A bill to be entitled An act relating to Volusia County; amending chapter 95-462, Laws of Florida, changing the uniform municipal election and qualification dates; providing an effective date.

—was read the second time by title. On motion by Senator Burt, by two-thirds vote HB 4243 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Table with 4 columns: Madam President, Childers, Forman, Horne, Bankhead, Clary, Geller, Jones, Bronson, Cowin, Grant, Kirkpatrick, Brown-Waite, Crist, Gutman, Klein, Burt, Diaz-Balart, Hargrett, Kurth, Campbell, Dudley, Harris, Latvala, Casas, Dyer, Holzendorf, Laurent

Lee	Myers	Scott	Thomas
McKay	Ostalkiewicz	Silver	Turner
Meadows	Rossin	Sullivan	Williams

Nays—None

HB 4249—A bill to be entitled An act relating to Monroe County; amending ch. 97-345, Laws of Florida; correcting a scrivener's error; providing an effective date.

—was read the second time by title.

Senator Jones moved the following amendment which was adopted:

Amendment 1—In title, on page 1, line 4, after the semicolon (;) insert: repealing ch. 89-410, Laws of Florida, and ch. 89-461, Laws of Florida, relating to the classified service of the sheriff's office;

On motion by Senator Jones, by two-thirds vote **HB 4249** 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

HB 4253—A bill to be entitled An act relating to Charlotte County; codifying, reenacting, amending, and repealing chapters 65-1357, 70-628, 73-430, 74-453, 84-405, 84-406, 88-479, and 91-399, Laws of Florida; creating and establishing the Charlotte County Airport Authority, an independent special district; providing for membership; authorizing the County of Charlotte and its incorporated municipalities to contract with the airport authority; providing for the government, jurisdiction, powers, franchises, and privileges of the airport authority; deleting obsolete provisions; repealing all prior special acts relating to the Charlotte County Development Authority; providing an effective date.

—was read the second time by title. On motion by Senator Rossin, by two-thirds vote **HB 4253** 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

HB 4285—A bill to be entitled An act relating to the Town of Davie, Broward County; extending and enlarging the corporate limits of the Town of Davie to include specified unincorporated lands within said corporate limits; redefining the town limits; providing an effective date.

—was read the second time by title. On motion by Senator Campbell, by two-thirds vote **HB 4285** 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

HB 4287—A bill to be entitled An act relating to the Town of Davie, Broward County; extending and enlarging the corporate limits of the Town of Davie to include specified unincorporated lands within said corporate limits; redefining the town limits; providing an effective date.

—was read the second time by title. On motion by Senator Campbell, by two-thirds vote **HB 4287** 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

HB 4289—A bill to be entitled An act relating to the Town of Davie, Broward County; extending and enlarging the corporate limits of the Town of Davie to include specified unincorporated lands within said corporate limits, under certain conditions; providing for redefining the town limits; providing for an agreement between the owner of the property and the Town Council; providing an effective date.

—was read the second time by title. On motion by Senator Campbell, by two-thirds vote **HB 4289** 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

HB 4291—A bill to be entitled An act relating to the City of Pembroke Pines, Broward County; extending and enlarging the corporate limits of the City of Pembroke Pines to include specified unincorporated lands within said corporate limits; providing an effective date.

—was read the second time by title. On motion by Senator Campbell, by two-thirds vote **HB 4291** 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

HB 4293—A bill to be entitled An act relating to the Town of Davie, Broward County; extending and enlarging the corporate limits of the Town of Davie to include specified unincorporated lands within said corporate limits; redefining the town limits; providing an effective date.

—was read the second time by title. On motion by Senator Campbell, by two-thirds vote **HB 4293** 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

HB 4305—A bill to be entitled An act relating to Hillsborough County; providing for the consolidation of the job training partnership programs of the City of Tampa and of Hillsborough County; providing for employees who are transferred from the city to the county to elect, within a specified deadline, to remain in the City of Tampa pension plan or to transfer to the Florida Retirement System; providing procedures for making the election; providing that county job training partnership program employees who are hired after a specified date become members of the Florida Retirement System; providing an effective date.

—was read the second time by title. On motion by Senator Grant, by two-thirds vote **HB 4305** 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

HB 4307—A bill to be entitled An act relating to the City of Tampa, Hillsborough County, and particularly to the City Pension Fund for Firefighters and Police Officers in the City of Tampa; enabling an increase in the accrual of benefits from 2 percent to 2.5 percent for additional years of service after 26 years; providing for pension benefits after 20 years of service without reduction upon separation; providing for a

Deferred Retirement Option Program; providing for additional benefits; providing for contribution rates; providing an effective date.

—was read the second time by title. On motion by Senator Grant, by two-thirds vote **HB 4307** 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

HB 4319—A bill to be entitled An act relating to Polk County; amending ch. 88-443, Laws of Florida, to revise provisions relating to a personnel system for the Sheriff's Office, a personnel board, board members' powers and duties, board expenditures, a classified service, new positions and vacancies, probationary periods, hearings, appointments, rules, policies, pay plans, rights, and benefits; providing for a Members Nominating Committee for selecting board members; providing an effective date.

—was read the second time by title. On motion by Senator Laurent, by two-thirds vote **HB 4319** 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

HB 4323—A bill to be entitled An act relating to Palm Beach County; amending ch. 93-367, Laws of Florida, as amended; revising provisions relating to employees of the Palm Beach County Sheriff; revising procedures for appeal of disciplinary actions and complaints against employees of the sheriff; providing that certain monetary emoluments be based on performance for employees at the rank of captain or its civilian equivalent; providing an effective date.

—was read the second time by title. On motion by Senator Klein, by two-thirds vote **HB 4323** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

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	Myers

Ostalkiewicz Scott Sullivan Turner
 Rossin Silver Thomas Williams
 Nays—None

HB 4325—A bill to be entitled An act relating to Monroe County; amending chapter 97-348, Laws of Florida, relating to the charter of Islamorada, Village of Islands; revising transition provisions relating to state shared revenues to extend waivers of applicable revenue sharing eligibility requirements and to authorize the usage of millage levied by the Monroe County Mosquito Control District for purposes of meeting the minimum amount of revenue required to be raised for revenue sharing eligibility; clarifying legislative intent regarding the referendum required to effectuate the charter, which referendum was concluded on November 4, 1997, with the required majority of voters approving the charter; adopting nunc pro tunc the effective dates in chapter 97-348, Laws of Florida, in connection with the clarification of legislative intent; declaring the charter to be effective pursuant to its terms and conditions; providing an effective date.

—was read the second time by title. On motion by Senator Jones, by two-thirds vote **HB 4325** 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

HB 4349—A bill to be entitled An act relating to Monroe County; amending chapter 76-441, Laws of Florida, as amended, relating to the Florida Keys Aqueduct Authority; providing for certain matters regarding the construction, acquisition, and maintaining of a wastewater system for the collection, treatment, and disposal of wastewater in Monroe County; providing for certain matters with respect to the purchase of property by the Florida Keys Aqueduct Authority; providing for notification to the public of the availability of the Florida Keys Aqueduct Authority's annual audit; amending certain provisions relating to the issuance of bonds; providing an effective date.

—was read the second time by title. On motion by Senator Jones, by two-thirds vote **HB 4349** 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

HB 4391—A bill to be entitled An act relating to the City of Punta Gorda, Charlotte County; prohibiting the taking of saltwater fish, except by hook and line, from within any manmade saltwater canal in the City of Punta Gorda; providing a penalty; providing an effective date

—was read the second time by title. On motion by Senator Harris, by two-thirds vote **HB 4391** 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

HB 4463—A bill to be entitled An act relating to the City of Sunrise, Broward County; creating the South Broward Utility Advisory Board; providing for membership, qualifications, terms, responsibilities, and powers of the board; providing an appropriation; providing a limitation of the power of the board; providing for adoption of procedures and regulations; providing an effective date.

—was read the second time by title. On motion by Senator Campbell, by two-thirds vote **HB 4463** 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

HB 4465—A bill to be entitled An act relating to Broward County; providing for notice of water or sewer rate changes to residents served outside of municipal boundaries within Broward County; providing for a public hearing; providing an effective date.

—was read the second time by title. On motion by Senator Campbell, by two-thirds vote **HB 4465** 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

HB 4467—A bill to be entitled An act relating to Tindall Hammock Irrigation and Soil Conservation District, Broward County; codifying the district's charter, chapter 27428, Laws of Florida, 1951, as amended; providing a provision that the district is an independent special district; providing for the appointment of the board of supervisors; providing for

correction of scrivener's errors; revising obsolete constitution and statute references; revising obsolete roadway and agency references; providing that all rights, title, and ownership of property owned by the district will continue to be owned by the district and that all obligations, contracts, rules, resolutions, and regulations of the district will continue in effect and be valid as to the district; repealing all prior special acts of the Legislature relating to the Tindall Hammock Irrigation and Soil Conservation District; providing that this act shall take precedence over any conflicting law to the extent of such conflict; providing severability; providing an effective date.

—was read the second time by title. On motion by Senator Campbell, by two-thirds vote **HB 4467** 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

HB 4469—A bill to be entitled An act relating to the South Broward Drainage District, Broward County; codifying the district's charter, chapter 67-904, Laws of Florida, as amended; providing that South Broward Drainage District is an independent special district; providing that all officers and employees of the district on the effective date of this act shall continue to hold their respective offices until their successors are elected or appointed; changing name of district manager to district director; revising obsolete agency and department references; providing for the district's plan for the drainage and reclamation of lands within the district to remain in full force and effect; deleting interest rate provisions which conflict with section 31 of district's charter; deleting provision authorizing assessment of a tax on lands within the district which belong to the county, school district, or other political subdivisions; providing for deletion of obsolete or no longer required proceedings; revising inconsistent provisions; adding a brief description of sections of district charter which are not described; repealing all prior special acts of the Legislature relating to the South Broward Drainage District except as stated; providing that this act shall take precedence over any conflicting law to the extent of such conflict; providing severability; providing an effective date.

—was read the second time by title. On motion by Senator Campbell, by two-thirds vote **HB 4469** 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

HB 4505—A bill to be entitled An act relating to the Lake Worth Drainage District, Palm Beach County; providing for codification of special laws regarding special districts, relating to the Lake Worth Drainage District, a body corporate existing under the laws of the State of Florida and existing and operating in Palm Beach County pursuant to

chapter 61-1747, Laws of Florida, as amended; codifying and reenacting chapter 61-1747, Laws of Florida; chapter 63-616, Laws of Florida; chapter 63-618, Laws of Florida; chapter 67-867, Laws of Florida; chapter 71-830, Laws of Florida; chapter 75-472, Laws of Florida; chapter 81-460, Laws of Florida; chapter 82-353, Laws of Florida; chapter 83-493, Laws of Florida; chapter 84-496, Laws of Florida; chapter 87-521, Laws of Florida; Section 5(1)(b) of chapter 90-416, Laws of Florida; chapter 90-480, Laws of Florida; and chapter 96-478, Laws of Florida; providing for repeal of chapter 61-1747, Laws of Florida, as amended; providing for repeal of prior special acts relating to the Lake Worth Drainage District; providing an effective date.

—was read the second time by title. On motion by Senator Klein, by two-thirds vote **HB 4505** 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

HB 4531—A bill to be entitled An act relating to Lee, Charlotte, Sarasota, and Manatee Counties; providing for codification of special laws regarding special districts pursuant to chapter 97-255, Laws of Florida, relating to the West Coast Inland Navigation District, a special tax district of the State of Florida composed of the Counties of Lee, Charlotte, Sarasota, and Manatee; providing legislative intent, and codifying and reenacting chapter 23770, Laws of Florida, 1947; chapters 27289 and 27290, Laws of Florida, 1951; chapter 28542, Laws of Florida, 1953; chapter 30074, Laws of Florida, 1955; chapter 57-467, Laws of Florida; chapter 59-756, Laws of Florida; chapter 61-1590, Laws of Florida; chapter 77-494, Laws of Florida; sections 2, 3, 4, and 5 of chapter 79-435, Laws of Florida; chapter 81-337, Laws of Florida; section 5 of chapter 85-200, Laws of Florida; and section 5 of chapter 86-286, Laws of Florida; providing additional powers; providing for the repeal of section 8 of chapter 90-264, Laws of Florida; providing for repeal of all prior special acts related to the West Coast Inland Navigation District; providing an effective date.

—was read the second time by title. On motion by Senator Rossin, by two-thirds vote **HB 4531** 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

HB 4545—A bill to be entitled An act relating to Bay County; amending chapter 67-1099, Laws of Florida, as amended, relating to the codification, re-creation, reestablishment, and organization of an airport district in Bay County, to be designated as the Panama City-Bay County Airport and Industrial District; re-creating the Board of Directors as the governing body; providing for its government, jurisdiction, expansion of powers, franchises, and privileges, including the creation of an

independent airport police department, with full police powers; repealing chapters 67-1099 and 69-834, Laws of Florida, prior special acts relating to the airport authority; providing an effective date.

—was read the second time by title. On motion by Senator Thomas, by two-thirds vote **HB 4545** 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

HB 4547—A bill to be entitled An act relating to Lee County; amending chapter 63-1552, Laws of Florida, as amended; providing methods by which the hospital Board of Directors of Lee County may invest its funds; providing an effective date.

—was read the second time by title. On motion by Senator Rossin, by two-thirds vote **HB 4547** 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

HB 4691—A bill to be entitled An act relating to Flagler Estates Road and Water Control District, St. Johns and Flagler Counties, an independent special district, created under chapter 298, Florida Statutes; reenacting by codified charter all special acts for the district relating to the creation, organization, authority, landowners' meeting quorum, notification of landowners' meeting, and boundaries of the road and water control district; providing for the subsequent repeal of all individual special acts pertaining to the district including chapters 81-481, 82-294, 83-509, 87-502, and 89-505, Laws of Florida, and in furtherance of the purposes and intent of chapter 298, Florida Statutes, to include substantive changes to clarify the powers and duties of the district by defining the road authority; authorizing the district to make its surplus real property available to the public for passive use; permitting the district to enter into lease or interlocal agreements with other governmental entities for the operation and/or maintenance of such passive use areas within the district boundaries; providing an effective date.

—was read the second time by title. On motion by Senator Bankhead, by two-thirds vote **HB 4691** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Campbell	Crist	Geller
Bankhead	Casas	Diaz-Balart	Grant
Bronson	Childers	Dudley	Gutman
Brown-Waite	Clary	Dyer	Hargrett
Burt	Cowin	Forman	Harris

Holzendorf	Kurth	Meadows	Silver
Horne	Latvala	Myers	Sullivan
Jones	Laurent	Ostalkiewicz	Thomas
Kirkpatrick	Lee	Rossin	Turner
Klein	McKay	Scott	Williams

Nays—None

HB 4743—A bill to be entitled An act relating to Pinellas County and municipalities in Pinellas County; authorizing the Board of County Commissioners of Pinellas County for unincorporated areas and for the boards of the municipalities within Pinellas County to provide by ordinance for liens in favor of all operators of hospitals in Pinellas County and in favor of Pinellas County when it pays for medical care, treatment, or maintenance of qualifying residents of the county and hospitals within such municipalities, respectively, upon all causes of action, suits, claims, counterclaims, and demands accruing to persons to whom care, treatment, or maintenance is furnished by such hospital or is paid for by Pinellas County on behalf of a qualifying resident of the county or accruing to legal representatives of such persons, and upon all judgments, settlements, and settlement agreements entered into by virtue thereof on account of illness, injury, deformity, infirmity, abnormality, disease, or pregnancy giving rise to such causes of action, suits, claims, counterclaims, demands, judgments, settlements, or settlement agreements, and which necessitates such care, treatment, or maintenance; authorizing the Board of County Commissioners of Pinellas County and the board of the Pinellas County municipalities to provide by ordinance for the attachment, perfection, priority, and enforcement of such liens and for such procedural and other matters as may be necessary or appropriate to carry out the purposes of said ordinances; providing that the lien be limited to the greater of either the worker's compensation rate in effect on the effective date of this act or the nongovernmental, commercial health insurance or managed care contractual rate applicable to the injured person at the time medical care or treatment was rendered plus the amounts for which the patient is personally responsible; providing an effective date.

—was read the second time by title.

Senator Sullivan moved the following amendment:

Amendment 1 (with title amendment)—On page 3, lines 10-16, delete those lines and insert: the purposes of ordinances. If the patient has commercial, nongovernmental health insurance coverage through a health maintenance organization at the time care and treatment are delivered, the lien shall be limited to the covered charges in effect at the time care and treatment were delivered. In the event of a claim or action by the patient against a third party in which the settlement or judgment is less than or equal to the debt actually due and owing the hospital, the settlement or judgment will be equitably distributed based on a pro rata reduction in the amount due the hospital and the patient, including a pro rata reduction in the amount of reasonable attorney's fees and costs due the patient's attorney and the hospital's attorney. In the event of a claim or action by the patient against a third party in which the settlement or judgment is greater than the debt actually due and owing the hospital then the settlement or judgment will be equitably distributed based on a pro rata share of the amount due the hospital and the patient, including a pro rata share for the amount of reasonable attorney's fees and costs due the patient's attorney and the hospital's attorney.

And the title is amended as follows:

On page 2, lines 5-13, delete those lines and insert: purpose of such ordinances; providing a limit on the amount of liens against patients who have certain insurance coverage; providing guidelines for pro rata distribution of settlements and judgments;

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

Amendment 1A—On page 2, delete line 6 and insert: due the patient's attorney, the hospital's attorney, and non-contracted and non-employed physicians.

Amendment 1 as amended was adopted.

On motion by Senator Sullivan, by two-thirds vote **HB 4743** 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

HB 4777—A bill to be entitled An act relating to Santa Rosa County; amending chapter 79-561, Laws of Florida, as amended, relating to the Santa Rosa County Civil Service Board; providing for additional supervisory personnel to be included within the definition of an “unclassified service” position; providing an effective date.

—was read the second time by title. On motion by Senator Clary, by two-thirds vote **HB 4777** 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

HB 4797—A bill to be entitled An act relating to Broward County; amending chapter 97-371, Laws of Florida; extending the corporate limits of the cities of Pembroke Pines, Davie, Cooper City, and Weston; providing for the annexation of the unincorporated area known as Southwest Ranches; providing for amendment to the legal description of Southwest Ranches and surrounding areas and Sunshine Acres and surrounding areas; providing for incorporation of a new municipality; providing an effective date.

—was read the second time by title. On motion by Senator Campbell, by two-thirds vote **HB 4797** 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

HB 4799—A bill to be entitled An act relating to the City of Deerfield Beach, Broward County; extending and enlarging the corporate limits of the City of Deerfield Beach to include specified unincorporated lands within said corporate limits; providing an effective date.

—was read the second time by title. On motion by Senator Campbell, by two-thirds vote **HB 4799** 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

HB 4821—A bill to be entitled An act relating to St. Johns County; creating the Town of Ponte Vedra Beach; providing legislative intent; providing municipal boundaries and municipal powers; providing a council-manager form of government; providing for election of a town council; providing for membership, qualifications, terms, powers, and duties of its members, including the mayor; providing for compensation and expenses; providing general powers and duties; providing circumstances resulting in vacancy in office; providing grounds for forfeiture and suspension; providing for filling of vacancies; providing for meetings; providing for keeping of records; providing for adoption, distribution, and recording of technical codes; providing a limitation upon employment of town council members; providing certain interference with town employees shall constitute malfeasance in office; establishing the fiscal year; providing for adoption of annual budget and appropriation; providing amendments for supplemental, reduction, and transfer of appropriations; providing for limitations; providing for appointment of charter offices, including a town manager and town attorney; providing for removal, compensation, and filling of vacancies; providing qualifications, powers, and duties; providing for nonpartisan elections and for matters relative thereto; providing for recall; providing for initiative and referendum; providing the town a transitional schedule and procedures for first election; providing for first-year expenses; providing for adoption of transitional ordinances, resolutions, comprehensive plan, and local development regulations; providing for a transition agreement between St. Johns County and Town of Ponte Vedra Beach; providing for interim municipal services; providing for disposition of existing special districts; providing for the grandfathering in of existing land uses and zoning for certain property owners; providing land descriptions of the town; providing for future amendments of the charter; providing for standards of conduct in office; providing for severability; providing for a referendum; providing an effective date.

—was read the second time by title. On motion by Senator Bankhead, by two-thirds vote **HB 4821** 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

HB 3853—A bill to be entitled An act relating to Pinellas County; repealing chapter 69-1490, Laws of Florida, relating to the creation of the Pinellas County Industry Council; providing an effective date.

—was read the second time by title.

Senator Latvala moved the following amendment which was adopted:

Amendment 1 (with title amendment)—On page 1, between lines 10 and 11, insert:

Section 2. All assets and liabilities of the Pinellas County Industry Council are transferred to Pinellas County.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 5, after the semicolon (;) insert: providing for assumption of assets and obligations of the council;

On motion by Senator Latvala, by two-thirds vote **HB 3853** 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 Clary, by two-thirds vote **CS for HB 3979** was withdrawn from the Committees on Governmental Reform and Oversight; Community Affairs; and Ways and Means.

On motion by Senator Clary—

CS for HB 3979—A bill to be entitled An act relating to facilities and properties under the supervision of the Division of Historical Resources of the Department of State; amending s. 266.0015, F.S.; deleting the requirement that moneys from admissions to and rental of facilities and properties of the Historic Pensacola Preservation Board of Trustees be deposited into the board's operating trust fund; amending s. 266.0018, F.S.; providing for the deposit of such moneys into an account of the board's direct-support organization; amending s. 267.17, F.S.; clarifying authority of the Division of Historical Resources and its citizen support organizations to rent facilities and properties; providing for the deposit of moneys received from the rental of such facilities and properties; providing an effective date.

—a companion measure, was substituted for **CS for SB 2132** and read the second time by title. On motion by Senator Clary, by two-thirds vote **CS for HB 3979** 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

**TRUST FUND BILL
SPECIAL ORDER CALENDAR**

SENATOR BURT PRESIDING

On motion by Senator Sullivan, by two-thirds vote **HB 3449** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 3449—A bill to be entitled An act relating to trust funds; re-creating the Turnpike Controlled Access Trust Fund within the Department of Transportation without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—a companion measure, was substituted for **SB 2370** and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 3449** 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—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 Sullivan, by two-thirds vote **HB 3451** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 3451—A bill to be entitled An act relating to trust funds; re-creating the Toll Facilities Revolving Trust Fund within the Department of Transportation without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—a companion measure, was substituted for **SB 2372** and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 3451** 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—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 Sullivan, by two-thirds vote **HB 3453** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 3453—A bill to be entitled An act relating to trust funds; re-creating the Transportation Disadvantaged Trust Fund within the De-

partment of Transportation without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—a companion measure, was substituted for **SB 2374** and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 3453** 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—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 Sullivan, by two-thirds vote **HB 3455** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 3455—A bill to be entitled An act relating to trust funds; re-creating the Highway Safety Operating Trust Fund within the Department of Highway Safety and Motor Vehicles without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—a companion measure, was substituted for **SB 2376** and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 3455** 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—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 Sullivan, by two-thirds vote **HB 3457** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 3457—A bill to be entitled An act relating to trust funds; re-creating the DUI Programs Coordination Trust Fund within the Department of Highway Safety and Motor Vehicles without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—a companion measure, was substituted for **SB 2378** and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 3457** 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—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 Sullivan, by two-thirds vote **HB 3459** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 3459—A bill to be entitled An act relating to trust funds; re-creating the Law Enforcement Trust Fund within the Department of Highway Safety and Motor Vehicles without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—a companion measure, was substituted for **SB 2380** and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 3459** 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—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 Sullivan, by two-thirds vote **HB 3461** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 3461—A bill to be entitled An act relating to trust funds; re-creating the Fuel Tax Collection Trust Fund within the Department of Highway Safety and Motor Vehicles without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—a companion measure, was substituted for **SB 2382** and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 3461** 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—39

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	Myers
Clary	Grant	Klein	Ostalkiewicz

Rossin	Silver	Thomas	Williams
Scott	Sullivan	Turner	

Nays—None

On motion by Senator Sullivan, by two-thirds vote **HB 3463** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 3463—A bill to be entitled An act relating to trust funds; re-creating the Mobile Home and Recreational Vehicle Protection Trust Fund within the Department of Highway Safety and Motor Vehicles without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—a companion measure, was substituted for **SB 2384** and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 3463** 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—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 Sullivan, by two-thirds vote **HB 3465** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 3465—A bill to be entitled An act relating to trust funds; re-creating the Grants and Donations Trust Fund within the Department of Highway Safety and Motor Vehicles without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—a companion measure, was substituted for **SB 2386** and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 3465** 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—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 Sullivan, by two-thirds vote **HB 3467** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 3467—A bill to be entitled An act relating to trust funds; re-creating the Working Capital Trust Fund within the Department of Highway Safety and Motor Vehicles without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—a companion measure, was substituted for **SB 2388** and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 3467** 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—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 Sullivan, by two-thirds vote **HB 3469** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 3469—A bill to be entitled An act relating to trust funds; re-creating the License Tax Collection Trust Fund within the Department of Highway Safety and Motor Vehicles without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—a companion measure, was substituted for **SB 2390** and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 3469** 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—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 Sullivan, by two-thirds vote **HB 4627** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 4627—A bill to be entitled An act relating to trust funds; re-creating the Crimes Compensation Trust Fund within the Department of Legal Affairs without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—a companion measure, was substituted for **SB 2392** and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 4627** was read the third time by title, passed by the required consti-

tutional three-fifths vote of the membership 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 Sullivan, by two-thirds vote **HB 4629** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 4629—A bill to be entitled An act relating to trust funds; re-creating the Florida Crime Prevention Training Institute Revolving Trust Fund within the Department of Legal Affairs without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—a companion measure, was substituted for **SB 2394** and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 4629** 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—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 Sullivan, by two-thirds vote **HB 4631** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 4631—A bill to be entitled An act relating to trust funds; re-creating the Grants and Donations Trust Fund within the Department of Legal Affairs without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—a companion measure, was substituted for **SB 2396** and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 4631** 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—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

On motion by Senator Sullivan, by two-thirds vote **HB 4633** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 4633—A bill to be entitled An act relating to trust funds; re-creating the Legal Services Trust Fund within the Department of Legal Affairs without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—a companion measure, was substituted for **SB 2398** and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 4633** 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—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 Sullivan, by two-thirds vote **HB 4635** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 4635—A bill to be entitled An act relating to trust funds; re-creating the Legal Affairs Revolving Trust Fund within the Department of Legal Affairs without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—a companion measure, was substituted for **SB 2400** and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 4635** 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—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 Sullivan, by two-thirds vote **HB 4637** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 4637—A bill to be entitled An act relating to trust funds; re-creating the Motor Vehicle Warranty Trust Fund within the Department of Legal Affairs without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—a companion measure, was substituted for **SB 2402** and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 4637** 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—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 Sullivan, by two-thirds vote **HB 4641** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 4641—A bill to be entitled An act relating to trust funds; re-creating the Revolving Escrow Trust Fund within the Department of Legal Affairs without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—a companion measure, was substituted for **SB 2404** and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 4641** 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—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

SB 2406—A bill to be entitled An act relating to the re-creation of the Criminal Justice Training Trust Fund of the Department of Corrections without modification; re-creating the Criminal Justice Training Trust Fund; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—was read the second time by title.

An amendment was considered and adopted to conform **SB 2406** to **HB 4575**.

Pending further consideration of **SB 2406** as amended, on motion by Senator Sullivan, by two-thirds vote **HB 4575** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 4575—A bill to be entitled An act relating to trust funds; re-creating the Criminal Justice Standards and Training Trust Fund within the Department of Corrections without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—a companion measure, was substituted for **SB 2406** as amended and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 4575** 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—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

SB 2408—A bill to be entitled An act relating to the re-creation of the Hurricane Andrew Recovery and Rebuilding Trust Fund without modification; re-creating the Hurricane Andrew Recovery and Rebuilding Trust Fund; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—was read the second time by title.

An amendment was considered and adopted to conform **SB 2408** to **HB 4661**.

Pending further consideration of **SB 2408** as amended, on motion by Senator Sullivan, by two-thirds vote **HB 4661** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 4661—A bill to be entitled An act relating to trust funds; creating s. 943.365, F.S.; creating the Federal Law Enforcement Trust Fund within the Department of Law Enforcement; providing for sources of funds; exempting the trust fund from various service charges; providing for annual carryforward of funds; providing for future review and termination or re-creation of the trust fund; amending ss. 932.7055 and 943.362, F.S., relating to duties of the department with respect to the deposit of certain moneys, to conform; providing an effective date.

—a companion measure, was substituted for **SB 2408** as amended and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 4661** 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—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 Sullivan, by two-thirds vote **HB 4579** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 4579—A bill to be entitled An act relating to trust funds; re-creating the Florida Agricultural Exposition Trust Fund within the Department of Corrections without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—a companion measure, was substituted for **SB 2410** and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 4579** 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—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 Sullivan, by two-thirds vote **HB 4581** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 4581—A bill to be entitled An act relating to trust funds; re-creating the Grants and Donations Trust Fund within the Department of Corrections without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—a companion measure, was substituted for **SB 2412** and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 4581** 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—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 Sullivan, by two-thirds vote **HB 4583** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 4583—A bill to be entitled An act relating to trust funds; re-creating the Operating Trust Fund within the Department of Corrections without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—a companion measure, was substituted for **SB 2414** and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 4583** 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—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 Sullivan, by two-thirds vote **HB 3471** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 3471—A bill to be entitled An act relating to trust funds; re-creating the Highway Patrol Insurance Trust Fund within the Department of Highway Safety and Motor Vehicles without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—a companion measure, was substituted for **SB 2416** and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 3471** 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—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 Sullivan, by two-thirds vote **HB 3473** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 3473—A bill to be entitled An act relating to trust funds; declaring the findings of the Legislature that specified trust funds in the Department of Transportation are exempt from the automatic-termination requirements of Section 19(f), Article III of the State Constitution; providing an effective date.

—a companion measure, was substituted for **SB 2418** and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 3473** 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—39

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	Myers
Clary	Grant	Klein	Ostalkiewicz

Rossin	Silver	Thomas	Williams
Scott	Sullivan	Turner	

Nays—None

And the title is amended as follows:

On page 1, lines 3-20, delete those lines and insert: Capital Collateral Trust Fund within Justice Administration without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

WHEREAS, the Legislature wishes to extend the life of the Capital Collateral Trust Fund within Justice Administration, which is otherwise scheduled to be terminated pursuant to constitutional mandate, and

WHEREAS, the Legislature has reviewed the Capital Collateral Trust Fund within Justice Administration before its scheduled termination date and has found that it continues to meet an important public purpose, and

WHEREAS, the Legislature has found that existing public policy concerning the Capital Collateral Trust Fund within Justice Administration sets adequate parameters for its use, NOW, THEREFORE,

On motion by Senator Sullivan, by two-thirds vote **HB 4587** as amended 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:

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 Sullivan, by two-thirds vote **HB 3475** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 3475—A bill to be entitled An act relating to trust funds; terminating specified trust funds and fund accounts within the Department of Transportation; 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; providing an effective date.

—a companion measure, was substituted for **SB 2420** and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 3475** 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:

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

SB 2422—A bill to be entitled An act relating to the re-creation of the Capital Collateral Trust Fund without modification; re-creating the Capital Collateral Trust Fund; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—was read the second time by title.

An amendment was considered and adopted to conform **SB 2422** to **HB 4587**.

Pending further consideration of **SB 2422** as amended, on motion by Senator Sullivan, by two-thirds vote **HB 4587** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 4587—A bill to be entitled An act relating to trust funds; re-creating the Capital Collateral Trust Fund within the Justice Administrative Commission without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—a companion measure, was substituted for **SB 2422** as amended and read the second time by title.

Senator Sullivan moved the following amendment which was adopted:

Amendment 1 (with title amendment)—On page 1, line 24 through page 2, line 2, delete those lines and insert:

Section 1. *The Capital Collateral Trust Fund within Justice Administration, SAMAS number 212072, which is to be terminated pursuant to Section 19(f), Article III of the State Constitution on November 4, 2000, is re-created.*

Section 2. *All current balances of the Capital Collateral Trust Fund within Justice Administration are carried forward, and all current sources and uses of the trust fund are continued.*

SB 2424—A bill to be entitled An act relating to the re-creation of the Child Support Trust Fund without modification; re-creating the Child Support Trust Fund; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—was read the second time by title.

An amendment was considered and adopted to conform **SB 2424** to **HB 4589**.

Pending further consideration of **SB 2424** as amended, on motion by Senator Sullivan, by two-thirds vote **HB 4589** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 4589—A bill to be entitled An act relating to trust funds; re-creating the Child Support Trust Fund within the Justice Administrative Commission without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—a companion measure, was substituted for **SB 2424** as amended and read the second time by title.

Senator Sullivan moved the following amendment which was adopted:

Amendment 1 (with title amendment)—On page 1, lines 24-31, delete those lines and insert:

Section 1. *The Child Support Trust Fund within Justice Administration, which is to be terminated pursuant to Section 19(f), Article III of the State Constitution on November 4, 2000, is re-created.*

Section 2. *All current balances of the Child Support Trust Fund within Justice Administration are carried forward, and all current sources and uses of the trust fund are continued.*

And the title is amended as follows:

On page 1, lines 3-20, delete those lines and insert: Child Support Trust Fund within Justice Administration without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

WHEREAS, the Legislature wishes to extend the life of the Child Support Trust Fund within Justice Administration, which is otherwise scheduled to be terminated pursuant to constitutional mandate, and

WHEREAS, the Legislature has reviewed the Child Support Trust Fund within Justice Administration before its scheduled termination date and has found that it continues to meet an important public purpose, and

WHEREAS, the Legislature has found that existing public policy concerning the Child Support Trust Fund within Justice Administration sets adequate parameters for its use, NOW, THEREFORE,

On motion by Senator Sullivan, by two-thirds vote **HB 4589** as amended 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—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 Sullivan, by two-thirds vote **HB 4591** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 4591—A bill to be entitled An act relating to trust funds; re-creating the State Attorney RICO Trust Fund within the Justice Administrative Commission without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—a companion measure, was substituted for **SB 2426** and read the second time by title.

Senator Sullivan moved the following amendment which was adopted:

Amendment 1 (with title amendment)—On page 1, line 24 through page 2, line 2, delete those lines and insert:

Section 1. *The State Attorney RICO Trust Fund within Justice Administration, which is to be terminated pursuant to Section 19(f), Article III of the State Constitution on November 4, 2000, is re-created.*

Section 2. *All current balances of the State Attorney RICO Trust Fund within Justice Administration are carried forward, and all current sources and uses of the trust fund are continued.*

And the title is amended as follows:

On page 1, lines 3-20, delete those lines and insert: State Attorney RICO Trust Fund within Justice Administration without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

WHEREAS, the Legislature wishes to extend the life of the State Attorney RICO Trust Fund within Justice Administration, which is otherwise scheduled to be terminated pursuant to constitutional mandate, and

WHEREAS, the Legislature has reviewed the State Attorney RICO Trust Fund within Justice Administration before its scheduled termination date and has found that it continues to meet an important public purpose, and

WHEREAS, the Legislature has found that existing public policy concerning the State Attorney RICO Trust Fund within Justice Administrative sets adequate parameters for its use, NOW, THEREFORE,

On motion by Senator Sullivan, by two-thirds vote **HB 4591** as amended 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—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 Sullivan, by two-thirds vote **HB 4593** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 4593—A bill to be entitled An act relating to trust funds; re-creating the Consumer Frauds Trust Fund within the Justice Administrative Commission without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—a companion measure, was substituted for **SB 2428** and read the second time by title.

Senator Sullivan moved the following amendment which was adopted:

Amendment 1 (with title amendment)—On page 1, lines 24-31 delete those lines and insert:

Section 1. *The Consumer Frauds Trust Fund within Justice Administration, which is to be terminated pursuant to Section 19(f), Article III of the State Constitution on November 4, 2000, is re-created.*

Section 2. *All current balances of the Consumer Frauds Trust Fund within Justice Administration are carried forward, and all current sources and uses of the trust fund are continued.*

And the title is amended as follows:

On page 1, lines 3-20, delete those lines and insert: Consumer Frauds Trust Fund within Justice Administration without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

WHEREAS, the Legislature wishes to extend the life of the Consumer Frauds Trust Fund within Justice Administration, which is otherwise scheduled to be terminated pursuant to constitutional mandate, and

WHEREAS, the Legislature has reviewed the Consumer Frauds Trust Fund within Justice Administration before its scheduled termination date and has found that it continues to meet an important public purpose, and

WHEREAS, the Legislature has found that existing public policy concerning the Consumer Frauds Trust Fund within Justice Administration sets adequate parameters for its use, NOW, THEREFORE,

On motion by Senator Sullivan, by two-thirds vote **HB 4593** as amended was read the third time by title, passed by the required consti-

tutional three-fifths vote of the membership 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 Sullivan, by two-thirds vote **HB 4595** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 4595—A bill to be entitled An act relating to trust funds; re-creating the State Attorney's Forfeiture and Investigative Support Trust Fund within the Justice Administrative Commission without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—a companion measure, was substituted for **SB 2430** and read the second time by title.

Senator Sullivan moved the following amendment which was adopted:

Amendment 1 (with title amendment)—On page 1, line 28 through page 2, line 7, delete those lines and insert:

Section 1. *The State Attorney's Forfeiture and Investigative Support Trust Fund within Justice Administration, which is to be terminated pursuant to Section 19(f), Article III of the State Constitution on November 4, 2000, is re-created.*

Section 2. *All current balances of the State Attorney's Forfeiture and Investigative Support Trust Fund within Justice Administration are carried forward, and all current sources and uses of the trust fund are continued.*

And the title is amended as follows:

On page 1, lines 3-24, delete those lines and insert: State Attorney's Forfeiture and Investigative Support Trust Fund within Justice Administration without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

WHEREAS, the Legislature wishes to extend the life of the State Attorney's Forfeiture and Investigative Support Trust Fund within Justice Administration, which is otherwise scheduled to be terminated pursuant to constitutional mandate, and

WHEREAS, the Legislature has reviewed the State Attorney's Forfeiture and Investigative Support Trust Fund within Justice Administration before its scheduled termination date and has found that it continues to meet an important public purpose, and

WHEREAS, the Legislature has found that existing public policy concerning the State Attorney's Forfeiture and Investigative Support Trust Fund within Justice Administration sets adequate parameters for its use, NOW, THEREFORE,

On motion by Senator Sullivan, by two-thirds vote **HB 4595** as amended 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—39

Bankhead	Brown-Waite	Campbell	Childers
Bronson	Burt	Casas	Clary

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

Nays—None

On motion by Senator Sullivan, by two-thirds vote **HB 4597** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 4597—A bill to be entitled An act relating to trust funds; re-creating the Grants and Donations Trust Fund within the Justice Administrative Commission without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—a companion measure, was substituted for **SB 2432** and read the second time by title.

Senator Sullivan moved the following amendment which was adopted:

Amendment 1 (with title amendment)—On page 1, line 24 through page 2, line 2, delete those lines and insert:

Section 1. *The Grants and Donations Trust Fund within Justice Administration, which is to be terminated pursuant to Section 19(f), Article III of the State Constitution on November 4, 2000, is re-created.*

Section 2. *All current balances of the Grants and Donations Trust Fund within Justice Administration are carried forward, and all current sources and uses of the trust fund are continued.*

And the title is amended as follows:

On page 1, lines 3-20, delete those lines and insert: Grants and Donations Trust Fund within Justice Administration without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

WHEREAS, the Legislature wishes to extend the life of the Grants and Donations Trust Fund within Justice Administration, which is otherwise scheduled to be terminated pursuant to constitutional mandate, and

WHEREAS, the Legislature has reviewed the Grants and Donations Trust Fund within Justice Administration before its scheduled termination date and has found that it continues to meet an important public purpose, and

WHEREAS, the Legislature has found that existing public policy concerning the Grants and Donations Trust Fund within Justice Administration sets adequate parameters for its use, NOW, THEREFORE,

On motion by Senator Sullivan, by two-thirds vote **HB 4597** as amended 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—39

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	Myers
Clary	Grant	Klein	Ostalkiewicz

Rossin	Silver	Thomas	Williams
Scott	Sullivan	Turner	

Nays—None

Legal Affairs without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

On motion by Senator Sullivan, by two-thirds vote **HB 4621** was withdrawn from the Committee on Ways and Means.

—a companion measure, was substituted for **SB 2438** and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 4625** 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:

On motion by Senator Sullivan—

HB 4621—A bill to be entitled An act relating to trust funds; re-creating the Administrative Trust Fund within the Department of Legal Affairs without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

Yeas—39

—a companion measure, was substituted for **SB 2434** and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 4621** 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:

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	

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

Nays—None

On motion by Senator Sullivan, by two-thirds vote **HB 4623** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan, by two-thirds vote **HB 4585** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 4623—A bill to be entitled An act relating to trust funds; re-creating the Florida Motor Vehicle Theft Prevention Trust Fund within the Department of Legal Affairs without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

On motion by Senator Sullivan—

HB 4585—A bill to be entitled An act relating to trust funds; re-creating the Sale of Goods and Services Clearing Trust Fund within the Department of Corrections without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—a companion measure, was substituted for **SB 2436** and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 4623** 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:

—a companion measure, was substituted for **SB 2440** and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 4585** 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—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	

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

Nays—None

On motion by Senator Sullivan, by two-thirds vote **HB 4625** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan, by two-thirds vote **HB 4611** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 4625—A bill to be entitled An act relating to trust funds; re-creating the Consumer Frauds Trust Fund within the Department of

On motion by Senator Sullivan—

HB 4611—A bill to be entitled An act relating to trust funds; re-creating the Criminal Justice Standards and Training Trust Fund within the Department of Law Enforcement without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—a companion measure, was substituted for **SB 2444** and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 4611** 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—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 Sullivan, by two-thirds vote **HB 4615** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 4615—A bill to be entitled An act relating to trust funds; re-creating the Forfeiture and Investigative Support Trust Fund within the Department of Law Enforcement without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—a companion measure, was substituted for **SB 2446** and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 4615** 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—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 Sullivan, by two-thirds vote **HB 4613** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 4613—A bill to be entitled An act relating to trust funds; re-creating the Grants and Donations Trust Fund within the Department of Law Enforcement without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—a companion measure, was substituted for **SB 2448** and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 4613** 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—39

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	Myers
Clary	Grant	Klein	Ostalkiewicz

Rossin	Silver	Thomas	Williams
Scott	Sullivan	Turner	
Nays—None			

On motion by Senator Sullivan, by two-thirds vote **HB 4617** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 4617—A bill to be entitled An act relating to trust funds; re-creating the Operating Trust Fund within the Department of Law Enforcement without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—a companion measure, was substituted for **SB 2450** and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 4617** 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—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 Sullivan, by two-thirds vote **HB 4619** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan vote—

HB 4619—A bill to be entitled An act relating to trust funds; re-creating the Revolving Trust Fund within the Department of Law Enforcement without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—a companion measure, was substituted for **SB 2452** and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 4619** 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—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 Sullivan, by two-thirds vote **HB 4653** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 4653—A bill to be entitled An act relating to trust funds; re-creating the Grants and Donations Trust Fund within the Parole Com-

mission without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—a companion measure, was substituted for **SB 2456** and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 4653** 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—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 Sullivan, by two-thirds vote **HB 4601** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 4601—A bill to be entitled An act relating to trust funds; re-creating the Administrative Trust Fund within the Department of Juvenile Justice without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—a companion measure, was substituted for **SB 2458** and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 4601** 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—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 Sullivan, by two-thirds vote **HB 4603** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 4603—A bill to be entitled An act relating to trust funds; re-creating the Grants and Donations Trust Fund within the Department of Juvenile Justice without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—a companion measure, was substituted for **SB 2460** and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 4603** 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—39

Bankhead	Brown-Waite	Campbell	Childers
Bronson	Burt	Casas	Clary

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

Nays—None

On motion by Senator Sullivan, by two-thirds vote **HB 4609** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 4609—A bill to be entitled An act relating to trust funds; re-creating the Juvenile Crime Prevention and Early Intervention Trust Fund within the Department of Juvenile Justice without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—a companion measure, was substituted for **SB 2462** and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 4609** 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—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 Sullivan, by two-thirds vote **HB 4605** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 4605—A bill to be entitled An act relating to trust funds; re-creating the Juvenile Justice Training Trust Fund within the Department of Juvenile Justice without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—a companion measure, was substituted for **SB 2464** and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 4605** 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—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 Sullivan, by two-thirds vote **HB 4607** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 4607—A bill to be entitled An act relating to trust funds; re-creating the Social Services Block Grant Trust Fund within the Department of Juvenile Justice without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—a companion measure, was substituted for **SB 2466** and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 4607** 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—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 Sullivan, by two-thirds vote **HB 4659** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 4659—A bill to be entitled An act relating to trust funds; creating the Privately Operated Institutions Inmate Welfare Trust Fund within the Department of Corrections; providing for purposes and sources of funds; providing for annual carryforward of funds; providing for future review and termination or re-creation of the trust fund; providing an effective date.

—a companion measure, was substituted for **SB 2490** and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 4659** 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—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 Sullivan, by two-thirds vote **HB 4655** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 4655—A bill to be entitled An act relating to trust funds; creating the Employee Benefit Trust Fund within the Department of Corrections; providing for purposes and sources of funds; providing for annual carryforward of funds; providing for future review and termination or re-creation of the trust fund; providing an effective date.

—a companion measure, was substituted for **SB 2492** and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 4655** 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—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 Sullivan, by two-thirds vote **HB 4649** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 4649—A bill to be entitled An act relating to trust funds; re-creating the Grants and Donations Trust Fund within the state courts system without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—a companion measure, was substituted for **SB 2494** and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 4649** 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—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 Sullivan, by two-thirds vote **HB 4663** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 4663—A bill to be entitled An act relating to criminal justice trust funds; 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; providing an effective date.

—a companion measure, was substituted for **SB 2496** and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 4663** 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—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

Consideration of **SB 2498** was deferred.

On motion by Senator Sullivan, by two-thirds vote **HB 4577** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 4577—A bill to be entitled An act relating to trust funds; recreating the Correctional Work Program Trust Fund within the Department of Corrections without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—a companion measure, was substituted for **SB 2506** and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 4577** 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—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 Sullivan, by two-thirds vote **HB 4599** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 4599—A bill to be entitled An act relating to trust funds; recreating the Indigent Criminal Defense Trust Fund within the Justice Administrative Commission without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—a companion measure, was substituted for **SB 2508** and read the second time by title.

Senator Sullivan moved the following amendment which was adopted:

Amendment 1 (with title amendment)—On page 1, line 24 through page 2, line 2, delete those lines and insert:

Section 1. *The Indigent Criminal Defense Trust Fund within Justice Administration, which is to be terminated pursuant to Section 19(f), Article III of the State Constitution on November 4, 2000, is re-created.*

Section 2. *All current balances of the Indigent Criminal Defense Trust Fund within Justice Administration are carried forward, and all current sources and uses of the trust fund are continued.*

And the title is amended as follows:

On page 1, lines 3-20, delete those lines and insert: Indigent Criminal Defense Trust Fund within Justice Administration without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

WHEREAS, the Legislature wishes to extend the life of the Indigent Criminal Defense Trust Fund within Justice Administration, which is otherwise scheduled to be terminated pursuant to constitutional mandate, and

WHEREAS, the Legislature has reviewed the Indigent Criminal Defense Trust Fund within Justice Administration before its scheduled termination date and has found that it continues to meet an important public purpose, and

WHEREAS, the Legislature has found that existing public policy concerning the Indigent Criminal Defense Trust Fund within Justice Administration sets adequate parameters for its use, NOW, THEREFORE,

On motion by Senator Sullivan, by two-thirds vote **HB 4599** as amended 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—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 Sullivan, by two-thirds vote **HB 4639** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 4639—A bill to be entitled An act relating to trust funds; recreating the Elections Commission Trust Fund within the Department of Legal Affairs without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—a companion measure, was substituted for **SB 2510** and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 4639** 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—39

Bankhead	Brown-Waite	Campbell	Childers
Bronson	Burt	Casas	Clary

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

Nays—None

On motion by Senator Sullivan, by two-thirds vote **HB 4643** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 4643—A bill to be entitled An act relating to trust funds; re-creating the Family Courts Trust Fund within the state courts system without modification; carrying forward current balances and continuing current sources and uses thereof; providing for future termination; providing an effective date.

—a companion measure, was substituted for **SB 2512** and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 4643** 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—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 Sullivan, by two-thirds vote **HB 4651** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 4651—A bill to be entitled An act relating to trust funds; re-creating the Family Courts Trust Fund within the state courts system without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—a companion measure, was substituted for **SB 2514** and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 4651** 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—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 Sullivan, by two-thirds vote **HB 4657** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 4657—A bill to be entitled An act relating to trust funds; creating the Inmate Welfare Trust Fund within the Department of Corrections; providing for purposes and sources of funds; providing for annual carry-forward of funds; providing for future review and termination or re-creation of the trust fund; providing an effective date.

—a companion measure, was substituted for **SB 2516** and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 4657** 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—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 Sullivan, by two-thirds vote **HB 4645** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 4645—A bill to be entitled An act relating to trust funds; re-creating the Court Education Trust Fund within the state courts system without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—a companion measure, was substituted for **SB 2518** and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 4645** 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—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 Sullivan, by two-thirds vote **HB 4647** was withdrawn from the Committee on Ways and Means.

On motion by Senator Sullivan—

HB 4647—A bill to be entitled An act relating to trust funds; re-creating the State Mediation and Arbitration Trust Fund within the state courts system without modification; carrying forward current balances and continuing current sources and uses thereof; providing an effective date.

—a companion measure, was substituted for **SB 2520** and read the second time by title. On motion by Senator Sullivan, by two-thirds vote

HB 4647 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—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

HB 4715—A bill to be entitled An act relating to trust funds; creating s. 20.2553, F.S.; creating the Federal Law Enforcement Trust Fund within the Department of Environmental Protection; providing for sources of funds; exempting the trust fund from various service charges; providing for annual carryforward of funds; providing for future review and termination or re-creation of the trust fund; amending ss. 370.021, 370.061, and 932.7055, F.S., relating to duties of the department with respect to the deposit of certain moneys, to conform; providing an effective date.

—was read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 4715** 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—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

HB 4717—A bill to be entitled An act relating to trust funds; creating s. 372.107, F.S.; creating the Federal Law Enforcement Trust Fund within the Game and Fresh Water Fish Commission; providing for sources of funds; exempting the trust fund from various service charges; providing for annual carryforward of funds; providing for future review and termination or re-creation of the trust fund; amending ss. 372.73, 372.9901, 372.9904, and 932.7055, F.S., relating to duties of the commission with respect to the deposit of certain moneys, to conform; providing an effective date.

—was read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 4717** 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—39

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	Myers
Clary	Grant	Klein	Ostalkiewicz

Rossin	Silver	Thomas	Williams
Scott	Sullivan	Turner	

Nays—None

HB 4719—A bill to be entitled An act relating to trust funds; creating s. 561.027, F.S.; creating the Federal Law Enforcement Trust Fund within the Department of Business and Professional Regulation; providing for sources of funds; exempting the trust fund from various service charges; providing for annual carryforward of funds; providing for future review and termination or re-creation of the trust fund; amending s. 932.7055, F.S., relating to duties of the department with respect to the deposit of certain moneys, to conform; providing an effective date.

—was read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 4719** 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—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

HB 4721—A bill to be entitled An act relating to trust funds; creating s. 570.205, F.S.; creating the Federal Law Enforcement Trust Fund within the Department of Agriculture and Consumer Services; providing for sources of funds; exempting the trust fund from various service charges; providing for annual carryforward of funds; providing for future review and termination or re-creation of the trust fund; amending s. 932.7055, F.S., relating to duties of the department with respect to the deposit of certain moneys, to conform; providing an effective date.

—was read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 4721** 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—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

HB 4723—A bill to be entitled An act relating to trust funds; creating s. 250.175, F.S.; creating the Federal Law Enforcement Trust Fund within the Department of Military Affairs; providing for sources of funds; exempting the trust fund from various service charges; providing for annual carryforward of funds; providing for future review and termination or re-creation of the trust fund; amending s. 932.7055, F.S., relating to duties of the department with respect to the deposit of certain moneys, to conform; providing an effective date.

—was read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 4723** 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—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

Consideration of **HB 4725** was deferred.

HB 4813—A bill to be entitled An act relating to trust funds; creating s. 17.43, F.S.; creating the Comptroller's Federal Equitable Sharing Trust Fund within the Department of Banking and Finance; providing for sources of funds; exempting the trust fund from various service charges; providing for annual carryforward of funds; providing for future review and termination or re-creation of the trust fund; providing an effective date.

—was read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 4813** 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—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 Sullivan, 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 706, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 706—A bill to be entitled An act relating to education; amending s. 232.246, F.S.; revising provisions relating to high school graduation credit requirements; providing for early graduation; amending s. 236.081, F.S., relating to funds for operation of schools; providing for calculation of full-time-equivalent student membership for students who graduate early; providing an effective date.

House Amendment 1—On page 5, lines 15 through 30, remove from the bill: All of said lines and insert in lieu thereof:

(c) *Notwithstanding the 24 academic credit limit in subsection (1), district school boards are authorized and encouraged to establish re-*

quirements for high school graduation in excess of the minimum requirements by requiring foreign language credits, by increasing the required academic courses set forth in subsection (1)(a) through (j), or by increasing the minimum grade point average requirement; however, an increase in required course academic credit or minimum grade point average requirements shall not apply to those students enrolled in grades 9 through 12 at the time the district school board increases the requirements. This paragraph does not preclude district school boards from establishing academic credit requirements in excess of 24 credits for academy, magnet, or other special courses of study programs, including workforce development programs, which students may voluntarily enter and agree to the excess requirements.

On motion by Senator Sullivan, the Senate refused to concur in the House amendment to **CS for SB 706** 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 passed CS for SB 1108, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 1108—A bill to be entitled An act relating to insurance; amending s. 627.021, F.S.; providing that the provisions of ch. 627, F.S., do not apply to commercial inland marine insurance; amending ss. 627.0651, 627.410, F.S.; making conforming changes to requirements for filing underwriting rules and forms; amending s. 627.311, F.S.; revising the composition of the workers' compensation joint underwriting plan; prohibiting insurers from providing workers' compensation to certain employers; amending s. 627.7295, F.S., relating to minimum down payments for motor vehicle insurance; providing an effective date.

House Amendment 1 (with title amendment)—On page 15, between lines 23 and 24 of the bill insert:

Section 4. Paragraph (e) of subsection (2) of section 627.351, Florida Statutes, is amended to read:

627.351 Insurance risk apportionment plans.—

(2) WINDSTORM INSURANCE RISK APPORTIONMENT.—

(e) Notwithstanding the provisions of subparagraph (c)2. or paragraph (d), eligibility shall not be extended to any area that was not eligible on March 1, 1997, except that the department may act with respect to any petition on which a hearing was held prior to *May 9, 1997* ~~the effective date of this act. This paragraph is repealed on October 1, 1998.~~

And the title is amended as follows:

On page 1, line 14, after the semicolon (;) insert: amending s. 627.351, F.S.; prohibiting further geographical expansion of Florida Windstorm Underwriting Association eligibility;

House Amendment 2 (with title amendment)—On page 14, between lines 26 and 27 of the bill insert:

Section 5. Paragraph (c) is added to subsection (1) of section 627.7013, Florida Statutes, and subsection (2) of said section is amended, to read:

627.7013 Orderly markets for personal lines residential property insurance.—

(1) FINDINGS AND PURPOSE.—

(a) The Legislature finds that personal lines residential property insurers, as a condition of doing business in this state, have a responsibility to contribute to an orderly market for personal lines residential property insurance and that there is a compelling state interest in maintaining an orderly market for personal lines residential property insurance. The Legislature further finds that Hurricane Andrew, which caused over \$15 billion of insured losses in South Florida, has reinforced the need of consumers to have reliable homeowner's insurance coverage;

however, the enormous monetary impact to insurers of Hurricane Andrew claims has prompted insurers to propose substantial cancellation or nonrenewal of their homeowner's insurance policyholders. The Legislature further finds that the massive cancellations and nonrenewals announced, proposed, or contemplated by certain insurers constitute a significant danger to the public health, safety, and welfare, and destabilize the insurance market. In furtherance of the overwhelming public necessity for an orderly market for property insurance, the Legislature, in chapter 93-401, Laws of Florida, imposed, for a limited time, a moratorium on cancellation or nonrenewal of personal lines residential property insurance policies. The Legislature further finds that upon expiration of the moratorium, additional actions are required to maintain an orderly market for personal lines residential property insurance in this state. The purposes of this section are to provide for a phaseout of the moratorium and to require advance planning and approval for programs of exposure reduction.

(b) The Legislature finds, as of the beginning of the 1996 Regular Session of the Legislature, that:

1. The conditions described in paragraph (a) remain applicable to the property insurance market in this state in 1996 and are likely to remain applicable for several years thereafter.

2. The Residential Property and Casualty Joint Underwriting Association, a residual market mechanism created to alleviate temporary unavailability of property insurance coverage, remains the primary or exclusive source of new property insurance coverage in significant portions of the state.

3. Recent enactments intended to restore a competitive, private sector property insurance market, including creation and enhancement of the Florida Hurricane Catastrophe Fund, incentives for depopulation of the Residential Property and Casualty Joint Underwriting Association, incentives for hurricane loss mitigation and prevention, creation of the Florida Commission on Hurricane Loss Projection Methodology, and revisions of laws relating to rates and coverages, are beginning to have their intended effects; however, the market instability that persists could frustrate these efforts to restore the market.

4. The moratorium completion provided in this section is the least intrusive method for maintaining an orderly market, insofar as it applies only to hurricane-related cancellations and nonrenewals of personal lines residential policies that were in force on the effective date, and insofar as it allows an insurer annually to nonrenew up to 5 percent of the total number of such policies as of the effective date.

(c) *The Legislature finds, as of January 1, 1998, that:*

1. *The conditions described in paragraphs (a) and (b) remain applicable to the property insurance market in this state in 1998 and are likely to remain applicable for several years thereafter.*

2. *The general instability of the market is reflected by the following facts:*

a. In spite of depopulation efforts under which approximately 600,000 policies have been transferred from the Residential Property and Casualty Joint Underwriting Association to the voluntary market, the joint underwriting association, with approximately 500,000 policies in force, remains the primary or exclusive source of new property insurance coverage in significant portions of the state.

b. The Florida Windstorm Underwriting Association is growing rapidly, with more than 400,000 policies in force, approximately half of which were initially issued in 1997.

3. A further extension of the operation of this section until June 1, 2001, will provide an opportunity for the market to stabilize and for continuation of residual market depopulation efforts.

(2) **MORATORIUM COMPLETION.—**

(a) As used in this subsection, the term "total number of policies" means the number of an insurer's policies of a specified type that were in force on June 1, 1996, or the date on which this section became law, whichever was later.

(b) The following restrictions apply only to cancellation or nonrenewal of personal lines residential property insurance policies that

were in force on June 1, 1996, or the date on which this section became law, whichever was later.

1. In any 12-month period, an insurer may not cancel or nonrenew more than 5 percent of such insurer's total number of homeowner's policies, 5 percent of such insurer's total number of mobile home owner's policies, or 5 percent of such insurer's total number of personal lines residential policies of all types and classes in the state for the purpose of reducing the insurer's exposure to hurricane claims and may not, with respect to any county, cancel or nonrenew more than 10 percent of its total number of homeowner's policies, 10 percent of its total number of mobile home owner's policies, or 10 percent of its total number of personal lines residential policies of all types and classes in the county for the purpose of reducing the insurer's exposure to hurricane claims. This subparagraph does not prohibit any cancellations or nonrenewals of such policies for any other lawful reason unrelated to the risk of loss from hurricane exposure.

2.a. If, for any 12-month period, an insurer proposes to cancel or nonrenew personal lines residential policies to an extent not authorized by subparagraph 1. for the purpose of reducing exposure to hurricane claims, the insurer must file a phaseout plan with the department at least 90 days prior to the effective date of the plan. In the plan, the insurer must demonstrate to the department that the insurer is protecting market stability and the interests of its policyholders. The plan may not be implemented unless it is approved by the department. In developing the plan, the insurer must consider policyholder longevity, the use of voluntary incentives to accomplish the reduction, and geographic distribution. The insurer must demonstrate that under the plan the insurer will not cancel or nonrenew more policies in the 12-month period than the largest number of similar policies the insurer canceled or nonrenewed for any reason in any 12-month period between August 24, 1989, and August 24, 1992.

b. If the insurer considers the number of cancellations and nonrenewals under sub-subparagraph a. to be insufficient, the insurer may apply for approval of additional cancellations or nonrenewals on the basis of an unreasonable risk of insolvency. In evaluating a request under this sub-subparagraph, the department shall consider and shall require the insurer to provide information relevant to: the insurer's size, market concentration, and general financial condition; the portion of the insurer's business in this state represented by personal lines residential property insurance; the reasonableness of assumptions with respect to size, frequency, severity, and path of hurricanes; the reinsurance available to the insurer and potential recoveries from the Florida Hurricane Catastrophe Fund; and the extent to which the insurer's assets have been voluntarily transferred by dividend or otherwise from the insurer to its stockholders, parent companies, or affiliated companies since June 1, 1996, or the date on which this section became law, whichever was later. In the implementation of exposure reductions under this sub-subparagraph, the department and the insurer shall consider such factors as policyholder longevity, the use of voluntary incentives to accomplish the exposure reduction, and geographic distribution.

c. A policy shall not be counted as having been canceled or nonrenewed for purposes of this subsection if any of the following apply:

(I) The policy was canceled or nonrenewed for an underwriting reason unrelated to the risk of loss from hurricane exposure, nonpayment of premium, or any other lawful reason that is unrelated to the risk of loss from hurricane exposure. The department shall consider the reason specified in the notice of cancellation or nonrenewal to be the reason for the cancellation or nonrenewal unless the department finds by a preponderance of the evidence that the stated reason was not the insurer's actual reason for the cancellation or nonrenewal.

(II) The cancellation or nonrenewal was initiated by the insured.

(III) The insurer has offered the policyholder replacement or alternative coverage at approved rates, which coverage meets the requirements of the secondary mortgage market.

d. In addition to any other cancellations or nonrenewals subject to the limitations in this subsection, a policy shall be considered as having been canceled or nonrenewed for purposes of this subsection if:

(I) The insurer implements a rate increase under the use-and-file provisions of s. 627.062(2)(a)2., which rate increase exceeds 150 percent of the increase ultimately approved by the department, and, while the

rate filing was pending, the policyholder voluntarily canceled or nonrenewed the policy and obtained replacement coverage from another insurer, including the Residential Property and Casualty Joint Underwriting Association; or

(II) The insurer reduces the commission to an agent by more than 25 percent and the agent thereafter places the risk with another insurer, including the Residential Property and Casualty Joint Underwriting Association, or the Florida Windstorm Underwriting Association, or the Coastal Zone Insurance Plan.

e. The department must approve or disapprove an application for a waiver within 90 days after the department receives the application for waiver.

3. In addition to the cancellations or nonrenewals authorized under this section, an insurer may cancel or nonrenew policies to the extent authorized by an exemption from or waiver of either the moratorium created by chapter 93-401, Laws of Florida, or the moratorium phaseout under former s. 627.7013(2).

4. Notwithstanding any provisions of this section to the contrary, this section does not apply to any insurer that, prior to August 24, 1992, filed notice of such insurer's intent to discontinue writing insurance in this state under s. 624.430, and for which a finding has been made by the department, the Division of Administrative Hearings of the Department of Management Services, or a court that such notice satisfied all requirements of s. 624.430. Nothing in this section shall be construed to authorize an insurer to withdraw from any line of property insurance business for the purpose of reducing exposure to risk of hurricane loss if such withdrawal commenced at any time that the moratorium under chapter 93-401, Laws of Florida, or the moratorium phaseout under this section is in effect.

5. The following actions by an insurer do not constitute cancellations or nonrenewals for purposes of this subsection:

a. The transfer of a risk from one admitted insurer to another admitted insurer, unless the terms of the new or replacement policy place the policyholder in default of a mortgage obligation.

b. An increase in the hurricane deductible applicable to the policy, unless the new deductible places the policyholder in default of a mortgage obligation or the deductible exceeds the limits specified in s. 627.701.

c. Any other lawful change in coverage that does not place the policyholder in default of a mortgage obligation.

d. A cancellation or nonrenewal that is part of the same action as the removal of a policy including windstorm or hurricane coverage from the Residential Property and Casualty Joint Underwriting Association.

6. In order to assure fair and effective enforcement of this subsection, each insurer shall, no later than October 1, 1996, report to the department the policy number of each policy subject to this subsection, arranged by county. The report shall include the policy number for each personal lines residential policy that was in force on June 1, 1996, or the date this section became law, whichever was later. Beginning October 1, 1996, each insurer shall also report, on a monthly basis, all cancellations and nonrenewals of policies included in such policy list and the reasons for the cancellations and nonrenewals.

~~7. An insurer that has an overconcentration of wind risk in areas eligible for coverage under the Florida Windstorm Underwriting Association may submit to the department for approval an accelerated exposure reduction plan. The plan, if approved, shall allow the insurer to nonrenew additional policies for reasons of reducing hurricane loss, beyond the amounts authorized elsewhere in this paragraph, subject to the following conditions:~~

~~a. All additional nonrenewals under this subparagraph shall consist of nonrenewals of only the windstorm portion of a policy, and shall be allowed only if the Florida Windstorm Underwriting Association provides windstorm coverage to replace the nonrenewed windstorm coverage.~~

~~b. At the conclusion of the accelerated exposure reduction plan, which shall be no later than 12 months after the date of the first nonrenewal under such plan, the insurer is prohibited from any further~~

~~nonrenewals for purposes of reducing hurricane loss until the expiration of this subsection.~~

~~e. The total number of nonrenewals statewide for purposes of reduction of hurricane loss, under this subparagraph taken together with the other provisions of this paragraph, shall not exceed the total number of nonrenewals that would have been allowed statewide under subparagraph 1. between June 1, 1996, and the expiration of this subsection.~~

~~d. Notwithstanding the provisions of s. 627.4133, the insurer must give the policyholder 45 days' advance notice of the nonrenewal of windstorm coverage under this subparagraph and the availability of such coverage through the Florida Windstorm Underwriting Association.~~

~~e. The first nonrenewal under an accelerated exposure reduction program under this subparagraph may not take effect earlier than February 1, 1997.~~

~~f. In reviewing the proposed accelerated exposure reduction plan, the department shall consider:~~

~~(I) The degree to which the exposure reduction plan is necessary to address the insurer's overconcentration.~~

~~(II) Prior levels of participation in writing voluntary wind coverage in areas eligible for coverage through the Florida Windstorm Underwriting Association.~~

~~(III) The availability of wind coverage in the voluntary market for the subject risks.~~

~~(IV) The capacity of the Florida Windstorm Underwriting Association to absorb the risks proposed to be covered by the association.~~

(c) The department may adopt rules to implement this subsection.

(d) This section shall cease to operate at such time as the department determines that the insured value of all residential properties insured by the Florida Windstorm Underwriting Association and all properties insured by the Residential Property and Casualty Joint Underwriting Association under policies providing wind coverage, combined, has remained below \$25 billion for 3 consecutive months, based on exposure data reported to the department by the associations.

~~(e)(d) This subsection is repealed on June 1, 2001 1999.~~

Section 6. Section 627.7014, Florida Statutes, is amended to read:

627.7014 Orderly markets for condominium association residential property insurance.—

(1) FINDINGS AND PURPOSE.—

(a) The Legislature finds:

1. That residential property insurers providing condominium association coverage, as a condition of doing business in this state, have a responsibility to contribute to an orderly market for condominium association residential property insurance and that there is a compelling state interest in maintaining an orderly market for condominium association residential property insurance.

2. That Hurricane Andrew, which caused over \$15 billion of insured losses in South Florida, has reinforced the need of consumers to have reliable condominium association insurance coverage; however, even more than 3 years after Hurricane Andrew, the hurricane's enormous monetary impact is causing insurers to propose substantial cancellation or nonrenewal of their condominium association insurance policyholders.

3. That the massive cancellations and nonrenewals announced, proposed, or contemplated by certain insurers constitute a significant danger to the public health, safety, and welfare and destabilize the insurance market.

4. That the Residential Property and Casualty Joint Underwriting Association, a residual market mechanism created to alleviate temporary unavailability of property insurance coverage, remains the primary or exclusive source of new property insurance in significant portions of the state.

5. That recent enactments intended to restore a competitive, private sector property insurance market, including creation and enhancement of the Florida Hurricane Catastrophe Fund, incentives for depopulation of the Residential Property and Casualty Joint Underwriting Association, incentives for hurricane loss mitigation and prevention, creation of the Florida Commission on Hurricane Loss Projection Methodology, and revisions of laws relating to rates and coverages, are beginning to have their intended effects; however, the market remains unstable.

6. That the moratorium created by this section is the least intrusive method for maintaining an orderly market for condominium association insurance, insofar as it applies only to hurricane-related cancellations and nonrenewals of personal lines residential policies that were in force on the effective date of this section, and insofar as it allows an insurer annually to nonrenew up to 5 percent of the total number of such policies as of the effective date of this section.

(b) *The Legislature finds, as of January 1, 1998, that:*

1. *The conditions described in paragraph (a) remain applicable to the commercial residential property insurance market in this state in 1998 and are likely to remain applicable for several years thereafter.*

2. *The general instability of the market is reflected by the recent rapid growth of the Florida Windstorm Underwriting Association, which had more than 9,500 commercial residential policies in force as of December 31, 1997, representing a 58 percent increase over the number of commercial residential policies in force on December 31, 1996.*

3. *An extension of the operation of this section until June 1, 2001, will provide an opportunity for the market to stabilize and for continuation of residual market depopulation efforts.*

(c)(b) The purposes of this section are to provide for a temporary moratorium on hurricane-related cancellations and nonrenewals of condominium association coverage and to require advance planning and approval for programs of condominium association exposure reduction.

(2) MORATORIUM.—

(a) As used in this subsection, the term “total number of policies” means the number of an insurer’s condominium association policies providing windstorm or hurricane coverage that were in force on the effective date of this section. The following restrictions apply to the cancellation or nonrenewal of condominium association residential property insurance policies that were in force on the effective date of this section:

1. In any 12-month period, an insurer may not cancel or nonrenew more than 5 percent of its total number of condominium association policies in the state for the purpose of reducing the insurer’s exposure to hurricane claims and may not, with respect to any county, cancel or nonrenew more than 10 percent of its total number of condominium association policies in the county for the purpose of reducing the insurer’s exposure to hurricane claims. This subparagraph does not prohibit any cancellations or nonrenewals of such policies for any other lawful reason unrelated to the risk of loss from hurricane exposure.

2.a. If, for any 12-month period, an insurer proposes to cancel or nonrenew condominium association policies to an extent not authorized by subparagraph 1. for the purpose of reducing exposure to hurricane claims, the insurer must file a phaseout plan with the department at least 90 days prior to the effective date of the plan. In the plan, the insurer must demonstrate to the department that the insurer is protecting market stability and the interests of its policyholders. The plan may not be implemented unless it is approved by the department. In developing the plan, the insurer must consider policyholder longevity, the use of voluntary incentives to accomplish the reduction, and geographic distribution. The insurer must demonstrate that under the plan the insurer will not cancel or nonrenew more policies in the 12-month period than the largest number of similar policies the insurer canceled or nonrenewed for any reason in any 12-month period between August 24, 1989, and August 24, 1992.

b. If the insurer considers the number of cancellations and nonrenewals under sub-subparagraph a. to be insufficient, the insurer may apply for approval of additional cancellations or nonrenewals on the basis of an unreasonable risk of insolvency. In evaluating a request under this sub-subparagraph, the department shall consider, and shall

require the insurer to provide information relevant to: the insurer’s size, market concentration, and general financial condition; the portion of the insurer’s business in this state represented by condominium association residential property insurance; the reasonableness of assumptions with respect to size, frequency, severity, and path of hurricanes; and the reinsurance available to the insurer and potential recoveries from the Florida Hurricane Catastrophe Fund. In the implementation of exposure reductions under this sub-subparagraph, the department and the insurer shall consider such factors as policyholder longevity, the use of voluntary incentives to accomplish the exposure reduction, and geographic distribution.

c. A policy shall not be counted as having been canceled or nonrenewed for purposes of this subsection if any of the following apply:

(I) The policy was canceled or nonrenewed for an underwriting reason unrelated to the risk of loss from hurricane exposure, nonpayment of premium, or any other lawful reason that is unrelated to the risk of loss from hurricane exposure. The department shall consider the reason specified in the notice of cancellation or nonrenewal to be the reason for the cancellation or nonrenewal unless the department finds by a preponderance of the evidence that the stated reason was not the insurer’s actual reason for the cancellation or nonrenewal.

(II) The cancellation or nonrenewal was initiated by the insured.

(III) The insurer has offered the policyholder replacement or alternative coverage at approved rates.

(IV) The risk is transferred from one admitted insurer to another admitted insurer, unless the terms of the new or replacement policy place the policyholder in default of a mortgage obligation.

(V) The hurricane deductible applicable to the policy is increased unless the new deductible exceeds statutory limits or places the policyholder in default of a mortgage obligation.

(VI) Any other lawful change in coverage that does not place the policyholder in default of a mortgage obligation is made.

d. In addition to any other cancellations or nonrenewals subject to the limitations in this subsection, a policy shall be considered as having been canceled or nonrenewed for purposes of this subsection if:

(I) The insurer implements a rate increase under the use-and-file provisions of s. 627.062(2)(a)2., which rate increase exceeds 150 percent of the increase ultimately approved by the department, and, while the rate filing was pending, the policyholder voluntarily canceled or nonrenewed the policy and obtained replacement coverage from another insurer, including the Residential Property and Casualty Joint Underwriting Association; or

(II) The insurer reduces the commission to an agent by more than 25 percent and the agent thereafter places the risk with another insurer, including the Residential Property and Casualty Joint Underwriting Association.

e. The department must approve or disapprove an application for a waiver within 90 days after the department receives the application for waiver.

3. Notwithstanding any provisions of this section to the contrary, this section does not apply to any insurer that, prior to August 24, 1992, filed notice of such insurer’s intent to discontinue writing insurance in this state under s. 624.430, and for which a finding has been made by the department, the Division of Administrative Hearings of the Department of Management Services, or a court that such notice satisfied all requirements of s. 624.430. This section also does not apply to any insurer that:

a. Collects at least 75 percent of its Florida premiums from policies that include hurricane coverage provided to condominium associations in coastal counties.

b. Collects at least 80 percent of its Florida premiums from policies that include hurricane coverage provided to condominium associations in Broward, Dade, and Palm Beach Counties.

c. Has, annually since 1992:

(I) Increased its aggregate Florida premium volume from policies that include hurricane coverage provided to condominium associations in coastal counties.

(II) Increased its aggregate Florida premium volume from policies that include hurricane coverage provided to condominium associations in Broward, Dade, and Palm Beach Counties.

(III) Increased its aggregate Florida exposure from policies that include hurricane coverage provided to condominium associations in coastal counties.

(IV) Increased its aggregate Florida exposure from policies that include hurricane coverage provided to condominium associations in Broward, Dade, and Palm Beach Counties.

d. Has surplus as to policyholders of no more than \$200 million as reflected in its annual statement for 1995.

4. In order to assure fair and effective enforcement of this subsection, each insurer shall, no later than October 1, 1996, report to the department the policy number of each policy subject to this subsection, arranged by county. The report shall include the policy number for each condominium association policy that was in force on the effective date of this section. Beginning October 1, 1996, each insurer shall also report, on a monthly basis, all cancellations and nonrenewals of policies included in such policy list and the reasons for the cancellations and nonrenewals.

5. ~~An insurer that has an overconcentration of wind risk in areas eligible for coverage under the Florida Windstorm Underwriting Association may submit to the department for approval an accelerated exposure reduction plan. The plan, if approved, shall allow the insurer to nonrenew additional policies for reasons of reducing hurricane loss, beyond the amounts authorized elsewhere in this paragraph, subject to the following conditions:~~

a. ~~All additional nonrenewals under this subparagraph shall consist of nonrenewals of only the windstorm portion of a policy, and shall be allowed only if the Florida Windstorm Underwriting Association provides windstorm coverage to replace the nonrenewed windstorm coverage.~~

b. ~~At the conclusion of the accelerated exposure reduction plan, which shall be no later than 12 months after the date of the first nonrenewal under such plan, the insurer is prohibited from any further nonrenewals for purposes of reducing hurricane loss until the expiration of this subsection.~~

c. ~~The total number of nonrenewals statewide for purposes of reduction of hurricane loss, under this subparagraph taken together with the other provisions of this paragraph, shall not exceed the total number of nonrenewals that would have been allowed statewide under subparagraph 1. between June 1, 1996, and the expiration of this subsection.~~

d. ~~Notwithstanding the provisions of s. 627.4133, the insurer must give the policyholder 45 days' advance notice of the nonrenewal of windstorm coverage under this subparagraph and the availability of such coverage through the Florida Windstorm Underwriting Association.~~

e. ~~The first nonrenewal under an accelerated exposure reduction program under this subparagraph may not take effect earlier than February 1, 1997.~~

f. ~~In reviewing the proposed accelerated exposure reduction plan, the department shall consider:~~

(I) ~~The degree to which the exposure reduction plan is necessary to address the insurer's overconcentration.~~

(II) ~~Prior levels of participation in writing voluntary wind coverage in areas eligible for coverage through the Florida Windstorm Underwriting Association.~~

(III) ~~The availability of wind coverage in the voluntary market for the subject risks.~~

(IV) ~~The capacity of the Florida Windstorm Underwriting Association to absorb the risks proposed to be covered by the association.~~

(b) The department may adopt rules to implement this subsection.

(c) This section shall cease to operate at such time as the department determines that the insured value of all residential properties insured by the Florida Windstorm Underwriting Association and all properties insured by the Residential Property and Casualty Joint Underwriting Association under policies providing wind coverage, combined, has remained below \$25 billion for 3 consecutive months, based on exposure data reported to the department by the associations.

(d)(e) This subsection is repealed on June 1, 2001 1999.

And the title is amended as follows:

On page 1, line 12, after the semicolon (;) insert: amending ss. 627.7013 and 627.7014, F.S.; providing findings relating to the moratorium on hurricane-related cancellations and nonrenewals of personal lines residential policies and condominium association policies, respectively; deleting provisions relating to accelerated exposure reduction plans; providing circumstances under which the sections are inoperative; delaying the future repeal date of the sections;

Senators Geller and Silver offered the following amendment which was moved by Senator Geller and adopted:

Senate Amendment 1 (with title amendment) to House Amendment 1—On page 1, line 27, insert:

Section 5. Section 626.9543, Florida Statutes, is created to read:

626.9543 Holocaust victims.—

(1) SHORT TITLE.—This section may be cited as the "Holocaust Victims Insurance Act."

(2) INTENT; PURPOSE.—It is the Legislature's intent that the potential and actual insurance claims of Holocaust victims and their heirs and beneficiaries be expeditiously identified and properly paid and that Holocaust victims and their families receive appropriate assistance in the filing and payment of their rightful claims.

(3) DEFINITIONS.—For the purpose of this section:

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

(b) "Holocaust victim" means any person who lost his or her life or property as a result of discriminatory laws, policies, or actions targeted against discrete groups of persons between 1920 and 1945, inclusive, in Nazi Germany, areas occupied by Nazi German, or countries allied with Nazi Germany.

(c) "Insurance policy" means, but is not limited to, life insurance, property insurance, or education policies.

(d) "Legal relationship" means any parent, subsidiary, or affiliated company with an insurer doing business in this state.

(e) "Proceeds" means the face or other payout value of policies and annuities plus reasonable interest to date of payments without diminution for wartime or immediate postwar currency devaluation.

(4) ASSISTANCE TO HOLOCAUST VICTIMS.—The department shall establish a toll-free telephone number, available in appropriate languages, to assist any person seeking to recover proceeds from an insurance policy issued to a Holocaust victim.

(5) PROOF OF A CLAIM.—Any insurer doing business in this state, in receipt of a claim from a Holocaust victim or from a beneficiary, decedent or heir of a Holocaust victim, shall:

(a) Diligently and expeditiously investigate all such claims.

(b) Allow such claimants to meet a reasonable, not unduly restrictive, standard of proof to substantiate a claim, pursuant to standards established by the department.

(c) Permit claims irrespective of any statute of limitations or notice requirements imposed by any insurance policy issued, provided the claim is submitted within 10 years after effective date of this section.

(6) *STATUTE OF LIMITATIONS.*—Notwithstanding any law or agreement among the parties to an insurance policy to the contrary, any action brought by Holocaust victims or by a beneficiary, heir, or descendant of a Holocaust victim seeking proceeds of an insurance policy issued or in effect between 1920 and 1945, inclusive, shall not be dismissed for failure to comply with the applicable statute of limitations or laches provided the action is commenced within 10 years after the effective date of this section.

(7) *REPORTS FROM INSURERS.*—Any insurer doing business in this state shall have an affirmative duty to ascertain to the extent possible and report to the department within 90 days after the effective date of this section and annually thereafter all efforts made and results of such efforts to ascertain:

(a) Any legal relationship with an international insurer that issued an insurance policy to a Holocaust victim between 1920 and 1945, inclusive.

(b) The number and total value of such policies.

(c) Any claim filed by a Holocaust victim, his or her beneficiary, heir, or descendant that has been paid, denied payment, or is pending.

(d) Attempts made by the insurer to locate the beneficiaries of any such policies for which no claim of benefits has been made.

(e) An explanation of any denial or pending payment of a claim to a Holocaust victim, his or her beneficiary, heir, or descendant.

(8) *REPORTS TO THE LEGISLATURE.*—The department shall report to the Legislature one year after the effective date of this section and annually thereafter:

(a) The number of insurers doing business in this state which have a legal relationship with an international insurer that could have issued a policy to a Holocaust victim between 1920 and 1945, inclusive.

(b) A list of all claims paid, denied, or pending to a Holocaust victim, his or her beneficiary, heir, or descendant.

(c) A summary of the length of time for the processing and disposition of a claim by the insurer.

(9) *PENALTIES.*—In addition to any other penalty provided under this chapter, any insurer or person who violates the provisions of this section is subject to an administrative penalty of \$1,000 per day for each day such violation continues.

(10) *PRIVATE RIGHT OF ACTION.*—An action to recover damages caused by a violation of this section must be commenced within 5 years after the cause of action has accrued. Any person who shall sustain damages by the reason of a violation of this section shall recover threefold the actual damages sustained thereby, as well as costs not exceeding \$50,000, and reasonable attorneys' fees. At or before the commencement of any civil action by a party, notice thereof shall be served upon the department.

(11) *RULES.*—The department, by rule, shall provide for the implementation of the provisions of this section by establishing procedures and related forms for facilitating, monitoring, and verifying compliance with this section and for the establishment for a restitution program for Holocaust victims, survivors, and their heirs and beneficiaries.

(12) *SEVERABILITY.*—If any provision of this section or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the section which can be given effect without the invalid provision or application, and to this end the provisions of this section are declared severable.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 2, line 4, after the semicolon (;) insert: creating s. 626.9543, F.S.; providing a short title; providing legislative intent and purpose; requiring the Department of Insurance to provide certain assistance to Holocaust victims; providing requirements for insurers relating to insurance claims from beneficiaries, descendants, or heirs of Holocaust victims; limiting certain statutes of limitation under certain circumstances;

requiring insurers to report certain information to the department; requiring the department to report to the Legislature; providing penalties; providing requirements for bringing certain causes of action; providing severability;

On motion by Senator Williams, 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 1108 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—36

Bronson	Dyer	Jones	Myers
Brown-Waite	Forman	Kirkpatrick	Ostalkiewicz
Campbell	Geller	Klein	Rossin
Childers	Grant	Kurth	Scott
Clary	Gutman	Latvala	Silver
Cowin	Hargrett	Laurent	Sullivan
Crist	Harris	Lee	Thomas
Diaz-Balart	Holzendorf	McKay	Turner
Dudley	Horne	Meadows	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 1328, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 1328—A bill to be entitled An act relating to postconviction capital collateral proceedings; requesting that the Division of Statutory Revision designate part IV of ch. 27, F.S., as "Capital Collateral Representation"; amending s. 27.702, F.S.; deleting a requirement that specifies the time for the capital collateral regional counsel to commence the representation of a person sentenced to death; creating s. 27.710, F.S.; requiring that the executive director of the Commission on the Administration of Justice in Capital Cases maintain a registry of attorneys in private practice who are available to be appointed to represent defendants in postconviction capital collateral proceedings; authorizing the executive director to obtain names of attorneys who may register for appointment; providing eligibility requirements for appointment as counsel in postconviction capital collateral proceedings; providing for appointment of an attorney selected from the registry; limiting the circumstances under which the court may permit an attorney to withdraw from representation following appointment; authorizing the court to impose sanctions; requiring that appointed counsel enter into a contract with the Comptroller; providing for the Comptroller to enforce performance of the contract; providing that more than one attorney may not be appointed at any one time to represent a capital defendant; creating s. 27.711, F.S.; requiring that an attorney appointed to represent a capital defendant file a notice of appearance; providing a schedule of fees to which the attorney is entitled for specified appearances and representations; requiring that the trial court approve the payment of costs and fees; providing that such fees constitute the exclusive means of compensation for such representation; authorizing compensation as provided by federal law under certain circumstances; authorizing the use of investigative services and the payment of fees for such services; providing that by accepting appointment to represent a capital defendant the attorney agrees to continue such representation until the defendant's sentence is reversed, reduced, or carried out; limiting the number of capital defendants that an attorney may represent; prohibiting a claim of ineffective assistance of counsel based on an action by the attorney who represents a capital defendant; prohibiting the attorney from representing the capital defendant in certain other proceedings; providing an effective date.

House Amendment 1 (with title amendment)—On page 7, line 19, after "court" insert: , and the submission of a payment request by the attorney, subject to the availability of sufficient funding specifically appropriated for this purpose. The Justice Administrative Commission shall notify the Executive Director and the court if it appears that sufficient funding has not been specifically appropriated for this purpose to pay any fees which may be incurred

House Amendment 2 (with title amendment)—On page 3, line 23, remove from the bill: everything after the enacting clause and insert in lieu thereof:

Section 1. *The Division of Statutory Revision is requested to designate part IV of chapter 27, Florida Statutes, as "Capital Collateral Representation."*

Section 2. Subsections (1) and (2) of section 27.702, Florida Statutes, are amended to read:

27.702 Duties of the capital collateral regional counsel; reports.—

(1) The capital collateral regional counsel shall represent each person convicted and sentenced to death in this state for the sole purpose of instituting and prosecuting collateral actions challenging the legality of the judgment and sentence imposed against such person in the state courts, federal courts in this state, the United States Court of Appeals for the Eleventh Circuit, and the United States Supreme Court. ~~Representation by the regional counsel shall commence automatically upon termination of direct appellate proceedings in state or federal courts. Within 91 days after the date the Supreme Court issues a mandate on a direct appeal or the United States Supreme Court denies a petition for certiorari, whichever is later, the capital collateral regional counsel shall file a notice of appearance in the trial court in which the judgment and sentence were entered and shall secure all direct appeal files for collateral representation. Upon receipt of files from the public defender or other counsel, the capital collateral regional counsel shall assign each such case to personnel in his or her office for investigation, client contact, and any further action the circumstances warrant. The three capital collateral regional counsels' offices shall function independently and be separate budget entities, and the regional counsels shall be the office heads for all purposes. The Justice Administrative Commission shall provide administrative support and service to the three offices to the extent requested by the regional counsels. The three regional offices shall not be subject to control, supervision, or direction by the Justice Administrative Commission in any manner, including, but not limited to, personnel, purchasing, transactions involving real or personal property, and budgetary matters.~~

(2) The capital collateral regional counsel shall represent *persons* ~~each person~~ convicted and sentenced to death within the region in collateral postconviction proceedings, unless a court appoints or permits other counsel to appear as counsel of record.

Section 3. Section 27.710, Florida Statutes, is created to read:

27.710 *Registry of attorneys applying to represent persons in postconviction capital collateral proceedings; certification of minimum requirements; appointment by trial court.—*

(1) *The executive director of the Commission on the Administration of Justice in Capital Cases shall compile and maintain a statewide registry of attorneys in private practice who have certified that they meet the minimum requirements of s. 27.704(2) and who are available for appointment by the court under this section to represent persons convicted and sentenced to death in this state in postconviction capital collateral proceedings. To ensure that sufficient attorneys are available for appointment by the court, when the number of attorneys on the registry falls below 50, the executive director shall notify the chief judge of each circuit by letter and request the chief judge to promptly submit the names of at least three private attorneys who regularly practice criminal law in that circuit and who appear to meet the minimum requirements to represent persons in postconviction capital collateral proceedings. The executive director shall send an application to each attorney identified by the chief judge so that the attorney may register for appointment as counsel in postconviction capital collateral proceedings. As necessary, the executive director may also advertise in legal publications and other appropriate media for qualified attorneys interested in registering for appointment as counsel in postconviction capital collateral proceedings. Not later than September 1 of each year, and as necessary thereafter, the executive director shall provide to the Chief Justice of the Supreme Court, the chief judge and state attorney in each judicial circuit, and the Attorney General a current copy of its registry of attorneys who are available for appointment as counsel in postconviction capital collateral proceedings. The registry must be indexed by judicial circuit and must contain the requisite information submitted by the applicants in accordance with this section.*

(2) *To be eligible for court appointment as counsel in postconviction capital collateral proceedings, an attorney must certify on an application provided by the executive director that he or she satisfies the minimum requirements for private counsel set forth in s. 27.704(2).*

(3) *An attorney who applies for registration and court appointment as counsel in postconviction capital collateral proceedings must certify that he or she is counsel of record in not more than four such proceedings and, if appointed to represent a person in postconviction capital collateral proceedings, shall continue such representation under the terms and conditions set forth in s. 27.711 until the sentence is reversed, reduced, or carried out or unless permitted to withdraw from representation by the trial court. The court may not permit an attorney to withdraw from representation without a finding of sufficient good cause. The court may impose appropriate sanctions if it finds that an attorney has shown bad faith with respect to continuing to represent a defendant in a postconviction capital collateral proceeding. This section does not preclude the court from reassigning a case to a capital collateral regional counsel following discontinuation of representation if a conflict of interest no longer exists with respect to the case.*

(4) *Each private attorney who is appointed by the court to represent a capital defendant must enter into a contract with the Comptroller. The executive director of the Commission on the Administration of Justice in Capital Cases shall develop the form of the contract and the Comptroller shall function as contract manager and shall enforce performance of the terms and conditions of the contract. By signing such contract, the attorney certifies that he or she intends to continue the representation under the terms and conditions set forth in the contract until the sentence is reversed, reduced, or carried out or until released by order of the trial court.*

(5) *Upon notification by the Attorney General that:*

(a) *Ninety-one days have elapsed since the Supreme Court issued a mandate on a direct appeal, or the Supreme Court of the United States has denied a petition for certiorari, whichever is later;*

(b) *A person under sentence of death who was previously represented by private counsel is currently unrepresented in a postconviction capital collateral proceeding; or*

(c) *The trial court has issued an order finding that a year and a day have elapsed since the commencement of the period for filing a motion for postconviction relief under s. 924.055(2), and the defendant's complete original motion for postconviction relief has not been filed in the trial court,*

the executive director shall immediately notify the trial court that imposed the sentence of death that the court must immediately appoint an attorney, selected from the current registry, to represent such person in collateral actions challenging the legality of the judgment and sentence in the appropriate state and federal courts. The court shall have the authority to strike a notice of appearance filed by a Capital Collateral Regional Counsel, if the court finds the notice was not filed in good faith and may so notify the executive director that the client is no longer represented by the Office of Capital Collateral Regional Counsel. In making an assignment, the court shall give priority to attorneys whose experience and abilities in criminal law, especially in capital proceedings, are known by the court to be commensurate with the responsibility of representing a person sentenced to death. The trial court must issue an order of appointment which contains specific findings that the appointed counsel meets the statutory requirements and has the high ethical standards necessary to represent a person sentenced to death.

(6) *More than one attorney may not be appointed and compensated at any one time under s. 27.711 to represent a person in postconviction capital collateral proceedings.*

Section 4. Section 27.711, Florida Statutes, is created to read:

27.711 *Terms and conditions of appointment of attorneys as counsel in postconviction capital collateral proceedings.—*

(1) *As used in s. 27.710 and this section, the term:*

(a) *"Capital defendant" means the person who is represented in postconviction capital collateral proceedings by an attorney appointed under s. 27.710.*

(b) "Executive director" means the executive director of the Commission on the Administration of Justice in Capital Cases.

(c) "Postconviction capital collateral proceedings" means one series of collateral litigation of an affirmed conviction and sentence of death, including the proceedings in the trial court that imposed the capital sentence, any appellate review of the sentence by the Supreme Court, any certiorari review of the sentence by the United States Supreme Court, and any authorized federal habeas corpus litigation with respect to the sentence. The term does not include repetitive or successive collateral challenges to a conviction and sentence of death which is affirmed by the Supreme Court and undisturbed by any collateral litigation.

(2) After appointment by the trial court under s. 27.710, the attorney must immediately file a notice of appearance with the trial court indicating acceptance of the appointment to represent the capital defendant throughout all postconviction capital collateral proceedings, including federal habeas corpus proceedings, in accordance with this section or until released by order of the trial court.

(3) An attorney appointed to represent a capital defendant is entitled to payment of the fees set forth in this section only upon full performance by the attorney of the duties specified in this section and approval of payment by the trial court. The attorney shall maintain appropriate documentation, including a current and detailed hourly accounting of time spent representing the capital defendant. The fee and payment schedule in this section is the exclusive means of compensating a court-appointed attorney who represents a capital defendant. When appropriate, a court-appointed attorney must seek further compensation from the Federal Government, as provided in 18 U.S.C. s. 3006A or other federal law, in habeas corpus litigation in the federal courts.

(4) Upon approval by the trial court, an attorney appointed to represent a capital defendant under s. 27.710 is entitled to payment of the following fees by the Comptroller:

(a) Regardless of the stage of postconviction capital collateral proceedings, the attorney is entitled to \$100 per hour, up to a maximum of \$2,500, upon accepting appointment and filing a notice of appearance. This fee is in the nature of a fee for a retainer agreement.

(b) The attorney is entitled to \$100 per hour, up to a maximum of \$20,000, after timely filing in the trial court the capital defendant's complete original motion for postconviction relief under the Florida Rules of Criminal Procedure. The motion must raise all issues to be addressed by the trial court.

(c) The attorney is entitled to \$100 per hour, up to a maximum of \$10,000, after the trial court issues a final order granting or denying the capital defendant's motion for postconviction relief.

(d) The attorney is entitled to \$100 per hour, up to a maximum of \$4,000, after timely filing in the Supreme Court the capital defendant's brief or briefs that address the trial court's final order granting or denying the capital defendant's motion for postconviction relief and the state petition for writ of habeas corpus.

(e) The attorney is entitled to \$100 per hour, up to a maximum of \$20,000, after the appeal of the trial court's denial of the capital defendant's motion for postconviction relief and the capital defendant's state petition for writ of habeas corpus become final in the Supreme Court.

(f) At the conclusion of the capital defendant's postconviction capital collateral proceedings in state court, the attorney is entitled to \$100 per hour, up to a maximum of \$2,500, after filing a petition for writ of certiorari in the Supreme Court of the United States.

(g) If, at any time, the Supreme Court of the United States accepts for review the capital defendant's collateral challenge of the conviction and sentence of death, the attorney is entitled to \$100 per hour, up to a maximum of \$5,000. This payment shall be full compensation for representing the capital defendant throughout the certiorari proceedings before the United States Supreme Court.

The hours billed by a contracting attorney under this subsection may include time devoted to representation of the defendant by another attorney who is qualified under s. 27.710 and who has been designated by the contracting attorney to assist him or her.

(5) An attorney who represents a capital defendant may use the services of one or more investigators to assist in representing a capital defendant. Upon approval by the trial court, the attorney is entitled to payment from the Comptroller of \$40 per hour, up to a maximum of \$15,000, for the purpose of paying for investigative services.

(6) An attorney who represents a capital defendant is entitled to a maximum of \$5,000 for miscellaneous expenses, such as the costs of preparing transcripts, compensating expert witnesses, and copying documents. Upon approval by the trial court, the attorney is entitled to payment by the Comptroller for miscellaneous expenses.

(7) By accepting court appointment under s. 27.710 to represent a capital defendant, the attorney agrees to continue such representation under the terms and conditions set forth in this section until the capital defendant's sentence is reversed, reduced, or carried out, and the attorney is permitted to withdraw from such representation by a court of competent jurisdiction.

(8) An attorney may not represent more than five capital defendants at any one time.

(9) This section does not authorize an attorney who represents a capital defendant to file repetitive or frivolous pleadings that are not supported by law or by the facts of the case. An action taken by an attorney who represents a capital defendant in postconviction capital collateral proceedings may not be the basis for a claim of ineffective assistance of counsel.

(10) An attorney appointed under s. 27.710 to represent a capital defendant may not represent the capital defendant during a retrial, a resentencing proceeding, a proceeding commenced under chapter 940, a proceeding challenging a conviction or sentence other than the conviction and sentence of death for which the appointment was made, or any civil litigation other than habeas corpus proceedings.

Section 5. (1)(a) There is created the Commission on Legislative Reform of Judicial Administration, which shall consist of twelve of the following members:

1. Three members appointed by the Chief Justice of the Florida Supreme Court.
2. Three members appointed by the Speaker of the House of Representatives.
3. Three members appointed by the President of the Senate.
4. One member appointed by the Governor.
5. One member appointed by the Public Defender's Attorneys Association.
6. One member appointed by the Florida Prosecuting Attorneys' Association.

(b) The Chair of the Commission shall be selected by the members.

(c) The Commission shall meet at least monthly, and other meetings may be called by the chair upon giving at least 7 days notice to all members and the public.

(d) Members of the commission are entitled to per diem and travel expenses to be paid by the appointing authority.

(e) The initial members of the commission shall be appointed on or before July 15, 1998. A member's term shall expire upon submission of the report to the Legislature.

(f) The staff of the Commission of the Administration of Justice in Capital Cases shall staff the commission.

(2) The Commission shall study the feasibility of judicial administration reforms, including but not limited to, appropriate minimum standards, if any, for counsel in capital cases; the feasibility of authorizing cross circuit assignments of Public Defenders to minimize the cost of representation in conflicts-of-interest cases; the potential resolutions of the inability of the Office of the Public Defender for the Tenth Judicial Circuit to represent indigent criminal defendants on appeal in a timely fashion, and other issues regarding indigent criminal appeals; and other

judicial reforms that could expedite justice and reduce costs in judicial administration. The Commission shall submit a report to the Speaker of the House of Representatives and the President of the Senate no later than January 1, 1999, containing their recommendations. The Commission's authority will expire on January 4, 1999, and the term of office of each member will expire on that date.

Section 6. This act shall take effect July 1, 1998.

And the title is amended as follows:

On page 1, line 2, through page 3, line 21, remove from the title of the bill: all of said lines and insert in lieu thereof: An act relating to judicial administration; requesting that the Division of Statutory Revision designate part IV of ch. 27, F.S., as "Capital Collateral Representation"; amending s. 27.702, F.S.; deleting a requirement that specifies the time for the capital collateral regional counsel to commence the representation of a person sentenced to death; creating s. 27.710, F.S.; requiring that the executive director of the Commission on the Administration of Justice in Capital Cases maintain a registry of attorneys in private practice who are available to be appointed to represent defendants in postconviction capital collateral proceedings; authorizing the executive director to obtain names of attorneys who may register for appointment; providing eligibility requirements for appointment as counsel in post-conviction capital collateral proceedings; providing for appointment of an attorney selected from the registry; limiting the circumstances under which the court may permit an attorney to withdraw from representation following appointment; authorizing the court to impose sanctions; requiring that appointed counsel enter into a contract with the Comptroller; providing for the Comptroller to enforce performance of the contract; providing that more than one attorney may not be appointed at any one time to represent a capital defendant; creating s. 27.711, F.S.; requiring that an attorney appointed to represent a capital defendant file a notice of appearance; providing a schedule of fees to which the attorney is entitled for specified appearances and representations; requiring that the trial court approve the payment of costs and fees; providing that such fees constitute the exclusive means of compensation for such representation; authorizing compensation as provided by federal law under certain circumstances; authorizing the use of investigative services and the payment of fees for such services; providing that by accepting appointment to represent a capital defendant the attorney agrees to continue such representation until the defendant's sentence is reversed, reduced, or carried out; limiting the number of capital defendants that an attorney may represent; prohibiting a claim of ineffective assistance of counsel based on an action by the attorney who represents a capital defendant; prohibiting the attorney from representing the capital defendant in certain other proceedings; creating the Commission on Legislative Reform of Judicial Administration to study judicial administration reform; providing an effective date.

House Amendment 1 (with title amendment) to House Amendment 2—On page 11, line 30 of the amendment insert a new section:

Section 6. *There is hereby appropriated \$500,000 from the General Revenue Fund to the Justice Administration Commission for the purpose of implementing this act.*

And the title is amended as follows:

On page 14, line 2 of the amendment before the word providing, insert: providing an appropriation;

House Amendment 2 (with title amendment) to House Amendment 2—On page 11, line 30 of the amendment insert:

Section 6. *The proviso language immediately preceding Specific Appropriation 962 and the proviso language following Specific Appropriation 620 in the Conference Report On House Bill 4201 which is the General Appropriations Act for fiscal year 1998-1999, shall not be deemed, in whole or in part, to be repealed, nullified or modified in any way by legislation passed during the 1998 regular session of the Legislature unless the legislation makes specific reference to this section. If either the proviso language immediately preceding Specific Appropriation 962 and the proviso language following Specific Appropriation 620 in the Conference Report On House Bill 4201 are repealed or amended by substantive legislation passed during the 1998 regular session of the Legislature, then both sections of proviso are hereby reenacted in full and shall have their full effect as written in the Conference Report On House Bill 4201. This section is hereby repealed on June 30, 1999.*

And the title is amended as follows:

On page 14, line 2 of the amendment insert before providing: providing that certain proviso language contained in the Conference Report On House Bill 4201 may not be modified through substantive legislation passed during the 1998 regular session of the Legislature unless certain conditions are met; providing that certain proviso language contained in the Conference Report On House Bill 4201 is reenacted if repealed or amended by substantive legislation passed during the 1998 regular session of the Legislature; providing for repeal of section on June 30, 1999;

On motion by Senator Gutman, the Senate concurred in **House Amendments 1 and 2** and **House Amendment 1 to House Amendment 2**; and refused to concur in **House Amendment 2 to House Amendment 2** and the House was requested to recede.

CS for SB 1328 passed as amended and the action of the Senate was 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 Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 1330, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 1330—A bill to be entitled An act relating to the administration of capital cases; creating s. 119.19, F.S.; defining terms; requiring that the Secretary of State establish a records repository for archiving capital postconviction records; requiring that the law enforcement agencies and the state attorney copy and deliver to the records repository public records produced in capital cases; requiring the Department of Corrections to copy and deliver to the records repository public records that pertain to the defendant; providing requirements for notifying the Attorney General upon delivery of such records to the repository; requiring that the Attorney General request public records from certain additional persons and agencies; providing requirements for sealing confidential records and records that are exempt from disclosure under the Public Records Law; prohibiting the opening of such records without a court order; providing for written demand for additional public records; prohibiting the capital collateral regional counsel or private counsel from obtaining the production of additional public records in a capital case until after filing an affidavit and obtaining a court order; requiring that the capital collateral regional counsel or private counsel provide the personnel and equipment for copying records held at the repository; providing for resolving certain disputes with respect to the production of records; prohibiting the capital collateral regional counsel or private counsel from soliciting another person to make a request for public records on the counsel's behalf; providing for sanctions; specifying circumstances under which the Secretary of State may destroy records held by a repository; clarifying the application of provisions governing the production of records in capital postconviction proceedings; amending s. 27.702, F.S.; requiring that the capital collateral regional counsel or private counsel notify the Commission on the Administration of Justice in Capital Cases and the trial court of pleadings filed in capital cases; requiring that a notice of hearing be filed with each pleading; requiring that the trial court expedite the hearings in capital cases; amending s. 27.708, F.S.; deleting references to Rule 3.852; limiting certain public-records requests made on behalf of clients; providing an appropriation; providing an effective date.

House Amendment 1—On page 10, lines 24-26, remove from the bill: all of said lines and insert in lieu thereof:

Section 5. *From General Revenue Funds, \$75,000 shall be provided to the Department of State in order to carry out the provisions of this bill.*

House Amendment 2—On page 5, line 2, before the period of the bill insert: *unless previously provided to the Capital Collateral Regional Counsel or post conviction private counsel.*

House Amendment 3—On page 7, between lines 6 and 7 of the bill insert:

(c) *The attorney general and state attorney shall provide notification as provided in subsections (3) and (4) on cases where the mandate has issued on the date that this statute becomes effective, but where initial requests for public records have not been made.*

(d) *If, on the date that this statute becomes effective, a defendant is represented by appointed CCRC or private counsel, and he or she has initiated the public records request process, counsel shall file within ninety days of the effective date of this statute, a written demand for any additional records that have not previously been the subject of a notice to produce. An agency may file an objection to such additional demand and the trial court shall hold a hearing as provided by paragraph (b). This statute shall not be a basis for renewing requests that have been initiated previously or for relitigating issues pertaining to production of public records upon which a court has ruled prior to the effective date of the statute, or for stopping an execution which has been scheduled based upon a warrant executed by the governor prior to the effective date of the Statute.*

(e) *If, on the date that this statute becomes effective, the defendant has had a 3.850 motion denied and no 3.850 motion is pending, no additional requests shall be made by CCRC or contracted private counsel until a death warrant is signed by the governor and an execution is scheduled. Within ten days of the signing of the death warrant, CCRC or contracted private counsel may request of a person or agency that the defendant has previously requested to produce records any records previously requested to which no objection was raised or sustained, but which the agency has received or produced since the previous request or which for any reason the agency has in its possession and did not produce within ten days of the receipt of the previous notice or such shorter time period ordered by the court to comply with the time for the scheduled execution. The person or agency shall produce the record or shall file in the trial court an affidavit stating that it does not have the requested record or that the record has been produced previously.*

House Amendment 4—On page 10, line 27, remove from the bill: July 1, 1998 and insert in lieu thereof: October 1, 1998

House Amendment 5 (with title amendment)—On page 10, line 27 of the bill insert:

Section 5. *The proviso language immediately preceding Specific Appropriation 962 and the proviso language following Specific Appropriation 620 in the Conference Report On House Bill 4201 which is the General Appropriations Act for fiscal year 1998-1999, shall not be deemed, in whole or in part, to be repealed, nullified or modified in any way by legislation passed during the 1998 regular session of the Legislature unless the legislation makes specific reference to this section. If either the proviso language immediately preceding Specific Appropriation 962 and the proviso language following Specific Appropriation 620 in the Conference Report On House Bill 4201 are repealed or amended by substantive legislation passed during the 1998 regular session of the Legislature, then both sections of proviso are hereby reenacted in full and shall have their full effect as written in the Conference Report On House Bill 4201. This section is hereby repealed on June 30, 1999.*

And the title is amended as follows:

On page 2, line 23 of the title of the bill, insert before providing: providing that certain proviso language contained in the Conference Report On House Bill 4201 may not be modified through substantive legislation passed during the 1998 regular session of the Legislature unless certain conditions are met; providing that certain proviso language contained in the Conference Report On House Bill 4201 is reenacted if repealed or amended by substantive legislation passed during the 1998 regular session of the Legislature; providing for repeal of section on June 30, 1999;

On motion by Senator Gutman, the Senate concurred in **House Amendments 1, 2, 3 and 4** and refused to concur in **House Amendment 5** and the House was requested to recede.

CS for SB 1330 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—37

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

Nays—None

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 1440, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 1440—A bill to be entitled An act relating to rulemaking authority with respect to marine resources (RAB); amending s. 370.06, F.S.; authorizing rulemaking for issuance of special-activities licenses; amending s. 370.08, F.S.; authorizing the adoption of rules defining food fish; amending s. 370.12, F.S.; authorizing rulemaking for issuance of special permits for conservation of marine turtles; 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. Subsection (4) of section 370.06, Florida Statutes, is amended to read:

370.06 Licenses.—

(4) SPECIAL ACTIVITY LICENSES.—

(a) Any person who seeks to use special gear or equipment in harvesting saltwater species must purchase a special activity license as specified by law to engage in such activities. The department may issue special activity licenses, in accordance with s. 370.071, to permit the cultivation of oysters, clams, mussels, and crabs when such aquaculture activities relate to quality control, sanitation, and public health regulations. ~~The department may prescribe by rule special terms, conditions, and restrictions for any special activity license.~~

(b) The department is authorized to issue special activity licenses in accordance with this section and s. 370.31, to permit the importation, possession, and aquaculture of anadromous sturgeon. The special activity license shall provide for best management practices to prevent the release and escape of cultured anadromous sturgeon and to protect indigenous populations of saltwater species from sturgeon-borne disease.

(c) *The department is authorized to issue special activity licenses in accordance with ss. 370.06, 370.071, and 370.101, aquaculture permit consolidation procedures in s. 370.26(3)(a) and rules of the Marine Fisheries Commission to permit the capture and possession of saltwater species protected by law and used as stock for artificial cultivation and propagation.*

(d) *The department is authorized to adopt rules to govern the administration of special activities licenses as provided in this chapter and rules of the Marine Fisheries Commission. Such rules may prescribe application requirements and terms, conditions, and restrictions for any such special activity license requested pursuant to this section.*

Section 2. Paragraph (c) of subsection (1) of section 370.12, Florida Statutes, is amended to read:

370.12 Marine animals; regulation.—

(1) PROTECTION OF MARINE TURTLES.—

(c)1. Unless otherwise provided by the federal Endangered Species Act or its implementing regulations, no person may take, possess, disturb, mutilate, destroy, cause to be destroyed, sell, offer for sale, transfer, molest, or harass any marine turtle or its nest or eggs at any time. For purposes of this subsection, "take" means an act which actually kills or injures marine turtles, and includes significant habitat modification or degradation that kills or injures marine turtles by significantly impairing essential behavioral patterns, such as breeding, feeding, or sheltering.

2. Unless otherwise provided by the federal Endangered Species Act or its implementing regulations, no person, firm, or corporation may take, kill, disturb, mutilate, molest, harass, or destroy any marine turtle.

3. No person, firm, or corporation may possess any marine turtle, *their nests, eggs, hatchlings*, or parts thereof unless it is in possession of a special permit or loan agreement from the department enabling the holder to possess a marine turtle or parts thereof for scientific, educational, or exhibitional purposes, *or for conservation activities such as relocating nests, eggs, or animals away from construction sites. Notwithstanding any other provisions of general or special law to the contrary, the department may issue such authorization to any properly accredited person for the purpose of marine turtle conservation upon such terms, conditions, and restrictions as it may prescribe by rule. The department shall have the authority to adopt rules to permit the possession of marine turtles pursuant to this paragraph. For the purposes of this subsection, a "properly accredited person" is defined as:*

a. *Students of colleges or universities whose studies with saltwater animals are under the direction of their teacher or professor;*

b. *Scientific or technical faculty of public or private colleges or universities;*

c. *Scientific or technical employees of private research institutions and consulting firms;*

d. *Scientific or technical employees of city, county, state or federal research or regulatory agencies;*

e. *Members in good standing or recognized and properly chartered conservation organizations, the Audubon Society, or the Sierra Club;*

f. *Persons affiliated with aquarium facilities or museums, or contracted as an agent therefor, which are open to the public with or without an admission fee; or*

g. *Persons without specific affiliations listed above, but who are recognized by the department for their contributions to marine conservation such as scientific or technical publications, or through a history of cooperation with the department in conservation programs such as turtle nesting surveys, or through advanced educational programs such as high school marine science centers.*

Section 3. Paragraph (b) of subsection (5) of section 120.54, Florida Statutes, is amended to read:

120.54 Rulemaking.—

(5) UNIFORM RULES.—

(b) The uniform rules of procedure adopted by the commission pursuant to this subsection shall include, but not be limited to:

1. Uniform rules for the scheduling of public meetings, hearings, and workshops.

2. Uniform rules for use by each state agency that provide procedures for conducting public meetings, hearings, and workshops, and for taking evidence, testimony, and argument at such public meetings, hearings, and workshops, in person and by means of communications media technology. The rules shall provide that all evidence, testimony, and argument presented shall be afforded equal consideration, regardless of the method of communication. If a public meeting, hearing, or

workshop is to be conducted by means of communications media technology, or if attendance may be provided by such means, the notice shall so state. The notice for public meetings, hearings, and workshops utilizing communications media technology shall state how persons interested in attending may do so and shall name locations, if any, where communications media technology facilities will be available. Nothing in this paragraph shall be construed to diminish the right to inspect public records under chapter 119. Limiting points of access to public meetings, hearings, and workshops subject to the provisions of s. 286.011 to places not normally open to the public shall be presumed to violate the right of access of the public, and any official action taken under such circumstances is void and of no effect. Other laws relating to public meetings, hearings, and workshops, including penal and remedial provisions, shall apply to public meetings, hearings, and workshops conducted by means of communications media technology, and shall be liberally construed in their application to such public meetings, hearings, and workshops. As used in this subparagraph, "communications media technology" means the electronic transmission of printed matter, audio, full-motion video, freeze-frame video, compressed video, and digital video by any method available.

3. Uniform rules of procedure for the filing of notice of protests and formal written protests.

4. *Uniform rules of procedure for the filing of petitions for administrative hearings pursuant to s. 120.569 or s. 120.57. Such rules shall include:*

a. *The identification of the petitioner.*

b. *A statement of when and how the petitioner received notice of the agency's action or proposed action.*

c. *An explanation of how the petitioner's substantial interests are or will be affected by the action or proposed action.*

d. *A statement of all material facts disputed by the petitioner or a statement that there are no disputed facts.*

e. *A statement of the ultimate facts alleged, including a statement of the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action.*

f. *A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action.*

g. *A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the proposed action.*

5.4. Uniform rules of procedure for the filing and prompt disposition of petitions for declaratory statements.

6.5. Provision of a method by which each agency head shall provide a description of the agency's organization and general course of its operations.

7.6. Uniform rules establishing procedures for granting or denying petitions for variances and waivers pursuant to s. 120.542.

Section 4. Paragraphs (c) through (l) of subsection (2) of section 120.569, Florida Statutes, are renumbered as paragraphs (e) through (n), respectively, and new paragraphs (c) and (d) are added to said section, to read:

120.569 Decisions which affect substantial interests.—

(2)

(c) *Unless otherwise provided by law, a petition or request for hearing shall include those items required by the uniform rules adopted pursuant to s. 120.54(5)(b)4. Upon the receipt of a petition or request for hearing, the agency shall carefully review the petition to determine if it contains all of the required information. A petition shall be dismissed if it is not in substantial compliance with these requirements or it has been untimely filed. Dismissal of a petition shall, at least once, be without prejudice to petitioner's filing a timely amended petition curing the defect, unless it conclusively appears from the face of the petition that the defect cannot be cured. The agency shall promptly give written notice to all*

parties of the action taken on the petition, shall state with particularity its reasons if the petition is not granted, and shall state the deadline for filing an amended petition if applicable.

(d) The agency may refer a petition to the division for the assignment of an administrative law judge only if the petition is in substantial compliance with the requirements of paragraph (c).

Section 5. Paragraphs (h), (i), (j), (k), and (l) of subsection (1) of section 120.57, Florida Statutes, are renumbered as paragraphs (j), (k), (l), (m), and (n), respectively, and new paragraphs (h) and (i) are added to said subsection, to read:

120.57 Additional procedures for particular cases.—

(1) ADDITIONAL PROCEDURES APPLICABLE TO HEARINGS INVOLVING DISPUTED ISSUES OF MATERIAL FACT.—

(h) Any party to a proceeding in which an administrative law judge of the Division of Administrative Hearings has final order authority may move for a summary final order when there is no genuine issue as to any material fact. A summary final order shall be rendered if the administrative law judge determines from the pleadings, depositions, answers to interrogatories, and admissions on file, together with affidavits, if any, that no genuine issue as to any material fact exists and that the moving party is entitled as a matter of law to the entry of a final order. A summary final order shall consist of findings of fact, if any, conclusions of law, a disposition or penalty, if applicable, and any other information required by law to be contained in the final order.

(i) When, in any proceeding conducted pursuant to this subsection, a dispute of material fact no longer exists, any party may move the administrative law judge to relinquish jurisdiction to the agency. In ruling on such a motion, the administrative law judge may consider the pleadings, depositions, answers to interrogatories, and admissions on file, together with supporting and opposing affidavits, if any. If the administrative law judge enters an order relinquishing jurisdiction, the agency may promptly conduct a proceeding pursuant to subsection (2), if appropriate, but the parties may not raise any issues of disputed fact that could have been raised before the administrative law judge. An order entered by an administrative law judge relinquishing jurisdiction to the agency based upon a determination that no genuine dispute of material fact exists, need not contain findings of fact, conclusions of law, or a recommended disposition or penalty.

Section 6. Section 14.202, Florida Statutes, is amended to read:

14.202 Administration Commission.—There is created as part of the Executive Office of the Governor an Administration Commission composed of the Governor and Cabinet. The Governor is chair of the commission. The Governor or Comptroller may call a meeting of the commission promptly each time the need therefor arises. Unless otherwise provided herein, affirmative action by the commission shall require the approval of the Governor and at least three other members of the commission. The commission shall adopt such rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of law conferring duties upon it as it deems necessary to carry out its duties and responsibilities.

Section 7. Section 17.29, Florida Statutes, is amended to read:

17.29 Authority to prescribe rules.—The Comptroller has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement duties assigned by statute or the State Constitution may prescribe any rule he or she considers necessary to properly fulfill his or her constitutional and statutory duties. Such rules may include, but are not limited to, the following:

(1) Procedures or policies relating to the processing of payments from salaries, other personal services, or any other applicable appropriation.

(2) Procedures for processing interagency and intraagency payments which do not require the issuance of a state warrant.

Section 8. Section 18.22, Florida Statutes, is amended to read:

18.22 Rules and regulations.—The department has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement all rules and regulations necessary to effectuate the provisions of this chapter may be adopted by the department in accordance with the provisions of chapter 120.

Section 9. Paragraph (k) of subsection (4) of section 20.171, Florida Statutes, is amended to read:

20.171 Department of Labor and Employment Security.—There is created a Department of Labor and Employment Security.

(4)

(k) The commission has authority to ~~shall, in accordance with chapter 120, adopt, promulgate, amend, or rescind such rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of law conferring duties upon it as it deems necessary and administratively feasible to carry out its responsibilities.~~

Section 10. Section 63.233, Florida Statutes, is amended to read:

63.233 Rulemaking authority.—The department shall adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of this chapter.

Section 11. Subsection (2) of section 175.341, Florida Statutes, is amended to read:

175.341 Duties of Division of Retirement; rulemaking authority; investments by the State Board of Administration.—

(2) The division has authority to ~~shall~~ adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of necessary for the administration of this chapter.

Section 12. Paragraph (e) of subsection (2) of section 177.504, Florida Statutes, is amended to read:

177.504 Powers and duties of the department.—

(2) The functions, duties, and responsibilities of the department shall be:

(e) To adopt rules pursuant to ss. 120.54 and 120.536(1) ~~and regulations necessary to implement the provisions of carry out the purpose of this act.~~

Section 13. Subsection (2) of section 185.23, Florida Statutes, is amended to read:

185.23 Duties of Division of Retirement; rulemaking; investment by State Board of Administration.—

(2) The division has authority to ~~shall~~ adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of necessary for the administration of this chapter.

Section 14. Section 198.08, Florida Statutes, is amended to read:

198.08 Rules and regulations.—The department has authority to ~~adopt may from time to time make such rules pursuant to ss. 120.54 and 120.536(1) and regulations not inconsistent with this chapter as it may deem necessary to enforce the provisions of this chapter and may adopt, as rules, such rules and regulations as are or may be promulgated with respect to the estate tax or generation-skipping transfer tax provisions of the Revenue Act of the United States insofar as they are shall be applicable hereto. The department may from time to time prescribe such forms as it shall deem proper for the administration of this chapter.~~

Section 15. Section 199.202, Florida Statutes, is amended to read:

199.202 Administration of law; rules.—The department shall administer and enforce the assessment and collection of the taxes, interest, and penalties imposed by this chapter. It may by rule prescribe the form and content of all returns and reports. It has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) is further authorized to promulgate all other rules not inconsistent with this chapter as it deems necessary to administer and enforce the provisions of this chapter.

Section 16. Subsection (1) of section 201.11, Florida Statutes, is amended to read:

201.11 Administration of law by Department of Revenue.—

(1) The administration of this chapter shall be vested in the Department of Revenue, which has authority to adopt rules pursuant to ss.

~~120.54 and 120.536(1) to enforce the provisions of this chapter shall prescribe suitable rules and regulations for the enforcement of the provisions thereof, and shall administer and enforce the taxes levied and imposed by this chapter. The Department of Revenue may enter upon the premises of any taxpayer, and examine or cause to be examined by any agent or representative designated by it for that purpose, any books, papers, records, or memoranda bearing upon the amount of taxes payable, and secure other information directly or indirectly concerned in the enforcement of this chapter. Any person, subject to this tax, who shall by any practice or evasion make it difficult to enforce the provisions of this chapter by inspection, or any person, agent or officer, who shall, after demand by the department or any agent or representative designated by it for that purpose, refuse to allow full inspection of the premises or any part thereof, or any books, records, documents, or other instruments in any way relating to the liability of the taxpayer for the tax herein imposed, or shall hinder or in anywise delay or prevent such inspection, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.~~

Section 17. Subsection (2) of section 207.011, Florida Statutes, is amended to read:

207.011 Inspection of records; hearings; forms; rules.—

(2) The department ~~has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to enforce the provisions of~~ shall have the authority to prescribe all rules necessary for the enforcement of this chapter.

Section 18. Subsection (1) of section 210.10, Florida Statutes, is amended to read:

210.10 General powers of the Division of Alcoholic Beverages and Tobacco.—

(1) The Division of Alcoholic Beverages and Tobacco ~~has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement~~ is authorized to prescribe and promulgate all rules and regulations necessary to effectuate the provisions of this part consistent with the terms hereof. All cigarette permits issued hereunder shall have printed thereon a notice to the effect that such permit is issued subject to the provisions of this part and ~~such said rules and regulations~~. The division shall provide upon request without charge to any applicant for a permit a copy of this part and the rules and regulations prescribed by it pursuant hereto.

Section 19. Subsection (2) of section 210.75, Florida Statutes, is amended to read:

210.75 Administration.—

(2) The division ~~has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to~~ is authorized to prescribe and promulgate rules it may deem necessary to implement and enforce the provisions of this part.

Section 20. Subsection (6) of section 212.17, Florida Statutes, is amended to read:

212.17 Credits for returned goods, rentals, or admissions; additional powers of department.—

(6) The department ~~has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to enforce the provisions of this chapter shall have the power to make, prescribe and publish reasonable rules and regulations not inconsistent with this chapter, or the other laws, or the constitution of this state, or the United States, for the enforcement of the provisions of this chapter and the collection of revenue hereunder, and such rules and regulations shall when enforced be deemed to be reasonable and just.~~

Section 21. Subsection (2) of section 212.18, Florida Statutes, is amended to read:

212.18 Administration of law; registration of dealers; rules.—

(2) The department shall administer and enforce the assessment and collection of the taxes, interest, and penalties imposed by this chapter. It ~~has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to enforce the provisions of~~ is authorized to make and publish such rules and regulations not inconsistent with this chapter, as it may deem nec-

essary in enforcing its provisions in order that there shall not be collected on the average more than the rate levied herein. The department is authorized to and it shall provide by rule and regulation a method for accomplishing this end. It shall prepare instructions to all persons required by this chapter to collect and remit the tax to guide such persons in the proper collection and remission of such tax and to instruct such persons in the practices that may be necessary for the purpose of enforcement of this chapter and the collection of the tax imposed hereby. The use of tokens in the collection of this tax is hereby expressly forbidden and prohibited.

Section 22. Subsection (1) of section 213.06, Florida Statutes, is amended to read:

213.06 Rules of department; circumstances requiring emergency rules.—

(1) The Department of Revenue ~~has the is granted authority to adopt such rules pursuant to ss. 120.54 and 120.536(1) as are necessary to implement provisions of~~ carry out the intent and purposes of this chapter and all other revenue laws administered by the department, and it may amend such rules to conform to legislation or departmental policy changes made in the absence of any legislation.

Section 23. Subsection (5) of section 215.62, Florida Statutes, is amended to read:

215.62 Division of Bond Finance.—

(5) The board ~~has authority shall have power to adopt such rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of law conferring duties on it and regulations as may be necessary for carrying out the duties of the division~~. The board shall hold regular and special meetings at such places and times, in such manner, and after such notice as may be provided by resolution adopted by the board or upon call of the chair.

Section 24. Paragraph (a) of subsection (2) of section 215.95, Florida Statutes, is amended to read:

215.95 Financial Management Information Board.—

(2) To carry out its duties and responsibilities, the board shall by majority vote:

(a) Adopt ~~such rules pursuant to ss. 120.54 and 120.536(1), policies, procedures, principles, and standards as deemed necessary to~~ implement the Florida Financial Management Information System.

Section 25. Section 217.14, Florida Statutes, is amended to read:

217.14 Adoption of rules and regulations.—The department ~~has authority is authorized to adopt, promulgate, and repeal rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of and carry out the purpose of this chapter, in compliance with chapter 120.~~

Section 26. Subsection (8) of section 220.182, Florida Statutes, is amended to read:

220.182 Enterprise zone property tax credit.—

(8) The department ~~has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of~~ shall promulgate any rules necessary to ensure the orderly implementation and administration of this act.

Section 27. Paragraphs (a) and (d) of subsection (6) of section 220.183, Florida Statutes, are amended to read:

220.183 Community contribution tax credit.—

(6) ADMINISTRATION.—

(a) The Office of Tourism, Trade, and Economic Development ~~has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) is authorized to promulgate all rules necessary to implement the provisions of~~ administer this section, including rules for the approval or disapproval of proposals by business firms.

(d) The Department of Revenue *has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of* ~~shall promulgate any rules necessary to ensure the orderly implementation and administration of this section.~~

Section 28. Subsection (1) of section 229.053, Florida Statutes, is amended to read:

229.053 General powers of state board.—

(1) The State Board of Education is the chief policymaking and coordinating body of public education in Florida. It *has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of law conferring duties upon it* ~~has the general powers to determine, adopt, or prescribe such policies, rules, regulations, or standards as are required by law or as it may find necessary for the improvement of the state system of public education. Except as otherwise provided herein, it may, as it shall find appropriate, delegate its general powers to the Commissioner of Education or the directors of the divisions of the department.~~

Section 29. Section 229.515, Florida Statutes, is amended to read:

229.515 Rules and standards have force of law.—~~The Commissioner of Education has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of~~ *may prescribe such rules and minimum standards as are necessary to carry out his or her responsibilities under the school code conferring duties upon the commissioner, with the exception of provisions relating to state universities and community colleges and the Florida School for the Deaf and the Blind, and all such rules and minimum standards, if not in conflict with the school code, have the full force and effect of law. The commissioner, in prescribing such rules, is considered an “agency” for purposes of chapter 120.*

Section 30. Subsection (2) of section 230.22, Florida Statutes, is amended to read:

230.22 General powers of school board.—~~The school board, after considering recommendations submitted by the superintendent, shall exercise the following general powers:~~

(2) ~~Adopt such rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of law conferring duties upon it and regulations to supplement those prescribed by the state board and the commissioner as in its opinion will contribute to the more orderly and efficient operation of the district school system.~~

Section 31. Subsection (4) of section 230.32, Florida Statutes, is amended to read:

230.32 General powers of superintendents.—~~The superintendent shall have the authority, and when necessary for the more efficient and adequate operation of the district school system, the superintendent shall exercise the following powers:~~

(4) ~~RECOMMEND AND EXECUTE RULES AND REGULATIONS.—Prepare and organize by subjects and submit to the school board for adoption such rules and regulations to supplement those adopted by the state board or the commissioner as, in the superintendent's opinion, will contribute to the efficient operation of any aspect of education in the district. When rules and regulations have been adopted, the superintendent shall see that they are executed.~~

Section 32. Paragraph (d) of subsection (7) of section 231.261, Florida Statutes, is amended to read:

231.261 Education Practices Commission; organization.—

(7) The duties and responsibilities of the commission are to:

(d) ~~Adopt rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of law conferring duties upon it~~ *Have rulemaking authority pursuant to chapter 120.*

Section 33. Subsection (2) of section 235.01, Florida Statutes, is amended to read:

235.01 Purpose; rules.—

(2) The Commissioner of Education shall adopt rules *pursuant to ss. 120.54 and 120.536(1) to implement the provisions of* ~~this chapter.~~

Section 34. Subsection (1) and paragraph (r) of subsection (3) of section 240.209, Florida Statutes, are amended to read:

240.209 Board of Regents; powers and duties.—

(1) The Board of Regents is primarily responsible for adopting systemwide rules *pursuant to ss. 120.54 and 120.536(1) to implement provisions of law conferring duties upon it and policies;* ~~and policies;~~ planning for the future needs of the State University System; planning the programmatic, financial, and physical development of the system; reviewing and evaluating the instructional, research, and service programs at the universities; coordinating program development among the universities; and monitoring the fiscal performance of the universities.

(3) The board shall:

(r) ~~Adopt such rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of law conferring duties upon it as are necessary to carry out its duties and responsibilities.~~

Section 35. Subsection (1) of section 240.227, Florida Statutes, is amended to read:

240.227 University presidents; powers and duties.—~~The president is the chief administrative officer of the university and is responsible for the operation and administration of the university. Each university president shall:~~

(1) ~~Develop and~~ *Adopt rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of law governing the operation and administration of the university. Such rules shall be consistent with the mission of the university and statewide rules and policies and shall assist in the development of the university in a manner which will complement the missions and activities of the other universities for the overall purpose of achieving the highest quality of education for the citizens of the state.*

Section 36. Subsection (2) of section 240.311, Florida Statutes, is amended to read:

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

(2) ~~The State Board of Community Colleges is responsible for the establishing and developing of rules and policies which will ensure the operation and maintenance of a state community college system, as defined in s. 228.041(1)(b), in a coordinated, efficient, and effective manner. The State Board of Community Colleges has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of law conferring duties upon it. Such rules and policies shall be submitted to the State Board of Education for approval. If any rule is not disapproved by the State Board of Education within 45 days of its receipt by the State Board of Education, the rule shall be filed immediately with the Department of State.~~

Section 37. Subsection (2) of section 240.319, Florida Statutes, as amended by section 2 of chapter 97-383, Laws of Florida, is amended to read:

240.319 Community college district boards of trustees; duties and powers.—

(2) ~~In carrying out this responsibility, the board of trustees, after considering recommendations submitted by the community college president, has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of law conferring duties upon it shall be authorized to adopt such rules, procedures, and policies as are necessary to operate the community college in such a manner as to assure the fulfillment of the responsibilities assigned to the board of trustees. These rules, procedures, and policies may supplement those prescribed by the State Board of Education and the State Board of Community Colleges if they will contribute to the more orderly and efficient operation of the state community college system.~~

Section 38. Subsection (3) of section 242.331, Florida Statutes, is amended to read:

242.331 Florida School for the Deaf and the Blind; board of trustees.—

(3) The board of trustees *has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of law relating to operation of* ~~is authorized to adopt such rules as are necessary to operate the Florida School for the Deaf and the Blind. Such rules shall be submitted to the State Board of Education for approval or disapproval. If any rule is not disapproved by the State Board of Education within 60 days of its receipt by the State Board of Education, the rule shall be filed immediately with the Department of State. The board of trustees shall act at all times in conjunction with the rules of the State Board of Education.~~

Section 39. Paragraph (e) of subsection (1) of section 246.041, Florida Statutes, is amended to read:

246.041 Powers and duties of board.—

(1) The board shall:

(e) Adopt rules *pursuant to ss. 120.54 and 120.536(1) to implement provisions of law conferring duties upon it* ~~necessary to carry out its functions.~~

Section 40. Section 246.051, Florida Statutes, is amended to read:

246.051 Administration by board.—The provisions of ss. 246.011-246.151 shall be administered by the board which in connection therewith has the power:

(1) To adopt ~~such rules pursuant to ss. 120.54 and 120.536(1) to implement as it may find necessary to carry out the objectives, purposes, and directives of~~ *pursuant to ss. 120.54 and 120.536(1) to implement as it may find necessary to carry out the objectives, purposes, and directives of* ss. 246.011-246.151;

(2) To execute such ~~standards and rules and regulations~~ *standards and rules and regulations* as shall be adopted for the operation and establishment of nonpublic colleges; and

(3) To expend funds as necessary to assist in the enforcement of ss. 246.011-246.151.

Section 41. Section 246.071, Florida Statutes, is amended to read:

246.071 Rules of State Board of Independent Colleges and Universities.—The State Board of Independent Colleges and Universities *has authority to adopt such rules pursuant to ss. 120.54 and 120.536(1) to implement as are necessary to carry out the objectives, purposes, and directives of* ~~is authorized to adopt such rules pursuant to ss. 120.54 and 120.536(1) to implement as are necessary to carry out the objectives, purposes, and directives of~~ ss. 246.011-246.151. Such rules shall be submitted to the State Board of Education for approval or disapproval. If any rule is not disapproved by the State Board of Education within 60 days after its receipt by the State Board of Education, the rule shall be filed immediately with the Department of State.

Section 42. Paragraph (e) of subsection (1) of section 246.207, Florida Statutes, is amended to read:

246.207 Powers and duties of board.—

(1) The board shall:

(e) Prescribe and recommend to the State Board of Education rules *to implement 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* ~~to implement 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.

Section 43. Subsection (1) of 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 Independent Postsecondary Vocational, Technical, Trade, and Business Schools, shall adopt ~~such minimum standards for schools and other rules pursuant to ss. 120.54 and 120.536(1) to implement as are required for the administration of~~ *such minimum standards for schools and other rules pursuant to ss. 120.54 and 120.536(1) to implement as are required for the administration of* ss. 246.201-246.231.

Section 44. Paragraph (a) of subsection (7) of section 253.03, Florida Statutes, is amended to read:

253.03 Board of trustees to administer state lands; lands enumerated.—

(7)(a) The Board of Trustees of the Internal Improvement Trust Fund is hereby authorized and directed to administer all state-owned

lands and shall be responsible for the creation of an overall and comprehensive plan of development concerning the acquisition, management, and disposition of state-owned lands so as to ensure maximum benefit and use. The Board of Trustees of the Internal Improvement Trust Fund *has authority to shall adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of and regulations necessary to carry out the purposes of this act as set forth in this section.*

Section 45. Section 253.73, Florida Statutes, is amended to read:

253.73 Rules and regulations; ss. 253.67-253.75.—~~Subject to the requirements of chapter 120,~~ The board *has authority to may adopt rules pursuant to ss. 120.54 and 120.536(1) to administer and regulations necessary and appropriate to carry out the provisions of* ~~ss. 253.67-253.75.~~

Section 46. Section 257.14, Florida Statutes, is amended to read:

257.14 Division of Library and Information Services; rules.—The Division of Library and Information Services *has authority to may adopt rules pursuant to ss. 120.54 and 120.536(1) to implement carry out the provisions of this chapter.*

Section 47. Subsection (2) of section 258.007, Florida Statutes, is amended to read:

258.007 Powers of division.—

(2) The division *has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of law conferring duties on it shall make and publish such rules and regulations as it may deem necessary or proper for the management and use of the parks, monuments, and memorials under its jurisdiction,* ~~and the violation of any rule of the rules and regulations authorized by this section shall be a misdemeanor and punishable accordingly.~~

Section 48. *Section 258.011, Florida Statutes, is repealed.*

Section 49. Section 258.43, Florida Statutes, is amended to read:

258.43 Rules and regulations.—

(1) The Board of Trustees of the Internal Improvement Trust Fund *has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement shall adopt and enforce reasonable rules and regulations to carry out the provisions of this act and specifically to provide regulation of human activity within the preserve in such a manner as not to unreasonably interfere with lawful and traditional public uses of the preserve,* ~~such as sport and commercial fishing, boating, and swimming.~~

(2) Other uses of the preserve, or human activity within the preserve, although not originally contemplated, may be permitted by the trustees, but only subsequent to a formal finding of compatibility with the purposes of this act.

(3) The Board of Trustees of the Internal Improvement Trust Fund may delegate to a local government, by agreement, the power and duty to administer and enforce the standards and criteria established in a resource inventory and management plan adopted by the board, if the board determines that such a delegation is in the public interest.

(a) Such delegation shall be made only if the board determines that the local government's program for administering and enforcing the adopted standards and criteria:

1. Adopts, by ordinance, standards and criteria no less restrictive than those in the management plan approved by the board pursuant to the provisions of rule 18-20.013(2), Florida Administrative Code; provided, however nothing contained in this subsection shall expand the powers, jurisdiction, or authority granted pursuant to this chapter. When a local government's program proposes to include standards and criteria that are more restrictive than those in the management plan approved by the board, such standards and criteria shall not be effective until they have been approved by the board as being consistent with the provisions of this chapter.

2. Provides for the enforcement of such requirements by appropriate administrative and judicial processes.

3. Provides for administrative organization, staff, and financial and other resources necessary to effectively and efficiently enforce such requirements.

4. Provides for improved management and enforcement of the standards and criteria in the resource inventory and management plans and of the rules adopted by the board pertaining to state-owned lands.

(b) Such delegation may not include the authority to grant approval for the sale, lease, easement, or other uses of state-owned sovereignty lands that require approval by the board as provided by the board's rules on October 1, 1989. This provision shall not preclude agreements between the board and local governments that may provide that the local government shall process applications and present recommendations for final action to the board.

(c) The board shall give prior notice of its intention to enter into an agreement as described in this subsection, as provided by s. 253.115. The Division of State Lands of the Department of Environmental Protection shall update its rules annually to include a list of the management agreements adopted pursuant to this subsection. The list shall identify the parties to, and the date and location of, each agreement, and shall specify the nature of the authority delegated by the agreement.

(d) The board may designate the local government as its enforcement arm for purposes of s. 258.46, and the local government shall have the authority to directly enforce the provisions of that section or to rely on the enforcement provisions of the local ordinance implementing the management plan. The governing body of the local government shall seek approval from the Division of State Lands before seeking the elevated penalties associated with direct enforcement of s. 258.46 in lieu of penalties associated with violation of its ordinance. Nothing in this subsection shall affect the authority of the division to enforce the provisions of this act.

(e) Each year on the anniversary of any delegation pursuant to this subsection, the staff of the department shall present to the board an evaluation of decisions made by the local governments during the previous year. The board shall, upon reviewing this evaluation, either act to renew the delegation, act to retract the delegation, or act to renew the delegation with specific directives to the local government to take corrective action concerning any deficiencies in its processing or application of the standards and criteria in the rules approved by the board or a management plan adopted for the preserves.

(f) Nothing contained in this subsection shall affect the powers, duties, or procedures set forth in chapter 403.

Section 50. Subsection (1) of section 259.035, Florida Statutes, is amended to read:

259.035 Advisory council; powers and duties.—

(1) There is created a Land Acquisition and Management Advisory Council to be composed of the secretary and a designee of the department, the director of the Division of Forestry of the Department of Agriculture and Consumer Services, the executive director of the Game and Fresh Water Fish Commission, the director of the Division of Historical Resources of the Department of State, and the secretary of the Department of Community Affairs, or their respective designees. The chairmanship of the council shall rotate annually in the foregoing order. The council shall hold periodic meetings at the request of the chair. The department shall provide primary staff support to the council and shall ensure that council meetings are electronically recorded. Such recordings shall be preserved pursuant to chapters 119 and 257. The department ~~has authority to may~~ adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of ~~any rule or form necessary to implement~~ this section.

Section 51. Subsection (2) of section 259.041, Florida Statutes, is amended to read:

259.041 Acquisition of state-owned lands for preservation, conservation, and recreation purposes.—

(2) The board of trustees ~~has authority to shall~~ adopt ~~and may modify or repeal such~~ rules pursuant to ss. 120.54 and 120.536(1) ~~as are necessary to implement the provisions~~ carry out the purposes of this section, including rules governing the terms and conditions of land purchases. Such rules shall address with specificity, but not be limited to:

(a) The procedures to be followed in the acquisition process, including selection of appraisers, surveyors, title agents and closing agents, and the content of appraisal reports.

(b) The determination of the value of parcels which the state has an interest to acquire.

(c) Special requirements when multiple landowners are involved in an acquisition.

(d) Requirements for obtaining written option agreements so that the interests of the state are fully protected.

Section 52. Paragraph (d) of subsection (5) of section 265.284, Florida Statutes, is amended to read:

265.284 Chief cultural officer; director of division; powers and duties.—

(5) The division is further authorized to:

(d) ~~Adopt rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of law conferring duties on it~~ ~~Promulgate such rules as are necessary to carry out its duties.~~

Section 53. Subsection (1) of section 265.605, Florida Statutes, is amended to read:

265.605 Cultural Endowment Program; rulemaking.—

(1) The department shall adopt ~~any~~ rules pursuant to ss. 120.54 and 120.536(1) necessary to implement the provisions of this act.

Section 54. Subsection (1) of section 267.031, Florida Statutes, is amended to read:

267.031 Division of Historical Resources.—

(1) The division ~~has authority to shall~~ adopt ~~such~~ rules pursuant to ss. 120.54 and 120.536(1) ~~as deemed necessary to implement provisions of carry out its duties and responsibilities under this chapter conferring duties upon it.~~

Section 55. Section 280.19, Florida Statutes, is amended to read:

280.19 Rules.—The Treasurer shall adopt ~~such~~ rules pursuant to ss. 120.54 and 120.536(1) ~~and prescribe such forms as may be necessary to administer the provisions~~ accomplish the purposes of this chapter.

Section 56. Section 284.17, Florida Statutes, is amended to read:

284.17 Rules and regulations.—The Department of Insurance ~~has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of~~ shall promulgate ~~such reasonable rules and regulations as are necessary to aid in the implementation of~~ this chapter.

Section 57. Subsection (1) of section 288.709, Florida Statutes, is amended to read:

288.709 Powers of the Florida Black Business Investment Board.—The board shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of ss. 9-21, chapter 85-104, Laws of Florida, including, but not limited to, the power to:

(1) Adopt bylaws for the regulation of its affairs and the conduct of its business and ~~adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of law conferring duties upon it~~ rules pursuant to chapter 120. However, any proposed rules affecting the operation or administration or financial well-being of any of the black business investment corporations must first be approved by a majority of the black business investment corporations.

Section 58. Subsection (3) of section 292.05, Florida Statutes, is amended to read:

292.05 Duties of Department of Veterans' Affairs.—

(3) The department ~~has authority to may~~ adopt, ~~amend, or rescind~~ such rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of ~~as it deems necessary to carry out~~ this chapter.

Section 59. Paragraph (c) of subsection (1) of section 310.151, Florida Statutes, is amended to read:

310.151 Rates of pilotage; Pilotage Rate Review Board.—

(1)

(c) The board *has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of* ~~is authorized to adopt such rules as are consistent with law and necessary to carry out the duties and authority conferred on it by this section conferring duties upon it.~~ The department shall provide the staff required by the board to carry out its duties under this section.

Section 60. Subsection (1) of section 310.185, Florida Statutes, is amended to read:

310.185 Rulemaking.—

(1) The board *has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement* ~~shall have the power to adopt rules necessary to~~ the provisions of this chapter.

Section 61. Subsection (1) of section 319.17, Florida Statutes, is amended to read:

319.17 Rules; forms; indexes and records.—

(1) The department *has authority to may adopt such rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of as it deems necessary or proper for the administration of* this chapter, including rules that allow alternative methods of proof of satisfaction of liens.

Section 62. Section 320.011, Florida Statutes, is amended to read:

320.011 Administration and enforcement; rules.—The department shall administer and enforce the provisions of this chapter and *has authority to may adopt such rules pursuant to ss. 120.54 and 120.536(1) to implement them as it deems necessary or proper for the administration hereof.*

Section 63. Section 320.69, Florida Statutes, is amended to read:

320.69 Rules and regulations.—The department *has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of may make such rules and regulations as it shall deem necessary or proper for the effective administration and enforcement of* this law.

Section 64. Section 320.824, Florida Statutes, is amended to read:

320.824 Rules and regulations; Changes and modifications of standards.—

(1) The department ~~may make such rules and regulations as it shall deem necessary or proper for the effective administration and enforcement of ss. 320.822-320.90 and may adopt by rule and promulgate any changes in, or additions to, the standards adopted in s. 320.823 or s. 320.8231, which are approved and officially published by the institute or promulgated by the Department of Housing and Urban Development subsequent to the effective date of this act.~~

(2) The department or its authorized agent may enter any place or establishment where mobile homes are manufactured, sold, or offered for sale, for the purpose of ascertaining whether the requirements of the code and the *rules regulations* adopted by the department have been met.

Section 65. Section 324.042, Florida Statutes, is amended to read:

324.042 Administration.—The department shall administer and enforce the provisions of this chapter, and *has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement them the department may make such rules as may be necessary for its administration.*

Section 66. Subsection (2) of section 326.003, Florida Statutes, is amended to read:

326.003 Administration.—The division shall:

(2) Adopt rules *pursuant to ss. 120.54 and 120.536(1) to implement* ~~administer~~ ss. 326.001-326.006 and to classify brokers and salespersons and regulate their activities.

Section 67. Section 327.04, Florida Statutes, is amended to read:

327.04 Rules and regulations.—

(1) The department *has authority to may adopt rules pursuant to ss. 120.54 and 120.536(1), other than rules pertaining to vessel registration or titling, to implement the provisions of which are necessary for carrying out the administrative powers and duties conferred on the department by this chapter conferring powers or duties upon it.*

(2) The Department of Highway Safety and Motor Vehicles *has authority to may adopt rules pursuant to ss. 120.54 and 120.536(1) which pertain to vessel registration and titling to implement the provisions of necessary for carrying out the administrative duties, obligations, and powers conferred on that department by this chapter and chapter 328 conferring duties upon it.*

Section 68. Section 330.29, Florida Statutes, is amended to read:

330.29 Administration and enforcement; rules; standards for airport sites and airports.—It is the duty of the department to:

(1) Administer and enforce the provisions of this chapter.;

(2) Establish minimum standards for airport sites and airports under its licensing jurisdiction.;

(3) Adopt ~~such rules pursuant to ss. 120.54 and 120.536(1) as it deems necessary to implement~~ ~~administer and enforce~~ the provisions of this chapter.

Section 69. Subsection (2) of section 334.044, Florida Statutes, is amended to read:

334.044 Department; powers and duties.—The department shall have the following general powers and duties:

(2) To adopt rules *pursuant to ss. 120.54 and 120.536(1) to implement the provisions of law conferring duties upon it, procedures, and standards for the conduct of its business operations and the implementation of any provision of law for which the department is responsible.*

Section 70. Paragraph (c) of subsection (10) of section 339.175, Florida Statutes, is amended to read:

339.175 Metropolitan planning organization.—It is the intent of the Legislature to encourage and promote the development of transportation systems embracing various modes of transportation in a manner that will maximize the mobility of people and goods within and through urbanized areas of this state and minimize, to the maximum extent feasible, and together with applicable regulatory government agencies, transportation-related fuel consumption and air pollution. To accomplish these objectives, metropolitan planning organizations, referred to in this section as M.P.O.'s, shall develop, in cooperation with the state, transportation plans and programs for metropolitan areas. Such plans and programs must provide for the development of transportation facilities that will function as an intermodal transportation system for the metropolitan area. The process for developing such plans and programs shall be continuing, cooperative, and comprehensive, to the degree appropriate, based on the complexity of the transportation problems.

(10) METROPOLITAN PLANNING ORGANIZATION ADVISORY COUNCIL.—

(c) The powers and duties of the Metropolitan Planning Organization Advisory Council are to:

1. Enter into contracts with individuals, private corporations, and public agencies.

2. Acquire, own, operate, maintain, sell, or lease personal property essential for the conduct of business.

3. Accept funds, grants, assistance, gifts, or bequests from private, local, state, or federal sources.

4. Establish bylaws and *adopt rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of law conferring powers or duties upon it make rules to effectuate its powers, responsibilities, and obligations.*

5. Assist M.P.O.'s in carrying out the urbanized area transportation planning process by serving as the principal forum for collective policy discussion pursuant to law.

6. Serve as a clearinghouse for review and comment by M.P.O.'s on the Florida Transportation Plan and on other issues required to comply with federal or state law in carrying out the urbanized area transportation and systematic planning processes instituted pursuant to s. 339.155.

7. Employ an executive director and such other staff as necessary to perform adequately the functions of the council, within budgetary limitations. The executive director and staff are exempt from part II of chapter 110 and serve at the direction and control of the council. The council is assigned to the Office of the Secretary of the Department of Transportation or for fiscal and accountability purposes, but it shall otherwise function independently of the control and direction of the department.

8. Adopt an agency strategic plan that provides the priority directions the agency will take to carry out its mission within the context of the state comprehensive plan and any other statutory mandates and directions given to the agency.

Section 71. Subsection (2) of section 350.127, Florida Statutes, is amended to read:

350.127 Penalties; rules; execution of contracts.—

(2) The commission is authorized to adopt, by affirmative vote of a majority of the commission, rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of law conferring duties upon it reasonably necessary to implement any law which it administers.

Section 72. Subsection (1) of section 366.05, Florida Statutes, is amended to read:

366.05 Powers.—

(1) In the exercise of such jurisdiction, the commission shall have power to prescribe fair and reasonable rates and charges, classifications, standards of quality and measurements, and service rules and regulations to be observed by each public utility; to require repairs, improvements, additions, and extensions to the plant and equipment of any public utility when reasonably necessary to promote the convenience and welfare of the public and secure adequate service or facilities for those reasonably entitled thereto; to employ and fix the compensation for such examiners and technical, legal, and clerical employees as it deems necessary to carry out the provisions of this chapter; and to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement and enforce the provisions of prescribe all rules and regulations reasonably necessary and appropriate for the administration and enforcement of this chapter.

Section 73. Subsection (1) of section 367.121, Florida Statutes, is amended to read:

367.121 Powers of commission.—

(1) In the exercise of its jurisdiction, the commission shall have power:

(a) To prescribe fair and reasonable rates and charges, classifications, standards of quality and measurements, and to prescribe service rules to be observed by each utility, except to the extent such authority is expressly given to another state agency.;

(b) To prescribe, by rule, a uniform system and classification of accounts for all utilities, which rules, among other things, shall establish adequate, fair, and reasonable depreciation rates and charges.;

(c) To require such regular or emergency reports from a utility, including, but not limited to, financial reports, as the commission deems necessary and, if the commission finds a financial report to be incomplete, incorrect, or inconsistent with the uniform system and classification of accounts, to require a new report or a supplemental report, either of which the commission may require to be certified by an independent certified public accountant licensed under chapter 473.;

(d) To require repairs, improvements, additions, and extensions to any facility, or to require the construction of a new facility, if reasonably

necessary to provide adequate and proper service to any person entitled to service or if reasonably necessary to provide any prescribed quality of service, except that no utility shall be required to extend its service outside the geographic area described in its certificate of authorization, or make additions to its plant or equipment to serve outside such area, unless the commission first finds that the utility is financially able to make such additional investment without impairing its capacity to serve its existing customers.;

(e) To employ and fix the compensation for such examiners and technical, legal, and clerical employees as it deems necessary to carry out the provisions of this chapter.;

(f) To adopt, by affirmative vote of a majority of the commission, rules pursuant to ss. 120.54 and 120.536(1) to implement and enforce the provisions of reasonably necessary and appropriate for the administration and enforcement of this chapter.;

(g) To exercise all judicial powers, issue all writs, and do all things necessary or convenient to the full and complete exercise of its jurisdiction and the enforcement of its orders and requirements.;

(h) To order interconnections of service or facilities between utilities, and to approve any plant capacity charges or wholesale service charges or rates related thereto, provided the commission first finds that the utility is financially able to make such additional investment as is required without impairing its capacity to serve its existing customers.;

(i) To require the filing of reports and other data by a public utility or its affiliated companies, including its parent company, regarding transactions or allocations of common costs, among the utility and such affiliated companies. The commission may also require such reports or other data necessary to ensure that a utility's ratepayers do not subsidize nonutility activities.;

(j) To seek relief in circuit court including temporary and permanent injunctions, restraining orders, or any other appropriate order, because the Legislature finds that violations of commission orders or rules, in connection with the impairment of a utility's operations or service, constitute irreparable harm for which there is no adequate remedy at law. Such remedies shall be in addition to and supplementary to any other remedies available for enforcement of agency action under s. 120.69 or the provisions of this chapter. The commission shall establish procedures implementing this section by rule.;

(k) To assess a utility for reasonable travel costs associated with reviewing the records of the utility and its affiliates when such records are kept out of state. The utility may bring the records back into the state for review.

Section 74. Section 368.05, Florida Statutes, is amended to read:

368.05 Commission jurisdiction, rules and regulations.—

(1) In addition to its existing functions, the Florida Public Service Commission shall have jurisdiction over all persons, corporations, partnerships, associations, public agencies, municipalities, or other legal entities engaged in the operation of gas transmission or distribution facilities with respect to their compliance with the rules and regulations governing safety standards established by the commission pursuant to this law. The jurisdiction conferred upon the commission hereby shall be exclusive of and superior to that of all other boards, agencies, political subdivisions, municipalities, towns, villages, or counties; and in case of conflict therewith all lawful safety acts, orders, and rules, and regulations of the commission shall in each instance prevail.

(2) The commission shall have the power to perform any and all acts; and to prescribe, issue, make, amend, and rescind such orders, rules, and regulations not inconsistent herewith as it may find necessary or appropriate to the exercise of the authority granted under the provisions of this law. The commission has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of law conferring duties upon it. The commission may require the filing of periodic reports and all other data reasonably necessary to determine whether the safety standards prescribed by it are being complied with; may require repairs and improvements to the gas transmission and distribution piping systems subject to this law which are reasonably necessary to promote the protection of the public; and may exercise all judicial powers, issue all writs, and do all things necessary or convenient to the full and complete

exercise of its jurisdiction and the enforcement of its safety orders and rules and regulations adopted pursuant to this law.

(3) The jurisdiction conferred upon the commission by this part does not extend to the distribution of gas beyond the last meter prior to consumption.

Section 75. Subsection (6) of section 369.20, Florida Statutes, is amended to read:

369.20 Florida Aquatic Weed Control Act.—

(6) The department shall adopt rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of this section conferring powers or duties upon it, amend, or repeal all rules as necessary to carry out the duties, obligations, and powers set forth in this section and perform any other acts necessary for the proper administration, enforcement, or interpretation of this section, including creating general permits and exemptions and adopting rules and forms governing reports.

Section 76. Subsection (11) of section 369.22, Florida Statutes, is amended to read:

369.22 Nonindigenous aquatic plant control.—

(11) The department shall adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of, amend, or repeal all rules as necessary to carry out the duties, obligations, and powers set forth in this section conferring powers or duties upon it and perform any other acts necessary for the proper administration, enforcement, or interpretation of this section, including adopting rules and forms governing reports.

Section 77. Subsection (3) of section 369.251, Florida Statutes, is amended to read:

369.251 Invasive nonnative plants; prohibitions; study; removal; rules.—

(3) The department has authority to shall adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of necessary to implement this section. Possession or transportation resulting from natural dispersion, mulching operations, control and disposal, or use in herbaria or other educational or research institutions, or for other reasons determined by the department to be consistent with this section and where there is neither the danger of, nor intent to, further disperse any plant species prohibited by this section, is not subject to the permit or penalty provisions of this section.

Section 78. Subsection (1) of section 370.021, Florida Statutes, is amended to read:

370.021 Administration; rules, publications, records; penalty for violation of chapter; injunctions.—

(1) ~~RULES AND REGULATIONS.—~~The Department of Environmental Protection has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of law conferring powers or duties upon it shall make, adopt, promulgate, amend, and repeal all rules and regulations necessary or convenient for the carrying out of the duties, obligations, powers, and responsibilities conferred on the department or any of its divisions. The director of each division shall submit to the department suggested rules and regulations for that division. Any person violating or otherwise failing to comply with any of the rules and regulations adopted as aforesaid is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, unless otherwise provided by law.

Section 79. Subsection (5) of section 370.092, Florida Statutes, is amended to read:

370.092 Carriage of proscribed nets across Florida waters.—

(5) The department has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of is authorized to make and adopt reasonable rules, regulations, and orders, including emergency rules, to implement this section. The department shall adopt emergency rules to implement the provisions of subparagraph (4)(c)1. by August 1, 1996.

Section 80. Subsection (1) of section 370.15, Florida Statutes, is amended to read:

370.15 Shrimp; regulation.—

(1) ~~GENERAL AUTHORITY; CONSERVATION.—~~The department has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of this section. The department shall encourage is authorized and directed to adopt, promulgate, and enforce rules and regulations consistent with the provisions of this section and the general policy of encouraging the production of the maximum sustained yield consistent with the preservation and protection of breeding stock, taking into consideration the recommendations of the various marine laboratories, as well as those of interested and experienced groups of private citizens. Such Rules shall and regulations are to control the method, manner, and equipment used in the taking of shrimp or prawn, as well as limiting and defining the areas where taken.

Section 81. Section 373.043, Florida Statutes, is amended to read:

373.043 Adoption and enforcement of rules regulations by the department.—The department has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) shall adopt, promulgate, and enforce such regulations and review procedures as may be necessary or convenient to implement administer the provisions of this chapter.

Section 82. Section 373.044, Florida Statutes, is amended to read:

373.044 Rules and regulations; enforcement; availability of personnel rules.—In administering this chapter, The governing board of the district is authorized to make and adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of this chapter. reasonable rules, regulations, and orders which are consistent with law; and such Rules, regulations, and orders may be enforced by mandatory injunction or other appropriate action in the courts of the state. Rules relating to personnel matters shall be made available to the public and affected persons at no more than cost but need not be published in the Florida Administrative Code or the Florida Administrative Weekly.

Section 83. Section 373.113, Florida Statutes, is amended to read:

373.113 Adoption of rules regulations by the governing board.—In administering the provisions of this chapter the governing board has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of law conferring powers or duties upon it shall adopt, promulgate, and enforce such regulations as may be reasonably necessary to effectuate its powers, duties, and functions pursuant to the provisions of chapter 120.

Section 84. Section 373.171, Florida Statutes, is amended to read:

373.171 Rules and regulations.—

(1) In order to obtain the most beneficial use of the water resources of the state and to protect the public health, safety, and welfare and the interests of the water users affected, governing boards, by action not inconsistent with the other provisions of this law and without impairing property rights, may:

(a) ~~Adopt Establish~~ rules, regulations, or issue orders affecting the use of water, as conditions warrant, and forbidding the construction of new diversion facilities or wells, the initiation of new water uses, or the modification of any existing uses, diversion facilities, or storage facilities within the affected area.

(b) Regulate the use of water within the affected area by apportioning, limiting, or rotating uses of water or by preventing those uses which the governing board finds have ceased to be reasonable or beneficial.

(c) Issue orders and adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of this chapter Make other rules, regulations, and orders necessary for the preservation of the interests of the public and of affected water users.

(2) In adopting promulgating rules and regulations and issuing orders under this law, the governing board shall act with a view to full protection of the existing rights to water in this state insofar as is consistent with the purpose of this law.

(3) No rule, regulation or order shall require any modification of existing use or disposition of water in the district unless it is shown that the use or disposition proposed to be modified is detrimental to other water users or to the water resources of the state.

(4) All rules and regulations adopted by the governing board shall be filed with the Department of State as provided in chapter 120. An information copy will be filed with the Department of Environmental Protection.

Section 85. Section 373.337, Florida Statutes, is amended to read:

373.337 Rules.—The department shall, by July 1, 1989, adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of this part, providing each water management district and representatives of the water well contracting industry with meaningful opportunity to participate in the development of the rules as they are drafted. The rules shall be adopted by each water management district.

Section 86. Subsection (3) of section 373.418, Florida Statutes, is amended to read:

373.418 Rulemaking; preservation of existing authority.—

(3) The department or governing boards have authority to may adopt such rules pursuant to ss. 120.54 and 120.536(1) as are necessary to implement the provisions of this part. Such rules shall be consistent with the water resource implementation rule and shall not allow harm to water resources or be contrary to the policy set forth in s. 373.016.

Section 87. Section 376.07, Florida Statutes, is amended to read:

376.07 Regulatory powers of department; penalties for inadequate booming by terminal facilities.—The department shall from time to time adopt, amend, repeal, and enforce reasonable rules insofar as they relate to discharges of pollutants into the waters of this state or onto the coasts of this state.

(1) The department shall adopt rules pursuant to ss. 120.54 and 120.536(1) to implement ss. 376.011-376.21 rules shall be adopted in accordance with the Administrative Procedure Act, chapter 120.

(2) The department shall adopt rules including, but not limited to, the following matters:

(a) Operation and inspection requirements for discharge prevention, abatement, and cleanup capabilities of terminal facilities and vessels, and other matters relating to certification under ss. 376.011-376.21.

(b) Procedures and methods of reporting discharges and other occurrences prohibited by ss. 376.011-376.21.

(c) Procedures, methods, means, and equipment to be used by persons subject to regulation by ss. 376.011-376.21 in the removal of pollutants.

(d) Development and implementation of criteria and plans to meet pollution occurrences of various degrees and kinds.

(e) Creation by contract or administrative action of a state response team which shall be responsible for creating and maintaining a contingency plan of response, organization, and equipment for handling emergency cleanup operations and wildlife rescue and rehabilitation operations. The state plans shall include detailed emergency operating procedures for the state as a whole, and the team shall from time to time conduct practice alerts. These plans shall be filed with the Governor and all Coast Guard stations in the state and Coast Guard captains of the port having responsibility for enforcement of federal pollution laws within the state. The contingency plan shall include all necessary information for the total containment and cleanup of pollution, including, but not limited to, an inventory of equipment and its location, a table of organization with the names, addresses, and telephone numbers of all persons responsible for implementing every phase of the plan, including a plan for wildlife rescue and rehabilitation operations, a list of available sources of supplies necessary for cleanup, and a designation of priority zones to determine the sequence and methods of cleanup. The state response team shall act independently of agencies of the Federal Government but is directed to cooperate with any federal cleanup operation.

(f) Requirements for minimum weather and sea conditions for permitting a vessel to enter port and for the safety and operation of vessels, barges, tugs, motor vehicles, motorized equipment, and other equipment relating to the use and operation of terminals, facilities, and refineries, the approach and departure from terminals, facilities, and refineries, and requirements that containment gear approved by the department be on hand and maintained by terminal facilities and refineries with adequate personnel trained in its use.

(g) Requirements that, prior to being granted entry into any port in this state, the master of a vessel shall report:

1. Any discharges of pollutants the vessel has had since leaving the last port.

2. Any mechanical problem on the vessel which creates the possibility of a discharge.

3. Any denial of entry into any port during the current cruise of the vessel.

(h) Requirements that any terminal facility be subject to a complete and thorough inspection whenever the terminal facility causes or permits the discharge of a pollutant in violation of the provisions of ss. 376.011-376.21, and at other reasonable times. If the department determines there are unsatisfactory preventive measures or containment and cleanup capabilities, it shall, within a reasonable time after notice and hearing in compliance with chapter 120, suspend the registration until such time as there is compliance with the department requirements.

~~(i) Such other rules as the exigencies of any condition may require or as may reasonably be necessary to carry out the intent of ss. 376.011-376.21.~~

(3) The department shall not require vessels to maintain discharge prevention gear, holding tanks, and containment gear which exceed federal requirements. However, a terminal facility transferring heavy oil to or from a vessel with a heavy oil storage capacity greater than 10,000 gallons shall be required, considering existing weather and tidal conditions, to adequately boom or seal off the transfer area during a transfer, including, but not limited to, a bunkering operation, to minimize the escape of such pollutants from the containment area. As used in this subsection, the term "adequate booming" means booming with proper containment equipment which is employed and located for the purpose of preventing, for the most likely discharge, as much of the pollutant as possible from escaping out of the containment area.

(a) The owner or operator of a terminal facility involved in the transfer of such pollutant to or from a vessel which is not adequately boomed commits a noncriminal infraction and shall be cited for such infraction. The civil penalty for such an infraction shall be \$2,500, except as otherwise provided in this section.

(b) Any person cited for an infraction under this section may:

1. Pay the civil penalty;

2. Post bond equal to the amount of the applicable civil penalty; or

3. Sign and accept a citation indicating a promise to appear before the county court.

The officer authorized to issue these citations may indicate on the citation the time and location of the scheduled hearing and shall indicate the applicable civil penalty.

(c) Any person who willfully refuses to post bond or accept and sign a citation commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(d) After compliance with subparagraph (b)2. or subparagraph (b)3., any person charged with a noncriminal infraction under this section may:

1. Pay the civil penalty, either by mail or in person, within 30 days after the date of receiving the citation; or

2. If the person has posted bond, forfeit the bond by not appearing at the designated time and location.

A person cited for an infraction under this section who pays the civil penalty or forfeits the bond has admitted the infraction and waives the right to a hearing on the issue of commission of the infraction. Such admission may not be used as evidence in any other proceedings.

(e) Any person who elects to appear before the county court or who is required to appear waives the limitations of the civil penalty specified in paragraph (a). The issue of whether an infraction has been committed and the severity of the infraction shall be determined by a hearing official at a hearing. If the commission of the infraction is proved by the greater weight of the evidence, the court shall impose a civil penalty of \$2,500. If the court determines that the owner or operator of the terminal facility failed to deploy any boom equipment during such a transfer, including, but not limited to, a bunkering operation, the civil penalty shall be \$5,000.

(f) A person who is found by the hearing official to have committed an infraction may appeal that finding to the circuit court.

(g) Any person who has not posted bond and who fails either to pay the civil penalty specified in paragraph (a) within 30 days after receipt of the citation or to appear before the court commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 88. Section 377.22, Florida Statutes, is amended to read:

377.22 Rules, ~~regulations~~, and orders.—

(1) The department shall provide, by ~~rule rules and regulations~~, for ratable takings in all pools on a reasonable and equitable basis.

(2) The department shall ~~adopt such rules and regulations, and shall issue such orders and adopt rules pursuant to ss. 120.54 and 120.536(1) to implement and enforce the provisions of, governing all phases of the exploration, drilling, and production of oil, gas, or other petroleum products in the state, including exploration, drilling, and production in the offshore waters of the state as may be necessary for the proper administration and enforcement of this chapter.~~ Such rules, ~~regulations~~, and orders shall ensure that all precautions are taken to prevent the spillage of oil or any other pollutant in all phases of the drilling for, and extracting of, oil, gas, or other petroleum products. The department shall revise such rules and ~~regulations~~ from time to time as ~~may be necessary for the proper administration and enforcement of this chapter.~~ Rules ~~adopted, regulations, and orders issued promulgated~~ in accordance with this section shall be for, but shall not be limited to, the following purposes:

(a) To require the drilling, casing, and plugging of wells to be done in such a manner as to prevent the pollution of the fresh, salt, or brackish waters or the lands of the state.

(b) To prevent the alteration of the sheet flow of water in any area.

(c) To require that appropriate safety equipment be installed to minimize the possibility of an escape of oil or other petroleum products in the event of accident, human error, or a natural disaster during drilling, casing, or plugging of any well and during extraction operations.

(d) To require the drilling, casing, and plugging of wells to be done in such a manner as to prevent the escape of oil or other petroleum products from one stratum to another.

(e) To prevent the intrusion of water into an oil or gas stratum from a separate stratum, except as provided by rules of the division relating to the injection of water for proper reservoir conservation and brine disposal.

(f) To require a reasonable bond, or other form of security acceptable to the department, conditioned upon the performance of the duty to plug properly each dry and abandoned well and the full and complete restoration by the applicant of the area over which geophysical exploration, drilling, or production is conducted to the similar contour and general condition in existence prior to such operation.

(g) To require and carry out a reasonable program of monitoring or inspection of all drilling operations or producing wells, including regular inspections by division personnel.

(h) To require the making of reports showing the location of all oil and gas wells; the making and filing of logs; the taking and filing of

directional surveys; the filing of electrical, sonic, radioactive, and mechanical logs of oil and gas wells; if taken, the saving of cutting and cores, the cuts of which shall be given to the Bureau of Geology; and the making of reports with respect to drilling and production records. However, such information, or any part thereof, at the request of the operator, shall be exempt from the provisions of s. 119.07(1) and held confidential by the division for a period of 1 year after the completion of a well.

(i) To prevent wells from being drilled, operated, or produced in such a manner as to cause injury to neighboring leases or property.

(j) To prevent the drowning by water of any stratum, or part thereof, capable of producing oil or gas in paying quantities and to prevent the premature and irregular encroachment of water which reduces, or tends to reduce, the total ultimate recovery of oil or gas from any pool.

(k) To require the operation of wells with efficient gas-oil ratio, and to fix such ratios.

(l) To prevent "blowouts," "caving," and "seepage," in the sense that conditions indicated by such terms are generally understood in the oil and gas business.

(m) To prevent fires.

(n) To identify the ownership of all oil or gas wells, producing leases, refineries, tanks, plants, structures, and storage and transportation equipment and facilities.

(o) To regulate the "shooting," perforating and chemical treatment of wells.

(p) To regulate secondary recovery methods, including the introduction of gas, air, water, or other substance into producing formations.

(q) To regulate gas cycling operations.

(r) If necessary for the prevention of waste, as herein defined, to determine, limit, and prorate the production of oil or gas, or both, from any pool or field in the state.

(s) To require, either generally or in or from particular areas, certificates of clearance or tenders in connection with the transportation or delivery of oil or gas, or any product.

(t) To regulate the spacing of wells and to establish drilling units.

(u) To prevent, so far as is practicable, reasonably avoidable drainage from each developed unit which is not equalized by counterdrainage.

(v) To require that geophysical operations requiring a permit be conducted in a manner which will minimize the impact on hydrology and biota of the area, especially environmentally sensitive lands and coastal areas.

(w) To regulate aboveground crude oil storage tanks in a manner which will protect the water resources of the state.

(x) To act in a receivership capacity for fractional mineral interests for which the owners are unknown or unlocated and to administratively designate the operator as the lessee.

Section 89. Paragraph (g) of subsection (3) of section 377.703, Florida Statutes, is amended to read:

377.703 Additional functions of the Department of Community Affairs; energy emergency contingency plan; federal and state conservation programs.—

(3) DEPARTMENT OF COMMUNITY AFFAIRS; DUTIES.—The Department of Community Affairs shall, in addition to assuming the duties and responsibilities provided by ss. 20.18 and 377.701, perform the following functions consistent with the development of a state energy policy:

(g) The department *has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of* ~~is authorized to make any rules or regulations pursuant to chapter 120 as are necessary to carry out the purposes of this act.~~

Section 90. Paragraph (d) of subsection (1) of section 378.205, Florida Statutes, is amended to read:

378.205 Administration; powers and duties of the department; agency review responsibility.—

(1) The department shall administer the provisions of this part and shall have the following powers and duties:

(d) To adopt ~~those~~ rules pursuant to ss. 120.54 and 120.536(1) ~~necessary to implement the provisions of~~ administer this part.

Section 91. Subsection (1) of section 378.404, Florida Statutes, is amended to read:

378.404 Department of Environmental Protection; powers and duties.—The department shall have the following powers and duties:

(1) To adopt rules pursuant to ss. 120.54 and 120.536(1) ~~procedural~~ rules to implement the provisions of this part.

Section 92. Paragraph (c) of subsection (22) of section 380.05, Florida Statutes, is amended to read:

380.05 Areas of critical state concern.—

(22) All state agencies with rulemaking authority for programs that affect a designated area of critical state concern shall review those programs for consistency with the purpose of the designation and principles for guiding development, and shall adopt specific permitting standards and criteria applicable in the designated area, or otherwise amend the program, as necessary to further the purpose of the designation.

(c) The Administration Commission *has authority to* ~~may~~ adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of this subsection.

Section 93. Paragraph (f) of subsection (4) of section 380.0651, Florida Statutes, is amended to read:

380.0651 Statewide guidelines and standards.—

(4) Two or more developments, represented by their owners or developers to be separate developments, shall be aggregated and treated as a single development under this chapter when they are determined to be part of a unified plan of development and are physically proximate to one other.

(f) ~~Pursuant to chapter 120,~~ The state land planning agency *has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of* ~~shall adopt rules as necessary to implement~~ this subsection.

Section 94. Subsection (13) of section 381.0011, Florida Statutes, is amended to read:

381.0011 Duties and powers of the Department of Health.—It is the duty of the Department of Health to:

(13) ~~Adopt, repeal, and amend~~ rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of law ~~conferring duties upon it consistent with law.~~ This subsection does not authorize the department to require a permit or license unless such requirement is specifically provided by law.

Section 95. Section 384.33, Florida Statutes, is amended to read:

384.33 Rules.—The department may adopt rules pursuant to ss. 120.54 and 120.536(1) to implement ~~carry out~~ the provisions of this chapter.

Section 96. Subsection (12) of 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:

(12) To adopt rules pursuant to ss. 120.54 and 120.536(1) to implement ~~make rules to carry out~~ the provisions of this act.

Section 97. Section 392.66, Florida Statutes, is amended to read:

392.66 Rules.—The department shall adopt rules pursuant to ss. 120.54 and 120.536(1) to implement ~~carry out~~ the provisions of this chapter.

Section 98. Subsection (1) of section 394.879, Florida Statutes, is amended to read:

394.879 Rules; enforcement.—

(1) The department shall adopt ~~reasonable~~ rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of this chapter, including, at a minimum, rules providing standards to ensure that:

(a) Sufficient numbers and types of qualified personnel are on duty and available at all times to provide necessary and adequate client safety and care.

(b) Adequate space is provided each client of a licensed facility.

(c) Licensed facilities are limited to an appropriate number of beds.

(d) Each licensee establishes and implements adequate infection control, housekeeping, sanitation, disaster planning, and medical recordkeeping.

(e) Licensed facilities are established, organized, and operated in accordance with programmatic standards of the department.

Section 99. Subsection (1) of section 395.1055, Florida Statutes, is amended to read:

395.1055 Rules and enforcement.—

(1) The agency shall ~~adopt, amend, promulgate, and enforce~~ rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of this part, which shall include reasonable and fair minimum standards for ensuring that:

(a) Sufficient numbers and qualified types of personnel and occupational disciplines are on duty and available at all times to provide necessary and adequate patient care and safety.

(b) Infection control, housekeeping, sanitary conditions, and medical record procedures that will adequately protect patient care and safety are established and implemented.

(c) A comprehensive emergency management plan is prepared and updated annually. Such standards must be included in the rules adopted by the agency after consulting with the Department of Community Affairs. At a minimum, the rules must provide for plan components that address emergency evacuation transportation; adequate sheltering arrangements; postdisaster activities, including emergency power, food, and water; postdisaster transportation; supplies; staffing; emergency equipment; individual identification of residents and transfer of records, and responding to family inquiries. The comprehensive emergency management plan is subject to review and approval by the local emergency management agency. During its review, the local emergency management agency shall ensure that the following agencies, at a minimum, are given the opportunity to review the plan: the Department of Elderly Affairs, the Department of Health and Rehabilitative Services, the Agency for Health Care Administration, and the Department of Community Affairs. Also, appropriate volunteer organizations must be given the opportunity to review the plan. The local emergency management agency shall complete its review within 60 days and either approve the plan or advise the facility of necessary revisions.

(d) Facilities are structurally capable of serving as shelters and equipped to be self-supporting during and immediately following disasters.

(e) Construction, maintenance, repair, lifesafety, and renovation of licensed facilities are governed by the most recently adopted, nationally recognized lifesafety code, except as may be specifically modified by rule.

(f) Licensed facilities are established, organized, and operated consistent with established standards and rules.

(g) Licensed facility beds conform to minimum space, equipment, and furnishings standards as specified by the department.

(h) All hospitals submit such data as necessary to conduct certification-of-need reviews required under ss. 408.031-408.045. Such data shall include, but shall not be limited to, patient origin data, hospital utilization data, type of service reporting, and facility staffing data. The agency shall not collect data that identifies or could disclose the identity of individual patients. The agency shall utilize existing uniform statewide data sources when available and shall minimize reporting costs to hospitals.

(i) Each hospital has a quality improvement program designed according to standards established by their current accrediting organization. This program will enhance quality of care and emphasize quality patient outcomes, corrective action for problems, governing board review, and reporting to the agency of standardized data elements necessary to analyze quality of care outcomes. The agency shall use existing data, when available, and shall not duplicate the efforts of other state agencies in order to obtain such data.

Section 100. Subsection (7) of section 403.061, Florida Statutes, is amended to read:

403.061 Department; powers and duties.—The department shall have the power and the duty to control and prohibit pollution of air and water in accordance with the law and rules adopted and promulgated by it and, for this purpose, to:

(7) Adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of, ~~modify, and repeal rules and regulations to carry out the intent and purposes of~~ this act. Any rule or regulation adopted pursuant to this act shall be consistent with the provisions of federal law, if any, relating to control of emissions from motor vehicles, effluent limitations, pretreatment requirements, or standards of performance. No county, municipality, or political subdivision shall adopt or enforce any local ordinance, special law, or local regulation requiring the installation of Stage II vapor recovery systems, as currently defined by department rule, unless such county, municipality, or political subdivision is or has been in the past designated by federal regulation as a moderate, serious, or severe ozone nonattainment area. Rules adopted pursuant to this act shall not require dischargers of waste into waters of the state to improve natural background conditions. Discharges from steam electric generating plants existing or licensed under this chapter on July 1, 1984, shall not be required to be treated to a greater extent than may be necessary to assure that the quality of nonthermal components of discharges from nonrecirculated cooling water systems is as high as the quality of the makeup waters; that the quality of nonthermal components of discharges from recirculated cooling water systems is no lower than is allowed for blowdown from such systems; or that the quality of noncooling system discharges which receive makeup water from a receiving body of water which does not meet applicable department water quality standards is as high as the quality of the receiving body of water. The department may not adopt standards more stringent than federal regulations, except as provided in s. 403.804.

The department shall implement such programs in conjunction with its other powers and duties and shall place special emphasis on reducing and eliminating contamination that presents a threat to humans, animals or plants, or to the environment.

Section 101. Paragraph (a) of subsection (5) and subsection (10) of section 403.1835, Florida Statutes, are amended to read:

403.1835 Sewage treatment facilities revolving loan program.—

(5)(a) The department *has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of* ~~is authorized to make rules necessary to carry out the purpose of~~ this section, including rules to administer the state revolving fund authorized pursuant to the Federal Water Pollution Control Act, as amended.

(10)(a) Because the Legislature has experienced revenue shortfalls in recent years and has been unable to provide enough funds to fully match available federal funds to help capitalize the Sewage Treatment Revolving Loan Fund, it is necessary for innovative approaches to be considered to help capitalize the revolving loan fund. The department shall evaluate potential innovative approaches that can generate funds to match available federal funds. The department shall consider, among

other possible alternatives, the option of implementing by rule a program to allow local governments to offer funds voluntarily to the state for use as a match to available federal funds to capitalize the state sewage treatment revolving loan fund.

~~(b) The department may adopt rules necessary to administer this section.~~

Section 102. Subsection (1) of section 403.504, Florida Statutes, is amended to read:

403.504 Department of Environmental Protection; powers and duties enumerated.—The department shall have the following powers and duties in relation to this act:

(1) To adopt, ~~promulgate, or amend reasonable~~ rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of this act, including rules setting forth environmental precautions to be followed in relation to the location and operation of electrical power plants.

Section 103. Subsection (1) of section 403.523, Florida Statutes, is amended to read:

403.523 Department of Environmental Protection; powers and duties.—The department shall have the following powers and duties:

(1) To adopt ~~or amend reasonable~~ procedural rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of this act and to adopt or amend rules to implement the provisions of subsection (10).

Section 104. Subsection (15) of section 403.704, Florida Statutes, is amended to read:

403.704 Powers and duties of the department.—The department shall have responsibility for the implementation and enforcement of the provisions of this act. In addition to other powers and duties, the department shall:

(15) Adopt, ~~repeal, or amend~~ rules pursuant to ss. 120.54 and 120.536(1) to implement, ~~administer,~~ and enforce the provisions of this act, including requirements for the classification, construction, operation, maintenance, and closure of solid waste management facilities and requirements for, and conditions on, solid waste disposal in this state, whether such solid waste is generated within this state or outside this state as long as such requirements and conditions are not based on the out-of-state origin of the waste and are consistent with applicable provisions of law. When classifying solid waste management facilities, the department shall consider the hydrogeology of the site for the facility, the types of wastes to be handled by the facility, and methods used to control the types of waste to be handled by the facility and shall seek to minimize the adverse effects of solid waste management on the environment. Whenever the department adopts any rule stricter or more stringent than one which has been set by the United States Environmental Protection Agency, the procedures set forth in s. 403.804(2) shall be followed. The department shall not, however, adopt hazardous waste rules for solid waste for which special studies were required prior to October 1, 1988, under s. 8002 of the Resource Conservation and Recovery Act, 42 U.S.C. s. 6982, as amended, until the studies are completed by the United States Environmental Protection Agency and the information is available to the department for consideration in adopting its own rule.

Section 105. Subsection (4) of section 403.716, Florida Statutes, is amended to read:

403.716 Training of operators of solid waste management and other facilities.—

(4) The department *has authority to* ~~may adopt rules and~~ minimum standards *and other rules pursuant to ss. 120.54 and 120.536(1) to implement to effectuate* the provisions of this section. *The department shall and to ensure the safe, healthy, and lawful operation of solid waste management facilities in this state. The department may establish by rule various classifications for operators to cover the need for differing levels of training required to operate various types of solid waste management facilities due to different operating requirements at such facilities.*

Section 106. Subsection (1) of section 403.805, Florida Statutes, is amended to read:

403.805 Secretary; powers and duties.—

(1) The secretary shall have the powers and duties of heads of departments set forth in chapter 20, including the ~~authority power~~ to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of ~~under~~ chapters 253, 373, and 376; and this chapter. The secretary shall have rulemaking responsibility under chapter 120, but shall submit any proposed rule containing standards to the Environmental Regulation Commission for approval, modification, or disapproval pursuant to s. 403.804. The secretary shall employ legal counsel to represent the department in matters affecting the department. Except for appeals on permits specifically assigned by this act to the Governor and Cabinet, and unless otherwise prohibited by law, the secretary may delegate the authority assigned to the department by this act to the assistant secretary, division directors, and district and branch office managers and to the water management districts.

Section 107. Subsection (9) of section 403.861, Florida Statutes, is amended to read:

403.861 Department; powers and duties.—The department shall have the power and the duty to carry out the provisions and purposes of this act and, for this purpose, to:

(9) ~~Adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of; modify, and repeal such rules as are necessary or appropriate to carry out its functions under this act.~~

Section 108. Section 403.869, Florida Statutes, is amended to read:

403.869 Authority to adopt rules.—The department may adopt rules pursuant to ss. 120.54 and 120.536(1) ~~necessary to implement carry out~~ the provisions of ss. 403.865-403.876.

Section 109. Subsection (1) of section 403.9404, Florida Statutes, is amended to read:

403.9404 Department of Environmental Protection; powers and duties.—The Department of Environmental Protection shall have the following powers and duties:

(1) To ~~adopt or amend reasonable~~ procedural rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of ss. 403.9401-403.9425 and to ~~adopt or amend~~ rules to implement the provisions of subsection (8).

Section 110. Section 406.04, Florida Statutes, is amended to read:

406.04 ~~Rules and regulations.—The commission shall adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of promulgate rules and regulations, pursuant to chapter 120, necessary to effectuate this chapter. The commission shall and to ensure minimum and uniform standards of excellence, performance of duties, and maintenance of records so as to provide useful and adequate information to the state in regard to causative factors of those deaths investigated.~~

Section 111. Subsection (8) of section 408.15, Florida Statutes, is amended to read:

408.15 Powers of the agency.—In addition to the powers granted to the agency elsewhere in this chapter, the agency is authorized to:

(8) ~~Adopt rules pursuant to ss. 120.54 and 120.536(1) to implement; amend, and repeal all rules necessary to carry out the provisions of this chapter.~~

Section 112. Section 414.45, Florida Statutes, is amended to read:

414.45 Rulemaking.—The department ~~has authority to may~~ adopt, ~~amend, or repeal rules pursuant to ss. 120.54 and 120.536(1), as provided in chapter 120, to implement and, enforce the provisions of; and interpret this chapter.~~ The Department of Labor and Employment Security may adopt, ~~amend, or repeal rules pursuant to ss. 120.54 and 120.536(1), as provided in chapter 120, to implement and, enforce the provisions of; and interpret this chapter.~~ The rules must provide protection against discrimination and the opportunity for a participant to request a review by a supervisor or administrator of any decision made by a panel or board of the department, the Department of Labor and Employment Security, or the WAGES Program.

Section 113. Subsection (10) of section 427.013, Florida Statutes, is amended 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:

(10) ~~Adopt rules pursuant to ss. 120.54 and 120.536(1) Develop and monitor rules and procedures to implement the provisions of ss. 427.011-427.017.~~

Section 114. Section 430.08, Florida Statutes, is amended to read:

430.08 Rulemaking.—The department shall adopt, ~~amend, or rescind such rules pursuant to ss. 120.54 and 120.536(1) to implement as it deems necessary to carry out~~ the provisions of this chapter.

Section 115. Section 440.591, Florida Statutes, is amended to read:

440.591 Administrative procedure; rulemaking authority.—The division ~~has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of shall have the authority to adopt rules to govern the performance of any programs, duties, or responsibilities with which it is charged under this chapter conferring duties upon it.~~

Section 116. Paragraph (a) of subsection (2) of section 443.171, Florida Statutes, is amended to read:

443.171 Division and commission; powers and duties; rules; advisory council; records and reports.—

(2) RULES; DIVISION, SEAL.—

(a) ~~The division has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of shall have the power and authority to adopt, amend, or rescind such rules as are necessary for the administration of this chapter.~~

Section 117. Subsection (5) of section 455.203, Florida Statutes, is amended to read:

455.203 Department; powers and duties.—The department, for the boards under its jurisdiction, shall:

(5) ~~Adopt all rules pursuant to ss. 120.54 and 120.536(1) necessary to implement the provisions of administer~~ this part.

Section 118. Subsection (5) of section 455.521, Florida Statutes, is amended to read:

455.521 Department; powers and duties.—The department, for the boards under its jurisdiction, shall:

(5) ~~Adopt all rules pursuant to ss. 120.54 and 120.536(1) necessary to implement the provisions of administer~~ this part.

Section 119. Section 457.104, Florida Statutes, is amended to read:

457.104 Authority to make rules.—The board ~~has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of is authorized to make rules not inconsistent with law which are necessary to carry out the duties and authority conferred upon the board by this chapter conferring duties upon it.~~

Section 120. Subsection (1) of section 458.309, Florida Statutes, is amended to read:

458.309 Authority to make rules.—

(1) ~~The board has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of is authorized to make such rules not inconsistent with law as may be necessary to carry out the duties and authority conferred upon the board by this chapter conferring~~

~~duties upon it and as may be necessary to protect the health, safety, and welfare of the public.~~

Section 121. Section 459.005, Florida Statutes, is amended to read:

~~459.005 Authority to make rules.—The board has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of is authorized to make such rules not inconsistent with law as may be necessary to carry out the duties and authority conferred upon the board by this chapter conferring duties upon it and as may be necessary to protect the health, safety, and welfare of the public.~~

Section 122. Section 460.405, Florida Statutes, is amended to read:

~~460.405 Authority to make rules.—The Board of Chiropractic has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of is authorized to make such rules not inconsistent with law as are necessary to carry out the duties and authority conferred upon the board by this chapter conferring duties upon it.~~

Section 123. Section 461.005, Florida Statutes, is amended to read:

~~461.005 Authority to make rules.—The Board of Podiatric Medicine has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of is authorized to make such rules not inconsistent with law as are necessary to carry out the duties and authority conferred upon the board by this chapter conferring duties upon it and as may be necessary to protect the health, safety, and welfare of the public.~~

Section 124. Subsection (1) of section 463.005, Florida Statutes, is amended to read:

463.005 Authority of the board.—

~~(1) The Board of Optometry has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of is authorized to make such rules not inconsistent with law as are necessary to carry out the duties and authority conferred upon the board by this chapter conferring duties upon it. Such rules shall include, but not be limited to, rules relating to:~~

- ~~(a) Standards of practice, including, but not limited to, those provided for in s. 463.0135.~~
- ~~(b) Minimum equipment which a licensed practitioner shall at all times possess to engage in the practice of optometry.~~
- ~~(c) Minimum procedures which shall constitute a visual examination.~~
- ~~(d) Procedures for the safekeeping and transfer of prescription files or case records upon the discontinuance of practice.~~
- ~~(e) Supervision of supportive personnel.~~
- ~~(f) Courses and procedures for continuing education.~~
- ~~(g) Administration and prescription of topical ocular pharmaceutical agents.~~

Section 125. Section 464.006, Florida Statutes, is amended to read:

~~464.006 Authority to make rules.—The Board of Nursing has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of is authorized to make such rules not inconsistent with law as are necessary to carry out the duties and authority conferred upon the board by this chapter conferring duties upon it.~~

Section 126. Section 465.005, Florida Statutes, is amended to read:

~~465.005 Authority to make rules.—The Board of Pharmacy has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of is authorized to make such rules not inconsistent with law as are necessary to carry out the duties and authority conferred upon the board by this chapter conferring duties upon it.~~

Section 127. Subsection (1) of section 465.022, Florida Statutes, is amended to read:

465.022 Pharmacies; general requirements; fees.—

~~(1) The board shall adopt such rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of this chapter relating to pharmacies as are necessary to protect the public health, safety, and welfare. Such rules shall include, but shall not be limited to, rules relating to:~~

- ~~(a) General drug safety measures.~~
- ~~(b) Minimum standards for the physical facilities of pharmacies.~~
- ~~(c) Safe storage of floor-stock drugs.~~
- ~~(d) Functions of a pharmacist in an institutional pharmacy, consistent with the size and scope of the pharmacy.~~
- ~~(e) Procedures for the safe storage and handling of radioactive drugs.~~
- ~~(f) Procedures for the distribution and disposition of medicinal drugs distributed pursuant to s. 499.028.~~
- ~~(g) Procedures for transfer of prescription files and medicinal drugs upon the change of ownership or closing of a pharmacy.~~
- ~~(h) Minimum equipment which a pharmacy shall at all times possess to fill prescriptions properly.~~

Section 128. Subsection (4) of section 466.004, Florida Statutes, is amended to read:

466.004 Board of Dentistry.—

~~(4) The board is authorized to adopt all rules pursuant to ss. 120.54 and 120.536(1) necessary to implement carry out the provisions of this chapter and chapter 455, including the establishment of a fee to defray the cost of duplicating any license certification or permit, not to exceed \$10 per duplication.~~

Section 129. Section 466.038, Florida Statutes, is amended to read:

~~466.038 Rules.—The department may, upon consultation with the Board of Dentistry and industry representatives of the dental laboratory profession, has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) promulgate all rules necessary to enforce the provisions of this chapter pertaining to and regulating dental laboratories.~~

Section 130. Section 467.005, Florida Statutes, is amended to read:

~~467.005 Authority to make rules.—The department has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of is authorized to promulgate such rules not inconsistent with law as may be necessary to carry out the duties and authority conferred on the department by this chapter conferring duties upon it and as may be necessary to protect the health, safety, and welfare of the public. The rules shall include, but not be limited to, the allowable scope of midwifery practice regarding use of equipment, procedures, and medication.~~

Section 131. Paragraph (a) of subsection (4) of section 468.1135, Florida Statutes, is amended to read:

468.1135 Board of Speech-Language Pathology and Audiology.—

~~(4)(a) The board has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of is authorized to adopt such rules not inconsistent with law as may be necessary to carry out the duties and authority conferred upon the board by this part conferring duties upon it.~~

Section 132. Subsection (1) of section 468.1685, Florida Statutes, is amended to read:

468.1685 Powers and duties of board and department.—It is the function and duty of the board, together with the department, to:

~~(1) Adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of Make such rules not inconsistent with law as are necessary to carry out the duties and authority conferred upon the board by this part conferring duties upon the board.~~

Section 133. Section 468.204, Florida Statutes, is amended to read:

468.204 Authority to adopt rules.—The board ~~has authority to may~~ adopt such rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of ~~not inconsistent with law as may be necessary to carry out the duties and authority conferred upon the board by this part conferring duties upon it and as may be necessary to protect the health, safety, and welfare of the public.~~

Section 134. Subsection (2) of section 468.384, Florida Statutes, is amended to read:

468.384 Florida Board of Auctioneers.—

(2) The board ~~has authority to may~~ adopt such rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of ~~not inconsistent with law, as may be necessary to carry out the duties and authority conferred upon the board by this act conferring duties upon it and as may be necessary to protect the health, safety, and welfare of the public.~~

Section 135. Subsection (3) of section 468.402, Florida Statutes, is amended to read:

468.402 Duties of the department; authority to issue and revoke license; adoption of rules.—

(3) The department ~~has authority to may~~ adopt reasonable rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of ~~for its own government in the exercise of its powers under this part and for the conduct of the business of talent agencies as specified by this part, and the department may amend such rules at its pleasure.~~

Section 136. Section 468.507, Florida Statutes, is amended to read:

468.507 Authority to adopt rules.—The board ~~has authority to may~~ adopt such rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of ~~not inconsistent with law as may be necessary to carry out the duties and authority conferred upon the board by this part and chapter 455 conferring duties upon it. The powers and duties of the board as set forth in this part shall in no way limit or interfere with the powers and duties of the board as set forth in chapter 458. All powers and duties of the board set forth in this part shall be supplemental and additional powers and duties to those conferred upon the board by chapter 458.~~

Section 137. Section 468.522, Florida Statutes, is amended to read:

468.522 Rules of the board.—The board ~~has authority to shall~~ adopt all rules pursuant to ss. 120.54 and 120.536(1) ~~necessary to implement the provisions of administer~~ this part. Every licensee shall be governed and controlled by this part and the rules adopted by the board.

Section 138. Subsection (1) of section 468.606, Florida Statutes, is amended to read:

468.606 Authority of the board.—The board is authorized to:

(1) Adopt rules pursuant to ss. 120.54 and 120.536(1) ~~as necessary to implement carry out~~ the provisions of this part.

Section 139. Section 468.705, Florida Statutes, is amended to read:

468.705 Rulemaking authority.—The department is authorized to adopt such rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of ~~not inconsistent with law as may be necessary to carry out the duties and authority conferred on the department by this part conferring duties upon it and as may be necessary to protect the health, safety, and welfare of the public.~~ Such rules shall include, but not be limited to, the allowable scope of practice regarding the use of equipment, procedures, and medication.

Section 140. Section 468.802, Florida Statutes, is amended to read:

468.802 Authority to adopt rules.—The board shall adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of ~~administer~~ this act, including rules relating to standards of practice for orthotists, prosthetists, and pedorthists.

Section 141. Subsection (1) of section 470.005, Florida Statutes, is amended to read:

470.005 Rulemaking authority of board and department.—

(1) The board ~~has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of is authorized to adopt rules not inconsistent with law as may be necessary to carry out the duties and authority conferred upon the board by this chapter conferring duties upon it and as may be necessary to protect the health, safety, and welfare of the public.~~ The department ~~has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of is authorized to adopt rules not inconsistent with law as may be necessary to carry out the duties and authority conferred upon the department by this chapter conferring duties upon it and as may be necessary to protect the health, safety, and welfare of the public.~~

Section 142. Section 471.008, Florida Statutes, is amended to read:

471.008 Rules of the board.—The board ~~has authority to may~~ adopt such rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of ~~not inconsistent with law as may be necessary to carry out the duties and authority conferred upon the board by this chapter or chapter 455 conferring duties upon it.~~

Section 143. Section 472.008, Florida Statutes, is amended to read:

472.008 Rules of the board.—The board ~~has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of shall adopt such rules not inconsistent with law as may be necessary to carry out the duties and authority conferred upon the board by this chapter conferring duties upon it.~~

Section 144. Subsection (1) of section 473.304, Florida Statutes, is amended to read:

473.304 Rules of board; powers and duties; legal services.—

(1) The board shall adopt all rules pursuant to ss. 120.54 and 120.536(1) ~~necessary to implement the provisions of administer~~ this act. Every licensee shall be governed and controlled by this act and the rules adopted by the board.

Section 145. Section 474.206, Florida Statutes, is amended to read:

474.206 Authority to make rules.—The board ~~has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of is authorized to make such rules not inconsistent with law as may be necessary to carry out the duties and authority conferred upon the board by this chapter conferring duties upon it and as may be necessary to protect the health, safety, and welfare of the public.~~

Section 146. Section 475.05, Florida Statutes, is amended to read:

475.05 Power of commission to enact bylaws ~~and~~ rules, ~~and regulations~~ and decide questions of practice.—The commission may enact bylaws ~~and regulations~~ for its own government and ~~adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of law conferring powers or duties upon it rules in the exercise of its powers, not in conflict with the constitution and laws of the United States or of this state, and amend the same at its pleasure.~~ The commission may decide questions of practice arising in the proceedings before it, having regard to this chapter and the rules then in force. Printed copies of rules, or written copies under the seal of the commission, shall be prima facie evidence of their existence and substance, and the courts shall judicially notice such rules. ~~The conferral or enumeration of specific powers elsewhere in this chapter shall not be construed as a limitation of the general powers conferred by this section.~~

Section 147. Section 475.614, Florida Statutes, is amended to read:

475.614 Power of board to ~~adopt enact~~ rules and decide questions of practice.—The board ~~has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of law conferring duties upon it may enact rules for its own government and rules in the exercise of its powers, not in conflict with the constitutions and laws of the United States and this state, and may amend such rules at its pleasure.~~ The board may decide questions of practice arising in the proceedings before it, having regard to this section and the rules then in force.

Section 148. Subsection (4) of section 476.064, Florida Statutes, is amended to read:

476.064 Organization; headquarters; personnel; meetings.—

(4) The board *has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement* ~~is authorized to adopt rules in accordance with the provisions of chapter 120 to carry out~~ the provisions of this chapter.

Section 149. Section 477.016, Florida Statutes, is amended to read:

477.016 Rulemaking.—The board *has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of* ~~is authorized to adopt such rules not inconsistent with law as may be necessary to carry out the duties and authority conferred upon the board by this chapter conferring duties upon it.~~

Section 150. Subsection (1) of section 478.43, Florida Statutes, is amended to read:

478.43 Board of Medicine; powers and duties.—

(1) The board, with the assistance of the Electrolysis Council, is authorized to establish minimum standards for the delivery of electrolysis services and to adopt rules *pursuant to ss. 120.54 and 120.536(1) necessary to implement* ~~administer~~ the provisions of this chapter.

Section 151. Subsection (7) of section 480.035, Florida Statutes, is amended to read:

480.035 Board of Massage Therapy.—

(7) The board *has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of* ~~shall promulgate such rules as are necessary to implement~~ this chapter.

Section 152. Section 481.2055, Florida Statutes, is amended to read:

481.2055 Authority to make rules.—The board *has authority to* ~~may adopt such rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of, not inconsistent with law, as may be necessary to carry out the duties and authority conferred upon the board by this part and chapter 455 conferring duties upon it.~~

Section 153. Section 481.306, Florida Statutes, is amended to read:

481.306 Authority to make rules.—The board *has authority to* ~~may adopt such rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of, not inconsistent with law, as may be necessary to carry out the duties and authority conferred upon the board by this chapter and chapter 455 conferring duties upon it.~~

Section 154. Section 482.051, Florida Statutes, is amended to read:

482.051 Rules.—The department *has authority to* ~~shall adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of to carry out the intent and purpose of this chapter. Prior to proposing the adoption of a rule, the department shall counsel with members of the pest control industry concerning the proposed rule. The department shall adopt rules for the protection of the health, safety, and welfare of pest control employees and the general public, in conformity with this chapter and chapter 120, which require:~~

(1) That all pesticides or economic poisons be used only in accordance with the registered labels and labeling or as directed by the United States Environmental Protection Agency or the department.

(2) That vehicles and trailers used in pest control be permanently marked with the licensee's name that is registered with the department.

(3) That written contracts be required for providing termites and other wood-destroying organisms pest control, that provisions necessary to assure consumer protection as specified by the department be included in such contracts, and that require licensees to comply with the contracts issued.

(4) That a licensee, before performing general fumigation, notify in writing the department inspector having jurisdiction over the location where the fumigation is to be performed, which notice must be received by the department inspector at least 24 hours in advance of the fumigation and must contain such information as the department requires. However, in an authentic and verifiable emergency, when 24 hours' advance notification is not possible, advance telephone or telegraph notice may be given; but such notice must be immediately followed by written confirmation providing the required information.

(5) That any pesticide used for preconstruction soil treatments for the prevention of subterranean termites be applied in the amount, concentration, and treatment area in accordance with the label; that a copy of the label of the registered pesticide being applied be carried in a vehicle at the site where the pesticide is being applied; and that the licensee maintain for 3 years the record of each preconstruction soil treatment, indicating the date of treatment, the location or address of the property treated, the total square footage of the structure treated, the type of pesticide applied, the concentration of each substance in the mixture applied, and the total amount of pesticide applied.

Section 155. Subsection (4) of section 483.805, Florida Statutes, is amended to read:

483.805 Board of Clinical Laboratory Personnel.—

(4) The board *has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of* ~~is authorized to adopt such rules not inconsistent with law as may be necessary to carry out the duties and authority conferred upon the board by this part conferring duties upon it.~~

Section 156. Section 484.005, Florida Statutes, is amended to read:

484.005 Authority to make rules.—The board *has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of* ~~is authorized to make such rules not inconsistent with law as may be necessary to carry out the duties and authority conferred upon it by this part conferring duties upon it and as may be necessary to protect the health, safety, and welfare of the public. Such rules shall include, but not be limited to, rules relating to:~~

(1) A standard of practice for opticians licensed pursuant to this part.

(2) Minimum equipment which shall be utilized to prepare, fit, measure, and dispense lenses, spectacles, eyeglasses, contact lenses, and other optical devices allowed under the practice of opticianry.

(3) Procedures for transfer of prescription files upon the going out of business of an optician, corporation, or other person.

(4) A standard of practice for filling prescriptions for contact lenses and fitting, adapting, and dispensing contact lenses.

Section 157. Subsection (1) of section 484.044, Florida Statutes, is amended to read:

484.044 Authority to make rules.—

(1) The board *has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of* ~~is authorized to make such rules not inconsistent with law as may be necessary to carry out the duties and authority conferred upon the board by this part conferring duties upon it.~~

Section 158. Section 486.025, Florida Statutes, is amended to read:

486.025 Powers and duties of the Board of Physical Therapy Practice.—The board may administer oaths, summon witnesses, take testimony in all matters relating to its duties under this chapter, establish or modify minimum standards of practice, and adopt ~~or amend~~ *pursuant to ss. 120.54 and 120.536(1) necessary to implement the provisions of* ~~administer~~ this chapter. The board may also review the standing and reputation of any school or college offering courses in physical therapy and whether the courses of such school or college in physical therapy meet the standards established by the appropriate accrediting agency referred to in s. 486.031(3)(a). In determining the standing and reputation of any such school and whether the school and courses meet such standards, the board may investigate and make personal inspection of the same.

Section 159. Section 488.02, Florida Statutes, is amended to read:

488.02 Rules and regulations.—The Department of Highway Safety and Motor Vehicles *has authority to adopt rules pursuant to ss. 120.54 and 120.536(1)* ~~is authorized to adopt rules and regulations necessary to implement the provisions of this chapter.~~

Section 160. Section 489.108, Florida Statutes, is amended to read:

489.108 Rulemaking authority of the board.—The board *has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of is authorized to make such rules not inconsistent with law which are necessary to carry out the duties and authority conferred upon it by this chapter conferring duties upon it.*

Section 161. Subsection (3) of section 489.507, Florida Statutes, is amended to read:

489.507 Electrical Contractors' Licensing Board.—

(3) The board *has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement shall have the authority to make rules, consistent with law, as necessary to carry out the provisions of this part.*

Section 162. Subsection (4) of section 490.004, Florida Statutes, is amended to read:

490.004 Board of Psychology.—

(4) The board shall adopt rules *pursuant to ss. 120.54 and 120.536(1) to implement the provisions of this chapter.*

Section 163. Subsection (5) of section 491.004, Florida Statutes, is amended to read:

491.004 Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling.—

(5) The board shall adopt rules *pursuant to ss. 120.54 and 120.536(1) to implement and enforce the provisions of this chapter.*

Section 164. Section 492.104, Florida Statutes, is amended to read:

492.104 Authority to make rules.—The Board of Professional Geologists *has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement is authorized to make such rules not inconsistent with law as may be necessary to carry out the duties and authority conferred upon the board by ss. 492.101-492.1165. Every licensee shall be governed and controlled by ss. 492.101-492.1165 and the rules adopted by the board. The board is authorized to set, by rule, fees for application, examination, certificate of authorization, late renewal, initial licensure, and license renewal. These fees should not exceed the cost of implementing the application, examination, initial licensure, and license renewal or other administrative process.*

(1) The application fee shall not exceed \$150 and shall be nonrefundable.

(2) The examination fee shall not exceed \$250 and shall be refundable if the applicant is found to be ineligible to take the licensure examination.

(3) The initial license fee shall not exceed \$100.

(4) The biennial renewal fee shall not exceed \$150.

(5) The fee for a certificate of authorization shall not exceed \$350 and the fee for renewal of the certificate shall not exceed \$350.

(6) The fee for reactivation of an inactive license shall not exceed \$50.

(7) The fee for a provisional license shall not exceed \$400.

(8) The fee for application, examination, and licensure for a license by endorsement shall be as provided in this section for licenses in general.

Section 165. Subsection (2) of section 494.0011, Florida Statutes, is amended to read:

494.0011 Powers and duties of the department.—

(2) The department *has authority to may adopt rules pursuant to ss. 120.54 and 120.536(1) to implement and perform other acts necessary for the proper administration, enforcement, and interpretation of ss. 494.001-494.0077.*

Section 166. Section 496.424, Florida Statutes, is amended to read:

496.424 Rulemaking authority.—The department has the authority to adopt rules pursuant to *ss. 120.54 and 120.536(1) chapter 120 to implement the provisions of ss. 496.401-496.424 or s. 496.426.*

Section 167. Subsection (1) of section 497.103, Florida Statutes, is amended to read:

497.103 Rulemaking authority of board and department.—

(1) The board *has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of is authorized to adopt rules not inconsistent with law as may be necessary to carry out the duties and authority conferred upon the board by this chapter conferring duties upon it and as may be necessary to protect the health, safety, and welfare of the public. The department may adopt rules pursuant to ss. 120.54 and 120.536(1) to administer provisions of is authorized to adopt rules not inconsistent with law as may be necessary to carry out the duties and authority conferred upon the department by this chapter conferring duties upon it and as may be necessary to protect the health, safety, and welfare of the public.*

Section 168. Subsection (5) of section 497.105, Florida Statutes, is amended to read:

497.105 Department of Banking and Finance; powers and duties.—The Department of Banking and Finance shall:

(5) Adopt ~~all~~ rules *pursuant to ss. 120.54 and 120.536(1) necessary to implement the provisions of administer the department's duties under this chapter conferring duties upon it.*

Section 169. Subsection (1) of section 498.007, Florida Statutes, is amended to read:

498.007 General powers and duties.—

(1) The division *has authority to may adopt, amend, or repeal reasonable rules pursuant to ss. 120.54 and 120.536(1) to administer the as necessary to carry out all provisions of this act, pursuant to the Administrative Procedure Act.*

Section 170. Paragraph (a) of subsection (6) of section 500.459, Florida Statutes, is amended to read:

500.459 Water vending machines.—

(6) DUTIES AND RESPONSIBILITIES OF THE DEPARTMENT.—

(a) The department *has authority to may adopt such additional rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of not inconsistent with law as may be necessary to carry out the duties and authority conferred on the department by this section conferring duties upon it or as may be necessary to protect the health, safety, and welfare of the public.*

Section 171. Subsection (2) of section 501.014, Florida Statutes, is amended to read:

501.014 Health studios; powers and duties of the department.—

(2) The department has the authority to adopt rules pursuant to *ss. 120.54 and 120.536(1) chapter 120 to implement ss. 501.012-501.019.*

Section 172. Subsection (12) of section 501.143, Florida Statutes, is amended to read:

501.143 Dance Studio Act.—

(12) RULEMAKING AUTHORITY.—The department has the authority to adopt rules pursuant to *ss. 120.54 and 120.536(1) chapter 120 to implement this section.*

Section 173. Section 501.626, Florida Statutes, is amended to read:

501.626 Rulemaking power.—The department has the authority to adopt rules pursuant to *ss. 120.54 and 120.536(1) chapter 120 to implement this part.*

Section 174. Subsection (7) of section 502.014, Florida Statutes, is amended to read:

502.014 Powers and duties.—

(7) The department ~~has authority to may~~ adopt rules pursuant to ss. 120.54 and 120.536(1) to implement and enforce the provisions ~~as necessary for the implementation and enforcement~~ of this chapter. In adopting these rules, the department shall be guided by and may conform to the definitions and standards of the administrative procedures and provisions of the pasteurized milk ordinance. The rules shall include, but are not limited to:

- (a) Standards for milk and milk products.
- (b) Provisions for the production, transportation, processing, handling, sampling, examination, grading, labeling, and sale of all milk and milk products and imitation and substitute milk and milk products sold for public consumption in this state.
- (c) Provisions for the inspection of dairy herds, dairy farms, and milk plants.
- (d) Provisions for the issuance and revocation of permits issued by the department pursuant to this chapter.

Section 175. Subsection (1) of section 503.031, Florida Statutes, is amended to read:

503.031 Powers of department.—The department may:

(1) Adopt rules pursuant to ss. 120.54 and 120.536(1) ~~necessary to implement~~ administer and enforce the provisions of this chapter. The rules must, to the extent possible, conform to applicable federal requirements.

Section 176. Section 504.32, Florida Statutes, is amended to read:

504.32 Rulemaking authority.—The department ~~has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) is authorized to prescribe and adopt all reasonable rules which are needed to implement, make specific, and interpret the provisions of this part in a manner consistent with rules those of nationally recognized organic grower groups, such as the Organic Food Producers Association of North America, after such notice as may be required by chapter 120.~~

Section 177. Section 516.22, Florida Statutes, is amended to read:

516.22 Rules ~~Regulations~~; certified copies.—

(1) ~~RULES REGULATIONS.~~—The department ~~has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of law conferring duties upon it shall have the power and authority to issue regulations.~~

(2) CERTIFIED COPIES OF OFFICIAL DOCUMENTS.—On application of any person and payment of the costs thereof, at the same rate and fees as allowed clerks of the circuit court by statute, the department shall furnish a certified copy of any license, regulation, or order. In any court or proceeding, such copy shall be prima facie evidence of the fact of the issuance of such license, regulation, or order.

Section 178. Subsection (3) of section 516.23, Florida Statutes, is amended to read:

516.23 Subpoenas; enforcement actions; rules.—

(3) The department ~~has authority to may~~ adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions ~~and perform such other acts as are necessary for the proper administration, enforcement, and interpretation~~ of this chapter.

Section 179. Subsection (1) of section 517.03, Florida Statutes, is amended to read:

517.03 Power of department to make rules.—

(1) The Department of Banking and Finance shall administer and provide for the enforcement of all the provisions of this chapter. The department ~~has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of shall make, adopt, promulgate, amend, and repeal all rules necessary or convenient for the carrying out of the duties, obligations, and powers conferred on said department and~~

~~perform any other acts necessary or convenient for the proper administration, enforcement, or interpretation of this chapter conferring powers or duties upon it, including, without limitation, adopting rules and forms governing reports. The department shall also have the nonexclusive power to define by rule any term, whether or not used in this chapter, insofar as the definition is not inconsistent with the provisions of this chapter.~~

Section 180. Subsection (5) of section 520.994, Florida Statutes, is amended to read:

520.994 Powers of department.—

(5) ~~The department shall administer and enforce this chapter. The department has authority to may~~ adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions ~~and perform such other acts as are necessary or convenient for the proper administration, enforcement, and interpretation of this chapter.~~

Section 181. Section 526.09, Florida Statutes, is amended to read:

526.09 Department to enforce law; rules and regulations.—The Department of Agriculture and Consumer Services shall enforce the provisions of this chapter. The department ~~has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement is authorized to adopt, promulgate, and enforce such rules and regulations not inconsistent with the provisions of this chapter as in its judgment may be necessary to the proper enforcement of this chapter.~~

Section 182. Subsection (3) of section 531.41, Florida Statutes, is amended to read:

531.41 Powers and duties of the department.—The department shall:

(3) Adopt ~~reasonable rules pursuant to ss. 120.54 and 120.536(1) to implement, interpret, or make specific the provisions of this chapter, which rules shall have the force and effect of law.~~

The provisions of this chapter and rules adopted thereunder notwithstanding, scales routinely used by providers of weight control services shall not be considered commercial weights and measures when used to determine human weight or to compute charges or payments for services rendered by such providers on the basis of said weight, measure, or count.

Section 183. Subsection (2) of section 548.003, Florida Statutes, is amended to read:

548.003 State Athletic Commission.—

(2) The State Athletic Commission, as created by subsection (1), shall administer the provisions of this chapter. The commission ~~has authority to may~~ adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of this chapter.

Section 184. Section 553.76, Florida Statutes, is amended to read:

553.76 General powers of the board.—The board is authorized to:

(1) ~~Adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions Promulgate, in cooperation with the department, rules and regulations for the administration of this part, pursuant to chapter 120.~~

(2) ~~Issue memoranda Provide~~ rules of procedure for its internal management and control.

(3) Enter into contracts and do such things as may be necessary and incidental to the discharge of its responsibilities under this part.

Section 185. Subsection (3) of section 560.105, Florida Statutes, is amended to read:

560.105 Supervisory powers of the department; rulemaking.—Consistent with the purposes of the code, the department shall have:

(3) Power to issue ~~and publish rules, orders, and declaratory statements, disseminate information, and otherwise exercise its discretion to effectuate the purposes, policies, and provisions of the code and to adopt~~

rules pursuant to ss. 120.54 and 120.536(1) to interpret and implement the provisions of the code.

Section 186. Subsection (1) of section 561.11, Florida Statutes, is amended to read:

561.11 Power and authority of division.—

(1) The division *has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions shall have full power and authority to make, adopt, amend, or repeal rules, regulations, or administrative orders to carry out the purposes of the Beverage Law. All such rules, regulations, or orders adopted in accordance with chapter 120 shall have the full force and effect of law.*

Section 187. Subsection (23) of section 570.07, Florida Statutes, is amended to read:

570.07 Department of Agriculture and Consumer Services; functions, powers, and duties.—The department shall have and exercise the following functions, powers, and duties:

(23) *To adopt rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of law conferring duties upon it enact, amend, and repeal administrative rules as necessary.*

Section 188. Section 571.05, Florida Statutes, is amended to read:

571.05 Rules.—The department by rule may design, determine, and adopt seals of quality for use in publicizing, advertising, and promoting agricultural products; prescribe minimum standards of quality and grade of agricultural products with which a seal of quality may be used; name and define market packages of agricultural products; fix a reasonable and equitable advertising and promotion fee for such market package of agricultural products; and otherwise *adopt rules pursuant to ss. 120.54 and 120.536(1) to interpret, implement, and make specific the provisions of this part.*

Section 189. Subsection (9) of section 571.24, Florida Statutes, is amended to read:

571.24 Purpose; duties of the division.—The purpose of this part is to authorize the division to establish and coordinate the Florida Agricultural Promotional Campaign. The duties of the division shall include, but are not limited to:

(9) *Adopting rules pursuant to ss. 120.54 and 120.536(1) Promulgating rules necessary to implement the provisions of this part.*

Section 190. Section 574.14, Florida Statutes, is amended to read:

574.14 Rules.—The Department of Agriculture and Consumer Services may adopt rules *pursuant to ss. 120.54 and 120.536(1) to implement, make specific, or interpret the provisions of this chapter.*

Section 191. Section 578.11, Florida Statutes, is amended to read:

578.11 Duties, authority, and rules ~~and regulations~~ of the department.—

(1) The duty of administering this law and enforcing its provisions and requirements shall be vested in the Department of Agriculture and Consumer Services, which is hereby authorized to employ such agents and persons as in its judgment shall be necessary therefor. It shall be the duty of the department, which may act through its authorized agents, to sample, inspect, make analyses of, and test agricultural, vegetable, flower, or forest tree seed transported, sold, offered or exposed for sale, or distributed within this state for sowing or planting purposes, at such time and place and to such extent as it may deem necessary to determine whether said agricultural, vegetable, flower or forest tree seed are in compliance with the provisions of this law, and to notify promptly the person who transported, distributed, sold, offered or exposed the seed for sale, of any violation.

(2) The department is authorized:

(a) *To enforce this act and prescribe and adopt reasonable rules, which shall have the full force and effect of law, for the enforcement of this act, governing the methods of sampling, inspecting, testing, and*

~~examining agricultural, vegetable, flower, or forest tree seed. The department shall, on a one-time basis after the effective date of this act, notify those previously receiving personal notice of such rules that they will no longer be receiving such notice.~~

(b) To establish standards and tolerances to be followed in the administration of this law, which shall be in general accord with officially prescribed practices in interstate commerce.

(c) To prescribe uniform labels.

(d) To adopt prohibited and restricted noxious weed seed lists.

(e) To prescribe limitations for each restricted noxious weed to be used in enforcement of this act and to add or subtract therefrom from time to time as the need may arise.

(f) To make commercial tests of seed and to fix and collect charges for such tests.

(g) To list the kinds of flower and forest tree seed subject to this law.

(h) To analyze samples, as requested by a consumer. The department shall establish, by rule, a fee schedule for analyzing samples at the request of a consumer. The fees shall be sufficient to cover the costs to the department for taking the samples and performing the analysis, not to exceed \$150 per sample.

(i) *To adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of* ~~prescribe such other rules as may be necessary to secure the efficient enforcement of this act.~~

(3) For the purpose of carrying out the provisions of this law, the department, through its authorized agents, is authorized:

(a) To enter upon any public or private premises, where agricultural, vegetable, flower, or forest tree seed is sold, offered, exposed, or distributed for sale during regular business hours, in order to have access to seed subject to this law and the rules and regulations hereunder.

(b) To issue and enforce a stop-sale notice or order to the owner or custodian of any lot of agricultural, vegetable, flower, or forest tree seed, which the department finds or has good reason to believe is in violation of any provisions of this law, which shall prohibit further sale, barter, exchange, or distribution of such seed until the department is satisfied that the law has been complied with and has issued a written release or notice to the owner or custodian of such seed. After a stop-sale notice or order has been issued against or attached to any lot of seed and the owner or custodian of such seed has received confirmation that the seed does not comply with this law, she or he shall have 15 days beyond the normal test period within which to comply with the law and obtain a written release of the seed. The provisions of this paragraph shall not be construed as limiting the right of the department to proceed as authorized by other sections of this law.

(c) To establish and maintain a seed laboratory, employ seed analysts and other personnel, and incur such other expenses as may be necessary to comply with these provisions.

Section 192. Subsection (2) of section 580.036, Florida Statutes, is amended to read:

580.036 Powers and duties.—

(2) The department is authorized to adopt rules *pursuant to ss. 120.54 and 120.536(1) to enforce the provisions as necessary for the enforcement of this chapter.* These rules shall be consistent with the rules and standards of the United States Food and Drug Administration and the United States Department of Agriculture, when applicable, and shall include:

(a) Establishing definitions and reasonable standards for commercial feed or feedstuff and permissible tolerances for pesticide chemicals, chemical additives, nonnutritive ingredients, or drugs in or on commercial feed or feedstuff in such amounts as will ensure the safety of livestock and poultry and the products thereof used for human consumption.

(b) Adopting standards for the manufacture and distribution of medicated feed.

(c) Establishing definitions and reasonable standards for the certification of laboratories for the conduct of testing and analyses as required in this chapter.

(d) Establishing product labeling requirements for distributors.

(e) Limiting the use of drugs in commercial feed and prescribing feeding directions to be used to ensure safe usage of medicated feed.

(f) Establishing standards for evaluating quality-assurance/quality-control plans, including testing protocols, for exemptions to certified laboratory testing requirements.

Section 193. Section 583.04, Florida Statutes, is amended to read:

583.04 Promulgation of rules.—The department *has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement* ~~may make and promulgate such rules as may be necessary to carry out the provisions of this chapter.~~

Section 194. Subsection (4) of section 585.002, Florida Statutes, is amended to read:

585.002 Department control; continuance of powers, duties, rules, orders, etc.—

(4) The department shall *adopt rules pursuant to ss. 120.54 and 120.536(1) to implement* ~~promulgate rules to carry out the provisions of this chapter.~~

Section 195. Subsection (2) of section 593.103, Florida Statutes, is amended to read:

593.103 Powers and duties of department.—The department has the power and duty to:

(2) *Adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions* ~~Promulgate rules necessary to the enforcement of ss. 593.101-593.117.~~

Section 196. Section 616.165, Florida Statutes, is amended to read:

616.165 Rules.—The department shall *adopt all rules pursuant to ss. 120.54 and 120.536(1) necessary to implement* ~~carry out the provisions of this chapter.~~

Section 197. Paragraph (j) of subsection (1) of section 616.256, Florida Statutes, is amended to read:

616.256 Powers of authority.—

(1) The authority shall have power to:

(j) *Adopt rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of law conferring duties upon it,* ~~pursuant to chapter 120, rules necessary to carry out its duties and responsibilities.~~

Section 198. Subsection (4) of section 617.01301, Florida Statutes, is amended to read:

617.01301 Powers of Department of State.—

(4) The Department of State shall have the power and authority reasonably necessary to enable it to administer this act efficiently, to perform the duties herein imposed upon it, and to *adopt reasonable rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of* ~~necessary to carry out its duties and functions under this act conferring duties upon it.~~

Section 199. Subsection (4) of section 620.1835, Florida Statutes, is amended to read:

620.1835 Powers of Department of State; interrogatories.—

(4) The Department of State shall have the power and authority reasonably necessary to enable it to administer this act efficiently, to perform the duties herein imposed upon it, and to *adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of reasonable* ~~rules necessary to carry out its duties and functions under this act conferring duties upon it.~~

Section 200. Subsection (2) of section 620.81055, Florida Statutes, is amended to read:

620.81055 Fees for filing documents and issuing certificates; powers of the Department of State.—

(2) The Department of State has the power and authority reasonably necessary to enable it to administer this act efficiently, to perform the duties imposed upon it by this act, and to *adopt reasonable rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of* ~~necessary to carry out its duties and functions under this act conferring duties upon it.~~

Section 201. Subsection (1) of section 624.308, Florida Statutes, is amended to read:

624.308 Rules.—

(1) The department *has authority to* ~~may adopt reasonable rules pursuant to ss. 120.54 and 120.536(1) to implement provisions of law conferring duties upon it necessary to effect any of the statutory duties of the department. Such rules shall not extend, modify, or conflict with any law of this state or the reasonable implications of such laws.~~

Section 202. Section 624.4431, Florida Statutes, is amended to read:

624.4431 Administration; rules.—The administration of ss. 624.436-624.446 is vested in the department. The department *has authority to* ~~may adopt reasonable rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of~~ ss. 624.436-624.446.

Section 203. Subsection (1) of section 626.943, Florida Statutes, is amended to read:

626.943 Powers and duties of the department.—It is the function of the department to:

(1) *Adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of* ~~Promulgate rules necessary to carry out the duties conferred upon it under this part conferring duties upon it to protect the public health, safety, and welfare.~~

Section 204. Section 627.805, Florida Statutes, is amended to read:

627.805 Departmental regulation of variable and indeterminate value contracts; rules.—The department, notwithstanding any other provision of law, shall have the sole authority to regulate the issuance and sale of variable and indeterminate value contracts and *has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the* ~~to issue such reasonable rules as may be necessary to carry out the purposes and provisions of this part.~~

Section 205. Section 627.9408, Florida Statutes, is amended to read:

627.9408 Rules.—The department *has authority to* ~~may adopt such rules pursuant to ss. 120.54 and 120.536(1) to implement as are necessary and proper in furtherance of the provisions of this part.~~

Section 206. Section 628.535, Florida Statutes, is amended to read:

628.535 Authority to promulgate rules.—The department *has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions* ~~may promulgate rules to carry out the purposes of this chapter.~~

Section 207. Section 633.01, Florida Statutes, is amended to read:

633.01 State Fire Marshal; powers and duties; rules.—

(1) The head of the Department of Insurance shall be designated as "State Fire Marshal." The State Fire Marshal *has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) shall make and promulgate* ~~all rules necessary to implement the provisions of this chapter conferring powers or which grant powers and impose duties upon the department on the State Fire Marshal and to effectuate the enforcement of such powers and duties. Rules shall be in substantial conformity with generally accepted standards of firesafety; shall take into consideration the direct supervision of children in nonresidential child care facilities; and shall balance and temper the need of the State Fire Marshal to protect all Floridians from fire hazards with the social and economic inconveniences~~

that may be caused or created by the rules. However, the department shall not adopt minimum firesafety standards, except to the extent required by s. 394.879.

~~(2) Subject to the limitations of subsection (1), rules promulgated by the State Fire Marshal shall be such as are reasonably necessary for the protection of the health, welfare, and safety of the public and shall be in substantial conformity with generally accepted standards of firesafety. In the promulgation of rules, the State Fire Marshal shall give consideration to generally accepted standards of firesafety.~~

(2)(3) Subject to the limitations of subsection (1), it is the intent of the Legislature that the State Fire Marshal shall have the responsibility to minimize the loss of life and property in this state due to fire. The State Fire Marshal shall enforce all laws and provisions of this chapter, and any rules adopted pursuant thereto, relating to:

(a) The prevention of fire and explosion through the regulation of conditions which could cause fire or explosion, the spread of fire, and panic resulting therefrom;

(b) Installation and maintenance of fire alarm systems and fire protection systems, including fire suppression systems, fire-extinguishing equipment, and fire sprinkler systems;

(c)1. Servicing, repairing, recharging, testing, marking, inspecting, installing, maintaining, and tagging of fire extinguishers, preengineered systems, and individually designed fire protection systems;

2. The training and licensing of persons engaged in the business of servicing, repairing, recharging, testing, marking, inspecting, installing, maintaining, and tagging fire extinguishers, preengineered systems, and individually designed fire protection systems;

(d) The maintenance of fire cause and loss records; and

(e) Suppression of arson and the investigation of the cause, origin, and circumstances of fire.

(3)(4) The State Fire Marshal shall establish by rule guidelines and procedures for triennial renewal of firesafety inspector requirements for certification.

~~(4)(5) It is the intent of the Legislature that the rules promulgated by the State Fire Marshal pursuant to this section be enforced in such a manner as to prohibit the displacement of currently placed mobile homes unless there is a threat of imminent danger to the health, safety, or welfare of the general public. Furthermore, it is the intent of the Legislature that consideration be given to the social and economic inconveniences which may be caused or created by the rules promulgated by the State Fire Marshal pursuant to this section.~~

~~(6) It is the intent of the Legislature that the rules adopted by the State Fire Marshal pursuant to this section be promulgated in such a manner as to take into consideration the direct supervision of children in nonresidential child care facilities and to balance and temper the need of the State Fire Marshal to protect all citizens from fire hazards with the social and economic inconveniences which may be caused or created by the rules promulgated by the State Fire Marshal pursuant to this section.~~

Section 208. Subsection (1) of section 633.517, Florida Statutes, is amended to read:

633.517 Authority of State Fire Marshal to adopt rules, administer oaths, and take testimony.—

(1) The State Fire Marshal is authorized, with the advice of the board, to adopt rules pursuant to ss. 120.54 and 120.536(1) and regulations to implement carry out the provisions of this act.

Section 209. Section 634.021, Florida Statutes, is amended to read:

634.021 Powers of department; rules.—The department shall administer this act and to that end it has authority to may adopt, promulgate, and enforce rules pursuant to ss. 120.54 and 120.536(1) to implement the necessary and proper to effectuate any provisions of this act.

Section 210. Section 634.302, Florida Statutes, is amended to read:

634.302 Powers of department; rules.—The department shall administer this part, and, to that end, it has authority to may adopt, promulgate, and enforce rules pursuant to ss. 120.54 and 120.536(1) to implement the necessary and proper to effectuate any provisions of this part.

Section 211. Section 634.402, Florida Statutes, is amended to read:

634.402 Powers of department; rules.—The department shall administer this part, and to that end it has authority to may adopt and enforce rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions necessary and proper to effectuate any provision of this part.

Section 212. Section 635.081, Florida Statutes, is amended to read:

635.081 Administration and enforcement.—The department has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement shall adopt such rules as are necessary to carry out the provisions of this chapter and shall have the same powers of administration and enforcement of the provisions of this chapter as it has with respect to casualty or surety insurers in general under the Florida Insurance Code.

Section 213. Section 636.067, Florida Statutes, is amended to read:

636.067 Rules.—The department has authority to may, after notice and hearing, adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of administer this act. A violation of any such rule subjects the violator to the provisions of s. 636.048.

Section 214. Section 641.403, Florida Statutes, is amended to read:

641.403 Promulgation of rules.—The Department of Insurance has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement shall promulgate rules necessary to carry out the provisions of this part.

Section 215. Section 641.56, Florida Statutes, is amended to read:

641.56 Rulemaking authority.—The Agency for Health Care Administration has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of is authorized to make rules, not inconsistent with law, which may be necessary to carry out the duties and authority conferred upon it by this part conferring duties upon it and to protect the health, safety, and welfare of the public.

Section 216. Paragraph (a) of subsection (1) of section 648.26, Florida Statutes, is amended to read:

648.26 Department of Insurance; administration.—

(1) The department shall administer the provisions of this chapter as provided in this chapter.

(a) The department has authority to may adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of necessary and proper to effect any of the duties or powers of the department provided in this chapter conferring powers or duties upon it.

Section 217. Subsection (3) of section 651.015, Florida Statutes, is amended to read:

651.015 Administration; forms; fees; rules; fines.—The administration of this chapter is vested in the department, which shall:

(3) Adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions, within the standards of this chapter, necessary to effect the purposes of this chapter. Specific provisions in this chapter relating to any subject shall not preclude the department from adopting rules concerning such subject if such rules are within the standards and purposes of this chapter.

Section 218. Subsection (3) of section 655.012, Florida Statutes, is amended to read:

655.012 General supervisory powers of the department; rulemaking. —In addition to other powers conferred by the financial institutions codes, the department shall have:

(3) Power to issue and publish rules, orders, and declaratory statements, disseminate information, and otherwise exercise its discretion to

effectuate the purposes, policies, and provisions of the financial institutions codes and to *adopt rules pursuant to ss. 120.54 and 120.536(1) to interpret and implement the provisions of such codes consistently with such purposes, policies, and provisions.*

Section 219. Section 681.118, Florida Statutes, is amended to read:

681.118 Rulemaking authority.—The Department of Legal Affairs shall adopt rules *pursuant to ss. 120.54 and 120.536(1) to implement the provisions of this chapter.*

Section 220. Section 717.138, Florida Statutes, is amended to read:

717.138 Rulemaking authority.—The Department of Banking and Finance shall administer and provide for the enforcement of this chapter. The department *has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions is authorized to make rules and to perform such other acts as are necessary or convenient for the proper administration, enforcement, and interpretation of this chapter.*

Section 221. Paragraph (f) of subsection (1) of section 718.501, Florida Statutes, is amended to read:

718.501 Powers and duties of Division of Florida Land Sales, Condominiums, and Mobile Homes.—

(1) The Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business and Professional Regulation, referred to as the "division" in this part, in addition to other powers and duties prescribed by chapter 498, has the power to enforce and ensure compliance with the provisions of this chapter and rules promulgated pursuant hereto relating to the development, construction, sale, lease, ownership, operation, and management of residential condominium units. In performing its duties, the division has the following powers and duties:

(f) The division *has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement and enforce the provisions of is authorized to promulgate rules, pursuant to chapter 120, necessary to implement, enforce, and interpret this chapter.*

Section 222. Paragraph (f) of subsection (1) of section 719.501, Florida Statutes, is amended to read:

719.501 Powers and duties of Division of Florida Land Sales, Condominiums, and Mobile Homes.—

(1) The Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business and Professional Regulation, referred to as the "division" in this part, in addition to other powers and duties prescribed by chapter 498, has the power to enforce and ensure compliance with the provisions of this chapter and rules promulgated pursuant hereto relating to the development, construction, sale, lease, ownership, operation, and management of residential cooperative units. In performing its duties, the division shall have the following powers and duties:

(f) The division *has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement and enforce the provisions of is authorized to promulgate rules, pursuant to chapter 120, necessary to implement, enforce, and interpret this chapter.*

Section 223. Subsection (6) of section 721.26, Florida Statutes, is amended to read:

721.26 Regulation by division.—The division has the power to enforce and ensure compliance with the provisions of this chapter using the powers provided in this chapter, as well as the powers prescribed in chapters 498, 718, and 719. In performing its duties, the division shall have the following powers and duties:

(6) The division *has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement and enforce the provisions of is authorized to adopt, amend, or repeal rules pursuant to chapter 120 as necessary to implement, enforce, and interpret this chapter.*

Section 224. Subsection (7) of section 723.006, Florida Statutes, is amended to read:

723.006 Powers and duties of division.—In performing its duties, the division has the following powers and duties:

(7) The division *has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement and enforce the provisions of is authorized to promulgate rules, pursuant to chapter 120, which are necessary to implement, enforce, and interpret this chapter.*

Section 225. Section 916.20, Florida Statutes, is amended to read:

916.20 Operation and administration; rules.—

(1) The department is authorized to ~~promulgate rules~~, enter into contracts, and do such things as may be necessary and incidental to assure compliance with and to carry out the provisions of this chapter in accordance with the stated legislative intent.

(2) *The department has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of this chapter Rules of the department shall be adopted in accordance with the provisions of chapter 120, the Administrative Procedure Act.*

Section 226. Subsection (4) of section 943.03, Florida Statutes, is amended to read:

943.03 Department of Law Enforcement.—

(4) ~~Pursuant to chapter 120, The department shall adopt the rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of and regulations deemed necessary to carry out its duties and responsibilities under this chapter conferring duties upon it.~~

Section 227. Subsection (1) of section 944.09, Florida Statutes, is amended to read:

944.09 Rules of the department; offenders, probationers, and parolees.—

(1) The department *has authority to shall adopt rules pursuant to ss. 120.54 and 120.536(1) to implement its statutory authority. The rules must include rules relating to governing the administration of the correctional system and the operation of the department, which rules shall relate to:*

(a) The rights of inmates.

(b) The rules of conduct to be observed by inmates and the categories of violations according to degrees or levels of severity, as well as the degrees of punishment applicable and appropriate to such violations.

(c) Disciplinary procedures and punishment.

(d) Grievance procedures which shall conform to 42 U.S.C. s. 1997e.

(e) The operation and management of the correctional institution or facility and its personnel and functions.

(f) The development of a staffing formula for security positions in its residential facilities, taking into account the factors of leave time, security needs, and training requirements.

(g) Mail to and from the state correctional system.

(h) Gain-time for good conduct of, release payments to, and release transportation of inmates.

(i) Uniforms for inmates and custodial personnel.

(j) ~~Rules of~~ Conduct of custodial and other personnel.

(k) Classification of personnel and duties assigned thereto and classification and separation of offenders according to age, sex, and such other factors as are deemed advisable.

(l) Credits for confinement prior to commitment to the department.

(m) Payments to prisoners for work performed. Such payments, if any, shall include restrictions on the use of earnings, including payments for support of dependents and release reserves. The rules shall provide that no payment shall be made to any prisoner who fails to perform the work assigned satisfactorily.

(n) Visiting hours and privileges. The rules shall provide that any inmate with a current or prior conviction for any offense contained in chapter 794, chapter 800, chapter 827, or chapter 847 for committing or attempting to commit aggravated child abuse or committing or attempting to commit a sex act on, in the presence of, or against a child under the age of 16 years, shall not be allowed visitation with anyone under the age of 18 years, unless special visitation is approved by the superintendent. The authorization for special visitation shall be based on extenuating circumstances that serve the interest of the children. If visiting is restricted by court order, permission for special visitation may be granted only by the judge issuing the order.

(o) Mail to and from inmates, including rules specifying the circumstances under which an inmate must pay for the cost of postage for mail that the inmate sends. The department may not adopt a rule that requires an inmate to pay any postage costs that the state is constitutionally required to pay.

(p) The feeding of prisoners, including diet and menus, and the furnishing of health and comfort items to indigent prisoners.

(q) The determination of restitution, including the amount and to whom it should be paid. The rules shall provide necessary explanation to support recommendations regarding restitution.

~~(r) Such other rules as in the opinion of the department may be necessary for the efficient operation and management of the correctional system.~~

Section 228. Section 947.07, Florida Statutes, is amended to read:

~~947.07 Rules and regulations.—The commission has authority to adopt rules pursuant to ss. 120.54 and 120.536(1) shall have power to make such rules and regulations as it deems best for its governance, including among other things rules of practice and procedure and rules prescribing qualifications to be possessed by its employees.~~

Section 229. Paragraph (b) of subsection (1) of section 960.045, Florida Statutes, is amended to read:

960.045 Department of Legal Affairs; powers and duties.—It shall be the duty of the department to assist persons who are victims of crime.

(1) The department shall:

~~(b) Adopt, promulgate, amend, and rescind such rules pursuant to ss. 120.54 and 120.536(1) to implement as are necessary to carry out the provisions of this chapter.~~

Section 230. Section 985.405, Florida Statutes, is amended to read:

~~985.405 Rules for implementation.—The Department of Juvenile Justice shall adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of 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 231. Subsection (1) of section 633.70, Florida Statutes, is amended to read:

633.70 Jurisdiction of State Fire Marshal over alarm system contractors and certified unlimited electrical contractors.—

(1) When the State Fire Marshal, in the course of its activities pursuant to s. 633.01 (2) ~~s. 633.01(3)~~ determines that an alarm system contractor or a certified unlimited electrical contractor working with an alarm system has violated any provision of this chapter or the rules of the State Fire Marshal, the State Fire Marshal shall have jurisdiction, notwithstanding any other provision of this chapter, to order corrective action by the alarm system contractor or the certified unlimited electrical contractor to bring the alarm system into compliance with applicable standards set forth in this chapter and the rules of the State Fire Marshal.

Section 232. This act shall take effect July 1 of the year in which enacted.

And the title is amended as follows:

On page 1, lines 2-10, remove from the title of the bill: all of said lines and insert in lieu thereof: An act relating to administrative procedures; amending 370.06, F.S.; authorizing the Department of Environmental Protection to issue certain special activity licenses; authorizing rulemaking for issuance of broodstock special activities licenses; amending s. 370.12; authorizing rulemaking for issuance of special permits for marine turtles; providing a definition; amending s. 120.54, F.S.; requiring the Administration Commission to adopt uniform rules of procedure for certain administrative hearings; providing requirements; amending s. 120.569, F.S.; providing requirements for petitions or requests for administrative hearings; providing procedural requirements for agencies; providing for dismissal; requiring notice; authorizing agencies to refer petitions to the Division of Administrative Hearings under certain circumstances; amending s. 120.57, F.S.; providing for motions for a summary final order in administrative hearings under certain circumstances; providing requirements for such orders; providing requirements for relinquishing jurisdiction of certain proceedings to an agency; providing procedures; amending ss. 14.202, 17.29, 18.22, 20.171, 63.233, 175.341, 177.504, 185.23, 198.08, 199.202, 201.11, 207.011, 210.10, 210.75, 212.17, 212.18, 213.06, 215.62, 215.95, 217.14, 220.182, 220.183, 229.053, 229.515, 230.22, 230.32, 231.261, 235.01, 240.209, 240.227, 240.311, 240.319, 242.331, 246.041, 246.051, 246.071, 246.207, 246.213, 253.03, 253.73, 257.14, 258.007, 258.43, 259.035, 259.041, 265.284, 265.605, 267.031, 280.19, 284.17, 288.709, 292.05, 310.151, 310.185, 319.17, 320.011, 320.69, 320.824, 324.042, 326.003, 327.04, 330.29, 334.044, 339.175, 350.127, 366.05, 367.121, 368.05, 369.20, 369.22, 369.251, 370.021, 370.092, 370.15, 373.043, 373.044, 373.113, 373.171, 373.337, 373.418, 376.07, 377.22, 377.703, 378.205, 378.404, 380.05, 380.0651, 381.0011, 384.33, 391.026, 392.66, 394.879, 395.1055, 403.061, 403.1835, 403.504, 403.523, 403.704, 403.716, 403.805, 403.861, 403.869, 403.9404, 406.04, 408.15, 414.45, 427.013, 430.08, 440.591, 443.171, 455.203, 455.521, 457.104, 458.309, 459.005, 460.405, 461.005, 463.005, 464.006, 465.005, 465.022, 466.004, 466.038, 467.005, 468.1135, 468.1685, 468.204, 468.384, 468.402, 468.507, 468.522, 468.606, 468.705, 468.802, 470.005, 471.008, 472.008, 473.304, 474.206, 475.05, 475.614, 476.064, 477.016, 478.43, 480.035, 481.2055, 481.306, 482.051, 483.805, 484.005, 484.044, 486.025, 488.02, 489.108, 489.507, 490.004, 491.004, 492.104, 494.0011, 496.424, 497.103, 497.105, 498.007, 500.459, 501.014, 501.143, 501.626, 502.014, 503.031, 504.32, 516.22, 516.23, 517.03, 520.994, 526.09, 531.41, 548.003, 553.76, 560.105, 561.11, 570.07, 571.05, 571.24, 574.14, 578.11, 580.036, 583.04, 585.002, 593.103, 616.165, 616.256, 617.01301, 620.1835, 620.81055, 624.308, 624.4431, 626.943, 627.805, 627.9408, 628.535, 633.01, 633.517, 634.021, 634.302, 634.402, 635.081, 636.067, 641.403, 641.56, 648.26, 651.015, 655.012, 681.118, 717.138, 718.501, 719.501, 721.26, 723.006, 916.20, 943.03, 944.09, 947.07, 960.045, 985.405, F.S.; restating rulemaking authority for numerous state officers, departments, divisions, boards, and other entities; repealing s. 258.011, F.S., relating to rules for state parks; amending s. 633.70, F.S.; conforming a cross-reference to a change made by the act; providing an effective date.

House Amendment 1 (with title amendment) to House Amendment 1—On page 114, between lines 7 and 8, of the amendment insert:

Section 232. Present subsections (15) through (30) of section 334.044, Florida Statutes, are renumbered as subsections (16) through (31), respectively, and a new subsection (15) is added to that section, to read:

334.044 Department; powers and duties.—The department shall have the following general powers and duties:

(15) To regulate and prescribe conditions for the transfer of stormwater to the state right-of-way as a result of man-made changes to adjacent properties.

(a) Such regulation shall be through a permitting process designed to ensure the safety and integrity of the Department of Transportation facilities and to prevent an unreasonable burden on lower properties.

(b) The department is specifically authorized to adopt rules which set forth the purpose, necessary definitions, permit exceptions, permit and assurance requirements, permit application procedures, permit forms, general conditions for a drainage permit, provisions for suspension or revocation of a permit, and provisions for department recovery of fines, penalties and costs incurred due to permittee actions. In order to avoid duplication and overlap with other units of government, the department

shall accept a surface water management permit issued by a water management district, the Department of Environmental Protection, a surface water management permit issued by a delegated local government or a permit issued pursuant to an approved Stormwater Management Plan or Master Drainage Plan; provided issuance is based on requirements equal to or more stringent than those of the department.

Section 233. Subsection (15) of section 334.044, Florida Statutes, as created by section 1 of Committee Substitute for Senate Bill 846 as enacted by the Legislature during 1998 Regular Session is repealed.

And the title is amended as follows: On page 116, line 31; after the semicolon ";" insert: amending s. 334.044, F.S.; providing specific rule-making authority; repealing s. 334.044(15), F.S., relating to certain rule-making authority;

Senator Latvala moved the following amendment which was adopted:

Senate Amendment 1 (with title amendment) to House Amendment 1—On page 114, between lines 7 and 8, insert:

Section 232. Subsection (3) of section 370.092, Florida Statutes, is amended to read:

370.092 Carriage of proscribed nets across Florida waters.—

(3)(a) Notwithstanding subsections (1) and (2), unless authorized by rule of the Marine Fisheries Commission, it is a major violation under this section, punishable as provided in subsection (4), for any person, firm, or corporation to possess any gill or entangling net, or any seine net larger than 500 square feet in mesh area, on any airboat or on any other vessel less than 22 feet in length and on any vessel less than 25 feet if primary power of the vessel is mounted forward of the vessel center point. Gill or entangling nets shall be as defined in s. 16, Art. X of the State Constitution, s. 370.093(2)(b), or in a rule of the Marine Fisheries Commission implementing s. 16, Art. X of the State Constitution. Vessel length shall be determined in accordance with current U.S. Coast Guard regulations specified in the Code of Federal Regulations or as titled by the State of Florida. The Marine Fisheries Commission is directed to initiate by July 1, 1998, rulemaking to adjust by rule the use of gear on vessels longer than 22 feet where the primary power of the vessel is mounted forward of the vessel center point in order to prevent the illegal use of gill and entangling nets in state waters and to provide reasonable opportunities for the use of legal net gear in adjacent federal waters.

(b)(a) It shall be a major violation pursuant to this section and shall be punished as provided in subsection (4) for any person, firm, or corporation to be simultaneously in possession of any species of mullet in excess of the recreational daily bag limit and any gill or other entangling net as defined in s. 16(c), Art. X of the State Constitution. Simultaneous possession under this provision shall include possession of mullet and gill or other entangling nets on separate vessels or vehicles where such vessels or vehicles are operated in coordination with one another including vessels towed behind a main vessel. This subsection does not prohibit a resident of this state from transporting on land, from Alabama to this state, a commercial quantity of mullet together with a gill net if:

1. The person possesses a valid commercial fishing license that is issued by the State of Alabama and that allows the person to use a gill net to legally harvest mullet in commercial quantities from Alabama waters.
2. The person possesses a trip ticket issued in Alabama and filled out to match the quantity of mullet being transported, and the person is able to present such trip ticket immediately upon entering this state.
3. The mullet are to be sold to a wholesale saltwater products dealer located in Escambia County or Santa Rosa County, which dealer also possesses a valid seafood dealer's license issued by the State of Alabama. The dealer's name must be clearly indicated on the trip ticket.
4. The mullet being transported are totally removed from any net also being transported.

(c)(b) It shall be a major violation pursuant to this section for any person to be in possession of any species of trout, snook, or redfish which is three fish in excess of the recreational or commercial daily bag limit.

(d) The Marine Fisheries Commission shall adopt rules to prohibit the possession and sale of mullet taken in illegal gill or entangling nets. Violations of such rules shall be punishable as provided in subsection (4).

Section 233. Section 370.093, Florida Statutes, is amended to read:

370.093 Illegal use of nets.—

(1) It is unlawful to take or harvest, or to attempt to take or harvest, any marine life in Florida waters with any net that is not consistent with the provisions of s. 16, Art. X of the State Constitution.

(2)(a) Beginning July 1, 1998, it is also unlawful to take or harvest, or to attempt to take or harvest, any marine life in Florida waters with any net, as defined in subsection (3) and any attachments to such net, that combined are larger than 500 square feet and have not been expressly authorized for such use by rule of the Marine Fisheries Commission under s. 370.027. The use of currently legal shrimp trawls and purse seines outside nearshore and inshore Florida waters shall continue to be legal until the commission implements rules regulating those types of gear.

(b) The use of gill or entangling nets of any size is prohibited, as such nets are defined in s. 16, Art. X of the State Constitution. Any net constructed wholly or partially of monofilament or multifilament material, other than a hand thrown cast net, or a handheld landing or dip net, shall be considered to be an entangling net within the prohibition of s. 16, Art. X of the State Constitution unless specifically authorized by rule of the commission. Multifilament material shall not be defined to include nets constructed of braided or twisted nylon, cotton, linen twine, or polypropylene twine.

(c) This subsection shall not be construed to apply to aquaculture activities licenses issued pursuant to s. 370.26.

(3) As used in s. 16, Art. X of the State Constitution and this subsection, the term "net" or "netting" must be broadly construed to include all manner or combination of mesh or webbing or any other solid or semi-solid fabric or other material used to comprise a device that is used to take or harvest marine life.

(4) Upon the arrest of any person for violation of this subsection, the arresting officer shall seize the nets illegally used. Upon conviction of the offender, the arresting authority shall destroy the nets.

(5) Any person who violates this section shall be punished as provided in s. 370.092(4).

(6) The Marine Fisheries Commission is granted authority to adopt rules pursuant to ss. 370.025 and 370.027 implementing this section and the prohibitions and restrictions of s. 16, Art. X of the State Constitution.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 116, line 31, after the semicolon (;) insert: amending s. 370.092, F.S.; providing specific rulemaking authority for the regulation of nets and boats of a specific length; directing the Marine Fisheries Commission to adopt rules prohibiting the possession and sale of mullet taken in illegal gill and entangling nets; amending s. 370.093, F.S.; authorizing the Marine Fisheries Commission to adopt rules implementing s. 370.093, F.S.;

On motion by Senator Latvala, 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 1440 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—39

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	Myers
Clary	Grant	Klein	Ostalkiewicz

Rossin	Silver	Thomas	Williams
Scott	Sullivan	Turner	
Nays—None			

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 1522, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 1522—A bill to be entitled An act relating to sentencing; amending s. 2, ch. 97-194, Laws of Florida; clarifying that the Criminal Punishment Code does not apply to capital felonies; amending s. 921.002, F.S.; revising the principles embodied by the Criminal Punishment Code; requiring that the Department of Corrections report on sentencing trends and practices; requiring that the Criminal Justice Estimating Conference make certain estimates with respect to the prison population; requiring the Criminal Justice Estimating Conference to project the impact of proposed changes to the Criminal Punishment Code; authorizing the Department of Corrections to collect scoresheets and report on compliance; amending s. 921.0021, F.S.; clarifying application of the code; amending s. 921.0022, F.S.; providing for ranking certain offenses under the severity ranking chart of the code; specifying the ranking of additional offenses; amending s. 921.0023, F.S., relating to the ranking of unlisted offenses; deleting duplicative provisions; amending s. 921.0024, F.S.; revising the arrangement of the sentencing scoresheet; providing that domestic violence in the presence of a child be included as a multiplier on the offense score of the Criminal Punishment Code; providing for calculating the total sentence points and the lowest permissible sentence; clarifying the calculation of points for a prior capital felony; requiring the imposition of the code sentence when it exceeds the statutory maximum; authorizing a life sentence when the total sentence points equal or exceed a threshold amount; prohibiting discretionary early release for such offenders; requiring that the Department of Corrections consult with certain persons and entities and revise the scoresheet as necessary; requiring the department to distribute copies of scoresheets; creating s. 921.0025, F.S.; providing for the adoption and implementation of sentencing scoresheets; amending s. 921.0026, F.S.; prohibiting the court from imposing a sentence below the lowest permissible sentence unless there are mitigating circumstances; creating s. 921.00265, F.S.; requiring that the court delineate its reasons if the court decreases a defendant's sentence below the lowest permissible sentence; amending s. 775.082, F.S.; providing for the applicability of sentencing structures, based on the date of the offense; amending s. 775.084, F.S.; providing for community control without an adjudication of guilt to be considered a prior conviction under certain circumstances for purposes of sentencing; requiring that the court submit a report when the court finds it unnecessary to sentence a given defendant as a habitual felony offender, a habitual violent felony offender, or a violent career criminal; amending s. 782.051, F.S.; revising the elements of the offense of committing a felony that causes bodily injury to provide that if a person who perpetrates or attempts to perpetrate certain enumerated felony offenses and who commits, aids, or abets an intentional act that could, but does not, cause the death of another, the person commits a first-degree felony; providing for ranking such offense under the Criminal Punishment Code based on the felony offense committed; amending s. 924.06, F.S.; providing for an appeal of a sentence that exceeds the maximum penalty under s. 775.082, F.S.; amending s. 924.07, F.S.; authorizing the state to appeal a sentence imposed below the lowest sentence permitted under the Criminal Punishment Code; amending s. 944.17, F.S.; revising requirements for the sheriff or chief correctional officer in preparing scoresheets for a prisoner who is transferred to the state correctional system; creating s. 944.70, F.S.; specifying the conditions under which persons convicted of crimes may be released from incarceration; amending s. 944.705, F.S., relating to the release orientation program; conforming cross-references to changes made by the act; amending s. 948.015, F.S.; revising requirements for the presentence investigation report for certain defendants; amending s. 948.034, F.S., relating to probation for certain persons convicted of drug-related offenses; conforming cross-references; conforming provisions to reflect the reorganization of the Department of Health and Rehabilitative Services; amending s. 948.51, F.S., relating to community corrections assistance; conforming a cross-reference; conforming a reference to sentencing scores to reflect changes in sentencing requirements; amending s.

958.04, F.S., relating to judicial disposition of youthful offenders; providing for a sentence imposed outside of the code to be appealed; providing an effective date.

House Amendment 1—On page 49, lines 13 through 15, remove from the bill: all of said lines and insert in lieu thereof: 775.082, for the primary offense. *However,*

On motion by Senator Gutman, the Senate refused to concur in the House amendment to **CS for SB 1522** 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 passed CS for CS for SB 2288, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for CS for SB 2288—A bill to be entitled An act relating to juvenile justice; amending s. 943.053, F.S.; authorizing the release of certain juvenile criminal history records to a private entity under contract with the Department of Juvenile Justice; providing that such records remain confidential and exempt from the public records law; amending s. 984.03, F.S.; revising definitions; providing for a juvenile probation officer to perform certain duties formerly performed by an intake counselor or case manager; amending s. 985.03, F.S.; revising definitions; providing for a juvenile probation officer to perform certain duties formerly performed by an intake counselor or case manager; providing that penalties imposed for an escape from detention or a commitment facility apply to a juvenile who escapes from a maximum-risk residential facility; conforming cross-references to changes made by the act; amending ss. 985.207, 985.208, F.S., relating to conditions for taking a juvenile into custody and detention; conforming provisions to changes made by the act; amending s. 985.209, F.S.; providing for the Department of Juvenile Justice to establish juvenile assessment centers; providing for the centers to be operated through cooperative agreements with other state agencies; providing for intake and screening services; amending ss. 985.21, 985.211, F.S.; providing for certain functions formerly considered case-management functions to be probation functions; amending s. 985.215, F.S.; conforming terminology to changes made by the act; requiring that a juvenile held in secure detention awaiting dispositional placement meet certain criteria for detention; amending s. 985.216, F.S.; deleting a provision authorizing placement of a juvenile in a secure residential commitment facility for direct or indirect contempt of court; amending s. 985.223, F.S.; revising procedures for determining competency in juvenile delinquency cases; prescribing duties of courts, the Department of Juvenile Justice, and the Department of Children and Family Services; amending ss. 985.226, 985.23, F.S., relating to criteria for waiver of jurisdiction and disposition hearings in delinquency cases; conforming provisions to changes made by the act; amending s. 985.231, F.S.; providing for placing a juvenile on home detention with electronic monitoring if a residential consequence unit is not available; amending ss. 985.301, 985.304, F.S., relating to civil citations and community arbitration; conforming provisions to changes made by the act; deleting certain references to case-management services; amending s. 985.307, F.S.; extending the period during which the Department of Juvenile Justice is authorized to operate juvenile assignment centers; providing for pre-adjudicatory assessments; amending ss. 985.31, 985.311, F.S., relating to serious or habitual juvenile offenders and intensive residential treatment programs for offenders less than 13 years of age; conforming provisions to changes made by the act; transferring, renumbering, and amending s. 944.401, F.S., relating to the offense of escaping from secure detention or a residential commitment facility; conforming a cross-reference; amending s. 985.406, F.S., relating to juvenile justice training academies; conforming provisions to changes made by the act; amending s. 985.412, F.S.; relating to quality assurance; requiring evaluation of each program operated by the department; requiring program changes and notification to the Executive Office of the Governor and Legislature of corrective action, under specified circumstances when a department-operated program fails to meet established minimum thresholds; providing for appropriate corrective action, including disciplinary action against employees under specified circumstances; providing for the Department of Juvenile Justice to ensure the reliability of the annual report; amending s. 985.413, F.S.; increasing the number of consecutive terms that may be served by a member of a

district juvenile justice board; deleting an exemption from such limitation; amending s. 985.414, F.S.; specifying the parties to be included in an interagency agreement for developing a county juvenile justice plan; amending s. 985.415, F.S.; revising eligibility requirements for a Community Juvenile Justice Partnership Grant; amending s. 938.19, F.S.; authorizing the assessment of certain fees for the purpose of operating and administering a teen court, notwithstanding certain contrary provisions; providing effective dates.

House Amendment 1 (with title amendment)—Remove from the bill: Everything after the enacting clause and insert in lieu thereof:

Section 1. Subsection (2) of section 938.17, Florida Statutes, is amended to read:

938.17 County delinquency prevention.—

(2) In counties in which the sheriff's office is a partner in a juvenile justice assessment center pursuant to s. ~~985.209~~ ~~39.0471~~, or a partner in a suspension program developed in conjunction with the district school board in the county of the sheriff's jurisdiction, the court shall assess court costs of \$3 per case, in addition to any other authorized cost or fine, on every person who, with respect to a charge, indictment, prosecution commenced, or petition of delinquency filed in that county or circuit, pleads guilty, nolo contendere to, or is convicted of, or adjudicated delinquent for, or has an adjudication withheld for, a felony or misdemeanor, or a criminal traffic offense or handicapped parking violation under state law, or a violation of any municipal or county ordinance, if the violation constitutes a misdemeanor under state law.

Section 2. Section 938.19, Florida Statutes, is amended to read:

938.19 Teen courts; operation and administration.—*Notwithstanding s. 318.121*, in each county in which a teen court has been created, a county may adopt a mandatory cost to be assessed in specific cases as provided for in subsection (1) by incorporating by reference the provisions of this section in a county ordinance. Assessments collected by the clerk of the circuit court pursuant to this section shall be deposited into an account specifically for the operation and administration of the teen court:

(1) A sum of \$3, which shall be assessed as a court cost by both the circuit court and the county court in the county against every person who pleads guilty or nolo contendere to, or is convicted of, regardless of adjudication, a violation of a state criminal statute or a municipal ordinance or county ordinance or who pays a fine or civil penalty for any violation of chapter 316. Any person whose adjudication is withheld pursuant to the provisions of s. 318.14(9) or (10) shall also be assessed such cost. The \$3 assessment for court costs shall be assessed in addition to any fine, civil penalty, or other court cost and shall not be deducted from the proceeds of that portion of any fine or civil penalty which is received by a municipality in the county or by the county in accordance with ss. 316.660 and 318.21. The \$3 assessment shall specifically be added to any civil penalty paid for a violation of chapter 316, whether such penalty is paid by mail, paid in person without request for a hearing, or paid after hearing and determination by the court. However, the \$3 assessment shall not be made against a person for a violation of any state statutes, county ordinance, or municipal ordinance relating to the parking of vehicles, with the exception of a violation of the handicapped parking laws. The clerk of the circuit court shall collect the respective \$3 assessments for court costs established in this subsection and shall remit the same to the teen court monthly, less 5 percent, which is to be retained as fee income of the office of the clerk of the circuit court.

(2) Such other moneys as become available for establishing and operating teen courts under the provisions of Florida law.

Section 3. Subsection (8) is added to section 943.053, Florida Statutes, to read:

943.053 Dissemination of criminal justice information; fees.—

(1) The Department of Law Enforcement shall disseminate criminal justice information only in accordance with federal and state laws, regulations, and rules.

(2) Criminal justice information derived from federal criminal justice information systems or criminal justice information systems of other states shall not be disseminated in a manner inconsistent with the laws, regulations, or rules of the originating agency.

(3) Criminal history information, including information relating to juveniles, compiled by the Division of Criminal Justice Information Systems from intrastate sources shall be available on a priority basis to criminal justice agencies for criminal justice purposes free of charge and, otherwise, to governmental agencies not qualified as criminal justice agencies on an approximate-cost basis. After providing the division with all known identifying information, persons in the private sector may be provided criminal history information upon tender of fees as established by rule of the Department of Law Enforcement. Such fees shall approximate the actual cost of producing the record information. Fees may be waived by the executive director of the Department of Law Enforcement for good cause shown.

(4) Criminal justice information provided by the Department of Law Enforcement shall be used only for the purpose stated in the request.

(5) Notwithstanding any other provision of law, the department shall provide to the Florida Department of Revenue Child Support Enforcement access to Florida criminal records which are not exempt from disclosure under chapter 119, and to such information as may be lawfully available from other states via the National Law Enforcement Telecommunications System, for the purpose of locating subjects who owe or potentially owe child support or to whom such obligation is owed pursuant to Title IV-D of the Social Security Act. Such information may be provided to child support enforcement authorities in other states for these specific purposes.

(6) Notwithstanding the provisions of s. 943.0525, and any user agreements adopted pursuant thereto, and notwithstanding the confidentiality of sealed records as provided for in s. 943.059, the sheriff of any county that has contracted with a private entity to operate a county detention facility pursuant to the provisions of s. 951.062 shall provide that private entity, in a timely manner, copies of the Florida criminal history records for its inmates. The sheriff may assess a charge for the Florida criminal history records pursuant to the provisions of chapter 119. Sealed records received by the private entity under this section remain confidential and exempt from the provisions of s. 119.07(1).

(7) Notwithstanding the provisions of s. 943.0525, and any user agreements adopted pursuant thereto, and notwithstanding the confidentiality of sealed records as provided for in s. 943.059, the Department of Corrections shall provide, in a timely manner, copies of the Florida criminal history records for inmates housed in a private state correctional facility to the private entity under contract to operate the facility pursuant to the provisions of s. 944.105 or s. 957.03. The department may assess a charge for the Florida criminal history records pursuant to the provisions of chapter 119. Sealed records received by the private entity under this section remain confidential and exempt from the provisions of s. 119.07(1).

(8) *Notwithstanding the provisions of s. 943.0525 and any user agreements adopted pursuant thereto, and notwithstanding the confidentiality of sealed records as provided for in s. 943.059, the Department of Juvenile Justice or any other state or local criminal justice agency may provide copies of the Florida criminal history records for juvenile offenders currently or formerly detained or housed in a contracted juvenile assessment center or detention facility or serviced in a contracted treatment program and for employees or other individuals who will have access to these facilities, only to the entity under direct contract with the Department of Juvenile Justice to operate these facilities or programs pursuant to the provisions of s. 985.411. The criminal justice agency providing such data may assess a charge for the Florida criminal history records pursuant to the provisions of chapter 119. Sealed records received by the private entity under this section remain confidential and exempt from the provisions of s. 119.07(1). Information provided under this section shall be used only for the criminal justice purpose for which it was requested and may not be further disseminated.*

Section 4. Section 944.401, Florida Statutes, is renumbered as section 985.3141, Florida Statutes, and amended to read:

~~985.3141~~ ~~944.401~~ Escapes from secure detention or residential commitment facility.—An escape from:

(1) Any secure detention facility maintained for the temporary detention of children, pending adjudication, disposition, or placement; ~~an escape from~~

(2) Any residential commitment facility *described defined* in s. 985.03(45) ~~s. 39.01(50)~~, maintained for the custody, treatment, punishment, or rehabilitation of children found to have committed delinquent acts or violations of law; or ~~an escape from~~

(3) Lawful transportation to or from any such secure detention facility or residential commitment facility, ~~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 5. Paragraph (c) of subsection (3) of section 921.0022, Florida Statutes, is amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
(c) LEVEL 3		
985.3141 39.061	3rd	Escapes from juvenile facility (secure detention or residential commitment facility).
319.30(4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
319.33(1)(a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
319.33(1)(c)	3rd	Procure or pass title on stolen vehicle.
319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
501.001(2)(b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
697.08	3rd	Equity skimming.
790.15(3)	3rd	Person directs another to discharge firearm from a vehicle.
796.05(1)	3rd	Live on earnings of a prostitute.
806.10(1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
806.10(2)	3rd	Interferes with or assaults firefighter in performance of duty.
810.09(2)(c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but less than \$10,000.
815.04(4)(b)	2nd	Computer offense devised to defraud or obtain property.
817.034(4)(a)3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000.
817.233	3rd	Burning to defraud insurer.
828.12(2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
831.29	2nd	Possession of instruments for counterfeiting drivers' licenses.
838.021(3)(b)	3rd	Threatens unlawful harm to public servant.
843.19	3rd	Injure, disable, or kill police dog or horse.
870.01(2)	3rd	Riot; inciting or encouraging.
893.13(1)(a)2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c), (3), or (4) drugs).
893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c), (3), or (4) drugs within 200 feet of university, public housing facility, or public park.

Florida Statute	Felony Degree	Description
893.13(6)(a)	3rd	Possession of any controlled substance other than felony possession of cannabis.
893.13(7)(a)9.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.
893.13(7)(a)11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
918.13(1)(a)	3rd	Alter, destroy, or conceal investigation evidence.
944.47		
(1)(a)1.-2.	3rd	Introduce contraband to correctional facility.
944.47(1)(c)	2nd	Possess contraband while upon the grounds of a correctional institution.

Section 6. Paragraph (c) of subsection (29), paragraph (c) of subsection (30), and subsections (31), (32), and (33) of section 984.03, Florida Statutes, are amended to read:

984.03 Definitions.—When used in this chapter, the term:

(29) “Habitually truant” means that:

(c) A school representative, designated according to school board policy, and a juvenile probation officer ~~an intake counselor or case manager~~ of the Department of Juvenile Justice have jointly investigated the truancy problem or, if that was not feasible, have performed separate investigations to identify conditions ~~that which~~ may be contributing to the truant behavior; and if, after a joint staffing of the case to determine the necessity for services, such services were determined to be needed, the persons who performed the investigations met jointly with the family and child to discuss any referral to appropriate community agencies for economic services, family or individual counseling, or other services required to remedy the conditions that are contributing to the truant behavior.

(30) “Intake” means the initial acceptance and screening by the Department of Juvenile Justice of a complaint or a law enforcement report or probable cause affidavit of delinquency, family in need of services, or child in need of services to determine the recommendation to be taken in the best interests of the child, the family, and the community. The emphasis of intake is on diversion and the least restrictive available services. Consequently, intake includes such alternatives as:

(c) The recommendation by the juvenile probation officer ~~intake counselor or case manager~~ of judicial handling when appropriate and warranted.

~~(31) “Intake counselor” or “case manager” means the authorized agent of the Department of Juvenile Justice performing the intake or case management function for a child alleged to be delinquent or in need of services, or from a family in need of services.~~

~~(31)(32)~~ “Judge” means the circuit judge exercising jurisdiction pursuant to this chapter.

~~(32)(33)~~ “Juvenile justice continuum” includes, but is not limited to, delinquency prevention programs and services designed for the purpose of preventing or reducing delinquent acts, including criminal activity by youth gangs and juvenile arrests, as well as programs and services targeted at children who have committed delinquent acts, and children who have previously been committed to residential treatment programs for delinquents. The term includes children-in-need-of-services and families-in-need-of-services programs; aftercare and reentry services; substance abuse and mental health programs; educational and vocational programs; recreational programs; community services programs; community service work programs; and alternative dispute resolution programs serving children at risk of delinquency and their families, whether offered or delivered by state or local governmental entities, public or private for-profit or not-for-profit organizations, or religious or charitable organizations.

(33) “Juvenile probation officer” means the authorized agent of the department who performs and directs intake, assessment, probation or aftercare, and other related services.

Section 7. Paragraph (c) of subsection (27), paragraph (c) of subsection (29), and subsections (30), (31), (32), (45), and (55) of section 985.03, Florida Statutes, are amended to read:

985.03 Definitions.—When used in this chapter, the term:

(27) “Habitually truant” means that:

(c) A school representative, designated according to school board policy, and a *juvenile probation officer* ~~an intake counselor or case manager~~ of the Department of Juvenile Justice have jointly investigated the truancy problem or, if that was not feasible, have performed separate investigations to identify conditions *that could* ~~which may~~ be contributing to the truant behavior; and if, after a joint staffing of the case to determine the necessity for services, such services were determined to be needed, the persons who performed the investigations met jointly with the family and child to discuss any referral to appropriate community agencies for economic services, family or individual counseling, or other services required to remedy the conditions that are contributing to the truant behavior.

(29) “Intake” means the initial acceptance and screening by the Department of Juvenile Justice of a complaint or a law enforcement report or probable cause affidavit of delinquency, family in need of services, or child in need of services to determine the recommendation to be taken in the best interests of the child, the family, and the community. The emphasis of intake is on diversion and the least restrictive available services. Consequently, intake includes such alternatives as:

(c) The recommendation by the *juvenile probation officer* ~~intake counselor or case manager~~ of judicial handling when appropriate and warranted.

~~(30) “Intake counselor” or “case manager” means the authorized agent of the Department of Juvenile Justice performing the intake or case management function for a child alleged to be delinquent.~~

~~(30)(34)~~ “Judge” means the circuit judge exercising jurisdiction pursuant to this chapter.

~~(31)(32)~~ “Juvenile justice continuum” includes, but is not limited to, delinquency prevention programs and services designed for the purpose of preventing or reducing delinquent acts, including criminal activity by youth gangs, and juvenile arrests, as well as programs and services targeted at children who have committed delinquent acts, and children who have previously been committed to residential treatment programs for delinquents. The term includes children-in-need-of-services and families-in-need-of-services programs; aftercare and reentry services; substance abuse and mental health programs; educational and vocational programs; recreational programs; community services programs; community service work programs; and alternative dispute resolution programs serving children at risk of delinquency and their families, whether offered or delivered by state or local governmental entities, public or private for-profit or not-for-profit organizations, or religious or charitable organizations.

~~(32) “Juvenile probation officer” means the authorized agent of the Department of Juvenile Justice who performs the intake or case-management function for a child alleged to be delinquent.~~

(45) “Restrictiveness level” means the level of custody provided by programs that service the custody and care needs of committed children. There shall be five restrictiveness levels:

(a) Minimum-risk nonresidential.—Youth assessed and classified for placement in programs at this restrictiveness level represent a minimum risk to themselves and public safety and do not require placement and services in residential settings. Programs or program models in this restrictiveness level include: community counselor supervision programs, special intensive group programs, nonresidential marine programs, nonresidential training and rehabilitation centers, and other local community nonresidential programs.

(b) Low-risk residential.—Youth assessed and classified for placement in programs at this level represent a low risk to themselves and public safety and do require placement and services in residential settings. Programs or program models in this restrictiveness level include: Short Term Offender Programs (STOP), group treatment homes, family group homes, proctor homes, and Short Term Environmental Programs

(STEP). Section ~~985.3141~~ ~~944.401~~ applies to children placed in programs in this restrictiveness level.

(c) Moderate-risk residential.—Youth assessed and classified for placement in programs in this restrictiveness level represent a moderate risk to public safety. Programs are designed for children who require close supervision but do not need placement in facilities that are physically secure. Programs in the moderate-risk residential restrictiveness level provide 24-hour awake supervision, custody, care, and treatment. Upon specific appropriation, a facility at this restrictiveness level may have a security fence around the perimeter of the grounds of the facility and may be hardware-secure or staff-secure. The staff at a facility at this restrictiveness level may seclude a child who is a physical threat to himself or others. Mechanical restraint may also be used when necessary. Programs or program models in this restrictiveness level include: halfway houses, START Centers, the Dade Intensive Control Program, licensed substance abuse residential programs, and moderate-term wilderness programs designed for committed delinquent youth that are operated or contracted by the Department of Juvenile Justice. Section ~~985.3141~~ ~~944.401~~ applies to children *placed in programs in this restrictiveness level* ~~moderate-risk residential programs~~.

(d) High-risk residential.—Youth assessed and classified for this level of placement require close supervision in a structured residential setting that provides 24-hour-per-day secure custody, care, and supervision. Placement in programs in this level is prompted by a concern for public safety that outweighs placement in programs at lower restrictiveness levels. Programs or program models in this level are staff-secure or physically secure residential commitment facilities and include: training schools, intensive halfway houses, residential sex offender programs, long-term wilderness programs designed exclusively for committed delinquent youth, boot camps, secure halfway house programs, and the Broward Control Treatment Center. Section ~~985.3141~~ ~~944.401~~ applies to children placed in programs in this restrictiveness level.

(e) Maximum-risk residential.—Youth assessed and classified for this level of placement require close supervision in a maximum security residential setting that provides 24-hour-per-day secure custody, care, and supervision. Placement in a program in this level is prompted by a demonstrated need to protect the public. Programs or program models in this level are maximum-secure-custody, long-term residential commitment facilities that are intended to provide a moderate overlay of educational, vocational, and behavioral-modification services ~~and include programs for serious and habitual juvenile offenders~~ and other maximum-security program models authorized by the Legislature and established by rule. *Section 985.3141 applies to children placed in programs in this restrictiveness level.*

(55) “Temporary release” means the terms and conditions under which a child is temporarily released from a commitment facility or allowed home visits. If the temporary release is from a moderate-risk residential facility, a high-risk residential facility, or a maximum-risk residential facility, the terms and conditions of the temporary release must be approved by the child, the court, and the facility. The term includes periods during which the child is supervised pursuant to a reentry program or an aftercare program or a period during which the child is supervised by a *juvenile probation officer* ~~case manager~~ or other nonresidential staff of the department or staff employed by an entity under contract with the department. A child placed in a postcommitment ~~supervision~~ ~~community control~~ program by order of the court is not considered to be on temporary release and is not subject to the terms and conditions of temporary release.

Section 8. Subsection (2) of section 985.207, Florida Statutes, is amended to read:

985.207 Taking a child into custody.—

(2) When a child is taken into custody as provided in this section, the person taking the child into custody shall attempt to notify the parent, guardian, or legal custodian of the child. The person taking the child into custody shall continue such attempt until the parent, guardian, or legal custodian of the child is notified or the child is delivered to a *juvenile probation officer* ~~an intake counselor~~ pursuant to s. 985.21, whichever occurs first. If the child is delivered to a *juvenile probation officer* ~~an intake counselor~~ before the parent, guardian, or legal custodian is notified, the *juvenile probation officer* ~~intake counselor or case manager~~ shall continue the attempt to notify until the parent, guardian, or legal custodian of the child is notified.

Section 9. Subsection (2) of section 985.208, Florida Statutes, is amended to read:

985.208 Detention of furloughed child or escapee on authority of the department.—

(2) Any sheriff or other law enforcement officer, upon the request of the secretary of the department or duly authorized agent, shall take a child who has escaped or absconded from a department facility for committed delinquent children, or from being lawfully transported thereto or therefrom, into custody and deliver the child to the appropriate juvenile probation officer ~~intake counselor or case manager~~ of the department.

Section 10. Section 985.209, Florida Statutes, is amended to read:

985.209 Juvenile justice assessment centers.—

(1) As used in this section, “center” means a juvenile assessment center comprising community operated facilities and programs which provide collocated central intake and screening services for youth referred to the Department of Juvenile Justice.

(2) The department shall work cooperatively with substance abuse programs, mental health providers, law enforcement agencies, schools, health service providers, state attorneys, public defenders, and other agencies serving youth to establish juvenile assessment centers. Each current and newly established center shall be developed and modified through the local initiative of community agencies and local governments and shall provide a broad array of youth-related services appropriate to the needs of the community where the center is located.

(3) Each center shall be managed and governed by the participating agencies, consistent with respective statutory requirements of each agency, through an advisory committee and interagency agreements established with participating entities. The advisory committee shall guide the center's operation and ensure that appropriate and relevant agencies are collaboratively participating in and providing services at the center. Each participating state agency shall have operational oversight of only those individual service components located and provided at the center for which the state agency has statutory authority and responsibility.

(4) Each center shall provide collocated central intake and screening services for youth referred to the department. The center shall provide sufficient services needed to facilitate the initial screening of and case processing for youth, including, at a minimum, delinquency intake; positive identification of the youth; detention admission screening; needs assessment; substance abuse screening and assessments; physical and mental health screening; and diagnostic testing as appropriate. The department shall provide sufficient staff and resources at a center to provide detention screening and intake services.

(5) Each center is authorized and encouraged to establish truancy programs. A truancy program may serve as providing the central intake and screening of truant children for a specific geographic area based upon written agreements between the center, local law enforcement agencies, and local school boards. A center may work cooperatively with any truancy program operating in the area serving the center.

(6) Each center must provide for the coordination and sharing of information among the participating agencies to facilitate the screening of and case processing for youth referred to the department.

(7) The department may utilize juvenile assessment centers to the fullest extent possible for the purpose of conducting pre- and post-disposition assessments and evaluations of youth, except where a juvenile assignment center is located. Assessments and evaluations may be conducted by juvenile assessment center staff on a youth while he or she is in a juvenile detention center awaiting placement in a residential commitment facility. If feasible, a youth may be transported from a juvenile detention center to a juvenile assessment center for the purpose of conducting an assessment or evaluation. Such assessments and evaluations may include, but are not limited to, needs assessment; substance abuse evaluations; physical and mental health evaluations; psychological evaluations; behavioral assessments; educational assessments; aptitude testing; and vocational testing. To the extent possible, the youth's parents or guardians and other family members should be involved in the assessment and evaluation process. All information, conclusions, treatment

recommendations, and reports derived from any assessment and evaluation performed on a youth shall be included as a part of the youth's commitment packet and shall accompany the youth to the residential commitment facility in which the youth is placed. ~~The department shall work cooperatively with substance abuse facilities, mental health providers, law enforcement agencies, schools, health services providers, and other entities involved with children to establish a juvenile justice assessment center in each service district. The assessment center shall serve as central intake and screening for children referred to the department. Each juvenile justice assessment center shall provide services needed to facilitate initial screening of children, including intake and needs assessment, substance abuse screening, physical and mental health screening, and diagnostic testing, as appropriate. The entities involved in the assessment center shall make the resources for the provision of these services available at the same level to which they are available to the general public.~~

Section 11. Section 985.21, Florida Statutes, is amended to read:

985.21 Intake and case management.—

(1)(a) During the intake process, the juvenile probation officer ~~intake counselor~~ shall screen each child to determine:

1. Appropriateness for release, referral to a diversionary program including, but not limited to, a teen-court program, referral for community arbitration, or referral to some other program or agency for the purpose of nonofficial or nonjudicial handling.

2. The presence of medical, psychiatric, psychological, substance abuse, educational problems, or other conditions that may have caused the child to come to the attention of law enforcement or the Department of Juvenile Justice. In cases where such conditions are identified, and a nonjudicial handling of the case is chosen, the juvenile probation officer ~~intake counselor~~ shall attempt to refer the child to a program or agency, together with all available and relevant assessment information concerning the child's precipitating condition.

3. The Department of Juvenile Justice shall develop an intake and a case management system whereby a child brought into intake is assigned a juvenile probation officer ~~case manager~~ if the child was not released, referred to a diversionary program, referred for community arbitration, or referred to some other program or agency for the purpose of nonofficial or nonjudicial handling, and shall make every reasonable effort to provide continuity of case management services for the child; provided, however, that case management for children committed to residential programs may be transferred as provided in s. 985.316.

4. In addition to duties specified in other sections and through departmental rules, the assigned juvenile probation officer ~~case manager~~ shall be responsible for the following:

a. Ensuring that a risk assessment instrument establishing the child's eligibility for detention has been accurately completed and that the appropriate recommendation was made to the court.

b. Inquiring as to whether the child understands his or her rights to counsel and against self-incrimination.

c. Performing the preliminary screening and making referrals for comprehensive assessment regarding the child's need for substance abuse treatment services, mental health services, retardation services, literacy services, or other educational or treatment services.

d. Coordinating the multidisciplinary assessment when required, which includes the classification and placement process that determines the child's priority needs, risk classification, and treatment plan. When sufficient evidence exists to warrant a comprehensive assessment and the child fails to voluntarily participate in the assessment efforts, it is the responsibility of the juvenile probation officer ~~case manager~~ to inform the court of the need for the assessment and the refusal of the child to participate in such assessment. This assessment, classification, and placement process shall develop into the predisposition report.

e. Making recommendations for services and facilitating the delivery of those services to the child, including any mental health services, educational services, family counseling services, family assistance services, and substance abuse services. The juvenile probation officer ~~delinquency case manager~~ shall serve as the primary case manager for the

purpose of managing, coordinating, and monitoring the services provided to the child. Each program administrator within the Department of Children and Family Services shall cooperate with the primary case manager in carrying out the duties and responsibilities described in this section.

The Department of Juvenile Justice shall annually advise the Legislature and the Executive Office of the Governor of the resources needed in order for the *intake and case management* system to maintain a staff-to-client ratio that is consistent with accepted standards and allows the necessary supervision and services for each child. The intake process and case management system shall provide a comprehensive approach to assessing the child's needs, relative risks, and most appropriate handling, and shall be based on an individualized treatment plan.

(b) The intake and case management system shall facilitate consistency in the recommended placement of each child, and in the assessment, classification, and placement process, with the following purposes:

1. An individualized, multidisciplinary assessment process that identifies the priority needs of each individual child for rehabilitation and treatment and identifies any needs of the child's parents or guardians for services that would enhance their ability to provide adequate support, guidance, and supervision for the child. This process shall begin with the detention risk assessment instrument and decision, shall include the intake preliminary screening and comprehensive assessment for substance abuse treatment services, mental health services, retardation services, literacy services, and other educational and treatment services as components, additional assessment of the child's treatment needs, and classification regarding the child's risks to the community and, for a serious or habitual delinquent child, shall include the assessment for placement in a serious or habitual delinquent children program pursuant to s. 985.31. The completed multidisciplinary assessment process shall result in the predisposition report.

2. A classification system that assigns a relative risk to the child and the community based upon assessments including the detention risk assessment results when available to classify the child's risk as it relates to placement and supervision alternatives.

3. An admissions process that facilitates for each child the utilization of the treatment plan and setting most appropriate to meet the child's programmatic needs and provide the minimum program security needed to ensure public safety.

(2) The intake process shall be performed by the department through a case management system. The purpose of the intake process is to assess the child's needs and risks and to determine the most appropriate treatment plan and setting for the child's programmatic needs and risks. The intake process shall result in choosing the most appropriate services through a balancing of the interests and needs of the child with those of the family and the public. The *juvenile probation officer intake counselor or case manager* is responsible for making informed decisions and recommendations to other agencies, the state attorney, and the courts so that the child and family may receive the least intrusive service alternative throughout the judicial process. The department shall establish uniform procedures for the *juvenile probation officer intake counselor or case manager* to provide, prior to the filing of a petition or as soon as possible thereafter and prior to a disposition hearing, a preliminary screening of the child and family for substance abuse and mental health services.

(3) A report, affidavit, or complaint alleging that a child has committed a delinquent act or violation of law shall be made to the intake office operating in the county in which the child is found or in which the delinquent act or violation of law occurred. Any person or agency having knowledge of the facts may make such a written report, affidavit, or complaint and shall furnish to the intake office facts sufficient to establish the jurisdiction of the court and to support a finding by the court that the child has committed a delinquent act or violation of law.

(4) The *juvenile probation officer intake counselor or case manager* shall make a preliminary determination as to whether the report, affidavit, or complaint is complete, consulting with the state attorney as may be necessary. In any case where the *juvenile probation officer intake counselor or case manager* or the state attorney finds that the report, affidavit, or complaint is insufficient by the standards for a probable cause affidavit, the *juvenile probation officer intake counselor or case*

manager or state attorney shall return the report, affidavit, or complaint, without delay, to the person or agency originating the report, affidavit, or complaint or having knowledge of the facts or to the appropriate law enforcement agency having investigative jurisdiction of the offense, and shall request, and the person or agency shall promptly furnish, additional information in order to comply with the standards for a probable cause affidavit.

(a) The *juvenile probation officer intake counselor or case manager*, upon determining that the report, affidavit, or complaint is complete, may, in the case of a child who is alleged to have committed a delinquent act or violation of law, recommend that the state attorney file a petition of delinquency or an information or seek an indictment by the grand jury. However, such a recommendation is not a prerequisite for any action taken by the state attorney.

(b) The *juvenile probation officer intake counselor or case manager*, upon determining that the report, affidavit, or complaint is complete, pursuant to uniform procedures established by the department, shall:

1. When indicated by the preliminary screening, provide for a comprehensive assessment of the child and family for substance abuse problems, using community-based licensed programs with clinical expertise and experience in the assessment of substance abuse problems.

2. When indicated by the preliminary screening, provide for a comprehensive assessment of the child and family for mental health problems, using community-based psychologists, psychiatrists, or other licensed mental health professionals with clinical expertise and experience in the assessment of mental health problems.

When indicated by the comprehensive assessment, the department is authorized to contract within appropriated funds for services with a local nonprofit community mental health or substance abuse agency licensed or authorized under chapter 394, or chapter 397, or other authorized nonprofit social service agency providing related services. The determination of mental health or substance abuse services shall be conducted in coordination with existing programs providing mental health or substance abuse services in conjunction with the intake office. Client information resulting from the screening and evaluation shall be documented pursuant to rules established by the department and shall serve to assist the *juvenile probation officer intake counselor or case manager* in providing the most appropriate services and recommendations in the least intrusive manner. Such client information shall be used in the multidisciplinary assessment and classification of the child, but such information, and any information obtained directly or indirectly through the assessment process, is inadmissible in court prior to the disposition hearing, unless the child's written consent is obtained. At the disposition hearing, documented client information shall serve to assist the court in making the most appropriate custody, adjudicatory, and dispositional decision. If the screening and assessment indicate that the interest of the child and the public will be best served thereby, the *juvenile probation officer intake counselor or case manager*, with the approval of the state attorney, may refer the child for care, diagnostic and evaluation services, substance abuse treatment services, mental health services, retardation services, a diversionary or arbitration or mediation program, community service work, or other programs or treatment services voluntarily accepted by the child and the child's parents or legal guardians. The victim, if any, and the law enforcement agency which investigated the offense shall be notified immediately by the state attorney of the action taken under this paragraph. Whenever a child volunteers to participate in any work program under this chapter or volunteers to work in a specified state, county, municipal, or community service organization supervised work program or to work for the victim, the child shall be considered an employee of the state for the purposes of liability. In determining the child's average weekly wage, unless otherwise determined by a specific funding program, all remuneration received from the employer is considered a gratuity, and the child is not entitled to any benefits otherwise payable under s. 440.15, regardless of whether the child may be receiving wages and remuneration from other employment with another employer and regardless of the child's future wage-earning capacity.

(c) The *juvenile probation officer intake counselor or case manager*, upon determining that the report, affidavit, or complaint complies with the standards of a probable cause affidavit and that the interest of the child and the public will be best served, may recommend that a delinquency petition not be filed. If such a recommendation is made, the *juvenile probation officer intake counselor or case manager* shall advise

in writing the person or agency making the report, affidavit, or complaint, the victim, if any, and the law enforcement agency having investigative jurisdiction of the offense of the recommendation and the reasons therefor; and that the person or agency may submit, within 10 days after the receipt of such notice, the report, affidavit, or complaint to the state attorney for special review. The state attorney, upon receiving a request for special review, shall consider the facts presented by the report, affidavit, or complaint, and by the ~~juvenile probation officer intake counselor or case manager~~ who made the recommendation that no petition be filed, before making a final decision as to whether a petition or information should or should not be filed.

(d) In all cases in which the child is alleged to have committed a violation of law or delinquent act and is not detained, the ~~juvenile probation officer intake counselor or case manager~~ shall submit a written report to the state attorney, including the original report, complaint, or affidavit, or a copy thereof, including a copy of the child's prior juvenile record, within 20 days after the date the child is taken into custody. In cases in which the child is in detention, the intake office report must be submitted within 24 hours after the child is placed into detention. The intake office report must recommend either that a petition or information be filed or that no petition or information be filed, and must set forth reasons for the recommendation.

(e) The state attorney may in all cases take action independent of the action or lack of action of the ~~juvenile probation officer intake counselor or case manager~~, and shall determine the action which is in the best interest of the public and the child. If the child meets the criteria requiring prosecution as an adult pursuant to s. 985.226, the state attorney shall request the court to transfer and certify the child for prosecution as an adult or shall provide written reasons to the court for not making such request. In all other cases, the state attorney may:

1. File a petition for dependency;
2. File a petition pursuant to chapter 984;
3. File a petition for delinquency;
4. File a petition for delinquency with a motion to transfer and certify the child for prosecution as an adult;
5. File an information pursuant to s. 985.227;
6. Refer the case to a grand jury;
7. Refer the child to a diversionary, pretrial intervention, arbitration, or mediation program, or to some other treatment or care program if such program commitment is voluntarily accepted by the child or the child's parents or legal guardians; or
8. Decline to file.

(f) In cases in which a delinquency report, affidavit, or complaint is filed by a law enforcement agency and the state attorney determines not to file a petition, the state attorney shall advise the clerk of the circuit court in writing that no petition will be filed thereon.

(5) Prior to requesting that a delinquency petition be filed or prior to filing a dependency petition, the ~~juvenile probation officer intake officer~~ may request the parent or legal guardian of the child to attend a course of instruction in parenting skills, training in conflict resolution, and the practice of nonviolence; to accept counseling; or to receive other assistance from any agency in the community which notifies the clerk of the court of the availability of its services. Where appropriate, the ~~juvenile probation officer intake officer~~ shall request both parents or guardians to receive such parental assistance. The ~~juvenile probation officer intake officer~~ may, in determining whether to request that a delinquency petition be filed, take into consideration the willingness of the parent or legal guardian to comply with such request.

Section 12. Subsections (3), (4), and (6) of section 985.211, Florida Statutes, are amended to read:

985.211 Release or delivery from custody.—

(3) If the child is released, the person taking the child into custody shall make a written report or probable cause affidavit to the appropriate ~~juvenile probation officer intake counselor or case manager~~ within 3

days, stating the facts and the reason for taking the child into custody. Such written report or probable cause affidavit shall:

(a) Identify the child, the parents, guardian, or legal custodian, and the person to whom the child was released.

(b) Contain sufficient information to establish the jurisdiction of the court and to make a prima facie showing that the child has committed a violation of law or a delinquent act.

(4) A person taking a child into custody who determines, pursuant to s. 985.215, that the child should be detained or released to a shelter designated by the department, shall make a reasonable effort to immediately notify the parent, guardian, or legal custodian of the child and shall, without unreasonable delay, deliver the child to the appropriate ~~juvenile probation officer intake counselor or case manager~~ or, if the court has so ordered pursuant to s. 985.215, to a detention center or facility. Upon delivery of the child, the person taking the child into custody shall make a written report or probable cause affidavit to the appropriate ~~juvenile probation officer intake counselor or case manager~~. Such written report or probable cause affidavit must:

(a) Identify the child and, if known, the parents, guardian, or legal custodian.

(b) Establish that the child was legally taken into custody, with sufficient information to establish the jurisdiction of the court and to make a prima facie showing that the child has committed a violation of law.

(6)(a) A copy of the probable cause affidavit or written report by a law enforcement agency shall be filed, by the law enforcement agency making such affidavit or written report, with the clerk of the circuit court for the county in which the child is taken into custody or in which the affidavit or report is made within 24 hours after the child is taken into custody and detained, within 1 week after the child is taken into custody and released, or within 1 week after the affidavit or report is made, excluding Saturdays, Sundays, and legal holidays. Such affidavit or report is a case for the purpose of assigning a uniform case number pursuant to this subsection.

(b) Upon the filing of a copy of a probable cause affidavit or written report by a law enforcement agency with the clerk of the circuit court, the clerk shall immediately assign a uniform case number to the affidavit or report, forward a copy to the state attorney, and forward a copy to the intake office of the department which serves the county in which the case arose.

(c) Each letter of recommendation, written notice, report, or other paper required by law pertaining to the case shall bear the uniform case number of the case, and a copy shall be filed with the clerk of the circuit court by the issuing agency. The issuing agency shall furnish copies to the ~~juvenile probation officer intake counselor or case manager~~ and the state attorney.

(d) Upon the filing of a petition based on the allegations of a previously filed probable cause affidavit or written report, the agency filing the petition shall include the appropriate uniform case number on the petition.

Section 13. Section 985.215, Florida Statutes, is amended to read:

985.215 Detention.—

(1) The ~~juvenile probation officer intake counselor or case manager~~ shall receive custody of a child who has been taken into custody from the law enforcement agency and shall review the facts in the law enforcement report or probable cause affidavit and make such further inquiry as may be necessary to determine whether detention care is required.

(a) During the period of time from the taking of the child into custody to the date of the detention hearing, the initial decision as to the child's placement into secure detention care, nonsecure detention care, or home detention care shall be made by the ~~juvenile probation officer intake counselor or case manager~~ pursuant to ss. 985.213 and 985.214.

(b) The ~~juvenile probation officer intake counselor or case manager~~ shall base the decision whether or not to place the child into secure detention care, home detention care, or nonsecure detention care on an

assessment of risk in accordance with the risk assessment instrument and procedures developed by the Department of Juvenile Justice under s. 985.213.

(c) If the ~~juvenile probation officer intake counselor or case manager~~ determines that a child who is eligible for detention based upon the results of the risk assessment instrument should be released, the ~~juvenile probation officer intake counselor or case manager~~ shall contact the state attorney, who may authorize release. If detention is not authorized, the child may be released by the ~~juvenile probation officer intake counselor or case manager~~ in accordance with s. 985.211.

Under no circumstances shall the ~~juvenile probation officer intake counselor or case manager~~ or the state attorney or law enforcement officer authorize the detention of any child in a jail or other facility intended or used for the detention of adults, without an order of the court.

(2) Subject to the provisions of subsection (1), a child taken into custody and placed into nonsecure or home detention care or detained in secure detention care prior to a detention hearing may continue to be detained by the court if:

(a) The child is alleged to be an escapee or an absconder from a commitment program, a community control program, furlough, or after-care supervision, or is alleged to have escaped while being lawfully transported to or from such program or supervision.

(b) The child is wanted in another jurisdiction for an offense which, if committed by an adult, would be a felony.

(c) The child is charged with a delinquent act or violation of law and requests in writing through legal counsel to be detained for protection from an imminent physical threat to his or her personal safety.

(d) The child is charged with committing an offense of domestic violence as defined in s. 741.28(1) and is detained as provided in s. 985.213(2)(b)3.

(e) The child is charged with a capital felony, a life felony, a felony of the first degree, a felony of the second degree that does not involve a violation of chapter 893, or a felony of the third degree that is also a crime of violence, including any such offense involving the use or possession of a firearm.

(f) The child is charged with any second degree or third degree felony involving a violation of chapter 893 or any third degree felony that is not also a crime of violence, and the child:

1. Has a record of failure to appear at court hearings after being properly notified in accordance with the Rules of Juvenile Procedure;
2. Has a record of law violations prior to court hearings;
3. Has already been detained or has been released and is awaiting final disposition of the case;
4. Has a record of violent conduct resulting in physical injury to others; or
5. Is found to have been in possession of a firearm.

(g) The child is alleged to have violated the conditions of the child's community control or aftercare supervision. However, a child detained under this paragraph may be held only in a consequence unit as provided in s. 985.231(1)(a)1.c. If a consequence unit is not available, the child shall be placed on home detention with electronic monitoring.

A child who meets any of these criteria and who is ordered to be detained pursuant to this subsection shall be given a hearing within 24 hours after being taken into custody. The purpose of the detention hearing is to determine the existence of probable cause that the child has committed the delinquent act or violation of law with which he or she is charged and the need for continued detention. Unless a child is detained under paragraph (d), the court shall utilize the results of the risk assessment performed by the ~~juvenile probation officer intake counselor or case manager~~ and, based on the criteria in this subsection, shall determine the need for continued detention. A child placed into secure, nonsecure, or home detention care may continue to be so detained by the court pursuant to this subsection. If the court orders a placement more restrictive than indicated by the results of the risk assessment instrument, the

court shall state, in writing, clear and convincing reasons for such placement. Except as provided in s. 790.22(8) or in subparagraph (10)(a)2., paragraph (10)(b), paragraph (10)(c), or paragraph (10)(d), when a child is placed into secure or nonsecure detention care, or into a respite home or other placement pursuant to a court order following a hearing, the court order must include specific instructions that direct the release of the child from such placement no later than 5 p.m. on the last day of the detention period specified in paragraph (5)(b) or paragraph (5)(c), or subparagraph (10)(a)1., whichever is applicable, unless the requirements of such applicable provision have been met or an order of continuance has been granted pursuant to paragraph (5)(d).

(3) Except in emergency situations, a child may not be placed into or transported in any police car or similar vehicle that at the same time contains an adult under arrest, unless the adult is alleged or believed to be involved in the same offense or transaction as the child.

(4) The court shall order the delivery of a child to a jail or other facility intended or used for the detention of adults:

(a) When the child has been transferred or indicted for criminal prosecution as an adult pursuant to this part, except that the court may not order or allow a child alleged to have committed a misdemeanor who is being transferred for criminal prosecution pursuant to either s. 985.226 or s. 985.227 to be detained or held in a jail or other facility intended or used for the detention of adults; however, such child may be held temporarily in a detention facility; or

(b) When a child taken into custody in this state is wanted by another jurisdiction for prosecution as an adult.

The child shall be housed separately from adult inmates to prohibit a child from having regular contact with incarcerated adults, including trustees. "Regular contact" means sight and sound contact. Separation of children from adults shall permit no more than haphazard or accidental contact. The receiving jail or other facility shall contain a separate section for children and shall have an adequate staff to supervise and monitor the child's activities at all times. Supervision and monitoring of children includes physical observation and documented checks by jail or receiving facility supervisory personnel at intervals not to exceed 15 minutes. This paragraph does not prohibit placing two or more children in the same cell. Under no circumstances shall a child be placed in the same cell with an adult.

(5)(a) A child may not be placed into or held in secure, nonsecure, or home detention care for longer than 24 hours unless the court orders such detention care, and the order includes specific instructions that direct the release of the child from such detention care, in accordance with subsection (2). The order shall be a final order, reviewable by appeal pursuant to s. 985.234 and the Florida Rules of Appellate Procedure. Appeals of such orders shall take precedence over other appeals and other pending matters.

(b) A child may not be held in secure, nonsecure, or home detention care under a special detention order for more than 21 days unless an adjudicatory hearing for the case has been commenced by the court.

(c) A child may not be held in secure, nonsecure, or home detention care for more than 15 days following the entry of an order of adjudication.

(d) The time limits in paragraphs (b) and (c) do not include periods of delay resulting from a continuance granted by the court for cause on motion of the child or his or her counsel or of the state. Upon the issuance of an order granting a continuance for cause on a motion by either the child, the child's counsel, or the state, the court shall conduct a hearing at the end of each 72-hour period, excluding Saturdays, Sundays, and legal holidays, to determine the need for continued detention of the child and the need for further continuance of proceedings for the child or the state.

(6) When any child is placed into secure, nonsecure, or home detention care or into other placement pursuant to a court order following a detention hearing, the court shall order the natural or adoptive parents of such child, the natural father of such child born out of wedlock who has acknowledged his paternity in writing before the court, or the guardian of such 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 of Juvenile Justice, or institution having custody of the

child, fees equal to the actual cost of the care, support, and maintenance of the child, as established by the Department of Juvenile Justice, unless the court determines that the parent or guardian of the child is indigent. The court may reduce the fees or waive the fees upon a showing by the parent or guardian of an inability to pay the full cost of the care, support, and maintenance of the child. In addition, the court may waive the fees if it finds that the child's parent or guardian was the victim of the child's delinquent act or violation of law or if the court finds that the parent or guardian has made a diligent and good faith effort to prevent the child from engaging in the delinquent act or violation of law. With respect to a child who has been found to have committed a delinquent act or violation of law, whether or not adjudication is withheld, and whose parent or guardian receives public assistance for any portion of that child's care, the department must seek a federal waiver to garnish or otherwise order the payments of the portion of the public assistance relating to that child to offset the costs of providing care, custody, maintenance, rehabilitation, intervention, or corrective services to the child. 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. The department may employ a collection agency for the purpose of receiving, collecting, and managing the payment of unpaid and delinquent fees. The collection agency must be registered and in good standing under chapter 559. The department may pay to the collection agency a fee from the amount collected under the claim or may authorize the agency to deduct the fee from the amount collected.

(7) If a child is detained and a petition for delinquency is filed, the child shall be arraigned in accordance with the Florida Rules of Juvenile Procedure within 48 hours after the filing of the petition for delinquency.

(8) If a child is detained pursuant to this section, the Department of Juvenile Justice may transfer the child from nonsecure or home detention care to secure detention care only if significantly changed circumstances warrant such transfer.

(9) If a child is on release status and not detained pursuant to this section, the child may be placed into secure, nonsecure, or home detention care only pursuant to a court hearing in which the original risk assessment instrument, rescored based on newly discovered evidence or changed circumstances with the results recommending detention, is introduced into evidence.

(10)(a)1. When a child is committed to the Department of Juvenile Justice awaiting dispositional placement, removal of the child from detention care shall occur within 5 days, excluding Saturdays, Sundays, and legal holidays. *Any child held in secure detention during the 5 days must meet detention admission criteria pursuant to this section.* If the child is committed to a ~~low-risk residential program or a moderate-risk residential program~~, the department may seek an order from the court authorizing continued detention for a specific period of time necessary for the appropriate residential placement of the child. However, such continued detention in secure detention care may not exceed 15 days after commitment, excluding Saturdays, Sundays, and legal holidays, and except as otherwise provided in this subsection.

2. The court must place all children who are adjudicated and awaiting placement in a residential commitment program in detention care. Children who are in home detention care or nonsecure detention care may be placed on electronic monitoring. A child committed to a moderate-risk residential program may be held in a juvenile assignment center pursuant to s. 985.307 until placement or commitment is accomplished.

(b) A child who is placed in home detention care, nonsecure detention care, or home or nonsecure detention care with electronic monitoring, while awaiting placement in a low-risk or moderate-risk program, may be held in secure detention care for 5 days, if the child violates the conditions of the home detention care, the nonsecure detention care, or the electronic monitoring agreement. For any subsequent violation, the court may impose an additional 5 days in secure detention care.

(c) If the child is committed to a high-risk residential program, the child must be held in detention care or in a juvenile assignment center pursuant to s. 985.307 until placement or commitment is accomplished.

(d) If the child is committed to a maximum-risk residential program, the child must be held in detention care or in an assignment center pursuant to s. 985.307 until placement or commitment is accomplished.

(e) Upon specific appropriation, the department may obtain comprehensive evaluations, including, but not limited to, medical, academic, psychological, behavioral, sociological, and vocational needs of a youth with multiple arrests for all level criminal acts or a youth committed to a minimum-risk or low-risk commitment program.

(11)(a) When a juvenile sexual offender is placed in detention, detention staff shall provide appropriate monitoring and supervision to ensure the safety of other children in the facility.

(b) When a juvenile sexual offender, pursuant to this subsection, is released from detention or transferred to home detention or nonsecure detention, detention staff shall immediately notify the appropriate law enforcement agency and school personnel.

Section 14. Paragraph (a) of subsection (1) of section 985.231, Florida Statutes, is amended to read:

985.231 Powers of disposition in delinquency cases.—

(1)(a) The court that has jurisdiction of an adjudicated delinquent child may, by an order stating the facts upon which a determination of a sanction and rehabilitative program was made at the disposition hearing:

1. Place the child in a community control program or an aftercare program under the supervision of an authorized agent of the Department of Juvenile Justice or of any other person or agency specifically authorized and appointed by the court, whether in the child's own home, in the home of a relative of the child, or in some other suitable place under such reasonable conditions as the court may direct. A community control program for an adjudicated delinquent child must include a penalty component such as restitution in money or in kind, community service, a curfew, revocation or suspension of the driver's license of the child, or other nonresidential punishment appropriate to the offense and must also include a rehabilitative program component such as a requirement of participation in substance abuse treatment or in school or other educational program.

a. A restrictiveness level classification scale for levels of supervision shall be provided by the department, taking into account the child's needs and risks relative to community control supervision requirements to reasonably ensure the public safety. Community control programs for children shall be supervised by the department or by any other person or agency specifically authorized by the court. These programs must include, but are not limited to, structured or restricted activities as described in this subparagraph, and shall be designed to encourage the child toward acceptable and functional social behavior. If supervision or a program of community service is ordered by the court, the duration of such supervision or program must be consistent with any treatment and rehabilitation needs identified for the child and may not exceed the term for which sentence could be imposed if the child were committed for the offense, except that the duration of such supervision or program for an offense that is a misdemeanor of the second degree, or is equivalent to a misdemeanor of the second degree, may be for a period not to exceed 6 months. When restitution is ordered by the court, the amount of restitution may not exceed an amount the child and the parent or guardian could reasonably be expected to pay or make. A child who participates in any work program under this part is considered an employee of the state for purposes of liability, unless otherwise provided by law.

b. The court may conduct judicial review hearings for a child placed on community control for the purpose of fostering accountability to the judge and compliance with other requirements, such as restitution and community service. The court may allow early termination of community control for a child who has substantially complied with the terms and conditions of community control.

c. If the conditions of the community control program or the aftercare program are violated, the agent supervising the program as it relates to the child involved, or the state attorney, may bring the child before the court on a petition alleging a violation of the program. Any child who violates the conditions of community control or aftercare must be brought before the court if sanctions are sought. A child taken into custody under s. 985.207 ~~s. 39.037~~ for violating the conditions of community control or aftercare shall be held in a consequence unit if such a unit is available. The child shall be afforded a hearing within 24 hours after being taken into custody to determine the existence of probable cause that the child violated the conditions of community control or aftercare.

A consequence unit is a secure facility specifically designated by the department for children who are taken into custody under s. 985.207 for violating community control or aftercare, or who have been found by the court to have violated the conditions of community control or aftercare. If the violation involves a new charge of delinquency, the child may be detained under s. 985.215 in a facility other than a consequence unit. If the child is not eligible for detention for the new charge of delinquency, the child may be held in the consequence unit pending a hearing and is subject to the time limitations specified in s. 985.215. If the child denies violating the conditions of community control or aftercare, the court shall appoint counsel to represent the child at the child's request. Upon the child's admission, or if the court finds after a hearing that the child has violated the conditions of community control or aftercare, the court shall enter an order revoking, modifying, or continuing community control or aftercare. In each such case, the court shall enter a new disposition order and, in addition to the sanctions set forth in this paragraph, may impose any sanction the court could have imposed at the original disposition hearing. If the child is found to have violated the conditions of community control or aftercare, the court may:

(I) Place the child in a consequence unit in that judicial circuit, if available, for up to 5 days for a first violation, and up to 15 days for a second or subsequent violation.

(II) Place the child on home detention with electronic monitoring. However, this sanction may be used only if a *residential* consequence unit is not available.

(III) Modify or continue the child's community control program or aftercare program.

(IV) Revoke community control or aftercare and commit the child to the department.

d. Notwithstanding s. 743.07 and paragraph (d), and except as provided in s. 985.31, the term of any order placing a child in a community control program must be until the child's 19th birthday unless he or she is released by the court, on the motion of an interested party or on its own motion.

2. Commit the child to a licensed child-caring agency willing to receive the child, but the court may not commit the child to a jail or to a facility used primarily as a detention center or facility or shelter.

3. Commit the child to the Department of Juvenile Justice at a restrictiveness level defined in s. 985.03(45). Such commitment must be for the purpose of exercising active control over the child, including, but not limited to, custody, care, training, urine monitoring, and treatment of the child and furlough of the child into the community. Notwithstanding s. 743.07 and paragraph (d), and except as provided in s. 985.31, the term of the commitment must be until the child is discharged by the department or until he or she reaches the age of 21.

4. Revoke or suspend the driver's license of the child.

5. Require the child and, if the court finds it appropriate, the child's parent or guardian together with the child, to render community service in a public service program.

6. As part of the community control program to be implemented by the Department of Juvenile Justice, or, in the case of a committed child, as part of the community-based sanctions ordered by the court at the disposition hearing or before the child's release from commitment, order the child to make restitution in money, through a promissory note co-signed by the child's parent or guardian, or in kind for any damage or loss caused by the child's offense in a reasonable amount or manner to be determined by the court. The clerk of the circuit court shall be the receiving and dispensing agent. In such case, the court shall order the child or the child's parent or guardian to pay to the office of the clerk of the circuit court an amount not to exceed the actual cost incurred by the clerk as a result of receiving and dispensing restitution payments. The clerk shall notify the court if restitution is not made, and the court shall take any further action that is necessary against the child or the child's parent or guardian. A finding by the court, after a hearing, that the parent or guardian has made diligent and good faith efforts to prevent the child from engaging in delinquent acts absolves the parent or guardian of liability for restitution under this subparagraph.

7. Order the child and, if the court finds it appropriate, the child's parent or guardian together with the child, to participate in a community work project, either as an alternative to monetary restitution or as part of the rehabilitative or community control program.

8. Commit the child to the Department of Juvenile Justice for placement in a program or facility for serious or habitual juvenile offenders in accordance with s. 985.31. Any commitment of a child to a program or facility for serious or habitual juvenile offenders must be for an indeterminate period of time, but the time may not exceed the maximum term of imprisonment that an adult may serve for the same offense. The court may retain jurisdiction over such child until the child reaches the age of 21, specifically for the purpose of the child completing the program.

9. In addition to the sanctions imposed on the child, order the parent or guardian of the child to perform community service if the court finds that the parent or guardian did not make a diligent and good faith effort to prevent the child from engaging in delinquent acts. The court may also order the parent or guardian to make restitution in money or in kind for any damage or loss caused by the child's offense. The court shall determine a reasonable amount or manner of restitution, and payment shall be made to the clerk of the circuit court as provided in subparagraph 6.

10. Subject to specific appropriation, commit the juvenile sexual offender to the Department of Juvenile Justice for placement in a program or facility for juvenile sexual offenders in accordance with s. 985.308. Any commitment of a juvenile sexual offender to a program or facility for juvenile sexual offenders must be for an indeterminate period of time, but the time may not exceed the maximum term of imprisonment that an adult may serve for the same offense. The court may retain jurisdiction over a juvenile sexual offender until the juvenile sexual offender reaches the age of 21, specifically for the purpose of completing the program.

Section 15. Paragraph (a) of subsection (2) of section 985.216, Florida Statutes, is amended to read:

985.216 Punishment for contempt of court; alternative sanctions.—

(2) **PLACEMENT IN A SECURE FACILITY.**—A child may be placed in a secure facility for purposes of punishment for contempt of court if alternative sanctions are unavailable or inappropriate, or if the child has already been ordered to serve an alternative sanction but failed to comply with the sanction.

(a) A delinquent child who has been held in direct or indirect contempt may be placed in a secure detention facility for 5 days for a first offense or 15 days for a second or subsequent offense, ~~or in a secure residential commitment facility.~~

Section 16. Section 985.223, Florida Statutes, is amended to read:

985.223 Incompetency in juvenile delinquency cases.—

(1) If, at any time prior to or during a delinquency case ~~involving a delinquent act or violation of law that would be a felony if committed by an adult~~, the court has reason to believe that the child named in the petition may be incompetent to proceed with the hearing, the court on its own motion may, or on the motion of the child's attorney or state attorney must, stay all proceedings and order an evaluation of the child's mental condition.

(a) *Any motion questioning the child's competency to proceed must be served upon the child's attorney, the state attorney, the attorneys representing the Department of Juvenile Justice, and the attorneys representing the Department of Children and Family Services. Thereafter, any motion, notice of hearing, order, or other legal pleading relating to the child's competency to proceed with the hearing must be served upon the child's attorney, the state attorney, the attorneys representing the Department of Juvenile Justice, and the attorneys representing the Department of Children and Family Services.*

(b)(a) All determinations of competency shall be made at a hearing, with findings of fact based on an evaluation of the child's mental condition *made* by not less than two nor more than three experts appointed by the court. ~~The basis for~~ *If the determination of incompetency is based on the presence of a mental illness or mental retardation, this must be*

specifically stated in the evaluation. In addition, a recommendation as to whether residential or nonresidential treatment or training is required must be included in the evaluation. *Experts appointed by the court to determine the mental condition of a child shall be allowed reasonable fees for services rendered. State employees may be paid expenses pursuant to s. 112.061. The fees shall be taxed as costs in the case.*

(c) All court orders determining incompetency must include specific written findings by the court as to the nature of the incompetency and whether the child requires secure or nonsecure treatment or training environments.

(d)(b) For incompetency evaluations related to mental illness, the Department of Children and Family Services shall annually provide the courts with a list of mental health professionals who have completed a training program approved by the Department of Children and Family Services to perform the evaluations.

(e)(e) For incompetency evaluations related to mental retardation, the court shall order the Developmental Services Program Office within the Department of Children and Family Services to examine the child to determine if the child meets the definition of "retardation" in s. 393.063 and, if so, whether the child is competent to proceed with delinquency proceedings.

(f)(d) A child is competent to proceed if the child has sufficient present ability to consult with counsel with a reasonable degree of rational understanding and the child has a rational and factual understanding of the present proceedings. The report must address the child's capacity to:

1. Appreciate the charges or allegations against the child.
2. Appreciate the range and nature of possible penalties that may be imposed in the proceedings against the child, if applicable.
3. Understand the adversarial nature of the legal process.
4. Disclose to counsel facts pertinent to the proceedings at issue.
5. Display appropriate courtroom behavior.
6. Testify relevantly.

(g) Immediately upon the filing of the court order finding a child incompetent to proceed, the clerk of the court shall notify the Department of Children and Family Services and fax or hand deliver to the Department of Children and Family Services a referral packet which includes, at a minimum, the court order, the charging documents, the petition, and the court-appointed evaluator's reports.

(h) After placement of the child in the appropriate setting, the Department of Children and Family Services must, within 30 days after the Department of Children and Family Services places the child, prepare and submit to the court a treatment plan for the child's restoration of competency. A copy of the treatment plan must be served upon the child's attorney, the state attorney, and the attorneys representing the Department of Juvenile Justice.

(2) A Every child who is mentally ill or retarded, who is adjudicated incompetent to proceed, and who has committed a delinquent act or violation of law, either of which would be a felony if committed by an adult, must may be involuntarily committed to the Department of Children and Family Services for treatment or training. A child who has been adjudicated incompetent to proceed because of age or immaturity, or for any reason other than for mental illness or retardation, must not be committed to the department or to the Department of Children and Family Services for restoration-of-competency treatment or training services. upon a finding by the court of clear and convincing evidence that: For purposes of this section, a child who has committed a delinquent act or violation of law, either of which would be a misdemeanor if committed by an adult, may not be committed to the department or to the Department of Children and Family Services for restoration-of-competency treatment or training services.

(3) If the court finds that a child is mentally ill or retarded and adjudicates the child incompetent to proceed, the court must also determine whether the child meets the criteria for secure placement. A child may be placed in a secure facility or program if the court makes a finding by clear and convincing evidence that:

(a) The child is mentally ill and because of the mental illness; or the child is mentally retarded and because of the mental retardation:

1. The child is manifestly incapable of surviving with the help of willing and responsible family or friends, including available alternative services, and without treatment or training the child is likely to either suffer from neglect or refuse to care for self, and such neglect or refusal poses a real and present threat of substantial harm to the child's well-being; or

2. There is a substantial likelihood that in the near future the child will inflict serious bodily harm on self or others, as evidenced by recent behavior causing, attempting, or threatening such harm; and

(b) All available less restrictive alternatives, including treatment or training in community residential facilities or community inpatient or outpatient settings which would offer an opportunity for improvement of the child's condition, are inappropriate.

(4)(3) A Each child who is determined to be mentally ill or retarded, who has been adjudicated incompetent to proceed, and who meets the criteria set forth for commitment in subsection (3)(2), must be committed to the Department of Children and Family Services, and the Department of Children and Family Services that department may retain, and if it retains must treat or train the child in a secure facility or program which is the least restrictive alternative consistent with public safety. Any placement commitment of a child to a secure residential program must be separate from adult forensic programs. If the child attains competency, then custody, case management, and supervision of the child will be transferred to the department in order to continue delinquency proceedings; however, the court retains authority to order the Department of Children and Family Services to provide continued treatment to maintain competency.

(a) A child adjudicated incompetent due to mental retardation may be ordered into a secure program or facility designated by the Department of Children and Family Services for retarded children.

(b) A child adjudicated incompetent due to mental illness may be ordered into a secure program or facility designated by the Department of Children and Family Services for mentally ill children.

(c) Whenever a child is placed in a secure residential facility, the department will provide transportation to the secure residential facility for admission and from the secure residential facility upon discharge.

(d) The purpose of the treatment or training is the restoration of the child's competency to proceed.

(e)(e) The service provider must file a written report with the court pursuant to the applicable Florida Rules of Juvenile Procedure not later than 6 months after the date of commitment, or at the end of any period of extended treatment or training, and or at any time the Department of Children and Family Services, through its service provider determines the child has attained competency or no longer meets the criteria for secure placement, or at such shorter intervals as ordered by the court commitment, the service provider must file a report with the court pursuant to the applicable Rules of Juvenile Procedure. A copy of a written report evaluating the child's competency must be filed by the provider with the court and with the state attorney, the child's attorney, the department, and the Department of Children and Family Services.

(5)(a)(4) If a child is determined to be incompetent to proceed, the court shall retain jurisdiction of the child for up to 2 years after the date of the order of incompetency, with reviews at least every 6 months to determine competency.

(b) Whenever the provider files a report with the court informing the court that the child will never become competent to proceed, the Department of Children and Family Services will develop a discharge plan for the child prior to any hearing determining whether the child will ever become competent to proceed. The Department of Children and Family Services must send the proposed discharge plan to the court, the state attorney, the child's attorney, and the attorneys representing the Department of Juvenile Justice. The provider will continue to provide services to the child until the court issues the order finding the child will never become competent to proceed.

(c) If the court determines at any time that the child will never become competent to proceed, the court may dismiss the delinquency

petition. If, at the end of the 2-year period following the date of the order of incompetency, the child has not attained competency and there is no evidence that the child will attain competency within a year, the court must dismiss the delinquency petition. If *appropriate necessary*, the court may order that proceedings under chapter 393 or chapter 394 be instituted. Such proceedings must be instituted not less than 60 days prior to the dismissal of the delinquency petition.

(6)(a)(5) If a child ~~who is determined to be mentally ill or retarded and is found to be incompetent to proceed but does not meet the commitment criteria set forth in of subsection (3)(2)~~, the court shall commit the child to the Department of Children and Family Services and shall ~~may~~ order the Department of Children and Family Services to provide appropriate treatment and training in the community. *The purpose of the treatment or training is the restoration of the child's competency to proceed.*

(b) All court-ordered treatment or training must be the least restrictive alternative that is consistent with public safety. Any *placement by the Department of Children and Family Services commitment* to a residential program must be separate from adult forensic programs.

(c) If a child is ordered to receive *competency restoration such* services, the services shall be provided by the Department of Children and Family Services. The department shall continue to provide case management services to the child and receive notice of the competency status of the child.

(d) *The service provider must file written report with the court pursuant to the applicable Florida Rules of Juvenile Procedure, not later than 6 months after the date of commitment, at the end of any period of extended treatment or training, and at any time the service provider determines the child has attained competency or will never attain competency, or at such shorter intervals as ordered by the court. The competency determination must be reviewed at least every 6 months by the service provider, and* A copy of a written report evaluating the child's competency must be filed by the provider with the court, *the state attorney, the child's attorney, and with* the Department of Children and Family Services, and the department.

(7)(6) The provisions of this section shall be implemented only subject to specific appropriation.

Section 17. Paragraph (a) of subsection (3) of section 985.226, Florida Statutes, is amended to read:

985.226 Criteria for waiver of juvenile court jurisdiction; hearing on motion to transfer for prosecution as an adult.—

(3) WAIVER HEARING.—

(a) Within 7 days, excluding Saturdays, Sundays, and legal holidays, after the date a petition alleging that a child has committed a delinquent act or violation of law has been filed, or later with the approval of the court, but before an adjudicatory hearing and after considering the recommendation of the *juvenile probation officer intake counselor or case manager*, the state attorney may file a motion requesting the court to transfer the child for criminal prosecution.

Section 18. Paragraph (b) of subsection (3) of section 985.23, Florida Statutes, is amended to read:

985.23 Disposition hearings in delinquency cases.—When a child has been found to have committed a delinquent act, the following procedures shall be applicable to the disposition of the case:

(3)

(b) If the court determines that commitment to the department is appropriate, the *juvenile probation officer intake counselor or case manager* shall recommend to the court the most appropriate placement and treatment plan, specifically identifying the restrictiveness level most appropriate for the child. If the court has determined that the child was a member of a criminal street gang, that determination shall be given great weight in identifying the most appropriate restrictiveness level for the child. The court shall consider the department's recommendation in making its commitment decision.

Section 19. Subsection (4) of section 985.301, Florida Statutes, is amended to read:

985.301 Civil citation.—

(4) If the juvenile fails to report timely for a work assignment, complete a work assignment, or comply with assigned intervention services within the prescribed time, or if the juvenile commits a third or subsequent misdemeanor, the law enforcement officer shall issue a report alleging the child has committed a delinquent act, at which point a *juvenile probation officer an intake counselor or case manager* shall perform a preliminary determination as provided under s. 985.21(4).

Section 20. Subsections (4), (5), and (6) of section 985.304, Florida Statutes, are amended to read:

985.304 Community arbitration.—

(4) PROCEDURE FOR INITIATING CASES FOR COMMUNITY ARBITRATION.—

(a) Any law enforcement officer may issue a complaint, along with a recommendation for community arbitration, against any child who such officer has reason to believe has committed any offense that is eligible for community arbitration. The complaint shall specify the offense and the reasons why the law enforcement officer feels that the offense should be handled by community arbitration. Any *juvenile probation officer intake counselor or case manager* or, at the request of the child's parent or legal custodian or guardian, the state attorney or the court having jurisdiction, with the concurrence of the state attorney, may refer a complaint to be handled by community arbitration when appropriate. A copy of the complaint shall be forwarded to the appropriate *juvenile probation officer intake counselor or case manager* and the parent or legal custodian or guardian of the child within 48 hours after issuance of the complaint. In addition to the complaint, the child and the parent or legal custodian or guardian shall be informed of the objectives of the community arbitration process; the conditions, procedures, and timeframes under which it will be conducted; and the fact that it is not obligatory. The *juvenile probation officer intake counselor* shall contact the child and the parent or legal custodian or guardian within 2 days after the date on which the complaint was received. At this time, the child or the parent or legal custodian or guardian shall inform the *juvenile probation officer intake counselor* of the decision to approve or reject the handling of the complaint through community arbitration.

(b) The *juvenile probation officer intake counselor* shall verify accurate identification of the child and determine whether or not the child has any prior adjudications or adjudications withheld for an offense eligible for community arbitration for consideration in the point value structure. If the child has at least one prior adjudication or adjudication withheld for an offense which is not eligible for community arbitration, or if the child has already surpassed the accepted level of points on prior community arbitration resolutions, the *juvenile probation officer intake counselor or case manager* shall consult with the state attorney regarding the filing of formal juvenile proceedings.

(c) If the child or the parent or legal custodian or guardian rejects the handling of the complaint through community arbitration, the *juvenile probation officer intake counselor* shall consult with the state attorney for the filing of formal juvenile proceedings.

(d) If the child or the parent or legal custodian or guardian accepts the handling of the complaint through community arbitration, the *juvenile probation officer intake counselor* shall provide copies of the complaint to the arbitrator or panel within 24 hours.

(e) The community arbitrator or community arbitration panel shall, upon receipt of the complaint, set a time and date for a hearing within 7 days and shall inform the child's parent or legal custodian or guardian, the complaining witness, and any victims of the time, date, and place of the hearing.

(5) HEARINGS.—

(a) The law enforcement officer who issued the complaint need not appear at the scheduled hearing. However, prior to the hearing, the officer shall file with the community arbitrator or the community arbitration panel a comprehensive report setting forth the facts and circumstances surrounding the allegation.

(b) Records and reports submitted by interested agencies and parties, including, but not limited to, complaining witnesses and victims,

may be received in evidence before the community arbitrator or the community arbitration panel without the necessity of formal proof.

(c) The testimony of the complaining witness and any alleged victim may be received when available.

(d) Any statement or admission made by the child appearing before the community arbitrator or the community arbitration panel relating to the offense for which he or she was cited is privileged and may not be used as evidence against the child either in a subsequent juvenile proceeding or in any subsequent civil or criminal action.

(e) If a child fails to appear on the original hearing date, the matter shall be referred back to the *juvenile probation officer intake counselor* who shall consult with the state attorney regarding the filing of formal juvenile proceedings.

(6) DISPOSITION OF CASES.—

(a) Subsequent to any hearing held as provided in subsection (5), the community arbitrator or community arbitration panel may:

1. Recommend that the state attorney decline to prosecute the child.
2. Issue a warning to the child or the child's family and recommend that the state attorney decline to prosecute the child.
3. Refer the child for placement in a community-based nonresidential program.
4. Refer the child or the family to community counseling.
5. Refer the child to a safety and education program related to delinquent children.
6. Refer the child to a work program related to delinquent children and require up to 100 hours of work by the child.
7. Refer the child to a nonprofit organization for volunteer work in the community and require up to 100 hours of work by the child.
8. Order restitution in money or in kind in a case involving property damage; however, the amount of restitution shall not exceed the amount of actual damage to property.
9. Continue the case for further investigation.
10. Require the child to undergo urinalysis monitoring.
11. Impose any other restrictions or sanctions that are designed to encourage responsible and acceptable behavior and are agreed upon by the participants of the community arbitration proceedings.

The community arbitrator or community arbitration panel shall determine an appropriate timeframe in which the disposition must be completed. The community arbitrator or community arbitration panel shall report the disposition of the case to the *juvenile probation officer intake counselor or case manager*.

(b) Any person or agency to whom a child is referred pursuant to this section shall periodically report the progress of the child to the referring community arbitrator or community arbitration panel in the manner prescribed by such arbitrator or panel.

(c) Any child who is referred by the community arbitrator or community arbitration panel to a work program related to delinquent children or to a nonprofit organization for volunteer work in the community, and who is also ordered to pay restitution to the victim, may be paid a reasonable hourly wage for work, to the extent that funds are specifically appropriated or authorized for this purpose; provided, however, that such payments shall not, in total, exceed the amount of restitution ordered and that such payments shall be turned over by the child to the victim.

(d) If a child consents to an informal resolution and, in the presence of the parent or legal custodian or guardian and the community arbitrator or community arbitration panel, agrees to comply with any disposition suggested or ordered by such arbitrator or panel and subsequently fails to abide by the terms of such agreement, the community arbitrator or community arbitration panel may, after a careful review of the cir-

cumstances, forward the case back to the *juvenile probation officer intake counselor*, who shall consult with the state attorney regarding the filing of formal juvenile proceedings.

Section 21. Section 985.307, Florida Statutes, is amended to read:

985.307 Juvenile assignment centers.—

(1) Contingent upon specific appropriation, the department shall establish juvenile assignment centers for committed youth who have been ordered by the court for placement in moderate-risk, high-risk, or maximum-risk commitment programs. Juvenile assignment centers shall be residential facilities serving committed youth awaiting placement in a residential commitment program.

(2) The purpose of juvenile assignment centers shall be:

(a) To ensure public safety by providing a secure residential facility to hold and process juveniles awaiting placement in commitment programs rather than releasing them to their homes and back into the community.

(b) To review assessments completed at local juvenile assessment centers and avoid duplication of assessment efforts. Assessments should include medical, academic, psychological, behavioral, sociological, substance abuse and mental health, and vocational testing.

(c) To determine appropriate treatment needs, programming, and placement decisions, and, when appropriate, to develop a treatment plan for each juvenile.

(d) To examine a juvenile's need for aftercare and independent living upon release from a commitment program and, when appropriate, include this in the treatment plan.

(3) Juveniles committed to the department shall be placed in an assignment center following the dispositional hearing and shall be transferred to the designated residential commitment program upon the availability of placement.

(4) Juvenile assignment centers shall be physically secure residential facilities located in each department region to serve youth in that region who are awaiting placement in commitment programs.

(5) For each juvenile admitted into an assignment center, the following shall be conducted:

(a) Review all assessments, diagnostic testing, and screening instruments performed on the juvenile while at an assessment center, in detention, during intake, or in a program or while in school; and also review the juvenile's school records from the school in which the juvenile is enrolled.

(b) Determine the need for, and provide or contract for, additional evaluation, including, but not limited to: needs assessment, substance abuse screening, physical and mental health screening, behavioral screening, educational assessment, aptitude testing, diagnostic testing, psychological evaluation, and vocational testing.

(c) Based upon the restrictiveness level ordered by the court and evaluation required in paragraph (b), the department program staff shall make an assignment to a specific commitment program. Program placements shall also take into consideration the geographic location of the juvenile's family in order to facilitate family visits and participation.

(d) Pending a juvenile's placement in a commitment program:

1. Initiate appropriate treatment plans, educational plans, performance agreements, and transitional planning based upon the court order and assessments.

2. Provide or contract for the provision of short-term services, including educational programming, vocational training, mental health services, substance abuse education, conflict resolution training, and impulse control and anger management training. If warranted by a substance abuse screening or a mental or physical health screening performed while the juvenile is in the assignment center, a juvenile may receive treatment while in the assignment center, including, but not limited to, substance abuse, mental health, or physical health treatment.

(e) To the extent possible, involve the juvenile's parents or guardian and family in the evaluation process and in the provision of services. Staff shall make efforts to contact the parents or guardian and encourage their involvement.

(f) Ensure that all commitment information is complete and ready for transmittal to the commitment program. This shall include a comprehensive treatment plan that reflects the information gathered through the assessment process and includes planning for aftercare and independent living, if needed.

(6) Notwithstanding any provision to the contrary, this section expires July 1, 2000~~1998~~, unless reenacted by the Legislature. ~~The department may not create or operate a juvenile assignment center after July 1, 1998, without further legislative authority.~~ Unless reenacted by the Legislature, any juvenile assignment center created under this section shall be converted to a high-level or maximum-level residential commitment program, subject to availability of funds.

(7) *The department may utilize juvenile assignment centers to the fullest extent possible for the purpose of conducting pre- and post-disposition assessments and evaluations of youth. Prior to July 1, 1999, the department shall transition any juvenile assignment center to provide the capacity and services necessary to conduct pre-disposition assessments and evaluations of youth.*

Section 22. Subsection (3) of section 985.31, Florida Statutes, is amended to read:

985.31 Serious or habitual juvenile offender.—

(3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND TREATMENT.—

(a) Assessment and treatment shall be conducted by treatment professionals with expertise in specific treatment procedures, which professionals shall exercise all professional judgment independently of the department.

(b) Treatment provided to children in designated facilities shall be suited to the assessed needs of each individual child and shall be administered safely and humanely, with respect for human dignity.

(c) The department may promulgate rules for the implementation and operation of programs and facilities for serious or habitual juvenile offenders.

(d) Any provider who acts in good faith is immune from civil or criminal liability for his or her actions in connection with the assessment, treatment, or transportation of a serious or habitual juvenile offender under the provisions of this chapter.

(e) After a child has been adjudicated delinquent pursuant to s. 985.228, the court shall determine whether the child meets the criteria for a serious or habitual juvenile offender pursuant to s. 985.03(47). If the court determines that the child does not meet such criteria, the provisions of s. 985.231(1) shall apply.

(f) After a child has been transferred for criminal prosecution, a circuit court judge may direct a *juvenile probation officer* ~~an intake counselor or case manager~~ to consult with designated staff from an appropriate serious or habitual juvenile offender program for the purpose of making recommendations to the court regarding the child's placement in such program.

(g) Recommendations as to a child's placement in a serious or habitual juvenile offender program shall be presented to the court within 72 hours after the adjudication or conviction, and may be based on a preliminary screening of the child at appropriate sites, considering the child's location while court action is pending, which may include the nearest regional detention center or facility or jail.

(h) Based on the recommendations of the multidisciplinary assessment, the *juvenile probation officer* ~~intake counselor or case manager~~ shall make the following recommendations to the court:

1. For each child who has not been transferred for criminal prosecution, the *juvenile probation officer* ~~intake counselor or case manager~~ shall recommend whether placement in such program is appropriate and needed.

2. For each child who has been transferred for criminal prosecution, the *juvenile probation officer* ~~intake counselor or case manager~~ shall recommend whether the most appropriate placement for the child is a juvenile justice system program, including a serious or habitual juvenile offender program or facility, or placement in the adult correctional system.

If treatment provided by a serious or habitual juvenile offender program or facility is determined to be appropriate and needed and placement is available, the *juvenile probation officer* ~~intake counselor or case manager~~ and the court shall identify the appropriate serious or habitual juvenile offender program or facility best suited to the needs of the child.

(i) The treatment and placement recommendations shall be submitted to the court for further action pursuant to this paragraph:

1. If it is recommended that placement in a serious or habitual juvenile offender program or facility is inappropriate, the court shall make an alternative disposition pursuant to s. 985.309 or other alternative sentencing as applicable, utilizing the recommendation as a guide.

2. If it is recommended that placement in a serious or habitual juvenile offender program or facility is appropriate, the court may commit the child to the department for placement in the restrictiveness level designated for serious or habitual delinquent children programs.

(j) The following provisions shall apply to children in serious or habitual juvenile offender programs and facilities:

1. A child shall begin participation in the reentry component of the program based upon a determination made by the treatment provider and approved by the department.

2. A child shall begin participation in the community supervision component of aftercare based upon a determination made by the treatment provider and approved by the department. The treatment provider shall give written notice of the determination to the circuit court having jurisdiction over the child. If the court does not respond with a written objection within 10 days, the child shall begin the aftercare component.

3. A child shall be discharged from the program based upon a determination made by the treatment provider with the approval of the department.

4. In situations where the department does not agree with the decision of the treatment provider, a reassessment shall be performed, and the department shall utilize the reassessment determination to resolve the disagreement and make a final decision.

(k) Any commitment of a child to the department for placement in a serious or habitual juvenile offender program or facility shall be for an indeterminate period of time, but the time shall not exceed the maximum term of imprisonment which an adult may serve for the same offense. Notwithstanding the provisions of ss. 743.07 and 985.231(1)(d), a serious or habitual juvenile offender shall not be held under commitment from a court pursuant to this section, s. 985.231, or s. 985.233 after becoming 21 years of age. This provision shall apply only for the purpose of completing the serious or habitual juvenile offender program pursuant to this chapter and shall be used solely for the purpose of treatment.

Section 23. Subsection (3) of section 985.311, Florida Statutes, is amended to read:

985.311 Intensive residential treatment program for offenders less than 13 years of age.—

(3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND TREATMENT.—

(a) Assessment and treatment shall be conducted by treatment professionals with expertise in specific treatment procedures, which professionals shall exercise all professional judgment independently of the department.

(b) Treatment provided to children in designated facilities shall be suited to the assessed needs of each individual child and shall be administered safely and humanely, with respect for human dignity.

(c) The department may promulgate rules for the implementation and operation of programs and facilities for children who are eligible for

an intensive residential treatment program for offenders less than 13 years of age. The department must involve the following groups in the promulgation of rules for services for this population: local law enforcement agencies, the judiciary, school board personnel, the office of the state attorney, the office of the public defender, and community service agencies interested in or currently working with juveniles. When promulgating these rules, the department must consider program principles, components, standards, procedures for intake, diagnostic and assessment activities, treatment modalities, and case management.

(d) Any provider who acts in good faith is immune from civil or criminal liability for his or her actions in connection with the assessment, treatment, or transportation of an intensive offender less than 13 years of age under the provisions of this chapter.

(e) After a child has been adjudicated delinquent pursuant to s. 985.228(5), the court shall determine whether the child is eligible for an intensive residential treatment program for offenders less than 13 years of age pursuant to s. 985.03(7). If the court determines that the child does not meet the criteria, the provisions of s. 985.231(1) shall apply.

(f) After a child has been transferred for criminal prosecution, a circuit court judge may direct a *juvenile probation officer* ~~an intake counselor or case manager~~ to consult with designated staff from an appropriate intensive residential treatment program for offenders less than 13 years of age for the purpose of making recommendations to the court regarding the child's placement in such program.

(g) Recommendations as to a child's placement in an intensive residential treatment program for offenders less than 13 years of age may be based on a preliminary screening of the child at appropriate sites, considering the child's location while court action is pending, which may include the nearest regional detention center or facility or jail.

(h) Based on the recommendations of the multidisciplinary assessment, the *juvenile probation officer* ~~intake counselor or case manager~~ shall make the following recommendations to the court:

1. For each child who has not been transferred for criminal prosecution, the *juvenile probation officer* ~~intake counselor or case manager~~ shall recommend whether placement in such program is appropriate and needed.

2. For each child who has been transferred for criminal prosecution, the *juvenile probation officer* ~~intake counselor or case manager~~ shall recommend whether the most appropriate placement for the child is a juvenile justice system program, including a child who is eligible for an intensive residential treatment program for offenders less than 13 years of age, or placement in the adult correctional system.

If treatment provided by an intensive residential treatment program for offenders less than 13 years of age is determined to be appropriate and needed and placement is available, the *juvenile probation officer* ~~intake counselor or case manager~~ and the court shall identify the appropriate intensive residential treatment program for offenders less than 13 years of age best suited to the needs of the child.

(i) The treatment and placement recommendations shall be submitted to the court for further action pursuant to this paragraph:

1. If it is recommended that placement in an intensive residential treatment program for offenders less than 13 years of age is inappropriate, the court shall make an alternative disposition pursuant to s. 985.309 or other alternative sentencing as applicable, utilizing the recommendation as a guide.

2. If it is recommended that placement in an intensive residential treatment program for offenders less than 13 years of age is appropriate, the court may commit the child to the department for placement in the restrictiveness level designated for intensive residential treatment program for offenders less than 13 years of age.

Section 24. Present subsection (4) of section 985.401, Florida Statutes, is renumbered as subsection (5) and amended, a new subsection (4) is added to that section, and present subsection (5) is renumbered as subsection (6), to read:

985.401 Juvenile Justice Advisory Board.—

(4)(a) *The board shall establish and operate a comprehensive system to annually measure and report program outcomes and effectiveness for each program operated by the Department of Juvenile Justice or operated by a provider under contract with the department. The system shall include a standard methodology for interpreting the board's outcome-evaluation reports, using, where appropriate, the performance-based program budgeting measures approved by the Legislature. The methodology must include:*

1. *Common terminology and operational definitions for measuring the performance of system administration, program administration, program outputs, and client outcomes.*

2. *Program outputs for each group of programs within each level of the juvenile justice continuum and specific program outputs for each program or program type.*

3. *Specification of desired client outcomes and methods by which to measure client outcomes for each program operated by the department or by a provider under contract with the department.*

4. *Recommended annual minimum thresholds of satisfactory performance for client outcomes and program outputs.*

For the purposes of this section, the term "program" or "program type" means an individual state-operated or contracted facility, site, or service delivered to at-risk or delinquent youth as prescribed in a contract, program description, or program services manual; and the term "program group" means a collection of programs or program types with sufficient similarity of function, services, and clientele to permit appropriate comparisons among programs within the program group.

(b) *In developing the standard methodology, the board shall consult with the department, the Division of Economic and Demographic Research, contract service providers, and other interested parties. It is the intent of the Legislature that this effort result in consensus recommendations, and, to the greatest extent possible, integrate the goals and legislatively approved measures of performance-based program budgeting provided in chapter 94-249, Laws of Florida, the quality assurance program provided in s. 985.412, and the cost-effectiveness model provided in s. 985.404(11). The board shall notify the Office of Program Policy Analysis and Government Accountability of any meetings to develop the methodology.*

(c) *The board shall annually submit its Outcome Evaluation Report to the Legislature by February 15, which must describe:*

1. *The methodology for interpreting outcome evaluations, including common terminology and operational definitions.*

2. *The recommended minimum thresholds of satisfactory performance for client outcomes and program outputs applicable to the year for which the data are reported.*

3. *The actual client outcomes and program outputs achieved by each program operated by the department or by a provider under contract with the department, compared with the recommended minimum thresholds of satisfactory performance for client outcomes and program outputs for the year under review. The report shall group programs or program types with similarity of function and services, and make appropriate comparisons between programs within the program group.*

(d) *The board shall use its evaluation research to make advisory recommendations to the Legislature, the Governor, and the department concerning the effectiveness and future funding priorities of juvenile justice programs.*

(e) *The board shall annually review and revise the methodology as necessary to ensure the continuing improvement and validity of the evaluation process.*

(5)(4) The board shall:

(a) Review and recommend programmatic and fiscal policies governing the operation of programs, services, and facilities for which the Department of Juvenile Justice is responsible.

(b) Monitor the development and implementation of long-range juvenile justice policies, including prevention, early intervention, diversion, adjudication, and commitment.

(c) Monitor all activities of the executive and judicial branch and their effectiveness in implementing policies pursuant to this chapter.

~~(d) Establish and operate a comprehensive system to annually measure and report program outcome and effectiveness for each program operated by the Department of Juvenile Justice or operated by a provider under contract with the department. The board shall use its evaluation research to make advisory recommendations to the Legislature, the Governor, and the department concerning the effectiveness and future funding priorities of juvenile justice programs.~~

~~(d)(e)~~ Advise the President of the Senate, the Speaker of the House of Representatives, the Governor, and the department on matters relating to this chapter.

~~(e)(f)~~ Serve as a clearinghouse to provide information and assistance to the district juvenile justice boards and county juvenile justice councils.

~~(f)(g)~~ Hold public hearings and inform the public of activities of the board and of the Department of Juvenile Justice, as appropriate.

~~(g)(h)~~ Monitor the delivery and use of services, programs, or facilities operated, funded, regulated, or licensed by the Department of Juvenile Justice for juvenile offenders or alleged juvenile offenders, and for prevention, diversion, or early intervention of delinquency, and to develop programs to educate the citizenry about such services, programs, and facilities and about the need and procedure for siting new facilities.

~~(h)(i)~~ Contract for consultants as necessary and appropriate. The board may apply for and receive grants for the purposes of conducting research and evaluation activities.

~~(i)(j)~~ Conduct such other activities as the board may determine are necessary and appropriate to monitor the effectiveness of the delivery of juvenile justice programs and services under this chapter.

~~(j)(k)~~ The board shall submit an annual report to the President of the Senate, the Speaker of the House of Representatives, the Governor, and the secretary of the department not later than February 15 of each calendar year, summarizing the activities and reports of the board for the preceding year, and any recommendations of the board for the following year.

~~(6)(5)~~ Each state agency shall provide assistance when requested by the board. The board shall have access to all records, files, and reports that are material to its duties and that are in the custody of a school board, a law enforcement agency, a state attorney, a public defender, the court, the Department of Children and Family Services, and the department.

Section 25. Subsection (11) of section 985.404, Florida Statutes, is amended to read:

985.404 Administering the juvenile justice continuum.—

~~(11)(a)~~ The Department of Juvenile Justice, in consultation with the Juvenile Justice Advisory Board, *the Division of Economic and Demographic Research*, and *contract service providers*, shall develop a *cost-effectiveness cost-benefit* model and apply the model to each commitment program. Program recommitment rates shall be a component of the model. ~~The *cost-effectiveness cost-benefit* model shall compare program costs to *client outcomes and program outputs* benefits. A report ranking commitment programs based on cost-benefit shall be submitted to the appropriate substantive and appropriations committees of each house of the Legislature, no later than December 31 of each year. It is the intent of the Legislature that continual development efforts take place to improve the validity and reliability of the *cost-effectiveness cost-benefit* model and to integrate the standard methodology developed under s. 985.401(4) for interpreting program outcome evaluations.~~

~~(b)~~ *The department shall rank commitment programs based on the cost-effectiveness model and shall submit a report to the appropriate substantive and fiscal committees of each house of the Legislature by December 31 of each year.*

~~(c)~~ *Based on reports of the Juvenile Justice Advisory Board on client outcomes and program outputs and on the department's most recent cost-effectiveness rankings, the department may terminate a program operated by the department or a provider if the program has failed to achieve*

a minimum threshold of program effectiveness. This paragraph does not preclude the department from terminating a contract as provided under s. 985.412 or as otherwise provided by law or contract, and does not limit the department's authority to enter into or terminate a contract.

~~(d)~~ *In collaboration with the Juvenile Justice Advisory Board, the Division of Economic and Demographic Research, and contract service providers, the department shall develop a work plan to refine the cost-effectiveness model so that the model is consistent with the performance-based program budgeting measures approved by the Legislature to the extent the department deems appropriate. The department shall notify the Office of Program Policy Analysis and Government Accountability of any meetings to refine the model.*

~~(e)~~ *Contingent upon specific appropriation, the department, in consultation with the Juvenile Justice Advisory Board, the Division of Economic and Demographic Research, and contract service providers, shall:*

1. Construct a profile of each commitment program which uses the results of the quality assurance report required by s. 985.412, the outcome-evaluation report compiled by the Juvenile Justice Advisory Board under s. 985.401, the cost-effectiveness report required in this subsection, and other reports available to the department.

2. Target, for a more comprehensive evaluation, any commitment program that has achieved consistently high, low, or disparate ratings in the reports required under subparagraph 1.

3. Identify the essential factors that contribute to the high, low, or disparate program ratings.

4. Use the results of these evaluations in developing or refining juvenile justice programs or program models, client outcomes and program outputs, provider contracts, quality assurance standards, and the cost-effectiveness model.

Section 26. Paragraph (a) of subsection (2) of section 985.406, Florida Statutes, is amended to read:

985.406 Juvenile justice training academies established; Juvenile Justice Standards and Training Commission created; Juvenile Justice Training Trust Fund created.—

(2) JUVENILE JUSTICE STANDARDS AND TRAINING COMMISSION.—

(a) There is created under the Department of Juvenile Justice the Juvenile Justice Standards and Training Commission, hereinafter referred to as the commission. The 17-member commission shall consist of the Attorney General or designee, the Commissioner of Education or designee, a member of the juvenile court judiciary to be appointed by the Chief Justice of the Supreme Court, and 14 members to be appointed by the Secretary of Juvenile Justice as follows:

1. Seven members shall be juvenile justice professionals: a superintendent or a direct care staff member from an institution; a director from a contracted community-based program; a superintendent and a direct care staff member from a regional detention center or facility; a *juvenile probation officer supervisor and a juvenile probation officer community control counselor*; and a director of a day treatment or aftercare program. No fewer than three of these members shall be contract providers.

2. Two members shall be representatives of local law enforcement agencies.

3. One member shall be an educator from the state's university and community college program of criminology, criminal justice administration, social work, psychology, sociology, or other field of study pertinent to the training of juvenile justice program staff.

4. One member shall be a member of the public.

5. One member shall be a state attorney, or assistant *state* attorney, who has juvenile court experience.

6. One member shall be a public defender, or assistant public defender, who has juvenile court experience.

7. One member shall be a representative of the business community.

All appointed members shall be appointed to serve terms of 2 years.

Section 27. Subsection (5) of section 985.41, Florida Statutes, is amended to read:

985.41 Siting of facilities; study; criteria.—

(5) When the department *or a contracted provider* proposes a site for a *juvenile justice state* facility, *the department or provider* ~~it~~ shall request that the local government having jurisdiction over such proposed site determine whether or not the proposed site is *appropriate for public use under in compliance with* local government comprehensive plans, local land use ordinances, local zoning ordinances or regulations, and other local ordinances in effect at the time of such request. If no such determination is made within 90 days after the request, it shall be presumed that the proposed site is in compliance with such plans, ordinances, or regulations.

Section 28. Paragraph (c) of subsection (1) of section 985.412, Florida Statutes, is amended to read:

985.412 Quality assurance.—

(1)

(c) The department shall:

1. Establish a comprehensive quality assurance system for each program operated by the department or operated by a provider under contract with the department. Each contract entered into by the department must provide for quality assurance.

2. Provide operational definitions of and criteria for quality assurance for each specific program component.

3. Establish quality assurance goals and objectives for each specific program component.

4. Establish the information and specific data elements required for the quality assurance program.

5. Develop a quality assurance manual of specific, standardized terminology and procedures to be followed by each program.

6. Evaluate each program operated by *the department or* a provider under a contract with the department and establish minimum thresholds for each program component. If a provider fails to meet the established minimum thresholds, such failure shall cause the department to cancel the provider's contract unless the provider achieves compliance with minimum thresholds within 6 months or unless there are documented extenuating circumstances. In addition, the department may not contract with the same provider for the canceled service for a period of 12 months. *If a department-operated program fails to meet the established minimum thresholds, the department must take necessary and sufficient steps to ensure and document program changes to achieve compliance with the established minimum thresholds. If the department-operated program fails to achieve compliance with the established minimum thresholds within 6 months and if there are no documented extenuating circumstances, the department must notify the Executive Office of the Governor and the Legislature of the corrective action taken. Appropriate corrective action may include, but is not limited to:*

a. *Contracting out for the services provided in the program;*

b. *Initiating appropriate disciplinary action against all employees whose conduct or performance is deemed to have materially contributed to the programs failure to meet established minimum thresholds;*

c. *Redesigning the program; or*

d. *Realigning the program.*

The department shall submit an annual report to the President of the Senate, the Speaker of the House of Representatives, the Minority Leader of each house of the Legislature, the appropriate substantive and fiscal committees of each house of the Legislature, and the Governor, no later than February 1 of each year. The annual report must contain, at a minimum, for each specific program component: a comprehensive description of the population served by the program; a specific description of the services provided by the program; cost; a comparison of expenditures to federal and state funding; immediate and long-range concerns;

and recommendations to maintain, expand, improve, modify, or eliminate each program component so that changes in services lead to enhancement in program quality. The *department department's inspector general* shall ensure the reliability and validity of the information contained in the report.

Section 29. For the purpose of incorporating the amendment to section 985.412, Florida Statutes, in a reference thereto, paragraph (b) of subsection (4) of section 985.315, Florida Statutes, is reenacted to read:

985.315 Vocational/work training programs.—

(4)

(b) Evaluations of juvenile work programs shall be conducted according to the following guidelines:

1. Systematic evaluations and quality assurance monitoring shall be implemented, in accordance with ss. 985.401(4) and 985.412(1), to determine whether the juvenile vocational work programs are related to successful postrelease adjustments.

2. Operations and policies of work programs shall be reevaluated to determine if they are consistent with their primary objectives.

Section 30. Paragraph (b) of subsection (3) of section 985.413, Florida Statutes, is amended to read:

985.413 District juvenile justice boards.—

(3) DISTRICT JUVENILE JUSTICE BOARDS.—

(b)1.a. The authority to appoint members to district juvenile justice boards, and the size of each board, is as follows:

(I) District 1 is to have a board composed of 12 members, to be appointed by the juvenile justice councils of the respective counties, as follows: Escambia County, 6 members; Okaloosa County, 3 members; Santa Rosa County, 2 members; and Walton County, 1 member.

(II) District 2 is to have a board composed of 18 members, to be appointed by the juvenile justice councils 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.

(III) District 3 is to have a board composed of 15 members, to be appointed by the juvenile justice councils 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.

(IV) District 4 is to have a board composed of 12 members, to be appointed by the juvenile justice councils 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.

(V) District 5 is to have a board composed of 12 members, to be appointed by the juvenile justice councils of the respective counties, as follows: Pasco County, 3 members; and Pinellas County, 9 members.

(VI) District 6 is to have a board composed of 12 members, to be appointed by the juvenile justice councils of the respective counties, as follows: Hillsborough County, 9 members; and Manatee County, 3 members.

(VII) District 7 is to have a board composed of 12 members, to be appointed by the juvenile justice councils of the respective counties, as follows: Seminole County, 3 members; Orange County, 5 members; Osceola County, 1 member; and Brevard County, 3 members.

(VIII) District 8 is to have a board composed of 12 members, to be appointed by the juvenile justice councils of 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.

(IX) District 9 is to have a board composed of 12 members, to be appointed by the juvenile justice council of Palm Beach County.

(X) District 10 is to have a board composed of 12 members, to be appointed by the juvenile justice council of Broward County.

(XI) District 11 is to have a juvenile justice board composed of 12 members to be appointed by the juvenile justice council in the respective counties, as follows: Dade County, 6 members and Monroe County, 6 members.

(XII) District 12 is to have a board composed of 12 members, to be appointed by the juvenile justice council of the respective counties, as follows: Flagler County, 3 members; and Volusia County, 9 members.

(XIII) District 13 is to have a board composed of 12 members, to be appointed by the juvenile justice councils 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.

(XIV) District 14 is to have a board composed of 12 members, to be appointed by the juvenile justice councils of the respective counties, as follows: Polk County, 9 members; Highlands County, 2 members; and Hardee County, 1 member.

(XV) District 15 is to have a board composed of 12 members, to be appointed by the juvenile justice councils 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.

The district health and human services board in each district may appoint one of its members to serve as an ex officio member of the district juvenile justice board established under this sub-subparagraph.

b. In any judicial circuit where a juvenile delinquency and gang prevention council exists on the date this act becomes law, and where the circuit and district or subdistrict boundaries are identical, such council shall become the district juvenile justice board, and shall thereafter have the purposes and exercise the authority and responsibilities provided in this section.

2. At any time after the adoption of initial bylaws pursuant to paragraph (c), a district juvenile justice board may adopt a bylaw to enlarge the size, by no more than three members, and composition of the board to adequately reflect the diversity of the population and community organizations in the district.

3. All appointments shall be for 2-year terms. Appointments to fill vacancies created by death, resignation, or removal of a member are for the unexpired term. A member may not serve more than ~~three two~~ full consecutive terms; ~~however, this limitation does not apply in any district in which a juvenile delinquency and gang prevention council that existed on May 7, 1993, became the district juvenile justice board.~~

4. A member who is absent for three meetings within any 12-month period, without having been excused by the chair, 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.

5. Members are subject to the provisions of chapter 112, part III, Code of Ethics for Public Officers and Employees.

(4) DISTRICT JUVENILE JUSTICE PLAN; PROGRAMS.—

(a) A district juvenile justice plan is authorized in each district or any subdivision of the district authorized by the district juvenile justice board for the purpose of reducing delinquent acts, juvenile arrests, and gang activity. Juvenile justice programs under such plan may be administered by the Department of Juvenile Justice; the district school board; a local law enforcement agency; or any other public or private entity, in cooperation with appropriate state or local governmental entities and public and private agencies. A juvenile justice program under this section may be planned, implemented, and conducted in any district pursuant to a proposal developed and approved as specified in s. 985.415.

Section 31. Paragraph (b) of subsection (2) of section 985.414, Florida Statutes, is amended to read:

985.414 County juvenile justice councils.—

(2)

(b) The duties and responsibilities of a county juvenile justice council include, but are not limited to:

1. Developing a county juvenile justice plan based upon utilization of the resources of law enforcement, the school system, the Department of Juvenile Justice, the Department of Children and Family Services, and others in a cooperative and collaborative manner to prevent or discourage juvenile crime and develop meaningful alternatives to school suspensions and expulsions.

2. Entering into a written county interagency agreement specifying the nature and extent of contributions each signatory agency will make in achieving the goals of the county juvenile justice plan and their commitment to the sharing of information useful in carrying out the goals of the interagency agreement to the extent authorized by law. *The interagency agreement must include as parties, at a minimum, local school authorities or representatives, local law enforcement agencies, state attorneys, public defenders, and local representatives of the Department of Juvenile Justice and the Department of Children and Family Services. The agreement must specify how community entities will cooperate, collaborate, and share information to achieve the goals of the county juvenile justice plan.*

3. Applying for and receiving public or private grants, to be administered by one of the community partners, that support one or more components of the county juvenile justice plan.

4. Designating the county representatives to the district juvenile justice board pursuant to s. 985.413.

5. Providing a forum for the presentation of interagency recommendations and the resolution of disagreements relating to the contents of the county interagency agreement or the performance by the parties of their respective obligations under the agreement.

6. Assisting and directing the efforts of local community support organizations and volunteer groups in providing enrichment programs and other support services for clients of local juvenile detention centers.

7. Providing an annual report and recommendations to the district juvenile justice board, the Juvenile Justice Advisory Board, and the district juvenile justice manager.

Section 32. Paragraphs (a) and (b) of subsection (1) of section 985.415, Florida Statutes, are amended to read:

985.415 Community Juvenile Justice Partnership Grants.—

(1) GRANTS; CRITERIA.—

(a) In order to encourage the development of county and district juvenile justice plans and the development and implementation of county and district interagency agreements *pursuant to ss. 985.413 and 985.414, among representatives of the Department of Juvenile Justice, the Department of Children and Family Services, law enforcement, and school authorities, the community juvenile justice partnership grant program is established, and which program shall be administered by the Department of Juvenile Justice.*

(b) The department shall only consider applications which at a minimum provide for the following:

1. The participation of the *agencies and programs needed to implement the project or program for which the applicant is applying local school authorities, local law enforcement, and local representatives of the Department of Juvenile Justice and the Department of Children and Family Services pursuant to a written interagency partnership agreement. Such agreement must specify how community entities will cooperate, collaborate, and share information in furtherance of the goals of the district and county juvenile justice plan; and*

2. The reduction of truancy and in-school and out-of-school suspensions and expulsions, and the enhancement of school safety.

Section 33. This act shall take effect upon becoming a law.

And the title is amended as follows:

On page 1, line 1, through page 4, line 10 remove the entire title of the bill: and insert in lieu thereof: An act relating to juvenile justice; amending s. 938.17, F.S., relating to court costs and assessments for county delinquency prevention; providing for reference to "juvenile assessment centers" instead of "juvenile justice assessment centers" to conform to changes made by the act; conforming a cross reference; amending s. 938.19, F.S., authorizing the assessment of certain fees for operating and administering a teen court, notwithstanding certain contrary provisions; amending s. 943.053, F.S.; permitting the Department of Juvenile Justice or any other state or local criminal justice agency to provide copies of criminal history records for certain juvenile offenders, employees, and other individuals with access to a contracted juvenile assessment center or detention facility or contracted treatment program to the entity under direct contract with the department to operate the facilities or programs; providing for assessment of a charge by the criminal justice agency; providing guidelines for use and dissemination of the information; amending and renumbering s. 944.401, F.S., relating to escapes from secure detention or residential commitment facility; providing that escape from lawful transportation to or from a secure detention facility or residential commitment facility is a third degree felony; providing penalties; conforming references and terminology; amending s. 921.0022, F.S., relating to the Criminal Punishment Code offense severity ranking chart; conforming a reference to changes made by the act; amending s. 984.03, F.S.; redefining "habitual truant" with respect to ch. 984, F.S., relating to children and families in need of services; defining "juvenile probation officer," in lieu of "intake counselor" or "case manager," with respect to ch. 984, F.S.; amending s. 985.03, F.S.; redefining "habitually truant," "intake," "restrictiveness level," and "temporary release"; defining "juvenile probation officer"; conforming terminology and references to changes made by the act; amending s. 985.207, F.S., relating to taking a child into custody; substituting references to "juvenile probation officer" for reference to "intake counselor" or "case manager"; conforming terminology to changes made by the act; amending s. 985.208, F.S., relating to detention of furloughed child or escapee on authority of the department; substituting reference to "juvenile probation officer" for reference to "intake counselor" or "case manager"; conforming terminology to changes made by the act; amending s. 985.209, F.S., relating to juvenile justice assessment centers; removing provisions relating to such centers; providing for designation and operation of juvenile assessment centers in lieu of juvenile justice assessment centers; providing a definition; providing responsibilities of juvenile assessment centers as community-operated facilities and programs for provision of central intake and screening services to youth referred to the Department of Juvenile Justice; providing responsibilities of the department, law enforcement agencies, substance abuse programs, mental health providers, health service providers, state attorneys, public defenders, schools, and other agencies serving youth with respect to establishment of juvenile assessment centers; providing for development and modification of centers through local initiative of community agencies and local governments; providing for management of centers by advisory committees; providing for interagency agreements and information sharing among participating agencies; permitting the department to utilize centers for purposes of performing assessments and evaluations on youth awaiting placement in a residential commitment program; providing for transportation of youth from juvenile detention centers to the centers; if feasible, for the assessment and evaluation; providing for family involvement in assessment and evaluation; requiring inclusion of assessment and evaluation information in the youth's commitment packet; amending s. 985.21, F.S., relating to intake and case management; substituting references to "juvenile probation officer" for references to "intake counselor" or "case manager"; conforming provisions to changes made by the act; amending s. 985.211, F.S., relating to release or delivery from custody; substituting references to "juvenile probation officer" for references to "intake counselor" or "case manager"; conforming provisions to changes made by the act; amending s. 985.215, F.S.; providing that a child held in secure detention awaiting dispositional placement must meet detention admission criteria; removing requirement for court order authorizing continued detention under specified circumstances when the child is committed to a low-risk residential program; substituting references to "juvenile probation officer" for references to "intake counselor" or "case manager"; conforming provisions to changes made by the act; amending s. 985.231, F.S., relating to powers of disposition in delinquency cases; conforming a reference and terminology; amending s. 985.216, F.S.; providing that a child found in contempt of

court may be held only in a secured detention facility; amending s. 985.223, F.S., relating to incompetency in juvenile delinquency cases; removing a provision restricting the applicability of s. 985.223, F.S., to certain delinquency cases involving a delinquent act or violation of law that would be a felony if committed by an adult; requiring service of a motion questioning the child's competency to proceed, and service of subsequent motions, notices of hearing, orders, or other pleadings, upon specified counsel for the child, the state, the Department of Juvenile Justice, and the Department of Children and Family Services; providing for participation of both departments as parties to the litigation pertaining to competency, under specified circumstances; requiring specific statement of the basis for a determination of incompetency in the evaluation made by court-appointed experts; providing for fees of experts; providing for reimbursements of state employees for expenses; providing for taxing of fees as costs in the case; requiring inclusion of specific written findings in the court order determining incompetency; prescribing duties of the clerk of court and guidelines relating to notification of the order to the Department of Children and Family Services and delivery of a referral packet; prescribing duties of the Department of Children and Family Services and guidelines relating to treatment plans for the child's restoration of competency; requiring commitment for treatment or training to the Department of Children and Family Services of a child who is mentally ill or retarded, is adjudicated incompetent to proceed, and has committed a delinquent act or violation of law constituting a felony if committed by an adult; prohibiting such commitment to the Department of Juvenile Justice or Department of Children and Family Services of a child adjudicated incompetent to proceed under specified circumstances; requiring court determination of whether the child found mentally ill or retarded and adjudicated incompetent to proceed meets the criteria for secure placement; permitting placement of the child in a secure facility or program if the court finds by clear and convincing evidence that the child meets specified criteria; requiring the commitment of a child to the Department of Children and Family Services and requiring treatment or training of the child by the department in a secure facility or program, or in the community, under specified circumstances; requiring placements of such children to be separate from adult forensic programs; providing for transfer of custody of such children who attain competency; prescribing duties of the Department of Juvenile Justice relating to transportation of a child placed in or discharged from a secure residential facility; providing that the purpose of the treatment or training is the restoration of the child's competency to proceed; conforming terminology to changes made by the act; providing duties of service providers and guidelines and time limits relating to reports and provision of services; prescribing duties of the Department of Children and Family Services and guidelines relating to discharge plans; providing for court orders as appropriate in certain cases for the instituting of proceedings under ch. 393, F.S., relating to developmental disabilities prevention and community services, or ch. 394, F.S., relating to mental health and Baker Act proceedings; requiring provision of court-ordered competency restoration services by the Department of Children and Family Services; amending ss. 985.226, 985.23, 985.301, and 985.304, F.S., relating to transfer of child for prosecution as an adult, disposition hearings in delinquency cases, civil citation, and community arbitration, respectively; substituting references to "juvenile probation officer" for references to "intake counselor" or "case manager"; conforming provisions to changes made by the act; amending s. 985.307, F.S., relating to juvenile assignment centers; extending the expiration date for said section to July 1, 2000; removing a restriction upon operation of a juvenile assignment center by the department; permitting instead of requiring conversion of certain centers under specified circumstances; amending ss. 985.31 and 985.311, F.S., relating to serious or habitual juvenile offenders and intensive residential treatment programs for offenders less than 13 years of age; substituting references to "juvenile probation officer" for references to "intake counselor" or "case manager"; conforming provisions to changes made by the act; amending s. 985.401, F.S.; requiring the Juvenile Justice Advisory Board to develop a standard methodology for interpreting outcome-evaluation reports; specifying information to be included; requiring the board to consult with other agencies, providers, and interested parties; requiring the board to report to the Legislature; amending s. 985.404, F.S.; requiring the Department of Juvenile Justice and other agencies to develop a cost-effectiveness model for each commitment program; requiring the department to rank programs and report to the Legislature; authorizing the department to terminate a program that fails to achieve a minimum threshold of effectiveness; requiring that the cost-effectiveness model be consistent with certain requirements for performance-based budgeting; requiring the department to conduct certain evaluations of commitment programs and

identify the factors that contribute to various program ratings; amending s. 985.406, F.S., relating to juvenile justice training academies and Juvenile Justice Standards and Training Commission; revising membership qualifications for the commission; eliminating requirement for member who is a community control counselor; providing for membership of a juvenile probation officer supervisor and a juvenile probation officer; conforming terminology; amending s. 985.41, F.S.; requiring a determination whether a proposed site for a juvenile justice facility is appropriate for public use under local government plans and ordinances; amending s. 985.412, F.S., relating to quality assurance; requiring evaluation of each program operated by the department; requiring program changes and notification to the Executive Office of the Governor and Legislature of corrective action, under specified circumstances when a department-operated program fails to meet established minimum thresholds; providing for appropriate corrective action, including disciplinary action against employees under specified circumstances; providing for the Department of Juvenile Justice to ensure the reliability of the annual report; reenacting s. 985.315(4)(b), F.S., relating to vocational/work training programs to incorporate said amendment in a reference; amending s. 985.413, F.S.; increasing the maximum number of terms for district juvenile justice board members; removing an exception to the limitation upon the number of terms of members; amending s. 985.414, F.S.; requiring certain participants in interagency agreements for the development of county juvenile justice plans; revising requirements for contents of the agreements; amending s. 985.415, F.S.; revising requirements for applications for community juvenile justice partnership grants; conforming references and terminology; providing an effective date.

House Amendment 1 to House Amendment 1—On page 19, line 16 after “pre-”, remove from the amendment: *and post-*

On motion by Senator Gutman, the Senate concurred in the House amendment.

CS for CS for SB 2288 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

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 Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has refused to concur in Senate Amendment(s) to CS for HB 3327 and requests the Senate to recede.

John B. Phelps, Clerk

CS for HB 3327—A bill to be entitled An act relating to sexual predators; creating the “Jimmy Ryce Involuntary Civil Commitment for Sexually Violent Predators’ Treatment and Care Act”; creating s. 916.30, F.S.; providing findings and intent; creating s. 916.31, F.S.; providing definitions; creating s. 916.32, F.S.; requiring certain notice to the state attorney of anticipated release of specified persons who may meet the criteria for a sexually violent predator; requiring provision of certain records and information by the agency with jurisdiction to the state attorney; providing certain immunity from liability of the agency with jurisdiction, the state attorney, and their employees and service providers; creating s. 916.33, F.S.; providing for petition to have such person declared a sexually violent predator; creating s. 916.34, F.S.; providing for determination of probable cause and taking respondent into custody; providing for transfer of the respondent to a secure facility for evaluation under specified circumstances when the court finds probable cause to

believe that the respondent is a sexually violent predator; creating s. 916.35, F.S.; providing for trial on the issue of whether a person is a sexually violent predator; creating s. 916.36, F.S.; providing for commitment of a person determined to be a sexually violent predator; creating s. 916.37, F.S.; requiring annual examination of persons committed; creating s. 916.38, F.S.; requiring detention and commitment to conform to constitutional requirements; creating s. 916.39, F.S.; providing for petitions for release; creating s. 916.40, F.S.; providing that the Department of Children and Family Services is responsible for specified evaluation and treatment costs; providing for reimbursement; providing for court orders for certain disclosures to the department by the committed person of income and assets; providing for imposition and assessment of certain financial liabilities for payment of daily subsistence and treatment costs based on specified criteria; providing for notice and contest of the assessment; providing for survival of the order directing payment against the person’s estate; creating s. 916.41, F.S.; providing for notice to victims; creating s. 916.42, F.S.; providing severability; creating s. 916.43, F.S.; providing for access to certain records; providing an effective date.

RECONSIDERATION OF BILL

On motion by Senator Gutman, the Senate reconsidered the vote by which **CS for HB 3327** as amended passed April 24.

On motion by Senator Gutman, by two-thirds vote the Senate reconsidered the vote by which **CS for HB 3327** was read the third time.

On motion by Senator Gutman, the Senate reconsidered the vote by which **Amendment 1** was adopted.

Senators Gutman and Klein offered the following substitute amendment which was moved by Senator Gutman and adopted:

Amendment 2 (with title amendment)—On page 3, line 30 through page 16, line 31, delete those lines and insert:

916.31 Legislative findings and intent.—The Legislature finds that a small but extremely dangerous number of sexually violent predators exist who do not have a mental disease or defect that renders them appropriate for involuntary treatment under the Baker Act, ss. 394.451-394.4789, which is intended to provide short-term treatment to individuals with serious mental disorders and then return them to the community. In contrast to persons appropriate for civil commitment under the Baker Act, sexually violent predators generally have antisocial personality features which are unamenable to existing mental illness treatment modalities and those features render them likely to engage in criminal, sexually violent behavior. The Legislature further finds that the likelihood of sexually violent predators engaging in repeat acts of predatory sexual violence is high. The existing involuntary commitment procedures under the Baker Act for the treatment and care of mentally ill persons are inadequate to address the risk these sexually violent predators pose to society. The Legislature further finds that the prognosis for rehabilitating sexually violent predators in a prison setting is poor, the treatment needs of this population are very long term, and the treatment modalities for this population are very different than the traditional treatment modalities for people appropriate for commitment under the Baker Act. It is therefore the intent of the Legislature to create a civil commitment procedure for the long-term care and treatment of sexually violent predators.

Section 5. Section 916.32, Florida Statutes, is created to read:

916.32 Definitions.—As used in ss. 916.30-916.49, the term:

- (1) “Agency with jurisdiction” means the agency that releases, upon lawful order or authority, a person serving a sentence in the custody of the Department of Corrections, a person adjudicated delinquent and committed to the custody of the Department of Juvenile Justice or a person who was involuntarily committed to the custody of the Department of Children and Family Services upon an adjudication of not guilty by reason of insanity.
- (2) “Convicted of a sexually violent offense” means a person who has been:
 - (a) Adjudicated guilty of a sexually violent offense after a trial, guilty plea, or plea of *nolo contendere*;
 - (b) Adjudicated not guilty by reason of insanity of a sexually violent offense; or

(c) *Adjudicated delinquent of a sexually violent offense after a trial, guilty plea, or plea of nolo contendere.*

(3) *“Department” means the Department of Children and Family Services.*

(4) *“Likely to engage in acts of sexual violence” means the person’s propensity to commit acts of sexual violence is of such a degree as to pose a menace to the health and safety of others.*

(5) *“Mental abnormality” means a mental condition affecting a person’s emotional or volitional capacity which predisposes the person to commit sexually violent offenses.*

(6) *“Person” means an individual 18 years of age or older who is a potential or actual subject of proceedings under ss. 916.30-916.49.*

(7) *“Sexually motivated” means that one of the purposes for which the defendant committed the crime was for sexual gratification.*

(8) *“Sexually violent offense” means:*

(a) *Murder of a human being while engaged in sexual battery in violation of s. 782.04(1)(a)2.;*

(b) *Kidnapping of a child under the age of 16 and, in the course of that offense, committing:*

1. *Sexual battery;*
2. *A lewd, lascivious, or indecent assault or act upon or in the presence of the child;*

(c) *Committing the offense of false imprisonment upon a child under the age of 16 and, in the course of that offense, committing:*

1. *Sexual battery;*
2. *A lewd, lascivious or indecent assault or act upon or in the presence of the child;*

(d) *Sexual battery in violation of s. 794.011;*

(e) *Lewd, lascivious, or indecent assault or act upon or in presence of the child in violation of s. 800.04;*

(f) *An attempt, criminal solicitation, or conspiracy, in violation of s. 777.04, of a sexually violent offense;*

(g) *Any conviction for a felony offense in effect at any time before October 1, 1998, which is comparable to a sexually violent offense under paragraphs (a)-(f) or any federal conviction or conviction in another state for a felony offense that in this state would be a sexually violent offense; or*

(h) *Any criminal act that, either at the time of sentencing for the offense or subsequently during civil commitment proceedings under ss. 916.30-916.49, has been determined beyond a reasonable doubt to have been sexually motivated.*

(9) *“Sexually violent predator” means any person who:*

- (a) *Has been convicted of a sexually violent offense; and*
- (b) *Suffers from a mental abnormality or personality disorder that makes the person likely to engage in acts of sexual violence if not confined in a secure facility for long-term control, care, and treatment.*

(10) *“Total confinement” means that the person is currently being held in any physically secure facility being operated or contractually operated for the Department of Corrections, the Department of Juvenile Justice, or the Department of Children and Family Services.*

Section 6. Section 916.33, Florida Statutes, is created to read:

916.33 Notice to state attorney and multidisciplinary team of release of sexually violent predator; establishing multidisciplinary team.—

(1) *The agency with jurisdiction over a person who has been convicted of a sexually violent offense shall give written notice to the multidisciplinary team, and a copy to the state attorney of the circuit where that person*

was last convicted of a sexually violent offense, 180 days or, in the case of an adjudicated committed delinquent, 90 days before:

(a) *The anticipated release from total confinement of a person who has been convicted of a sexually violent offense, except that in the case of persons who have been returned to confinement for no more than 90 days, written notice must be given as practicable following the person’s return to confinement; or*

(b) *The anticipated hearing regarding possible release of a person who has been found not guilty by reason of insanity or mental incapacity of a sexually violent offense.*

(2) *The agency with jurisdiction shall provide the multidisciplinary team with the following information:*

(a) *The person’s name; identifying characteristics; anticipated future residence; the type of supervision the person will receive in the community, if any; and the person’s offense history; and*

(b) *Documentation of institutional adjustment and any treatment received and, in the case of an adjudicated delinquent committed to the Department of Juvenile Justice, copies of the most recent performance plan and performance summary.*

The provisions of this section are not jurisdictional, and failure to comply with them in no way prevents the state attorney from proceeding against a person otherwise subject to the provisions of ss. 916.30-916.49.

(3) *The Secretary of Children and Family Services shall establish a multidisciplinary team, which shall include two licensed psychiatrists or psychologists, or one licensed psychiatrist and one licensed psychologist, designated by the Secretary of Children and Family Services. The Attorney General’s Office shall serve as legal counsel to the multidisciplinary team. The team, within 45 days after receiving notice, shall assess whether the person meets the definition of a sexually violent predator and provide the state attorney with its written assessment and recommendation.*

Section 7. Section 916.34, Florida Statutes, is created to read:

916.34 Petition; time; contents.—Following receipt of the written assessment and recommendation from the multidisciplinary team, the state attorney in the judicial circuit where the person committed the sexually violent offense may file a petition with the circuit court alleging that the person is a sexually violent predator and stating facts sufficient to support such allegation.

Section 8. Section 916.35, Florida Statutes, is created to read:

916.35 Determination of probable cause; hearing; evaluation; respondent taken into custody; bail.—

(1) *When the state attorney files a petition seeking to have a person declared a sexually violent predator, the judge shall determine whether probable cause exists to believe that the person named in the petition is a sexually violent predator. If the judge determines that there is probable cause to believe that the person is a sexually violent predator, the judge shall direct that the person be taken into custody and held in an appropriate secure facility.*

(2) *Before the release from custody of a person whom the multidisciplinary team recommends for civil commitment, but after the state attorney files a petition under s. 916.33, the state attorney may further petition the court for an adversarial probable cause hearing. The person shall be provided with notice of, and an opportunity to appear in person at, an adversary hearing. At this hearing, the judge shall:*

(a) *Receive evidence and hear argument from the person and the state attorney; and*

(b) *Determine whether probable cause exists to believe that the person is a sexually violent predator.*

(3) *At the probable cause hearing, the person has the right to:*

(a) *Be represented by counsel;*

(b) *Present evidence;*

- (c) Cross-examine any witnesses who testify against the person; and
- (d) View and copy all petitions and reports in the court file.

(4) If the court again concludes that there is probable cause to believe that the person is a sexually violent predator, the court shall direct that the person be held in an appropriate secure facility in the county where the petition was filed for an evaluation by a mental health professional.

(5) After a court finds probable cause to believe that the person is a sexually violent predator, the person must be held in custody in a secure facility without opportunity for pretrial release or release during the trial proceedings.

Section 9. Section 916.36, Florida Statutes, is created to read:

916.36 Trial; counsel and experts; indigent persons; jury.—

(1) Within 30 days after the determination of probable cause, the court shall conduct a trial to determine whether the person is a sexually violent predator.

(2) The trial may be continued upon the request of either party and a showing of good cause, or by the court on its own motion in the interests of justice, when the person will not be substantially prejudiced.

(3) At all adversarial proceedings under this act, the person subject to this act is entitled to the assistance of counsel, and, if the person is indigent, the court shall appoint the public defender or, if a conflict exists, other counsel to assist the person.

(4) If the person is subjected to a mental health examination under this chapter, the person also may retain experts or mental health professionals to perform an examination. If the person wishes to be examined by a professional of the person's own choice, the examiner must be provided reasonable access to the person, as well as to all relevant medical and mental health records and reports. In the case of a person who is indigent, the court, upon the person's request, shall determine whether such an examination is necessary. If the court determines that an examination is necessary, the court shall appoint a mental health professional and determine the reasonable compensation for the professional's services.

(5) The person or the state attorney has the right to demand that the trial be before a jury. A demand for a jury trial must be filed, in writing, at least 5 days before the trial. If no demand is made, the trial shall be to the court.

Section 10. Section 916.37, Florida Statutes, is created to read:

916.37 Determination; commitment procedure; mistrials; housing.—

(1) The court or jury shall determine by clear and convincing evidence whether the person is a sexually violent predator. If the determination is made by a jury, the decision must be unanimous. If a majority of the jury finds that the person is a sexually violent predator, but the decision is not unanimous, the state attorney may refile the petition and proceed according to the provisions of ss. 916.30-916.49. Any retrial must occur within 90 days after the previous trial, unless the subsequent proceeding is continued in accordance with s. 916.36(2). The determination that a person is a sexually violent predator may be appealed.

(2) If the court or jury determines that the person is a sexually violent predator, the person shall be committed to the custody of the Department of Children and Family Services for control, care, and treatment until such time as the person's mental abnormality or personality disorder has so changed that it is safe for the person to be at large. At all times, sexually violent predators who are committed for control, care, and treatment by the Department of Children and Family Services under this section shall be kept in a secure facility segregated from patients who are not committed under this section.

Section 11. Section 916.38, Florida Statutes, is created to read:

916.38 Examinations.—

(1) A person committed under ss. 916.30-916.49 shall have an examination of his or her mental condition once every year or more frequently at the court's discretion. The person may retain or, if the person is indigent and so requests, the court may appoint, a qualified professional to

examine the person. Such a professional shall have access to all records concerning the person. The results of the examination shall be provided to the court that committed the person under ss. 916.30-916.49. Upon receipt of the report, the court shall conduct a review of the person's status.

(2) The department shall provide the person with annual written notice of the person's right to petition the court for release over the objection of the director of the facility where the person is housed. The notice must contain a waiver of rights. The director of the facility shall forward the notice and waiver form to the court.

(3) The court shall hold a limited hearing to determine whether there is probable cause to believe that the person's condition has so changed that it is safe for the person to be at large and that the person will not engage in acts of sexual violence if discharged. The person has the right to be represented by counsel at the probable cause hearing, but the person is not entitled to be present. If the court determines that there is probable cause to believe it is safe to release the person, the court shall set a trial before the court on the issue.

(4) At the trial before the court, the person is entitled to be present and is entitled to the benefit of all constitutional protections afforded the person at the initial trial, except for the right to a jury. The state attorney shall represent the state and has the right to have the person examined by professionals chosen by the state. At the hearing the state bears the burden of proving, by clear and convincing evidence, that the person's mental condition remains such that it is not safe for the person to be at large and that, if released, the person is likely to engage in acts of sexual violence.

Section 12. Section 916.39, Florida Statutes, is created to read:

916.39 Authorized petition for release; procedure.—

(1) If the Secretary of Children and Family Services or the secretary's designee at any time determines that the person is not likely to commit acts of sexual violence if conditionally discharged, the secretary or the secretary's designee shall authorize the person to petition the court for release. The petition shall be served upon the court and the state attorney. The court, upon receipt of such a petition, shall order a trial before the court within 30 days, unless continued for good cause.

(2) The state attorney shall represent the state, and has the right to have the person examined by professionals of the state attorney's choice. The state bears the burden of proving, by clear and convincing evidence, that the person's mental condition remains such that it is not safe for the person to be at large and that, if released, the person is likely to engage in acts of sexual violence.

Section 13. Section 916.40, Florida Statutes, is created to read:

916.40 Petition for release.—Sections 916.30-916.49 do not prohibit a person from filing a petition for discharge at any time. However, if the person has previously filed such a petition without the approval of the Secretary of Children and Family Services or the secretary's designee and the court determined that the petition was without merit, a subsequent petition shall be denied unless the petition contains facts upon which a court could find that the person's condition has so changed that a probable-cause hearing is warranted.

Section 14. Section 916.41, Florida Statutes, is created to read:

916.41 Release of records to state attorney.—

(1) In order to protect the public, relevant information and records that are otherwise confidential or privileged shall be released to the agency having jurisdiction or to the state attorney for the purpose of meeting the notice requirements of ss. 916.30-916.49 and determining whether a person is or continues to be a sexually violent predator.

(2) Psychological or psychiatric reports, drug and alcohol reports, treatment records, medical records, or victim impact statements that have been submitted to the court or admitted into evidence under ss. 916.30-916.49 shall be part of the record, but shall be sealed and may be opened only pursuant to a court order.

Section 15. Section 916.42, Florida Statutes, is created to read:

916.42 *Constitutional requirements.*—*The long-term control, care, and treatment of a person committed under ss. 916.30-916.49 must conform to constitutional requirements.*

Section 16. Section 916.43, Florida Statutes, is created to read:

916.43 *Immunity from civil liability.*—*The agency with jurisdiction and its officers and employees; the department and its officers and employees; members of the multidisciplinary team; the state attorney and the state attorney's employees; and those involved in the evaluation, care, and treatment of sexually violent persons committed under ss. 916.30-916.49, are immune from any civil liability for good-faith conduct under ss. 916.30-916.49.*

Section 17. Section 916.44, Florida Statutes, is created to read:

916.44 *Severability.*—*If any section, subsection, or provision of ss. 916.30-916.49 is held to be unconstitutional or invalid by a court of competent jurisdiction, the remaining portions of ss. 916.30-916.49 shall be unaffected because the Legislature declares that the provisions of ss. 916.30-916.49 are severable from each other.*

Section 18. Section 916.45, Florida Statutes, is created to read:

916.45 *Applicability of act.*—*Sections 916.30-916.49 apply to all persons currently in custody who have been convicted of a sexually violent offense, as that term is defined in s. 916.32(8), as well as to all persons convicted of a sexually violent offense in the future.*

Section 19. Section 916.46, Florida Statutes, is created to read:

916.46 *Notice to victims of release of persons committed as sexually violent predators.*—*As soon as is practicable, the department shall give written notice of the release of a person committed as a sexually violent predator to any victim of the committed person who is alive and whose address is known to the department or, if the victim is deceased, to the victim's family, if the family's address is known to the department. Failure to notify is not a reason for postponement of release. This section does not create a cause of action against the state or an employee of the state acting within the scope of the employee's employment as a result of the failure to notify pursuant to ss. 916.30-916.49.*

Section 20. Section 916.47, Florida Statutes, is created to read:

916.47 *Escape while in lawful custody.*—*A person who is held in lawful custody pursuant to a judicial finding of probable cause under s. 916.35 or pursuant to a commitment as a sexually violent predator under s. 916.36 and who escapes or attempts to escape while in such custody commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.*

Section 21. Section 916.48, Florida Statutes, is created to read:

916.48 *Subsistence fees and costs of treatment.*—

(1) *In recognition of the fact that persons committed under ss. 916.30-916.49 may have sources of income and assets, which may include bank accounts, inheritances, real estate, social security payments, veteran's payments, and other types of financial resources, and in recognition of the fact that the daily subsistence cost and costs of treatment of persons committed under ss. 916.30-916.49 are a burden on the taxpayers of the state, each person so committed shall:*

(a) *Upon order of the court committing the person, disclose all revenue or assets to the department.*

(b) *Pay from such income and assets, except where such income is exempt by state or federal law, all or a fair portion of the person's daily subsistence and treatment costs, based upon the person's ability to pay, the liability or potential liability of the person to the victim or the guardian or the estate of the victim, and the needs of his or her dependents.*

(2)(a) *Any person who is directed to pay all or a fair portion of daily subsistence and treatment costs is entitled to reasonable advance notice of the assessment and shall be afforded an opportunity to present reasons for opposition to the assessment.*

(b) *An order directing payment of all or a fair portion of a person's daily subsistence costs may survive against the estate of the person.*

Section 22. Section 916.49, Florida Statutes, is created to read:

916.49 *Department of Children and Family Services responsible for costs.*—*The Department of Children and Family Services is responsible for all costs relating to the evaluation and treatment of persons committed to the department's custody as sexually violent predators. A county is not obligated to fund costs for psychological examinations, expert witnesses, court-appointed counsel, or other costs required by ss. 916.30-916.49. Other costs for psychological examinations, expert witnesses, and court-appointed counsel required by ss. 916.30-916.49 shall be paid from state funds appropriated by general law.*

Section 23. *The Department of Children and Family Services may contract with a private entity or state agency for use of and operations of facilities to comply with the requirements of this act. The Department of Children and Family Services may also contract with the Correctional Privatization Commission as defined in chapter 957 to issue a request for proposals and monitor contract compliance for these services.*

Section 24. *There is hereby appropriated from the General Revenue Fund in a lump sum to the Department of Children and Family Services the sum of \$4,900,000, of which \$1,500,000 is from nonrecurring funds, and 50 full-time equivalent positions and from the Grants and Donations Trust Fund, \$1,500,000 to the Department of Corrections for the purpose of carrying out the provisions of this act. From the funds appropriated to the Department of Children and Family Services, the department shall, at the counties' request, reimburse counties for the cost of no more than one examination of each person subject to this act, provided that the department's reimbursement for each examination shall not exceed the cost to the department for examinations that it conducts of such persons.*

And the title is amended as follows:

On page 2, line 23 after the semi-colon (;) insert: monitoring contract compliance; providing for appropriation of funds; providing for 50 full-time equivalent positions;

On motion by Senator Gutman, the Senate requested the House to concur in the Senate amendment.

CS for HB 3327 passed as amended and the action of the Senate was 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	Gutman	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 concurred in Senate Amendment(s) 1, 3, 4 and 6, amended Senate Amendment(s) 5 and concurred in same as amended, and passed HB 3509 as further amended, and requests the concurrence of the Senate.

John B. Phelps, Clerk

HB 3509—A bill to be entitled An act relating to motor vehicle specialty license plates; amending s. 320.08053, F.S.; revising language with respect to requirements for requests to establish specialty license plates; amending s. 320.08056, F.S.; revising language with respect to specialty license plates to provide criteria for the discontinuance of the issuance of an approved plate; amending s. 320.08062, F.S.; revising language with respect to an annual required audit or report; revising language with respect to annual use fees of special license plates; providing an effective date.

House Amendment 1 to Senate Amendment 5—On page 1, lines 17-23, remove from the amendment: all of said lines and insert in lieu

thereof: *The provisions of this act shall not apply to any organization which has requested and received the required forms for obtaining a specialty license plate authorization from the Department of Highway Safety and Motor Vehicles, has opened a bank account for the funds collected for the specialty license tag and has made deposits to such an account, and has obtained signatures toward completing the requirements for the specialty license tag. All applications requested on or after the effective date of this act must meet the requirements of this act.*

Senator Burt moved the following amendment which was adopted:

Senate Amendment 1 to House Amendment 1 to Senate Amendment 5—On page 1, line 18, after “*The*” insert: *specialty license plate application*

On motion by Senator Hargrett, the Senate concurred in **House Amendment 1 to Senate Amendment 5** as amended and requested the House to concur in the Senate amendment to the House amendment to the Senate Amendment.

HB 3509 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—34

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

Nays—5

Cowin	Forman	Holzendorf	Ostalkiewicz
Crist			

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has amended Senate Amendment(s), and concurred in same as amended, and passed HB 3077 as further amended, and requests the concurrence of the Senate.

John B. Phelps, Clerk

HB 3077—A bill to be entitled An act relating to Medicaid provider fraud; amending s. 409.910, F.S.; limiting the scope of liability for which Medicaid benefits must be repaid; limiting certain fees; amending s. 624.424, F.S.; conforming a cross-reference; barring certain civil actions; providing for retroactive application; providing an effective date.

House Amendment 1 (with title amendment) to Senate Amendment 1—On page 17, line 27, of the amendment insert after the period: *For the purposes of this paragraph, an attorney’s fee paid, payable, or negotiated, may not exceed an amount calculated in accordance with the lodestar process approved by the Florida Supreme Court, which attorney’s fee shall be set by the determination of the number of hours reasonably expended on the matter and the reasonable hourly rate for the services provided by the private attorney. In contingent fee matters, the lodestar figure calculated may include a contingency risk multiplier not greater than 2.*

And the title is amended as follows: from the title of the amendment: everything before the enacting clause and insert: A bill to be entitled An act relating to medicaid provider fraud; amending s. 409.910, F.S.; limiting the scope of liability for which medicaid benefits must be repaid; limiting certain fees; amending s. 624.424, F.S.; conforming a cross-reference; barring certain civil actions; providing for retroactive application; providing an effective date.

House Amendment 2 (with title amendment) to Senate Amendment 1—On page 23, lines 1-16, remove from the amendment: all of said lines and insert in lieu thereof:

Section 3. *This act shall take effect upon becoming a law and shall operate retroactively to July 1, 1994, except that any action filed prior to March 1, 1998, any appeal of such action, any matter related to such action, any enforcement of the terms of a settlement agreement entered in such action, or any action filed prior to March 1, 1998, in which the parties have agreed to settle and the trial court has approved the settlement agreement, whether or not the time to appeal the approval of such settlement has expired, may proceed under the law as it existed on the date of the filing of such action, except that the amendments to Section 409.910(15), Florida Statutes, renumbered as Section 409.910(14), Florida Statutes, shall be applicable to such action. If any settlement agreement entered in an action filed prior to March 1, 1998, is overturned, canceled, or terminated, or is altered in any material manner by subsequent court order, such action may proceed under the law as it existed on the date of the filing of such action, except that the amendments to Section 409.910(15), Florida Statutes, renumbered as Section 409.910(14), Florida Statutes, shall be applicable to such action.*

And the title is amended as follows: remove from the title of the bill: everything before the enacting clause and insert in lieu thereof: A bill to be entitled An act relating to Medicaid provider fraud; amending s. 409.910, F.S.; limiting the scope of liability for which Medicaid benefits must be repaid; amending s. 624.424, F.S.; conforming a cross-reference; barring certain civil actions; providing for retroactive application; providing an effective date.

On motion by Senator Clary, the Senate refused to concur in the House amendments to the Senate amendment to **HB 3077** and the House was requested to recede. The action of the Senate was certified to the House.

THE PRESIDENT PRESIDING

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 3145 as further amended, and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for HB 3145—A bill to be entitled An act relating to health care; creating s. 381.0045, F.S.; creating the “Targeted Outreach for Pregnant Women Act of 1998”; providing purpose; requiring the Department of Health to establish a pilot program; providing requirements; requiring interim and final reports; providing an appropriation; providing an effective date.

House Amendment 2 to Senate Amendment 1—On page 3, line 22 through page 4, line 3, remove from the amendment: all of said lines and insert in lieu thereof:

Section 3. *There is appropriated to the Department of Health from the Tobacco Settlement Trust Fund the following nonrecurring funds: \$250,000 to implement the act; \$14.35 million to replace the Tampa Branch Health Laboratory; the sum of \$600,000 for the Healthy Moms and Healthy Babies facility at the University of South Florida; and \$400,000 for the construction/renovation of the Hendry County Health Department.*

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

Section 5. *There is hereby appropriated for fiscal year 1998-1999 the sum of \$500,000 in nonrecurring general revenue funds for the Center for Urban Transportation Research at the University of South Florida.*

Section 6. Section 334.065, Florida Statutes, is renumbered as section 240.80, Florida Statutes, and amended to read:

240.80 334.065 Center for Urban Transportation Research.—

(1) There is established at the University of South Florida the Florida Center for Urban Transportation Research, to be administered by the Board of Regents and the State University System. The responsibilities of the center include, but are not limited to, conducting and facilitating research on issues related to urban transportation problems in this state and serving as an information exchange and depository for the

most current information pertaining to urban transportation and related issues.

(2) The center shall be a continuing resource for the Legislature, the Department of Transportation, local governments, the nation's metropolitan regions, and the private sector in the area of urban transportation and related research and shall generate support in addition to any its state-funded base of support provided by s. 206.606. The center shall promote intercampus transportation and related research activities among Florida's universities in order to enhance the ability of these universities to attract federal and private sector funding for transportation and related research.

(3) An advisory board shall be created to periodically and objectively review and advise the center concerning its research program. ~~Except for projects mandated by law, state-funded base projects shall not be undertaken without approval of the advisory board. The membership of the board shall consist of nine experts in transportation-related areas, including the secretaries of the Florida Departments of Transportation, Community Affairs, and Environmental Protection, or their designees, and a member of the Florida Transportation Commission.~~ The nomination of the remaining members of the board shall be made to the President of the University of South Florida by the College of Engineering at the University of South Florida, and the appointment of these members must be reviewed and approved by the Florida Transportation Commission and confirmed by the Board of Regents.

(4) The center shall develop a budget pursuant to chapter 216. This budget shall be submitted to the Governor along with the budget of the Board of Regents.

Section 7. *Effective July 1, 1999, paragraph (c) of subsection (1) of section 206.606, Florida Statutes, as amended by chapter 96-321, Laws of Florida, is hereby repealed.*

And the title is amended as follows:

On page 4, line 21, after "appropriations"; insert: renumbering and amending s. 334.065, F.S.; revising provisions related to the funding source and the advisory board of the Center for Urban Transportation Research; deleting a provision transferring certain funds to the Board of Regents;

On motion by Senator Harris, the Senate concurred in **House Amendment 2 to Senate Amendment 1** and refused to concur in **House Amendment 3 to Senate Amendment 1** and the House was requested to recede.

CS for HB 3145 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

SPECIAL ORDER CALENDAR, continued

The Senate resumed consideration of—

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.

—which was previously considered April 30. Pending **Amendment 1** by Senators Latvala and Silver was withdrawn.

Senators Latvala and Silver offered the following amendment which was moved by Senator Latvala and adopted:

Amendment 2 (with title amendment)—On page 7, line 13, insert:

Section 2. *The sum of \$1,000,000 is appropriated from nonrecurring General Revenue 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;

Senator Silver moved the following amendment which was adopted:

Amendment 3 (with title amendment)—On page 7, line 13, insert:

Section 2. *A total of \$1,063,900 in nonrecurring General Revenue Funds is appropriated in Special Categories - Grants and Aids - Contracted Services in the Department of Juvenile Justice for D-FY-IT Drug Free Youth in Town, a drug prevention program for youth in schools, and for Miami Love Youth At Risk Program, a prevention program for youth at risk of delinquent behavior, and for Grants in Aid to local governments and nonprofit organizations - Uleta Park Community Center.*

Section 3. *The sum of \$200,000 is appropriated from the General Revenue Fund to the Department of Elderly Affairs for the provision of essential home health care services to senior citizens in Dade County by United Home Health Care, a not-for-profit corporation. This is a nonrecurring appropriation for fiscal year 1998-1999.*

Section 4. This act shall take effect July 1, 1998.

And the title is amended as follows:

On page 1, line 24, after the semicolon (;) insert: providing appropriations to specified programs of the Department of Juvenile Justice and the Department of Elderly Affairs;

On motion by Senator Williams, by two-thirds vote **HB 4153** 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 motions by Senator Dudley, by unanimous consent—

CS for SB 2158—A bill to be entitled An act relating to the judiciary; amending s. 26.031, F.S.; increasing the number of judges for specified judicial circuits; amending s. 34.022, F.S.; increasing the number of judges for specified county courts; providing for the filling of vacancies occurring as a result of the creation of judicial offices; amending s. 318.37, F.S.; providing funds to establish the Civil Traffic Infraction Hearing Officer Program; providing for method of payment; providing for funds for the judicial branch to contract for the development of a specified type system to use in determining the need for additional judges; giving the Office of Program Policy Analysis and Government Accountability certain responsibilities with regard to the development of a system to determine the need for additional judges; providing effective dates.

—was taken up out of order and read the second time by title.

Senator Dudley moved the following amendment:

Amendment 1—On page 6, line 21 through page 7, line 8, delete those lines and insert:

Section 6. *The Office of the State Courts Administrator shall contract for the development of a Delphi-based case load weighting system to determine the optimum case loads for circuit and county judges and, in conjunction with other factors, to determine the need for additional circuit and county court judges. The judicial branch shall consult with the Office of Program Policy Analysis and Government Accountability on defining the scope of work, selecting a consultant, and choosing a methodology for developing case weights and determining available judge time. The Office of Program Policy Analysis and Government Accountability shall issue a report not later than February 1, 1999 on the development of case weights and their use in the judicial certification process.*

Section 7. *A total of \$825,000 from the General Revenue Fund and one full-time equivalent position from specific appropriations 2215, 2217, 2221, 2229, 2231, and 2231A in the Conference Report on House Bill 4201, which is the 1998-1999 General Appropriations Act, may be used to implement sections 4 and 6 of this act.*

Senator Dudley moved the following amendments to **Amendment 1** which were adopted:

Amendment 1A—On page 1, lines 27 and 30, after “case” insert: *load*

Amendment 1B—On page 2, line 6, delete “4” and insert: *5*

Amendment 1 as amended was adopted.

SENATOR SILVER PRESIDING

Senators Latvala and Scott offered the following amendment which was moved by Senator Latvala and adopted:

Amendment 2—On page 5, line 3, after “appointed” insert: *, except those created in the Sixth and Seventeenth Judicial Circuits and Broward County, which shall be elected in the November 1998 general election, in nonpartisan elections*

MOTION

Senator Dudley moved that further consideration of **CS for SB 2158** be deferred. The motion failed.

Senator Williams moved the following amendment which was adopted:

Amendment 3—On page 5, line 3, after “appointed” insert: *except those created in the Third Judicial Circuit, which shall be elected in the November 1998 general election in a nonpartisan election*

Senator Dudley moved the following amendment which was adopted:

Amendment 4—In title, on page 1, line 8, after the semicolon (;) insert: amending s. 318.32, F.S.; revising duties of traffic infraction hearing officers;

On motion by Senator Dudley, by two-thirds vote **CS for SB 2158** as amended was read the third time by title, passed, ordered engrossed and then 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

RECESS

On motion by Senator Bankhead, the Senate recessed at 12:14 p.m. to reconvene at 1:15 p.m.

AFTERNOON SESSION

The Senate was called to order by the President at 1:33 p.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	Gutman	Lee	Turner
Clary	Hargrett	McKay	Williams
Cowin	Harris	Meadows	

SPECIAL ORDER CALENDAR, continued

The Senate resumed consideration of—

HB 1747—A bill to be entitled An act relating to pari-mutuel wagering; amending s. 550.2625, F.S.; revising standing requirements for stallion awards; amending s. 550.09512, F.S.; repealing the expiration of that section; amending s. 550.09514, F.S., relating to greyhound purse requirements; amending s. 26, ch. 96-364, Laws of Florida, relating to tax on handle of live thoroughbred performances, live jai alai performances, and intertrack wagering; providing effective dates.

—which was previously considered and amended this day.

On motion by Senator Scott, **HB 1747** as amended was passed and certified to the House. The vote on passage was:

Yeas—37

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

Nays—1

Ostalkiewicz

SB 1416—A bill to be entitled An act relating to insurance; amending s. 626.112, F.S.; prohibiting a person from transacting health insurance unless licensed and appointed; amending s. 626.321, F.S.; providing that a full-time salaried employee of a common carrier or of a transportation ticket agency that rents or leases motor vehicles who holds a limited insurance license may write motor vehicle liability insurance providing coverage greater than the standard liability limits provided by a lessor in its lease to a person renting or leasing a motor vehicle from the licensee's employer; amending s. 627.410, F.S.; providing that the forms of certain health insurance policies or applications need not be approved by the Department of Insurance; providing an effective date.

—was read the second time by title.

The Committee on Banking and Insurance recommended 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. Section 624.123, Florida Statutes, is created to read:

624.123 Certain international health insurance policies; exemption from code.—

(1) International health insurance policies and applications may be solicited and sold in this state at any international airport to a resident of a foreign country. Such international health insurance policies shall be solicited and sold only by a licensed health insurance agent and unwritten only by an admitted insurer. For purposes of this subsection:

(a) "International airport" means any airport in Florida with U.S. Customs service, which enplanes more than 1 million passengers per year.

(b) "International health insurance policy" means health insurance, as defined in s. 627.6561(5)(a)2., which is offered to an individual, covering only a resident of a foreign country on an annual basis.

(c) "Resident of a foreign country" does not include any United States citizen, any natural person maintaining his or her residence in this country, or any natural person staying in this state continuously for more than 120 days.

(2) Any international health insurance policy sold, and any application provided, to residents of foreign countries pursuant to this subsection shall contain the following conspicuous, boldfaced disclaimer in at least 12 point type: "This individual health insurance policy may be sold only to a person not a resident of the United States. This policy does not comply with coverage, underwriting, and other provisions of the Florida Insurance Code, and must comply with coverage, underwriting, and other insurance regulatory provisions of your country of residence."

(3) Any insurer underwriting international health insurance policies pursuant to this subsection is subject to all applicable provisions of the Insurance Code, except as otherwise provided in this subsection. International health insurance policies are not subject to any form approval, rate approval, underwriting restrictions, guaranteed availability, or coverage mandates provided in the Insurance Code. Health insurance agents who are licensed and appointed pursuant to chapter 626 may solicit, sell, effect, collect premium on, and deliver international health insurance policies in accordance with this section. Solicitation or sale of an international health insurance policy to a U.S. citizen or to a natural person not a resident of a foreign country is a willful violation of the provisions of s. 626.611.

(4) Any international health insurance policy or application solicited, provided, entered into, issued, or delivered pursuant to this subsection is exempt from all provisions of the Insurance Code, except that such policy, contract, or agreement is subject to the provisions of ss. 624.155, 624.316, 624.3161, 626.951, 626.9511, 626.9521, 626.9541, 626.9551, 626.9561, 626.9571, 626.9581, 626.9591, 626.9601, 627.413, 627.4145, 627.428, and 627.6043.

Section 2. This act shall take effect upon becoming a law.

And the title is amended as follows:

On page 1, lines 2-17, delete those lines and insert: An act relating to international health insurance policies sold at airports; creating s.

624.123, F.S.; providing definitions; authorizing licensed agents to sell international health insurance policies to residents of foreign countries at international airports; requiring a specified disclaimer; providing exemptions from regulation under the Insurance Code; specifying applicable provisions;

On motion by Senator Gutman, further consideration of **SB 1416** as amended was deferred.

CS for SB 792—A bill to be entitled An act relating to dental insurance coverage; creating ss. 627.4295, 627.65755, F.S., and amending ss. 627.6515 and 641.31, F.S.; requiring health insurance policies and health maintenance organization contracts to provide coverage for general anesthesia and hospitalization for certain persons under certain circumstances; providing application; providing exceptions; providing a declaration of important state interest; providing application; providing an effective date.

—was read the second time by title.

Amendments were considered and adopted to conform **CS for SB 792** to **CS for HB 3487**.

Pending further consideration of **CS for SB 792** as amended, on motion by Senator Latvala, by two-thirds vote **CS for HB 3487** was withdrawn from the Committees on Banking and Insurance; Health Care; and Ways and Means.

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

CS for HB 3487—A bill to be entitled An act relating to dental insurance coverage; creating ss. 627.4295 and 627.65755, F.S., and amending ss. 627.6515 and 641.31, F.S.; requiring health insurance policies and health maintenance organization contracts to provide coverage for general anesthesia and hospitalization for certain persons under certain circumstances; providing application of contract terms and conditions to services; providing exceptions; providing a declaration of important state interest; providing application of the act to policies and contracts; providing an effective date.

—a companion measure, was substituted for **CS for SB 792** as amended and by two-thirds vote read the second time by title. On motion by Senator Latvala, by two-thirds vote **CS for HB 3487** 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

Consideration of **CS for SB 1396** was deferred.

On motion by Senator Crist, by two-thirds vote **HB 3589** was withdrawn from the Committees on Regulated Industries; Education; Governmental Reform and Oversight; and Ways and Means.

On motion by Senator Crist—

HB 3589—A bill to be entitled An act relating to certified public accountants; creating s. 473.3065, F.S.; establishing the Certified Public Accountant Education Minority Assistance Program; providing for scholarships to eligible students; providing for the funding of scholarships; requiring Board of Accountancy rules; providing a penalty for

certain violations; creating an advisory council to assist in program administration; providing an effective date.

—a companion measure, was substituted for **SB 1220** and read the second time by title. On motion by Senator Crist, by two-thirds vote **HB 3589** 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 Kirkpatrick, by two-thirds vote **CS for HB 1329** was withdrawn from the Committee on Criminal Justice.

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

CS for HB 1329—A bill to be entitled An act relating to medical examiners; amending s. 406.06, F.S.; specifying certain circumstances under which a medical examiner may be suspended; amending s. 406.075, F.S.; providing additional disciplinary measures and grounds for discipline applicable to medical examiners; amending s. 406.11, F.S.; restricting to certain purposes the examinations, investigations, and autopsies medical examiners are required or authorized to make or have performed; requiring notification of and approval by next of kin for a medical examiner to retain or furnish any body part of a deceased person for research or certain other purposes; providing for adoption of rules to incorporate by reference parameters or guidelines of practice or standards of conduct relating to examinations, investigations, and autopsies performed by medical examiners; providing an effective date.

—a companion measure, was substituted for **CS for SB 562** and by two-thirds vote read the second time by title. On motion by Senator Kirkpatrick, by two-thirds vote **CS for HB 1329** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Madam President	Crist	Horne	Myers
Bankhead	Diaz-Balart	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	
Cowin	Holzendorf	Meadows	

Nays—None

On motion by Senator Williams, by two-thirds vote **HB 3785** was withdrawn from the Committees on Governmental Reform and Oversight; and Ways and Means.

On motion by Senator Williams—

HB 3785—A bill to be entitled An act relating to consumer protection; amending s. 213.053, F.S.; authorizing the Department of Revenue to provide certain information to the Department of Agriculture and Consumer Services; amending s. 496.403, F.S.; exempting persons or organizations who solicit on their behalf from ss. 496.401-496.424, F.S.; amending s. 496.404, F.S.; clarifying a definition; amending s. 496.405, F.S.; revising a registration fee schedule for charitable organizations; amending s. 496.406, F.S.; deleting certain registration requirements for

certain charitable organizations; amending s. 501.143, F.S.; deleting a specific annual registration date for certain dance studios; amending s. 501.2101, F.S.; authorizing the deposit of moneys received by an enforcing authority for attorney's fees and costs of investigation or litigation to be deposited in the Legal Affairs Revolving Trust Fund; amending s. 501.607, F.S.; clarifying certain procedures for licensing salespersons; amending s. 559.805, F.S.; requiring business opportunity sellers to disclose certain information; amending s. 559.904, F.S.; clarifying registration requirements for motor vehicle repair shop operators; providing a late fee; amending s. 817.415, F.S.; revising requirements for free advertising; providing an effective date.

—a companion measure, was substituted for **CS for SB 1620** and read the second time by title. On motion by Senator Williams, by two-thirds vote **HB 3785** 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 Campbell, by two-thirds vote **CS for CS for HB 3657** was withdrawn from the Committees on Governmental Reform and Oversight; Criminal Justice; and Ways and Means.

On motion by Senator Campbell—

CS for CS for HB 3657—A bill to be entitled An act relating to culpable negligence; providing definitions; specifying conditions for committing culpable negligence causing public financial injury; providing penalties; requiring certain contracts to provide notice of such conditions; providing construction; providing for prosecution by a state attorney or the Statewide Prosecutor; providing an effective date.

—a companion measure, was substituted for **CS for SB 2150** and read the second time by title.

Senators Harris, Dudley and Campbell offered the following amendment which was moved by Senator Harris and adopted:

Amendment 1 (with title amendment)—On page 2, between lines 26 and 27, insert:

Section 3. Effective July 1, 1998, subsection (1) of section 95.051, Florida Statutes, is amended to read:

95.051 When limitations tolled.—

(1) The running of the time under any statute of limitations except ss. 95.281, 95.35, and 95.36 is tolled by:

- (a) Absence from the state of the person to be sued.
- (b) Use by the person to be sued of a false name that is unknown to the person entitled to sue so that process cannot be served on the person to be sued.
- (c) Concealment in the state of the person to be sued so that process cannot be served on him or her.
- (d) *Fraudulent concealment of a cause of action or the identity of a person to be sued.*
- (e) ~~(d)~~ The adjudicated incapacity, before the cause of action accrued, of the person entitled to sue. In any event, the action must be begun within 7 years after the act, event, or occurrence giving rise to the cause of action.

(f)(e) Voluntary payments by the alleged father of the child in paternity actions during the time of the payments.

(g)(f) The payment of any part of the principal or interest of any obligation or liability founded on a written instrument.

(h)(g) The pendency of any arbitral proceeding pertaining to a dispute that is the subject of the action.

(i)(h) The minority or previously adjudicated incapacity of the person entitled to sue during any period of time in which a parent, guardian, or guardian ad litem does not exist, has an interest adverse to the minor or incapacitated person, or is adjudicated to be incapacitated to sue; except with respect to the statute of limitations for a claim for medical malpractice as provided in s. 95.11. In any event, the action must be begun within 7 years after the act, event, or occurrence giving rise to the cause of action.

Paragraphs (a)-(c) shall not apply if service of process or service by publication can be made in a manner sufficient to confer jurisdiction to grant the relief sought. This section shall not be construed to limit the ability of any person to initiate an action within 30 days of the lifting of an automatic stay issued in a bankruptcy action as is provided in 11 U.S.C. s. 108(c).

Section 4. *It is the intent of the Legislature that the amendment of section 95.051, Florida Statutes, by section 1 of this act as it relates to the fraudulent concealment of a cause of action is remedial in nature and is intended to clarify existing law.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, lines 1-10, delete those lines and insert: A bill to be entitled An act relating to civil actions; providing definitions; specifying conditions for committing culpable negligence causing public financial injury; providing penalties; requiring certain contracts to provide notice of such conditions; providing construction; providing for prosecution by a state attorney or the Statewide Prosecutor; amending s. 95.051, F.S.; providing that the fraudulent concealment of the cause of action or the identity of the person to be sued tolls the statute; providing legislative intent; providing effective dates.

WHEREAS, it is a recognized rule of construction that the Legislature is deemed to know the existing law, and

WHEREAS, the courts of this state have long recognized the doctrine that the fraudulent concealment of a cause of action by a tortfeasor tolls the statute of limitations until the date the action is discovered or the date on which, through the exercise of ordinary diligence, it might have been discovered, *Proctor v. Schomberg*, 63 So.2d 68 (Fla. 1953), and

WHEREAS, the Legislature, in enacting a statute of repose in medical malpractice actions expressly recognized and recited this doctrine of tolling the statute of limitations in cases of fraudulent concealment of the cause of action, and

WHEREAS, the Florida Supreme Court, in *Fulton County Administration v. Sullivan*, 22 Fla. Law Weekly, S578 (Fla. 1997), held that "the plain language of s. 95.091 does not provide for the tolling of the statute of limitation in cases in which the tortfeasor fraudulently conceals his or her identity," and

WHEREAS, the Florida Supreme Court in *Fulton County Administration v. Sullivan* made the recommendation "that the Legislature examine this issue and, should it agree, enact an amendment to the statute to avoid such an unfair result," and

WHEREAS, similarly, as a result of the reasoning of the Florida Supreme Court in *Fulton County Administration v. Sullivan*, there may be a question of whether the fraudulent concealment of a cause of action tolls the statute of limitation, and

WHEREAS, it is the intent of the Legislature by this act to clarify once and for all its continued recognition of the "court-made" tolling provision for fraudulent concealment of a cause of action and to avoid the unfair result of not tolling the statute of limitations where the tortfeasor fraudulently conceals his or her identity, and

WHEREAS, the Legislature deems the provisions of this act to be curative and remedial in effect and to operate as if there was never any question of the Legislature's recognition of the judicially created tolling exception for fraudulent concealment of a cause of action, NOW, THEREFORE,

Senator Forman moved the following amendment:

Amendment 2 (with title amendment)—On page 2, between lines 26 and 27, insert:

Section 3. *This act may be cited as the "Jeremy Fiedelholz Safe Day Care Act."*

Section 4. Section 402.319, Florida Statutes, is amended to read:

402.319 Penalties.—

(1) It is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, for any person ~~willfully, knowingly, or intentionally~~ to:

(a)(1) Fail, by false statement, misrepresentation, impersonation, or other fraudulent means, to disclose in any application for voluntary or paid employment or licensure regulated under ss. 402.301-402.318 *all information required under those sections or a material fact used in making a determination as to such person's qualifications to be child care personnel, as defined in s. 402.302, an owner, operator, employee, or volunteer* in a child care facility, family day care home, or other child care program.

(b)(2) Operate or attempt to operate a child care facility without having procured a license as required by this act.

(c)(5) Operate or attempt to operate a family day care home without a license or without registering with the department, whichever is applicable.

(d)(3) Operate or attempt to operate a child care facility or family day care home under a license that is suspended, revoked, or terminated.

(e)(4) ~~Misrepresent~~ **Represent**, by act or omission, a child care facility or family day care home to be duly licensed pursuant to this act without being so licensed.

(f) *Make any other misrepresentation, by act, regarding the licensure or operation of a child care facility or family day care home to a parent or guardian who has a child placed in the facility or is inquiring as to placing a child in the facility, including, but not limited to, any misrepresentation as to:*

1. *The number of children at the child care facility or the family day care home;*
2. *The part of the child care facility or family day care home designated for child care;*
3. *The qualifications or credentials of child care personnel;*
4. *Whether a family day care home or child care facility complies with the screening requirements of s. 402.305; or*
5. *Whether child care personnel have the training as required by s. 402.305.*

(2) *If any child care personnel makes any misrepresentation in violation of this section to a parent or guardian who has placed a child in the child care facility or family day care home, and the parent or guardian relied upon the misrepresentation, and the child suffers great bodily harm, permanent disfigurement, permanent disability, or death as a result of an intentional act or culpable negligence by the child care personnel, then the child care personnel commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.*

Section 5. Paragraph (g) of subsection (3) of section 921.0022, Florida Statutes, is amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART			Florida Statute	Felony Degree	Description
		(g) LEVEL 7	812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.	825.102(3)(b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.	825.1025(2)	2nd	Lewd or lascivious battery upon an elderly person or disabled adult.
402.319(2)	2nd	<i>Misrepresentation and culpable negligence or intentional act resulting in great bodily harm, permanent disfigurement, permanent disability, or death.</i>	825.103(2)(b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000.
409.920(2)	3rd	Medicaid provider fraud.	827.03(3)(b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
494.0018(2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.	827.04(4)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).	872.06	2nd	Abuse of a dead human body.
782.071	3rd	Killing of human being by the operation of a motor vehicle in a reckless manner (vehicular homicide).	893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) drugs) within 1,000 feet of a school.
782.072	3rd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).	893.13(4)(a)	1st	Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) drugs).
784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.	893.135(1)(a)1.	1st	Trafficking in cannabis, more than 50 lbs., less than 2,000 lbs.
784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.	893.135(1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.	893.135(1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.	893.135(1)(d)1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
784.07(2)(d)	1st	Aggravated battery on law enforcement officer.	893.135(1)(e)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.	893.135(1)(f)1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
784.081(1)	1st	Aggravated battery on specified official or employee.			
784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.			(Redesignate subsequent sections.)
790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).			And the title is amended as follows:
790.16(1)	1st	Discharge of a machine gun under specified circumstances.			On page 1, line 9, after the semicolon (;) insert: creating the "Jeremy Fiedelholz Safe Day Care Act"; amending s. 402.319, F.S.; providing a penalty for making misrepresentations to certain persons regarding licensure or operation of a child care facility or family day care home; providing a penalty for culpable negligence or intentional act and the parent or guardian relied on a misrepresentation; amending s. 921.0022, F.S.; providing for ranking of violation on the offense severity ranking chart;
796.03	2nd	Procuring any person under 16 years for prostitution.			Senator Bankhead moved the following substitute amendment which was adopted:
800.04	2nd	Handle, fondle, or assault child under 16 years in lewd, lascivious, or indecent manner.			Amendment 3 (with title amendment) —On page 2, between lines 26 and 27, insert:
806.01(2)	2nd	Maliciously damage structure by fire or explosive.			Section 3. <i>Section 4 of this act may be cited as the "Jeremy Fiedelholz Safe Day Care Act."</i>
810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.			Section 4. Section 402.319, Florida Statutes, is amended to read:
810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.			402.319 Penalties; <i>aggravating circumstances.</i> —
810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.			(1) It is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, for any person willfully, knowingly, or intentionally to:
812.014(2)(a)	1st	Property stolen, valued at \$100,000 or more; property stolen while causing other property damage; 1st degree grand theft.			(a)(4) Fail, by false statement, misrepresentation, impersonation, or other fraudulent means, to disclose in any application for voluntary or
812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.			

paid employment or licensure regulated under ss. 402.301-402.318 a material fact used in making a determination as to such person's qualifications to be an owner, operator, employee, or volunteer in a child care facility or other child care program.

(b)(2) Operate or attempt to operate a child care facility without having procured a license as required by this act.

(c)(5) Operate or attempt to operate a family day care home without a license or without registering with the department, whichever is applicable.

(d)(3) Operate or attempt to operate a child care facility under a license that is suspended, revoked, or terminated.

(e)(4) Represent, by act or omission, a child care facility to be duly licensed pursuant to this act without being so licensed.

(2) The court may increase the penalty provided in this section to a felony of the third degree if the court finds, beyond a reasonable doubt, that the owner or operator of a child care or family day care facility has knowingly, willfully, and intentionally misrepresented a material fact regarding:

(a) The facility's staff-to-children ratio, and is in violation of s. 402.305(4), to the extent that the number of children at the facility rounded to the next higher number exceeds statutory limits by 50 percent or more; or

(b) The facility's licensure as required under s. 402.305, and a parent, in reliance upon such misrepresentation, has placed a child in the facility and the child suffered great bodily harm, significant permanent disfigurement, permanent disability, or death as a result of such misrepresentation and as a result of an intentional egregious act or gross negligence committed by the facility owner or operator or committed by an employee of the facility who acted with the knowledge and consent of the owner or operator.

Section 5. Paragraph (g) of subsection (3) of section 921.0022, Florida Statutes, is amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
		(g) LEVEL 7
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
402.319(2)	3rd	Misrepresentation and gross negligence or intentional act resulting in great bodily harm, permanent disfigurement, permanent disability, or death.
409.920(2)	3rd	Medicaid provider fraud.
494.0018(2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
782.071	3rd	Killing of human being by the operation of a motor vehicle in a reckless manner (vehicular homicide).
782.072	3rd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.

Florida Statute	Felony Degree	Description
784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.
784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.
784.081(1)	1st	Aggravated battery on specified official or employee.
784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.
790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
790.16(1)	1st	Discharge of a machine gun under specified circumstances.
796.03	2nd	Procuring any person under 16 years for prostitution.
800.04	2nd	Handle, fondle, or assault child under 16 years in lewd, lascivious, or indecent manner.
806.01(2)	2nd	Maliciously damage structure by fire or explosive.
810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
812.014(2)(a)	1st	Property stolen, valued at \$100,000 or more; property stolen while causing other property damage; 1st degree grand theft.
812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
825.102(3)(b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
825.1025(2)	2nd	Lewd or lascivious battery upon an elderly person or disabled adult.
825.103(2)(b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000.
827.03(3)(b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
827.04(4)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
872.06	2nd	Abuse of a dead human body.
893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) drugs) within 1,000 feet of a school.
893.13(4)(a)	1st	Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) drugs).
893.135(1)(a)1.	1st	Trafficking in cannabis, more than 50 lbs., less than 2,000 lbs.
893.135(1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.

Florida Statute	Felony Degree	Description
893.135 (1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
893.135 (1)(d)1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
893.135(1)(e)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
893.135(1)(f)1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, lines 2-10, delete those lines and insert: An act relating to criminal justice; providing definitions; specifying conditions for committing culpable negligence causing public financial injury; providing penalties; requiring certain contracts to provide notice of such conditions; providing construction; providing for prosecution by a state attorney or the Statewide Prosecutor; creating the "Jeremy Fiedelholz Safe Day Care Act"; amending s. 402.319, F.S.; providing an enhanced penalty for making misrepresentations regarding licensure or operation of a child care facility and violating the required staff-to-children ratio; providing for the enhanced penalty to apply to intentional acts or gross negligence committed by the facility owner or operator or an employee acting with the knowledge and consent of the owner or operator; amending s. 921.0022, F.S.; providing for ranking of violation on the offense severity ranking chart; providing an effective date.

Senators Harris, Dudley and Campbell offered the following amendment which was moved by Senator Campbell and adopted:

Amendment 4 (with title amendment)—On page 2, lines 27 and 28, delete those lines and insert:

Section 3. Effective July 1, 1998, subsection (1) of section 95.051, Florida Statutes, is amended to read:

95.051 When limitations tolled.—

(1) The running of the time under any statute of limitations except ss. 95.281, 95.35, and 95.36 is tolled by:

- (a) Absence from the state of the person to be sued.
- (b) Use by the person to be sued of a false name that is unknown to the person entitled to sue so that process cannot be served on the person to be sued.
- (c) Concealment in the state of the person to be sued so that process cannot be served on him or her.
- (d) *Fraudulent concealment of a cause of action or the identity of a person to be sued.*
- (e) ~~(d)~~ The adjudicated incapacity, before the cause of action accrued, of the person entitled to sue. In any event, the action must be begun within 7 years after the act, event, or occurrence giving rise to the cause of action.
- (f) ~~(e)~~ Voluntary payments by the alleged father of the child in paternity actions during the time of the payments.
- (g) ~~(f)~~ The payment of any part of the principal or interest of any obligation or liability founded on a written instrument.
- (h) ~~(g)~~ The pendency of any arbitral proceeding pertaining to a dispute that is the subject of the action.

(i) ~~(h)~~ The minority or previously adjudicated incapacity of the person entitled to sue during any period of time in which a parent, guardian, or guardian ad litem does not exist, has an interest adverse to the minor or incapacitated person, or is adjudicated to be incapacitated to sue; except with respect to the statute of limitations for a claim for medical

malpractice as provided in s. 95.11. In any event, the action must be begun within 7 years after the act, event, or occurrence giving rise to the cause of action.

Paragraphs (a)-(c) shall not apply if service of process or service by publication can be made in a manner sufficient to confer jurisdiction to grant the relief sought. This section shall not be construed to limit the ability of any person to initiate an action within 30 days of the lifting of an automatic stay issued in a bankruptcy action as is provided in 11 U.S.C. s. 108(c).

Section 4. *It is the intent of the Legislature that the amendment of section 95.051, Florida Statutes, by section 1 of this act as it relates to the fraudulent concealment of a cause of action is remedial in nature and is intended to clarify existing law.*

Section 5. This act shall take effect July 1, 1998, and shall apply to all actions in which there was a fraudulent concealment of a cause of action or of the identity of a person to be sued, regardless of whether such acts of fraudulent concealment occurred before or after that date.

And the title is amended as follows:

On page 1, lines 1-10, delete those lines and insert: A bill to be entitled An act relating to civil actions; providing definitions; specifying conditions for committing culpable negligence causing public financial injury; providing penalties; requiring certain contracts to provide notice of such conditions; providing construction; providing for prosecution by a state attorney or the Statewide Prosecutor; amending s. 95.051, F.S.; providing that the fraudulent concealment of the cause of action or the identity of the person to be sued tolls the statute; providing legislative intent; providing effective dates.

WHEREAS, it is a recognized rule of construction that the Legislature is deemed to know the existing law, and

WHEREAS, the courts of this state have long recognized the doctrine that the fraudulent concealment of a cause of action by a tortfeasor tolls the statute of limitations until the date the action is discovered or the date on which, through the exercise of ordinary diligence, it might have been discovered, *Proctor v. Schomberg*, 63 So.2d 68 (Fla. 1953), and

WHEREAS, the Legislature, in enacting a statute of repose in medical malpractice actions expressly recognized and recited this doctrine of tolling the statute of limitations in cases of fraudulent concealment of the cause of action, and

WHEREAS, the Florida Supreme Court, in *Fulton County Administration v. Sullivan*, 22 Fla. Law Weekly, S578 (Fla. 1997), held that "the plain language of s. 95.091 does not provide for the tolling of the statute of limitation in cases in which the tortfeasor fraudulently conceals his or her identity," and

WHEREAS, the Florida Supreme Court in *Fulton County Administration v. Sullivan* made the recommendation "that the Legislature examine this issue and, should it agree, enact an amendment to the statute to avoid such an unfair result," and

WHEREAS, similarly, as a result of the reasoning of the Florida Supreme Court in *Fulton County Administration v. Sullivan*, there may be a question of whether the fraudulent concealment of a cause of action tolls the statute of limitation, and

WHEREAS, it is the intent of the Legislature by this act to clarify once and for all its continued recognition of the "court-made" tolling provision for fraudulent concealment of a cause of action and to avoid the unfair result of not tolling the statute of limitations where the tortfeasor fraudulently conceals his or her identity, and

WHEREAS, the Legislature deems the provisions of this act to be curative and remedial in effect and to operate as if there was never any question of the Legislature's recognition of the judicially created tolling exception for fraudulent concealment of a cause of action, NOW, THEREFORE,

On motion by Senator Campbell, by two-thirds vote **CS for CS for HB 3657** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

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

Nays—None

Vote after roll call:

Yea to Nay—Ostalkiewicz

On motion by Senator Kirkpatrick, by two-thirds vote **HB 4155** was withdrawn from the Committee on Ways and Means.

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

HB 4155—A bill to be entitled An act relating to the tax on sales, use, and other transactions; amending s. 212.08, F.S.; providing an exemption for the sale of performance-enhancing or growth-enhancing products for cattle; providing an exemption for generators used on poultry farms; providing an effective date.

—a companion measure, was substituted for **CS for SB 680** and by two-thirds vote read the second time by title. On motion by Senator Kirkpatrick, by two-thirds vote **HB 4155** 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
Bankhead	Dudley	Kirkpatrick	Rossin
Bronson	Dyer	Klein	Silver
Brown-Waite	Forman	Kurth	Sullivan
Campbell	Geller	Latvala	Thomas
Casas	Grant	Laurent	Turner
Childers	Gutman	Lee	Williams
Clary	Harris	McKay	
Cowin	Holzendorf	Meadows	
Crist	Horne	Myers	

Nays—None

Consideration of **SB 970** was deferred.

The Senate resumed consideration of—

SB 1416—A bill to be entitled An act relating to insurance; amending s. 626.112, F.S.; prohibiting a person from transacting health insurance unless licensed and appointed; amending s. 626.321, F.S.; providing that a full-time salaried employee of a common carrier or of a transportation ticket agency that rents or leases motor vehicles who holds a limited insurance license may write motor vehicle liability insurance providing coverage greater than the standard liability limits provided by a lessor in its lease to a person renting or leasing a motor vehicle from the licensee's employer; amending s. 627.410, F.S.; providing that the forms of certain health insurance policies or applications need not be approved by the Department of Insurance; providing an effective date.

—which was previously considered and amended this day.

Pending further consideration of **SB 1416** as amended, on motion by Senator Gutman, by two-thirds vote **CS for HB 4047** was withdrawn from the Committee on Banking and Insurance.

On motion by Senator Gutman—

CS for HB 4047—A bill to be entitled An act relating to international health insurance policies sold at airports; creating s. 624.123, F.S.; pro-

viding definitions; authorizing licensed agents to sell international health insurance policies to residents of foreign countries at international airports; requiring a specified disclaimer; providing exemptions from regulation under the Insurance Code; specifying applicable provisions; providing an effective date.

—a companion measure, was substituted for **SB 1416** and read the second time by title.

Senator Gutman moved the following amendment which was adopted:

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

Section 1. Section 624.123, Florida Statutes, is created to read:

624.123 Certain international health insurance policies; exemption from code.—

(1) International health insurance policies and applications may be solicited and sold in this state at any international airport to a resident of a foreign country. Such international health insurance policies shall be solicited and sold only by a licensed health insurance agent and unwritten only by an admitted insurer. For purposes of this subsection:

(a) "International airport" means any airport in Florida with U. S. Customs service, which enplanes more than 1 million passengers per year.

(b) "International health insurance policy" means health insurance, as defined in s. 627.6561(5)(a)2., which is offered to an individual, covering only a resident of a foreign country on an annual basis.

(c) "Resident of a foreign country" does not include any United States citizen, any natural person maintaining his or her residence in this country, or any natural person staying in this state continuously for more than 120 days.

(2) Any international health insurance policy sold, and any application provided, to residents of foreign countries pursuant to this subsection shall contain the following conspicuous, boldfaced disclaimer in at least 12 point type: "This individual health insurance policy may be sold only to a person not a resident of the United States. This policy does not comply with coverage, underwriting, and other provisions of the Florida Insurance Code, and must comply with coverage, underwriting, and other insurance regulatory provisions of your country of residence."

(3) Any insurer underwriting international health insurance policies pursuant to this subsection is subject to all applicable provisions of the Insurance Code, except as otherwise provided in this subsection. International health insurance policies are not subject to any form approval, rate approval, underwriting restrictions, guaranteed availability, or coverage mandates provided in the Insurance Code. Health insurance agents who are licensed and appointed pursuant to chapter 626 may solicit, sell, effect, collect premium on, and deliver international health insurance policies in accordance with this section. Solicitation or sale of an international health insurance policy to a U. S. citizen or to a natural person not a resident of a foreign country is a willful violation of the provisions of s. 626.611.

(4) Any international health insurance policy or application solicited, provided, entered into, issued, or delivered pursuant to this subsection is exempt from all provisions of the Insurance Code, except that such policy, contract, or agreement is subject to the provisions of ss. 624.155, 624.316, 624.3161, 626.951, 626.9511, 626.9521, 626.9541, 626.9551, 626.9561, 626.9571, 626.9581, 626.9591, 626.9601, 627.413, 627.4145, 627.428, and 627.6043.

Section 2. Section 624.478, Florida Statutes, is repealed.

Section 3. 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 international health insurance policies sold at airports; creating s. 624.123, F.S.; providing definitions; authorizing licensed agents to sell international health insurance policies to residents of foreign countries at international airports; requiring a specified disclaimer; providing exemptions from regulation under the Insurance

Code; specifying applicable provisions; repealing 624.478, F.S., relating to the use of licensed agents; providing an effective date.

On motion by Senator Gutman, by two-thirds vote **CS for HB 4047** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Madam President	Crist	Holzendorf	Myers
Bankhead	Diaz-Balart	Horne	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	Williams
Clary	Hargrett	McKay	
Cowin	Harris	Meadows	

Nays—None

CS for SB 1396—A bill to be entitled An act relating to greenways and trails; providing purposes; amending s. 110.501, F.S.; revising the definition of “volunteer” to include persons who consent to certain use of real property; amending s. 260.012, F.S.; revising declaration of policy and legislative intent relating to the “Florida Greenways and Trails Act”; creating s. 260.0125, F.S.; providing rights and benefits of landowners whose lands are designated as greenways or trails; requiring the Department of Environmental Protection to post certain notices of trespass; providing for penalties; amending s. 260.013, F.S.; revising definitions; amending s. 260.014, F.S.; requiring the landowner’s specific written consent for designation of lands as a part of the statewide system of greenways and trails; amending ss. 260.0141 and 260.018, F.S.; restricting certain construction or use of planning materials; amending s. 260.016, F.S., relating to powers of the department; providing for rules; providing penalties; providing for fees; providing for a process for designation of lands as a part of the state system of greenways and trails; authorizing negotiations with private landowners; authorizing incentives for certain landowners; directing the Department of Environmental Protection to erect a suitable memorial to Marjorie Harris Carr on the Cross Florida Greenways State Recreation Area; amending s. 259.041, F.S.; authorizing the Division of State Lands to use appraisals provided by a public agency or nonprofit organization; amending s. 259.101, F.S.; revising the date that certain unencumbered funds in the Preservation 2000 Trust Fund will be redistributed; providing for the sale of specified lands by the Board of Trustees of the Internal Improvement Trust Fund; providing for the deposit of funds from the sale; providing an effective date.

—was read the second time by title.

Amendments were considered and adopted to conform **CS for SB 1396** to **CS for HB 3771**.

Pending further consideration of **CS for SB 1396** as amended, on motion by Senator Sullivan, by two-thirds vote **CS for HB 3771** was withdrawn from the Committees on Natural Resources; and Governmental Reform and Oversight.

On motion by Senator Sullivan—

CS for HB 3771—A bill to be entitled An act relating to recreational lands; providing purposes; amending s. 110.501, F.S.; revising the definition of “volunteer” to include persons who consent to certain use of real property; amending s. 260.012, F.S.; revising declaration of policy and legislative intent relating to the “Florida Greenways and Trails Act”; creating s. 260.0125, F.S.; providing rights and benefits of landowners whose lands are designated as greenways or trails; requiring the Department of Environmental Protection to post certain notices of trespass; providing for penalties; amending s. 260.013, F.S.; revising definitions; amending s. 260.014, F.S.; requiring the landowner’s specific written consent for designation of lands as a part of the statewide system of greenways and trails; amending ss. 260.0141 and 260.018, F.S.; restricting certain construction or use of planning materials; amending s. 260.016, F.S., relating to powers of the department; providing for rules; providing penalties; providing for fees; providing for a process for designation of lands as a part of the state system of greenways and trails;

authorizing negotiations with private landowners; authorizing incentives for certain landowners; directing the Department of Environmental Protection to erect a suitable memorial to Marjorie Harris Carr on the Cross Florida Greenways State Recreation Area; amending s. 259.041, F.S.; authorizing the Division of State Lands to use appraisals provided by a public agency or nonprofit organization; amending s. 259.101, F.S.; revising the date that certain unencumbered funds in the Preservation 2000 Trust Fund will be redistributed; 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; providing for the deposit of funds from the sale; providing an effective date.

—a companion measure, was substituted for **CS for SB 1396** as amended and read the second time by title. On motion by Senator Sullivan, by two-thirds vote **CS for HB 3771** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

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

Nays—None

SB 970—A bill to be entitled An act relating to the educational property tax exemption; amending s. 196.198, F.S.; providing circumstances in which land is considered to be property owned by an educational institution; providing an effective date.

—was read the second time by title. On motion by Senator Meadows, by two-thirds vote **SB 970** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

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

Nays—None

On motion by Senator Grant, by two-thirds vote **CS for HB 3201** was withdrawn from the Committees on Judiciary; and Governmental Reform and Oversight.

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

CS for HB 3201—A bill to be entitled An act relating to religious freedom; creating the “Religious Freedom Restoration Act of 1998”; providing that government shall not substantially burden the exercise of religion; providing exceptions; providing definitions; providing for attorney’s fees and costs; providing applicability; providing construction; providing an effective date.

—a companion measure, was substituted for **CS for SB 296** and by two-thirds vote read the second time by title. On motion by Senator Grant, by two-thirds vote **CS for HB 3201** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

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

Nays—None

Consideration of **CS for SB 524** was deferred.

CS for SB 1134—A bill to be entitled An act relating to public records; amending s. 828.30, F.S.; providing an exemption from public records requirements for specified information contained in a rabies vaccination certificate; authorizing disclosure to certain public agencies and to other persons under certain conditions; providing for future review and repeal; providing a finding of public necessity; providing an effective date.

—was read the second time by title.

An amendment was considered and adopted to conform **CS for SB 1134** to **HB 1139**.

Pending further consideration of **CS for SB 1134** as amended, on motion by Senator Bronson, by two-thirds vote **HB 1139** was withdrawn from the Committee on Regulated Industries.

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

HB 1139—A bill to be entitled An act relating to public records; amending s. 828.30, F.S.; providing an exemption from public records requirements for information contained in a rabies vaccination certificate; authorizing disclosure to certain public agencies and to other persons under certain conditions; providing for future review and repeal; providing a finding of public necessity; providing an effective date.

—a companion measure, was substituted for **CS for SB 1134** as amended and by two-thirds vote read the second time by title. On motion by Senator Bronson, by two-thirds vote **HB 1139** 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 Scott, 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 440, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 440—A bill to be entitled An act relating to pari-mutuel wagering; amending s. 550.01215, F.S.; revising language with respect to periods of operation for certain permitholders; amending s. 550.0951, F.S.; providing that no admission tax shall be imposed on any free passes or complimentary cards for admission to pari-mutuel events; revising, reenacting, and amending s. 550.09515, F.S., relating to thoroughbred horse taxes; revising the tax on handle and additional purse payment requirements for certain guest thoroughbred permitholders; amending s. 550.09515, F.S.; amending thoroughbred horse taxes; repealing increased tax requirements for certain thoroughbred permitholders operating in multiple tax periods; deleting obsolete language; amending s. 550.2625, F.S.; revising eligibility requirements with respect to stallion awards; reenacting s. 550.2625(2), F.S., relating to horseracing purse payment requirements and purse accounts used for Florida Owners' Awards; amending s. 550.5251, F.S.; revising the hours of operation for thoroughbred racing permitholders; amending s. 550.615, F.S.; providing for the retention of tax revenues by a thoroughbred permitholder conducting specified intertrack wagering; providing for certain purse payments; repealing subsection (11) of s. 550.615, F.S.; requiring certain intertrack wagering broadcasts; amending s. 550.6305, F.S.; revising language with respect to intertrack wagering and guest track payments; creating s. 550.6308, F.S.; providing for a limited intertrack wagering license; creating s. 550.72, F.S.; directing a study of the feasibility of state or municipal ownership of Hialeah Race Course; providing an appropriation; repealing s. 550.2425, F.S., relating to a racing laboratory at horse racetrack facilities; repealing s. 550.655, F.S., relating to backside medical and health benefits; providing effective dates.

House Amendment 1—On page 5, lines 14-21, remove from the bill all of said lines: and insert in lieu thereof:

1. The tax on handle per performance for live thoroughbred performances is ~~2.0~~^{2.25} percent of handle for performances conducted during the period beginning on January 3 and ending March 16; ~~.20~~^{.70} percent of handle for performances conducted during the period beginning March 17 and ending May 22; and ~~1.25~~^{4.5} percent of handle for performances conducted during the period beginning May 23 and ending January 2.

House Amendment 3—On page 8, between lines 18 and 19, of the bill insert:

(6) Notwithstanding the provisions of s. 550.0951(3)(c), the tax on handle is 0.2 percent for intertrack wagering and for intertrack wagering on rebroadcasts of simulcast horseraces for a thoroughbred permitholder that conducts performances during the period beginning March 17 and ending May 22. This subsection applies only to thoroughbred permitholders located in any area of the state where there are three or more thoroughbred permitholders within 25 miles of each other. The tax shall be deposited into the General Revenue Fund. Effective July 1, 2001, this subsection is repealed.

House Amendment 4—On page 4, line 24, of the bill after “amended”, insert: and subsection (6) is added to said section

House Amendment 5 (with title amendment)—On page 13, lines 1-5, remove from the bill all of said lines: and insert in lieu thereof: be required to pay as additional purses ~~.625~~^{.375} percent of live handle for performances conducted during the period beginning on January 3 and ending March 16; ~~.225~~ percent for performances conducted during the period beginning March 17 and ending May 22; and ~~.85~~^{.6} percent for performances conducted

And the title is amended as follows:

On page 1, line 21, remove from the title of the bill all of said line: and insert in lieu thereof: reenacting and amending s. 550.2625(2), F.S.; revising

House Amendment 6—On page 16, lines 5 and 6, remove from the bill all of said lines: and insert in lieu thereof: January 2 must make available any live pari-mutuel event

House Amendment 7—On page 16, line 20, remove from the bill: 2000 and insert in lieu thereof: 2001

House Amendment 8—On page 8, line 19, through page 9, line 3, remove from the bill all of said lines: and insert in lieu thereof:

Section 4. Effective July 1, 2001, paragraph (a) of subsection (2) of section 550.09515, Florida Statutes, is amended to read:

550.09515 Thoroughbred horse taxes; abandoned interest in a permit for nonpayment of taxes.—

(2)(a) Notwithstanding the provisions of s. 550.0951(3)(a), the tax on handle for live thoroughbred horse performances shall be subject to the following:

1. The tax on handle per performance for live thoroughbred performances is ~~2.25~~ 2.0 percent of handle for performances conducted during the period beginning on January 3 and ending March 16; ~~.70~~ .20 percent of handle for performances conducted during the period beginning March 17 and ending May 22; and ~~1.54~~ .25 percent of handle for performances conducted during the period beginning May 23 and ending January 2.

On motion by Senator Scott, the Senate concurred in the House amendments.

CS for SB 440 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	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	McKay	

Nays—1

Ostalkiewicz

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 152, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 152—A bill to be entitled An act relating to the powers and duties of the Governor; amending s. 14.23, F.S.; regulating the nomination of appointees to federal regional fisheries management councils; providing an effective date.

House Amendment 1—On page 1, lines 19-28, remove from the bill: all of said lines and insert in lieu thereof: *nomination, a lobbyist for any entity of any kind whatsoever whose interests are or could be affected by actions or decisions of such fisheries management councils.*

(b) For purposes of this section, the term "lobbyist" means any natural person who is required to register pursuant to s. 11.045 or the equivalent federal statute and who, for compensation, seeks, or sought during the preceding 24 months, to influence the governmental decisionmaking of a reporting individual or procurement employee, as those terms are defined

under s. 112.3148, or his or her agency, to encourage the passage, defeat, or

On motion by Senator Latvala, the Senate concurred in the House amendment.

CS for SB 152 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	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	Hargrett	McKay	Williams
Cowin	Harris	Meadows	

Nays—None

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 570, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

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.

House Amendment 1 (with title amendment)—On page 7, line 23, remove from the bill: all of said line and insert in lieu thereof:

Section 4. This act shall take effect July 1, 1998, except that the amendment of sections 395.701 and 395.7015, Florida Statutes, by this act shall take effect only upon the Agency for Health Care Administration receiving written confirmation from the federal Health Care Financing Administration that the changes contained in such amendments will not adversely affect the use of the remaining assessments as state match for the state's Medicaid program.

And the title is amended as follows:

On page 1, line 19, remove from the title of the bill: all of said line and insert in lieu thereof: conference; providing effective dates.

On motion by Senator Dudley, the Senate concurred in the House amendment.

CS for SB 570 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	Childers	Forman	Jones
Bankhead	Clary	Geller	Kirkpatrick
Bronson	Cowin	Grant	Klein
Brown-Waite	Crist	Hargrett	Kurth
Burt	Diaz-Balart	Harris	Latvala
Campbell	Dudley	Holzendorf	Laurent
Casas	Dyer	Horne	Lee

McKay	Ostalkiewicz	Silver	Turner
Meadows	Rossin	Sullivan	Williams
Myers	Scott	Thomas	

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 714, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

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.

House Amendment 1 (with title amendment)—On page 6, line 21, of the bill insert:

Section 1. Paragraph (l) is added to subsection (1) of section 440.134, Florida Statutes, to read:

440.134 Workers' compensation managed care arrangement.—

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

(l) *“Medical case manager”* means a qualified rehabilitation provider as defined in s. 440.491 or a registered nurse licensed under chapter 464, either of whom act under the supervision of a medical care coordinator.

And the title is amended as follows:

On page 1, line 2, after the semicolon insert: amending s. 440.134, F.S.; defining the term “medical case manager”;

On motion by Senator Forman, the Senate refused to concur in the House amendment to **CS for CS for SB 714** 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 passed SB 898, with amendment(s), by the required Constitutional two-thirds vote of the membership and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 898—A bill to be entitled An act relating to postconviction proceedings in capital cases; repealing Rule 3.852, Florida Rules of Criminal

Procedure, relating to the production of records in postconviction proceedings in capital cases; providing a contingent effective date.

House Amendment 1—On page 1, line 13, remove from the bill: July 1, 1998 and insert in lieu thereof: October 1, 1998

On motion by Senator Burt, the Senate concurred in the House amendment.

SB 898 passed as amended by the required constitutional two-thirds vote of the membership 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	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	Hargrett	McKay	Williams
Cowin	Harris	Meadows	

Nays—None

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 1270, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 1270—A bill to be entitled An act relating to public funds; providing for the appropriation of revenues obtained as a result of the settlement of litigation involving the tobacco industry; providing for specified amounts to be appropriated to the Department of Health to continue implementing the Florida Kids Campaign Against Tobacco Pilot Program; providing for additional appropriations of revenues to be used for marketing, education and training, youth programs, and community partnerships; providing an appropriation to the Department of Business and Professional Regulation; requiring that such funds be used to enforce laws governing access to and possession of tobacco products by underage persons; providing for an evaluation of the pilot program; providing for program coordination and administrative support; providing an appropriation to the Working Capital Fund; specifying guidelines to be applied by the Legislature in expending funds paid to the state as a result of the settlement of litigation involving the tobacco industry; providing that funds should be deposited into a trust fund rather than into the General Revenue Fund; providing that funds should be spent on children's health services and on education, training, and enforcement programs; prohibiting the use of such funds to support a national settlement; requiring county health departments to administer certain funds unless granted an exemption; 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. *There is hereby appropriated a lump sum of \$70 million from the tobacco settlement revenues that were received for the pilot program to the Department of Health to continue implementation of the Florida Kids Campaign Against Tobacco Pilot Program in fiscal year 1998-1999. Funds in the lump sum shall be distributed to the following agencies for the following programs, subject to the notice, review, and objection provisions of section 216.177, Florida Statutes:*

(1) *To the Department of Health for marketing and communications. Such funds shall be used for a media campaign to create and promote messages urging youth to live tobacco free.*

(2) *To the Department of Health for a comprehensive tobacco education and training initiative, directed toward Florida youth in pre-K through grade 12. The initiative should be created through collaborative efforts between the state, local communities, voluntary agencies, school*

districts, professional organizations, and the State University System and should emphasize intensive, interactive, and coordinated anti-tobacco curricula.

(3) *To the Department of Health for youth programs and community partnerships. Such funds shall be used to develop community partnerships through the county health departments for implementing community-based tobacco prevention programs, including the needs of the minority youth populations of the state.*

(4) *To the Department of Business and Professional Regulation for enforcement of laws against underage tobacco access and possession through a combination of program development, research, and contracts with local law enforcement agencies. Funding provided to the department shall be used for the purposes of placing enforcement agents in retail locations to deter youth purchasing of tobacco, providing training of store employees, and providing for enforcement efforts near schools.*

(5) *To the Department of Health for evaluation of each aspect of the pilot program. Funding provided shall be used to obtain baseline data on the prevalence of tobacco use among youth and for monitoring changes in tobacco utilization within this group.*

(6) *To the Department of Health or the Department of Business and Professional Regulation, as applicable, for coordination and program administration, not to exceed 5 percent of the total funds appropriated in this section. The Executive Office of the Governor may request Administration Commission approval of positions in excess of the number of positions fixed by the Legislature if necessary to implement the approved distribution of funds provided in this section. Positions established or redirected pursuant to this subsection are to be vacated and held in reserve by the Executive Office of the Governor upon completion of the Florida Kids Campaign Against Tobacco Pilot Program.*

Section 2. *The following guidelines shall be applied to the expenditure of all funds paid to the State of Florida as a result of litigation entitled The State of Florida et al. v. American Tobacco Company et al., Case #95-1466AH, in the Circuit Court of the Fifteenth Judicial Circuit, in and for Palm Beach County:*

(1) *The Legislature asserts its rights to appropriate all funds paid or payable to the state through the tobacco settlement. Before any funds are released, the Legislature must approve all program and funding proposals.*

(2) *A trust fund should be created solely for the purpose of receiving and managing settlement funds, and a full and complete record of all budget and expenditure actions should be maintained.*

(3) *Administrative costs associated with programs and providers that receive funds from the tobacco settlement should be set at a reasonable level, consistent with best-management practices.*

(4) *Local law enforcement agencies, businesses, and school districts should be involved in enforcement efforts as appropriate to the mission of each organization.*

(5) *Funds received from the tobacco settlement may not be used for advertising that includes the name, voice, or likeness of any elected or appointed public official.*

(6) *Greater emphasis should be placed on funding education, training, and enforcement programs than is placed on the funding of advertising.*

(7) *County health departments must administer funds provided to each local coalition that is not specifically granted an exemption by the Legislature. Exemptions from requirements to administer coalition programs by county health departments shall be limited to established administrative entities that meet a test of several criteria established by the Department of Health and may not include provider agencies that could receive funding from the settlement.*

(8) *Programs which raise matching funds should be maximized in order to get the greatest leverage of state funds.*

(9) *Grant and contract processes should be competitive and objective.*

(10) *Requests for information or for proposals should emphasize that performance measures will be required for all contracts and grants.*

- (11) A substantial portion of the program should be character-based and focused on rewarding appropriate values and behavior in youth.
- (12) Needs of the minority youth community in this state should be addressed.

Section 3. (1) The \$330,500,000, plus accrued interest and any other funds on deposit in accounts 3660512058 and 3660510843 at NationsBank, N.A., pursuant to Escrow Agreement dated September 15, 1997, and raised as a result of litigation entitled *The State of Florida et al. vs. American Tobacco Company, et al.*, Case #95-1466AH, in the Circuit Court of the Fifteenth Judicial Circuit in and for Palm Beach County, are funds of the State of Florida and are hereby appropriated to the General Revenue Fund, and shall be transferred to the Tobacco Settlement Trust Fund, if such fund is created by law. Further, all subsequent payments made by the settling defendants in said litigation are funds of the State of Florida and are hereby appropriated to said trust fund, or if such trust fund is not created by law, to the General Revenue Fund.

(2) This section shall take effect upon becoming a law and shall supersede Section 16 of the 1998-1999 General Appropriations Act.

Section 4. (1) The Comptroller shall enforce the appropriation in Section 3 of this act by demanding payment from the depository institution within 2 business days of such section becoming law. If payment is not made within 2 business days of such demand, the Comptroller shall forthwith bring an action for a writ of mandamus or an action at law or such other action as may be necessary to ensure that the state's title to these funds is affirmed. Such action shall be filed in the circuit court of the Second Judicial Circuit, in and for Leon County, which circuit shall have exclusive jurisdiction thereof. Notice of such action shall be served upon any officer of the financial institution, or any other authorized service agent thereof, at any branch office thereof in Leon County. From and after the time this section becomes law, the depository institution is hereby and shall be prohibited from paying any of the respective funds to any person or entity other than the Comptroller of the State of Florida until the final resolution of the action and any appeal therefrom. No person who is not a party to the escrow agreement under which the respective funds were deposited shall be permitted to intervene in such action.

(2) This section shall take effect upon becoming a law.

Section 5. 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: remove from the title of the bill: everything before the enacting clause and insert in lieu thereof: A bill to be entitled An act relating to tobacco settlement funds; providing for the use of revenues obtained as a result of the settlement of litigation involving the tobacco industry; providing for a lump sum from certain of such funds to be appropriated to the Department of Health to continue implementation of the Florida Kids Campaign Against Tobacco Pilot Program; providing for distribution of funds in such lump sum to specified agencies for specified purposes; specifying guidelines to be applied by the Legislature in expending funds paid to the state as a result of the settlement of litigation involving the tobacco industry; appropriating funds received as a result of the settlement of litigation by the State of Florida against certain tobacco companies; providing for the deposit of the funds; requiring the Comptroller to enforce appropriations made herein; providing exclusive jurisdiction of such enforcement actions; limiting intervention in such actions; providing effective dates.

On motion by Senator Thomas, the Senate concurred in the House amendment.

CS for SB 1270 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	Casas	Dudley	Holzendorf
Bankhead	Childers	Dyer	Horne
Bronson	Clary	Geller	Jones
Brown-Waite	Cowin	Grant	Kirkpatrick
Burt	Crist	Hargrett	Klein
Campbell	Diaz-Balart	Harris	Kurth

Latvala	Meadows	Scott	Turner
Laurent	Myers	Silver	Williams
Lee	Ostalkiewicz	Sullivan	
McKay	Rossin	Thomas	

Nays—None

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has refused to concur in Senate Amendment(s) 1 to House Amendment(s) 1 to CS for SB 1408 and requests the Senate to recede.

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.

On motion by Senator Clary, the Senate receded from **Senate Amendment 1 to House Amendment 1** and concurred in **House Amendment 1** as recommended by the House.

CS for SB 1408 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 1564, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 1564—A bill to be entitled An act relating to the tax on sales, use, and other transactions; creating a tax incentive for certain television broadcasting stations; amending s. 212.08, F.S.; amending the exemption for machinery and equipment used in silicon technology production and research and development; deleting the requirement that the exemption be accomplished through the refund of taxes that were previously paid; deleting the provision that the refund is subject to a specific annual legislative appropriation; amending s. 212.055, F.S.; authorizing counties to use a specified percent of surtax proceeds for economic development projects; providing an effective date.

House Amendment 1 (with title amendment)—remove everything after the enacting clause: and insert in lieu thereof:

Section 1. Paragraph (j) 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.—

(j) Machinery and equipment used in silicon technology production and research and development.—

1. Industrial machinery and equipment purchased for use in silicon technology facilities certified under subparagraph 5. to manufacture, process, compound, or produce silicon technology products for sale or for use by these facilities are exempt from the tax imposed by this chapter.

2. Machinery and equipment are exempt from the tax imposed by this chapter if purchased for use predominately in silicon wafer research and development activities in a silicon technology research and development facility certified under subparagraph 5.

3. ~~In addition to meeting the exemptions authorized in subparagraphs 1. and 2. accrue to the taxpayer through a refund of previously paid taxes. A refund may not be made unless the criteria mandated by subparagraph 1. or subparagraph 2., a have been met and the business must be has been certified by the Office of Tourism, Trade, and Economic Development as authorized in this paragraph in order to qualify for exemption under this paragraph.~~

4. *For items purchased tax exempt pursuant to this paragraph, possession of a written certification from the purchaser, certifying the purchaser's entitlement to exemption pursuant to this paragraph, relieves the seller of the responsibility of collecting the tax on the sale of such items, and the department shall look solely to the purchaser for recovery of tax if it determines that the purchaser was not entitled to the exemption.*

5.4.a. To be eligible to receive the exemption provided by subparagraph 1. or subparagraph 2., a qualifying business entity shall apply to Enterprise Florida, Inc. The application shall be developed by the Office of Tourism, Trade, and Economic Development in consultation with Enterprise Florida, Inc.

b. Enterprise Florida, Inc., shall review each submitted application and information and determine whether or not the application is complete within 5 working days. Once an application is complete, Enterprise Florida, Inc., shall, within 10 working days, evaluate the application and recommend approval or disapproval of the application to the Office of Tourism, Trade, and Economic Development.

c. Upon receipt of the application and recommendation from Enterprise Florida, Inc., the Office of Tourism, Trade, and Economic Development shall certify within 5 working days those applicants who are found to meet the requirements of this section and notify the applicant, Enterprise Florida, Inc., and the department of the certification. If the Office of Tourism, Trade, and Economic Development finds that the applicant does not meet the requirements of this section, it shall notify the applicant and Enterprise Florida, Inc., within 10 working days that the application for certification has been denied and the reasons for denial. The Office of Tourism, Trade, and Economic Development has final approval authority for certification under this section.

6.5.a. A business certified to receive this exemption may apply once each year for the ~~exemption refund of all eligible taxes paid during the previous calendar year. The refund shall be subject to a specific annual appropriation from the Legislature to the Office of Tourism, Trade, and Economic Development for the payment of such refunds.~~

b. The first claim submitted by a business may include all eligible expenditures made after the date the business was certified.

c. To apply for the annual ~~exemption refund~~, the business shall submit a ~~refund~~ claim to the Office of Tourism, Trade, and Economic Development, which claim indicates and documents the sales and use taxes ~~otherwise payable~~ paid on eligible machinery and equipment. The claim ~~must shall~~ also indicate, for program evaluation purposes only, the average number of full-time equivalent employees at the facility over the preceding calendar year, the average wage and benefits paid to those employees over the preceding calendar year, and the total investment made in real and tangible personal property over the preceding calendar year or, for the first claim submitted, since the date of certification. The department shall assist the Office of Tourism, Trade, and Economic Development in evaluating and verifying information provided in the application for ~~exemption an annual refund~~.

d.—~~An application for refund must be submitted to the Office of Tourism, Trade, and Economic Development by February 15 of each year. In~~

~~the event that the Legislature does not appropriate an amount sufficient to satisfy all refund applications received by the Office of Tourism, Trade, and Economic Development, the office shall, not later than April 15 of each 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 total of refund claims received. 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, there are appropriated funds remaining, the office shall recalculate the proportion for each refund claim and adjust the amount of each claim accordingly.~~

d.e. The Office of Tourism, Trade, and Economic Development may use the information reported on the claims for evaluation purposes only and shall prepare an annual report on the exemption program and its cost and impact. The annual report for the preceding fiscal year shall be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by September 30 of each fiscal year. This report may be submitted in conjunction with the annual report required in s. 288.095(3)(c).

7.6. A business certified to receive this exemption may elect to designate one or more state universities or community colleges as recipients of up to 100 percent of the ~~amount of the exemption refund~~ for which they may qualify. To receive ~~these funds the tax refund or portion of the tax refund~~, the institution must agree to match ~~the~~ these funds so earned with equivalent cash, programs, services, or other in-kind support on a one-to-one basis in the pursuit of research and development projects as requested by the certified business. The rights to any patents, royalties, or real or intellectual property must be vested in the business unless otherwise agreed to by the business and the university or community college.

8.7. As used in this paragraph, the term:

a. "Predominately" means at least 50 percent of the time in qualifying research and development.

b. "Research and development" means basic and applied research in the science or engineering, as well as the design, development, and testing of prototypes or processes of new or improved products. Research and development does not include market research, routine consumer product testing, sales research, research in the social sciences or psychology, nontechnological activities, or technical services.

c. "Silicon technology products" means raw silicon wafers that are transformed into semiconductor memory or logic wafers, including wafers containing mixed memory and logic circuits; related assembly and test operations; active-matrix flat panel displays; semiconductor chips; and related silicon technology products as determined by the Office of Tourism, Trade, and Economic Development.

Section 2. This act shall take effect July 1 of the year in which enacted.

And the title is amended as follows:

On page 1, lines 2 through 16, remove from the title of the bill: all of said lines and insert in lieu thereof: An act relating to the tax on sales, use, and other transactions; amending s. 212.08, F.S.; amending the exemption for machinery and equipment used in silicon technology production and research and development; deleting the requirement that the exemption be accomplished through the refund of taxes that were previously paid; requiring certification by a purchaser of entitlement to the exemption and relieving the seller of responsibility to collect tax; deleting the provision that the refund is subject to a specific annual legislative appropriation; providing an effective date.

On motion by Senator McKay, the Senate concurred in the House amendment.

CS for SB 1564 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	Brown-Waite	Casas	Cowin
Bankhead	Burt	Childers	Crist
Bronson	Campbell	Clary	Diaz-Balart

Dudley	Harris	Latvala	Rossin
Dyer	Holzendorf	Laurent	Scott
Forman	Horne	Lee	Silver
Geller	Jones	McKay	Sullivan
Grant	Kirkpatrick	Meadows	Thomas
Gutman	Klein	Myers	Turner
Hargrett	Kurth	Ostalkiewicz	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 1498, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 1498—A bill to be entitled An act relating to the use of motor vehicles by persons who have disabilities; amending s. 316.1955, F.S.; clarifying standards for accessible parking spaces and parking access aisles; providing violations; providing penalties; amending s. 316.1958, F.S.; providing that a special motor vehicle license plate or parking permit issued by another state, district, or country is invalid with respect to a person who must have a Florida vehicle registration; amending s. 316.1964, F.S.; amending circumstances in which vehicles are exempt from paying parking fees and penalties; amending s. 318.18, F.S.; increasing the amount of the fine for illegally parking in a parking space for disabled persons; amending procedures for dismissing such fines and for distributing the proceeds of such fines; amending s. 320.0842, F.S.; amending prerequisites to qualifying for a free license plate as a veteran who uses a wheelchair due to a service-connected disability; amending s. 320.0843, F.S.; amending provisions related to license plates for wheelchair users; amending s. 320.0848, F.S.; amending provisions relating to the issuance of disabled parking permits; amending prerequisites; providing for replacement permits; providing for alternatives; amending requirements for the design of temporary permits; providing penalties for unlawfully displaying a disabled parking permit; providing additional grounds for confiscation of a disabled parking permit; providing for recordkeeping related to confiscation; providing for revoking the privilege of applying for a disabled parking permit; providing procedures related to confiscations and revocations; providing an effective date.

House Amendment 1—On page 9, line 25, remove from the bill: all of said line and insert in lieu thereof:

- (6) One hundred dollars for

On motion by Senator Forman, the Senate concurred in the House amendment.

CS for SB 1498 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 1748, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

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.

House Amendment 1 (with title amendment)—On page 4, between lines 4 and 5 of the bill insert:

Section 3. *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.*

And the title is amended as follows:

On page 1, line 11, after the semicolon insert: providing an appropriation to the Columbia County School District; providing a contingency;

On motion by Senator Thomas, the Senate concurred in the House amendment.

CS for SB 1748 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—36

Madam President	Cowin	Holzendorf	Myers
Bankhead	Crist	Horne	Ostalkiewicz
Bronson	Dudley	Jones	Rossin
Brown-Waite	Dyer	Kirkpatrick	Scott
Burt	Forman	Klein	Silver
Campbell	Grant	Kurth	Sullivan
Casas	Gutman	Lee	Thomas
Childers	Hargrett	McKay	Turner
Clary	Harris	Meadows	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 2480, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 2480—A bill to be entitled An act relating to the Alternative Education Institute; amending s. 230.23162, F.S.; abolishing the institute; transferring the institute to the Department of Management Services; providing duties of the Department of Management Services; establishing a working group to develop a plan for use of the facility; requiring a report; requiring the department to provide services and make a recommendation for the disposition of the facility taking account of local and state concerns; providing an appropriation; providing an effective date.

House Amendment 1—On page 3, lines 2 through 28, remove from the bill: all of said lines and insert in lieu thereof: *act becomes law.*

(3) *The Department of Management Services shall survey state agencies, and shall invite bids and proposals from state agencies, local government agencies, federal agencies, and the private sector for the use or disposition of the facility and related assets, no later than June 15, 1998. Notwithstanding any law to the contrary, the Department of Management Services shall set a deadline for receipt of bids and proposals of not less than 3 months after the invitation for bids and proposals is advertised. By October 1, 1998, the Department of Management Services shall evaluate all bids and proposals and make a recommendation to the working group created under this section regarding proposed uses for the facility, taking into account local and state interests and concerns.*

(4) *Taking into consideration the recommendation of the Department of Management Services, and local and state concerns and interests, the*

working group shall, no later than November 1, 1998, make a final determination for the use or disposition of the facility and related assets planned, constructed, acquired, and equipped pursuant to Specific Appropriation 2012A of the 1994-1995 General Appropriations Act, and shall be disbanded upon that date. Such determination shall be subject to the notice, review, and objection procedures of s. 216.177. If the final determination made by the working group is objected to under s. 216.177, the final determination for the facility and related assets shall be made by the Legislature during the 1999 Regular Session.

On motion by Senator Lee, the Senate concurred in the House amendment.

CS for SB 2480 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

Table with 4 columns: Madam President, Crist, Horne, Myers; Bankhead, Diaz-Balart, Jones, Ostalkiewicz; Bronson, Dudley, Kirkpatrick, Rossin; Brown-Waite, Dyer, Klein, Scott; Burt, Forman, Kurth, Silver; Campbell, Grant, Latvala, Sullivan; Casas, Gutman, Laurent, Thomas; Childers, Hargrett, Lee, Turner; Clary, Harris, McKay, Williams; Cowin, Holzendorf, Meadows.

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 CS for HB 271 as further amended, and requests the concurrence of the Senate.

John B. Phelps, Clerk

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.

House Amendment 1 to Senate Amendment 1—On page 38, lines 15-20, remove from the amendment: all of said lines

House Amendment 2 to Senate Amendment 1—On page 3, line 12, remove from the amendment: The obligee or, in and insert in lieu thereof: In

On motion by Senator Holzendorf, the Senate concurred in the House amendments to the Senate amendment.

CS for CS for HB 271 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—39

Table with 4 columns: Madam President, Clary, Grant, Klein; Bankhead, Cowin, Gutman, Kurth; Bronson, Crist, Hargrett, Laurent; Brown-Waite, Diaz-Balart, Harris, Lee; Burt, Dudley, Holzendorf, McKay; Campbell, Dyer, Horne, Meadows; Casas, Forman, Jones, Myers; Childers, Geller, Kirkpatrick, Ostalkiewicz

Table with 4 columns: Rossin, Silver, Thomas, Williams; Scott, Sullivan, Turner; Nays—None

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has amended Senate Amendment(s), and concurred in same as amended, and passed CS for HB 945 as further amended, and requests the concurrence of the Senate.

John B. Phelps, Clerk

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.

House Amendment 1 (with title amendment) to Senate Amendment 1—On page 1, line 17, through page 7, line 8, remove from the amendment: all of said lines and insert in lieu thereof:

Section 3. Section 381.101, Florida Statutes, is created to read:

381.101 Community Environmental Health Program; creation; purposes.—

(1) 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 health effects that are associated with exposure to environmental contamination.

(2) The Department of Health shall establish a Community Environmental Health Advisory Board. The majority of board members shall be low-income residents. 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.

(3) As used in this section:

(a) "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.

(b) "Contaminated site" means any contiguous land, surface water, or groundwater areas that 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 4. 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 the title is amended as follows:

On page 7, lines 16-29, of the amendment remove: all of said lines and insert in lieu thereof: creating s. 381.101, F.S.; creating the Community Environmental Health Program; providing purposes of the program; providing for a Community Environmental Health Advisory Board; providing an appropriation;

On motion by Senator Turner, the Senate concurred in the House amendment to the Senate amendment.

CS for HB 945 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—40

Table with 4 columns: Madam President, Bronson, Burt, Casas; Bankhead, Brown-Waite, Campbell, Childers

Clary	Grant	Klein	Ostalkiewicz
Cowin	Gutman	Kurth	Rossin
Crist	Hargrett	Latvala	Scott
Diaz-Balart	Harris	Laurent	Silver
Dudley	Holzendorf	Lee	Sullivan
Dyer	Horne	McKay	Thomas
Forman	Jones	Meadows	Turner
Geller	Kirkpatrick	Myers	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), and concurred in same as amended, and passed HB 1019 as further amended, and requests the concurrence of the Senate.

John B. Phelps, Clerk

HB 1019—A bill to be entitled An act relating to marriage; creating ss. 741.0305, 741.0306, and 741.0307, F.S., the "Marriage Preparation and Preservation Act of 1998"; providing legislative findings and purpose; requiring the creation of a handbook pertaining to the rights and responsibilities under Florida law of marital partners; amending s. 741.0306, F.S., to provide criteria to be contained in the handbook; amending s. 741.04, F.S.; providing that verification that both parties contemplating marriage have obtained and read the information contained in the handbook created pursuant to s. 741.0307, F.S., is a condition precedent to issuance of a marriage license; amending s. 741.05, F.S., to conform; 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; designating such course as the parent education and family stabilization course; providing legislative findings and purpose; authorizing the court in any action between parents in which the custody or support of a minor child is an issue to order parties to attend the family education and stabilization course if the court finds attendance to be in the best interests of the child or children; providing procedures and guidelines for required attendance; requiring parties to file proof of compliance with the court; authorizing a course fee; authorizing each judicial circuit to establish a registry of course providers and sites; authorizing the court to grant exemption from required course attendance; providing parent education and family stabilization course curriculum; providing qualifications and duties of course providers; amending s. 232.246, F.S.; including marriage and relationship education within the life management skills credit required for graduation from high school; amending s. 28.101, F.S.; providing an additional charge for petition for a dissolution of marriage; providing for deposit of such funds in the Family Courts Trust Fund; amending s. 25.388, F.S.; providing an additional source of funding for the Family Courts Trust Fund; providing an effective date.

House Amendment 1 (with title amendment) to Senate Amendment 1—On page 1, line 17, through page 290, line 14, remove from the amendment: all of said lines and insert in lieu thereof:

Section 1. *Sections 1-16 of this act may be cited as the "Marriage Preparation and Preservation Act of 1998."*

Section 2. (1) *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, and 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.*

(2) This section shall take effect January 1, 1999.

Section 3. Effective January 1, 1999, 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 4. Effective January 1, 1999, 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 5. Effective January 1, 1999, 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. Each individual shall verify completion of the course by filing with the application a valid certificate of completion from the course provider, 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 may 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 6. (1) (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 s. 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.

(2) This section shall take effect January 1, 1999.

Section 7. Effective January 1, 1999, 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 need not be limited to:

(a) Prenuptial 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, premarital property, and nonmarital 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.

(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 videotape or other suitable electronic media. The information contained in the handbook or other electronic media presentation shall be reviewed and updated annually.

Section 8. Effective January 1, 1999, 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 effective date of the marriage license shall be delayed 3 days from the date of application. The effective date shall be printed on the marriage license in bold print. If a couple has submitted valid certificates of completion of a premarital preparation course, the effective date of the marriage license shall not be delayed. Exceptions to the delayed effective date must be granted to non-Florida residents seeking a marriage license from the state and for individuals asserting hardship. Marriage license fee waivers shall continue to be available to all eligible individuals. For state residents, a county court judge issuing a marriage license may waive the delayed effective date for good cause.*

Section 9. (1) *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.*

(2) This section shall take effect January 1, 1999.

Section 10. Effective January 1, 1999, 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 11. Effective January 1, 1999, 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 12. Effective January 1, 1999, 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 13. Effective January 1, 1999, 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)(4) 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 need 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 14. Effective January 1, 1999, 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 15. Effective January 1, 1999, 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 16. *Effective January 1, 1999, 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 17. 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 18. Section 39.001, Florida Statutes, is amended, subsection (3) of said section is renumbered as subsection (9), section 39.002, Florida Statutes, is renumbered as subsections (3), (4), and (5) of said section and amended, and section 415.501, Florida Statutes, is renumbered as subsections (6), (7), and (8) of said section and 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 which allow the department to respond to reports of child abuse, abandonment, or neglect in the most efficient and effective manner that ensures the health and safety of children and the integrity of families.

~~(e) 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 to a relative 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.

(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 re-screening 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.~~

~~39.002—Legislative intent.—~~

~~(3)(4) 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 caretaker* in a safe environment when alternative placement is necessary.

(4)(2) **SUBSTANCE ABUSE SERVICES.**—The Legislature finds that children in the care of the state's dependency *system and delinquency systems* 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 and delinquency systems* 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 and delinquency systems*, which will be fully implemented and utilized as resources permit.

(5)(3) **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 *to deter their participation in delinquent acts*. 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 caretakers* to fulfill their responsibilities are identified through the *dependency delinquency intake* process and that appropriate recommendations *and services* to address those problems are considered in any judicial or nonjudicial proceeding.

415.501—Prevention of abuse and neglect of children; state plan.—

(6)(4) **LEGISLATIVE INTENT FOR THE PREVENTION OF ABUSE, ABANDONMENT, AND NEGLECT OF CHILDREN.**—The incidence of known child abuse, *abandonment*, and child 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)(2) **PLAN FOR COMPREHENSIVE APPROACH.**—

(a) The department of ~~Children and Family Services~~ 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 of ~~Children and Family Services~~ 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, ~~the Department of Children and Family Services~~, 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, ~~the Department of Children and Family Services~~, 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 of ~~Children and Family Services~~ 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, the ~~Department of Children and Family Services,~~ 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 ~~child~~ neglect.

6. Each district of the department of ~~Children and Family Services~~ 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 sub-district 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)(3) FUNDING AND SUBSEQUENT PLANS.—

(a) All budget requests submitted by the department of ~~Children and Family Services~~, 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 of ~~Children and Family Services~~ at the state and district levels and the other agencies listed in paragraph (7)(2)(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 19. 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* and in so doing is authorized to adopt rules and standards necessary to implement the specific provisions of this *section*.

Section 20. 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 which 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, that 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~~ 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 appropri-

ate; 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 (41)(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 21. 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 22. 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 23. 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 which 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 24. 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 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 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 25. Section 39.4057, Florida Statutes, is renumbered as section 39.0131, Florida Statutes.

Section 26. Section 39.411, Florida Statutes, is renumbered as section 39.0132, Florida Statutes, and subsections (3) and (4) of said section are amended to read:

~~39.0132~~ ~~39.411~~ Oaths, records, and confidential information.—

(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.

Section 27. Section 39.414, Florida Statutes, is renumbered as section 39.0133, Florida Statutes.

Section 28. Sections 39.415 and 39.474, Florida Statutes, are 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.

~~39.474~~ Appointed counsel; compensation.—

(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 29. 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 30. 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 31. 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 II, 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 investiga-

~~tion, 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 32. 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, *abandonment*, 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 *the use of such records or information for bona fide research, statistical, 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 *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 33. 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 34. 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 35. 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 *shall report annually to the Legislature the number of reports referred the state attorney for prosecution*.

(4) *If the department or its authorized agent has determined after its investigation that a report is false, the department shall, with the consent of the alleged perpetrator, refer the report to the local law enforcement agency having jurisdiction for an investigation to determine whether sufficient evidence exists to refer the case for prosecution for filing a false report as defined in s. 39.01(27). During the pendency of the investigation by the local law enforcement agency, the department must notify the local law enforcement agency of, and the local law enforcement agency must respond to all subsequent reports concerning children in that same family in accordance with s. 39.301. If the law enforcement agency believes that there are indicators of abuse, abandonment, or neglect, it must immediately notify the department, which must assure the safety of the children. If the law enforcement agency finds sufficient evidence for prosecution for filing a false report, it must refer the case to the appropriate state attorney for prosecution.*

(5)(4) A person who knowing 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 ~~felony of the third~~ *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.

(6)(5) Each state attorney shall establish *written* procedures to facilitate the prosecution of persons under this section, *and shall report to the Legislature annually the number of complaints that have resulted in the filing of an information or indictment and the disposition of those complaints under this section.*

Section 36. 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; *civil damages*.—

(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 a *preponderance of the 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) *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 may be civilly liable for damages suffered, including reasonable attorney fees and costs, as a result of the filing of the false report. If the name of the person who filed the false report or counseled another to do so has not been disclosed under subsection (9), the department as custodian of the records may be named as a party in the suit until the dependency court determines in a written order upon an in camera inspection of the records and report that there is a reasonable basis for believing that the report was false and that the identity of the reporter may be disclosed for the purpose of proceeding with a lawsuit for civil damages resulting from the filing of the false report. The alleged perpetrator may submit witness affidavits to assist the court in making this initial determination.*

(11)(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 37. 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 38. 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 for 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 the attorney for the department to 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.

(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 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 only be present 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 39. 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 which 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 a 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 40. 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 sus-

pected 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 41. 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 which 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 42. 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 43. 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 44. 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 which 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 rules of the Department of Law Enforcement.

Section 45. Section 415.50171, Florida Statutes, is renumbered as section 39.307, Florida Statutes, and subsection (1), paragraph (a) of subsection (2), and subsection (6) of said section are 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.

(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~~.

Section 46. 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 47. 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 48. 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)~~(4) 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 49. 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 50. 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 51. ~~Section 415.519, Florida Statutes, is renumbered as section 39.315, Florida Statutes.~~

Section 52. Section 415.520, Florida Statutes, is renumbered as section 39.316, Florida Statutes, and subsection (3) of said section is amended to read:

~~39.316 415-520~~ Qualifications of Family Builders Program workers.—

(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 53. ~~Section 415.521, Florida Statutes, is renumbered as section 39.317, Florida Statutes.~~

Section 54. 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~~ ~~aet~~ must not exceed the costs of out-of-home care which otherwise would be incurred.

Section 55. 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 56. Section 39.395, Florida Statutes, is created to read:

~~39.395~~ *Detaining a child; 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 detain that child 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 returning the child to 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 detaining a child 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 detained. If the department determines, according to the criteria set forth in this chapter, that the child should be detained longer than 24 hours, it shall petition the court through the attorney representing the Department of Children and Family Services as quickly as possible and not to exceed 24 hours, 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 57. 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 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 or 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; or

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 an ~~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 hearing ~~the attorney representing the Department of Children and Family Services shall request pursuant to s. 39.402(1),~~ such hearing to be held as quickly as possible and not to exceed ~~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 58. 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.(e) ~~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 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 59. 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 psychi-

arist, 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 60. 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 61. 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 39.510, Florida Statutes, shall be entitled to read:

PART VI
PETITION, ARRAIGNMENT, ADJUDICATION,
AND DISPOSITION

Section 62. 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 63. 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 64. 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 65. Section 39.4055, Florida Statutes, is renumbered as section 39.504, Florida Statutes, and subsections (2) and (4) of said section are amended to read:

~~39.504~~ ~~39.4055~~ Injunction pending disposition of petition for ~~detention~~ or dependency; penalty.—

(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.~~

(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.

Section 66. 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 67. Subsection (1) of 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(1).

~~(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 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.

Section 68. Subsection (2) of section 39.408, Florida Statutes, and section 39.409, Florida Statutes, are renumbered as section 39.507, Florida Statutes, and amended to read:

~~39.507~~ ~~39.408~~ Adjudicatory hearings; orders of adjudication Hearings for dependency cases.—

(2) **ADJUDICATORY HEARING.**—

(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. 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, abandonment, or neglect be sufficient to support an adjudication of dependency in the absence of corroborating evidence.

(2)(e) 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 ~~paragraph~~ shall be construed to affect the provisions of s. 39.202 415.51(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, 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.

39.409—Orders of adjudication.—

(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 69. Subsections (3) and (4) of section 39.408, Florida Statutes, and section 39.41, Florida Statutes, as amended by chapter 97-276, Laws of Florida, are renumbered as section 39.508, Florida Statutes, and amended to read:

39.508 39.408 Disposition hearings; powers of disposition Hearings for dependency cases.—

(1)(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, 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)(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:

(a)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.

(b)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.

(c)3- A description of the benefits of returning the child home.

(d)4- A description of all unresolved issues.

(e)5- An abuse registry history and criminal records check for all caregivers caretakers, family members, and individuals residing within the household.

(f)6- The complete child protection team report and recommendation or, if no report exists, a statement reflecting that no report has been made.

(g)7- All opinions or recommendations from other professionals or agencies that provide evaluative, social, reunification, or other services to the family.

(h)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.

(i)9- The inappropriateness of other prevention and reunification services that were available.

(j)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.

(k)11- Whether the services were provided to the family and child.

(l)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 safely at home or to be returned home.

(m)13- If the services were not provided, the reasons for such lack of action.

(n)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.

(o)15- Whether family mediation was provided.

~~16. Whether a multidisciplinary case staffing was conducted and, if so, the results.~~

(p)17- 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 s. 39.41(4), 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)(b) 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.

~~(c) A copy of the predisposition study must be furnished to all parties no later than 48 hours before the disposition hearing.~~

(5)(d) 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.

~~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.~~

~~39.41 Powers of disposition.—~~

(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 ~~hearings 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.(e) 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) (4) 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 70. 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 71. 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 72. Section 39.413, Florida Statutes, is renumbered as section 39.510, Florida Statutes, and subsection (1) of said section is amended to read:

39.510 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 73. 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 74. Sections 39.4031 and 39.451, Florida Statutes, are re-numbered 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 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)~~ ~~(e)~~ 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 which 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.*

39.451—Case planning for children in foster care.—

(1) ~~In presenting the case plan to the court, the purpose of a case plan is to ensure permanency for children through recording the actions to be taken by the parties involved in order to quickly assure the safe return of the child to the parents or, if this is not possible, the termination of parental rights and the placement of the child with the department or a licensed child placing agency for the purpose of finding a permanent adoptive home. Permanent adoptive placement is the primary permanency goal when a child is permanently placed with the department or a licensed child placing agency. If it is not possible to find a permanent adoptive home, the case plan must record the actions taken for preparing the child for alternative permanency goals or placements such as long-term foster care or independent living.~~

(7)(2) The case plan must be limited to as short a period as possible for the accomplishment of its provisions. Unless extended under s. 39.453(8), the plan expires no later than 12 18 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)(3) The case plan must meet applicable federal and state requirements as provided in s. 39.4031.

(9)(4)(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 foster care*, a case plan must be prepared within 60 30 days after the department removes the child from the home, and shall be submitted to the court *before the disposition hearing, with a hearing scheduled for the court to review and accept or modify the plan within an additional 30 days*. If the preparation of a case plan, in conference with the parents and other pertinent parties, cannot be *completed before the disposition hearing accomplished within 30 days*, 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)(e) 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)(d) 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 *natural* 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)(e) 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)(d).

(5) ~~The case plan must be submitted to the court and all parties for review and acceptance or modification at least 72 hours prior to a court hearing. If the court does not accept any of the requirements of 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 a time certain specified by the court.~~

(10)(6) 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 foster care* a second time within a 12-month period.

Section 75. Subsections (1), (2), (3), and (4) of section 39.452, Florida Statutes, are 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.

Section 76. Subsection (5) of section 39.452, Florida Statutes, is renumbered as section 39.603, Florida Statutes, and amended to read:

~~39.603 39.452~~ *Court approvals of case planning when parents do not participate and the child is in foster care.*—

~~(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.

~~(1)(b)~~ 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)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.

~~(b)2-~~ If the plan is consistent with previous orders of the court placing the child in care.

~~(c)3-~~ If the plan is consistent with the requirements for the content of a plan as specified in *this chapter subsection (3)*.

~~(d)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.

~~(e)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.

~~(f)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 *out-of-home foster care* voluntarily.

~~(2)(e)~~ 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)(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 ~~48 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 77. 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 78. 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 which 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; testimony 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 79. 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 80. 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 81. 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 82. 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 83. Sections 39.46 and 39.462, Florida Statutes, are 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.

~~39.462~~—*Process and services.*—

~~(3)(4)~~ 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 or guardian* 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 s. 39.4051 or s. 39.4625.*

7. The guardian ad litem for the child *or the representative of the guardian ad litem program, if the program one* 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* RESPOND TO THIS NOTICE OR TO APPEAR AT THIS *ADVISORY* HEARING CONSTITUTES CONSENT TO THE TERMINATION OF PARENTAL RIGHTS OF THIS CHILD (OR ~~THESE~~ 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 ~~respond or appear~~ at the advisory hearing, the failure to ~~respond or appear~~ shall constitute consent for termination of parental rights by the person given notice.

~~(4)(2)~~ 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)(3) 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)(4) Subpoenas may be served within the state by any person over 18 years of age who is not a party to the proceeding.

(7)(5) 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 84. Sections 39.461 and 39.4611, Florida Statutes, are 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 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.

~~39.4611—Elements of petition for termination of parental rights.—~~

(4)(1) 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~~ ~~39.464~~ 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~~ ~~39.464~~.

(c) That the manifest best interests of the child, in accordance with s. ~~39.810~~ ~~39.4612~~, would be served by the granting of the petition.

(5)(2) When a petition for termination of parental rights is filed under s. ~~39.806(1)~~ ~~39.464(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)(3) 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)(4) 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)(5) 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 85. 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 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 86. Section 39.4627, Florida Statutes, is renumbered as section 39.804, Florida Statutes.

Section 87. 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 88. 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 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 that threatens 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 89. 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)(e) 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 90. 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 91. Section 39.467, Florida Statutes, is renumbered as section 39.809, Florida Statutes, and subsections (1) and (4) of said section are 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.

(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.

Section 92. Section 39.4612, Florida Statutes, is renumbered as section 39.810, Florida Statutes, and subsection (3) of said section 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:

(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.

Section 93. 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 estab-

lished 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 94. Section 39.47, Florida Statutes, is renumbered as section 39.812, Florida Statutes, and amended to read:

~~39.812~~ 39.47 Post disposition relief.—

(1) A licensed child-placing agency or the department 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 and legal guardian shall not be entitled to any notice 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, no agent or contract provider of the licensed child-placing agency or department 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 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.

~~(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 95. Section 39.813, Florida Statutes, is created to read:

39.813 Continuing jurisdiction.—The court which 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 96. Section 39.471, Florida Statutes, is renumbered as section 39.814, Florida Statutes.

Section 97. 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 98. 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 of children who have not attained 1 year of age, into preadoptive placements.*

(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, that are specifically designed to serve parents and children together, in order to promote family reunification, and that can ensure the health and safety of the children.*

(c) *Addressing kinship care.*

Section 99. 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 than 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 100. 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 101. 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 102. Section 415.5077, Florida Statutes, is renumbered as section 39.821, Florida Statutes.

Section 103. 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 104. 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 105. 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 106. Section 415.5084, Florida Statutes, is renumbered as section 39.825, Florida Statutes.

Section 107. *Section 415.5085, Florida Statutes, is renumbered as section 39.826, Florida Statutes.*

Section 108. 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 109. 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 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 110. *Section 415.5088, Florida Statutes, is renumbered as section 39.829, Florida Statutes.*

Section 111. 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 112. 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 113. *Section 415.601, Florida Statutes, is renumbered as section 39.901, Florida Statutes.*

Section 114. 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 115. Section 415.603, Florida Statutes, is renumbered as section 39.903, Florida Statutes, and subsection (1) of said section is 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)(e)~~, 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.

Section 116. 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 117. Section 415.605, Florida Statutes, is renumbered as section 39.905, Florida Statutes, and subsections (1) and (2) and paragraph (a) of subsection (6) of said section are 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.

(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.

Section 118. *Section 415.606, Florida Statutes, is renumbered as section 39.906, Florida Statutes.*

Section 119. *Section 415.608, Florida Statutes, is renumbered as section 39.908, Florida Statutes.*

Section 120. 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 said 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.—

(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 depart-

ment, 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 39415, 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.

(7) **HEALTH AND HUMAN SERVICES BOARDS.**—

(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.

(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.

(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).

Section 121. 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 122. Paragraph (b)2. 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)

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.

Section 123. 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 124. 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 125. 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 126. 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 *pur-suant 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 127. 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 128. Paragraphs (a), (b), (c), and (d) of subsection (7) of section 119.07, Florida Statutes, are amended to read:

119.07 Inspection, examination, and duplication of records; exemptions.—

(7)(a) Any person or organization, including the Department of *Children and Family Health and Rehabilitative Services*, may petition the court for an order making public the records of the Department of *Children and Family Health and Rehabilitative Services* that pertain to investigations of alleged abuse, neglect, abandonment, or exploitation of a child, a disabled adult, or an elderly person. The court shall determine if good cause exists for public access to the records sought or a portion thereof. In making this determination, the court shall balance the best interest of the disabled adult, elderly person, or child who is the focus of the investigation, and in the case of the child, the interest of that child's siblings, together with the privacy right of other persons identified in the reports against the public interest. The public interest in access to such records is reflected in s. 119.01(1), and includes the need

for citizens to know of and adequately evaluate the actions of the Department of *Children and Family Health and Rehabilitative Services* and the court system in providing disabled adults, elderly persons, and children of this state with the protections enumerated in ss. 39.001 and 415.101 and ~~415.502~~. However, nothing in this subsection shall contravene the provisions of ss. 39.202 ~~415.54~~ and 415.107, which protect the name of any person reporting the abuse, neglect, or exploitation of a child, a disabled adult, or an elderly person.

(b)1. In cases involving the death of a disabled adult or an elderly person as the result of abuse, neglect, or exploitation, there shall be a presumption that the best interest of the disabled adult or elderly person and the public interest will be served by full public disclosure of the circumstances of the investigation of the death and any other investigation concerning the disabled adult or elderly person.

2. In cases involving the death of a child as the result of abuse, neglect, or abandonment, there shall be a presumption that the best interest of the child and the child's siblings and the public interest will be served by full public disclosure of the circumstances of the investigation of the death of the child and any other investigation concerning the child and the child's siblings.

(c) In cases involving serious bodily injury to a child, a disabled adult or an elderly person, the Department of *Children and Family Health and Rehabilitative Services* may petition the court for an order for the immediate public release of records of the department which pertain to the investigation of abuse, neglect, abandonment, or exploitation of the child, disabled adult, or elderly person who suffered serious bodily injury. The petition must be personally served upon the child, disabled adult, or elderly person, the child's parents or guardian, the legal guardian of that person, if any, and any person named as an alleged perpetrator in the report of abuse, neglect, abandonment, or exploitation. The court must determine if good cause exists for the public release of the records sought no later than 24 hours, excluding Saturdays, Sundays, and legal holidays, from the date the department filed the petition with the court. If the court has neither granted nor denied the petition within the 24-hour time period, the department may release to the public summary information including:

1. A confirmation that an investigation has been conducted concerning the alleged victim.

2. The dates and brief description of procedural activities undertaken during the department's investigation.

3. The date of each judicial proceeding, a summary of each participant's recommendations made at the judicial proceedings, and the rulings of the court.

The summary information may not include the name of, or other identifying information with respect to, any person identified in any investigation. In making a determination to release confidential information, the court shall balance the best interests of the disabled adult or elderly person or child who is the focus of the investigation and, in the case of the child, the interests of that child's siblings, together with the privacy rights of other persons identified in the reports against the public interest for access to public records. However, nothing in this paragraph shall contravene the provisions of ss. 39.202 ~~415.54~~ and 415.107, which protect the name of any person reporting abuse, neglect, or exploitation of a child, a disabled adult, or an elderly person.

(d) In cases involving the death of a child or a disabled adult or an elderly person, the Department of *Children and Family Health and Rehabilitative Services* may petition the court for an order for the immediate public release of records of the department which pertain to the investigation of abuse, neglect, abandonment, or exploitation of the child, disabled adult, or elderly person who died. The department must personally serve the petition upon the child's parents or guardian, the legal guardian of the disabled adult or elderly person, if any, and any person named as an alleged perpetrator in the report of abuse, neglect, abandonment, or exploitation. The court must determine if good cause exists for the public release of the records sought no later than 24 hours, excluding Saturdays, Sundays, and legal holidays, from the date the department filed the petition with the court. If the court has neither granted nor denied the petition within the 24-hour time period, the department may release to the public summary information including:

1. A confirmation that an investigation has been conducted concerning the alleged victim.

2. The dates and brief description of procedural activities undertaken during the department's investigation.

3. The date of each judicial proceeding, a summary of each participant's recommendations made at the judicial proceedings, and the ruling of the court.

In making a determination to release confidential information, the court shall balance the best interests of the disabled adult or elderly person or child who is the focus of the investigation and, in the case of the child, the interest of that child's siblings, together with the privacy right of other persons identified in the reports against the public interest. However, nothing in this paragraph shall contravene the provisions of ss. 39.202 ~~415.54~~ and 415.107, which protect the name of any person reporting abuse, neglect, or exploitation of a child, a disabled adult, or an elderly person.

Section 129. 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 130. 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 131. 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 132. 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 39 445, 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. 39.01 445.503, 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 133. 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 39.4534.

Section 134. 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 39.4534.

Section 135. 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 39.4534.

Section 136. 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 39.4534.

Section 137. 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 39.4534.

Section 138. 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 139. 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 140. 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 141. 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 142. 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 143. 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 144. 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 Rehabilitative Services*, the committee shall report its findings to that department.

Section 145. 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 146. 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 147. 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 39415 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 148. 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 149. 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 150. 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 151. 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 152. 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 153. 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 154. 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 155. 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 156. 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 39 445; 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 157. 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 39 445; 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 158. 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 159. 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 160. 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 161. 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 162. 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 protective investigations component of the Department of Children and Family Services, which investigates the crimes of abuse and neglect.*

(e) 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 163. 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 164. 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 165. 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 166. 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 167. 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) ~~39.04~~. The petition must also demonstrate that the parent, guardian, or legal custodian has in good faith, but unsuccessfully, participated in the services and processes described in ss. 984.11 and 984.12 ~~39.424 and 39.426.~~

Section 168. 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 169. 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 170. 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 171. *There is hereby appropriated to the Department of Children and Family Services, in a lump sum, \$11,000,000 from the Federal Grants Trust Fund to implement the Relative Caregiver Program. The source of funding shall be the Temporary Assistance to Needy Families Block Grant. Any expenditures from the Temporary Assistance for Needy Families block grant shall be expended in accordance with the requirements and limitations of part A of Title IV of the Social Security Act, as amended, or any other applicable federal requirement or limitation.*

Section 172. *There is hereby appropriated to the Justice Administration Commission \$3,500,000 from the General Revenue Fund for the purpose of implementing sections 24, 57, and 88 of this act, relating to right to and appointment of counsel for certain persons.*

Section 173. *Sections 39.0195, 39.0196, 39.39, 39.403, 39.4032, 39.4052, 39.4053, 39.449, 39.45, 39.457, 39.459, 39.4625, 39.472, 39.475, 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 174. Except as otherwise provided herein, this act shall take effect October 1 of the year in which enacted.

And the title is amended as follows: remove: the entire title and insert in lieu thereof: A bill to be entitled An act relating to children and family health and safety; 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; 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; 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. 61.21, 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; providing an appropriation; 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; 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; requiring certain recordkeeping and preservation by the department; 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, abandonment, 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 civil damages; 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.; 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 s. 119.07, F.S., to conform to the act; 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 protective investigation component of the Department of Children and Family Services is a "criminal justice agency" for purposes of the criminal justice information system; providing appropriations; 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.

On motion by Senator Rossin, the Senate concurred in the House amendment to the Senate amendment.

HB 1019 passed as amended and 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	Silver
Campbell	Geller	Kurth	Sullivan
Casas	Grant	Latvala	Thomas
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 amended Senate Amendment(s) 1, and concurred in same as amended, and passed by the required Constitutional three-fifths vote of the membership HJR 3505 as further amended, and requests the concurrence of the Senate.

John B. Phelps, Clerk

HJR 3505—A joint resolution proposing an amendment to Section 17 of Article I of the State Constitution relating to excessive punishment.

House Amendment 1 (with title amendment) to Senate Amendment 1—On page 1, line 17, through page 2, line 26, remove from the amendment: all of said lines and insert in lieu thereof:

That the amendment to Section 17 of Article I of the State Constitution set forth below is agreed to and shall be submitted to the electors of Florida for approval or rejection at the general election to be held in November 1998:

SECTION 17. Excessive punishments.—Excessive fines, cruel and ~~or~~ unusual punishment, attainder, forfeiture of estate, indefinite imprisonment, and unreasonable detention of witnesses are forbidden. *The death penalty is an authorized punishment for capital crimes designated by the Legislature. The prohibition against cruel or unusual punishment, and the prohibition against cruel and unusual punishment, shall be construed in conformity with decisions of the United States Supreme Court which interpret the prohibition against cruel and unusual punishment provided in the Eighth Amendment to the United States Constitution. Any method of execution shall be allowed, unless prohibited by the United States Constitution. Methods of execution may be designated by the Legislature, and a change in any method of execution may be applied retroactively. A sentence of death shall not be reduced on the basis that a method of execution is invalid. In any case in which an execution method is declared invalid, the death sentence shall remain in force until the sentence can be lawfully executed by any valid method. This section shall apply retroactively.*

BE IT FURTHER RESOLVED that in accordance with the requirements of section 101.161, Florida Statutes, the title and substance of the amendment proposed herein shall appear on the ballot as follows:

PRESERVATION OF THE DEATH PENALTY; UNITED STATES SUPREME COURT INTERPRETATION OF CRUEL AND UNUSUAL PUNISHMENT

Proposing an amendment to Section 17 of Article I of the State Constitution preserving the death penalty, and permitting any execution method unless prohibited by the Federal Constitution. Requires construction of the prohibition against cruel and/or unusual punishment to conform to United States Supreme Court interpretation of the Eighth Amendment. Prohibits reduction of a death sentence based on invalidity of execution method, and provides for continued force of sentence. Provides for retroactive applicability.

And the title is amended as follows:

On page 3, line 2 of the amendment remove: Senate and insert in lieu thereof: House

On motion by Senator Lee, the Senate concurred in the House amendment to the Senate amendment.

HJR 3505 as amended was read in full as follows:

HJR 3505—A joint resolution proposing an amendment to s. 17, Art. I of the State Constitution, relating to excessive punishment.

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

That the amendment to Section 17 of Article I of the State Constitution set forth below is agreed to and shall be submitted to the electors of Florida for approval or rejection at the general election to be held in November 1998:

SECTION 17. Excessive punishments.—Excessive fines, cruel and or unusual punishment, attainder, forfeiture of estate, indefinite imprisonment, and unreasonable detention of witnesses are forbidden. The death penalty is an authorized punishment for capital crimes designated by the Legislature. The prohibition against cruel or unusual punishment, and the prohibition against cruel and unusual punishment, shall be construed in conformity with decisions of the United States Supreme Court which interpret the prohibition against cruel and unusual punishment provided in the Eighth Amendment to the United States Constitution. Any method of execution shall be allowed, unless prohibited by the United States Constitution. Methods of execution may be designated by the Legislature, and a change in any method of execution may be applied retroactively. A sentence of death shall not be reduced on the basis that a method of execution is invalid. In any case in which an execution method is declared invalid, the death sentence shall remain in force until the sentence can be lawfully executed by any valid method. This section shall apply retroactively.

BE IT FURTHER RESOLVED that in accordance with the requirements of section 101.161, Florida Statutes, the title and substance of the amendment proposed herein shall appear on the ballot as follows:

PRESERVATION OF THE DEATH PENALTY; UNITED STATES SUPREME COURT INTERPRETATION OF CRUEL AND UNUSUAL PUNISHMENT

Proposing an amendment to Section 17 of Article I of the State Constitution preserving the death penalty, and permitting any execution method unless prohibited by the Federal Constitution. Requires construction of the prohibition against cruel and/or unusual punishment to conform to United States Supreme Court interpretation of the Eighth Amendment. Prohibits reduction of a death sentence based on invalidity of execution method, and provides for continued force of sentence. Provides for retroactive applicability.

—and HJR 3505 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—40

Table with 4 columns: Name, Name, Name, Name. Includes Madam President Campbell, Bankhead Casas, Bronson Childers, Brown-Waite Clary, Burt Cowin, Crist, Diaz-Balart, Dudley, Dyer, Forman, Geller, Grant, Gutman, Hargrett, Harris.

Table with 4 columns: Name, Name, Name, Name. Includes Holzendorf, Horne, Jones, Kirkpatrick, Klein, Kurth, Latvala, Laurent, Lee, McKay, Meadows, Myers, Ostalkiewicz, Scott, Silver, Sullivan, Thomas, Turner, Williams.

Nays—None

SENATOR DUDLEY PRESIDING

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 CS for HB 4407 as further amended, and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for CS for HB 4407—A bill to be entitled An act relating to tax on sales, use, and other transactions; providing a short title; providing that no tax levied under ch. 212, F.S., shall be collected on sales of clothing with a value of \$50 or less during specified periods in August 1998 and January 1999; providing a definition; excluding sales within a theme park or entertainment complex or public lodging establishment; providing for rules; providing an effective date.

House Amendment 1 (with title amendment) to Senate Amendment 1—On page 1, line 17, through page 2, line 8, remove from the amendment: all of said lines and insert in lieu thereof:

Section 1. This act may be cited as the "Florida Residents' Tax Relief Act of 1998."

Section 2. (1) No tax levied under the provisions of chapter 212, Florida Statutes, shall be collected on sales of clothing having a taxable value of \$50 or less during the period from 12:01 a.m., August 15, 1998, through midnight, August 21, 1998.

(2) As used in this section, "clothing" means any article of wearing apparel, including footwear, intended to be worn on or about the human body. For purposes of this section, "clothing" does not include watches, watchbands, jewelry, handbags, handkerchiefs, umbrellas, scarves, ties, headbands, or belt buckles.

(3) This section does not apply to sales within a theme park or entertainment complex, as defined in s. 509.013(9), Florida Statutes, or within a public lodging establishment, as defined in s. 509.013(4), Florida Statutes.

(4) The provisions of chapter 120, Florida Statutes, to the contrary notwithstanding the Department of Revenue is authorized to adopt rules to carry out the provisions of this section.

Section 3. The sum of \$200,000 is appropriated from the General Revenue Fund to the Department of Revenue for the purpose of administering this act.

Section 4. This act shall take effect upon becoming a law.

And the title is amended as follows:

On page 2, line 21, remove: notify dealers and and insert in lieu thereof: adopt rules to

On motion by Senator Cowin, the Senate concurred in the House amendment to the Senate amendment.

CS for CS for HB 4407 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—36

Table with 4 columns: Name, Name, Name, Name. Includes Bankhead, Bronson, Brown-Waite, Burt, Campbell, Casas, Childers, Clary, Cowin, Crist, Diaz-Balart, Dudley, Dyer, Forman, Geller, Grant, Gutman, Hargrett, Harris, Horne.

Jones	Laurent	Ostalkiewicz	Sullivan
Kirkpatrick	Lee	Rossin	Thomas
Klein	McKay	Scott	Turner
Latvala	Meadows	Silver	Williams

Nays—3

Holzendorf Kurth Myers

SPECIAL ORDER CALENDAR, continued

CS for SB 524—A bill to be entitled An act relating to the offense of murder; amending s. 782.04, F.S.; redefining the offense of capital murder in the first degree to include the act of unlawfully killing a human being while perpetrating, or attempting to perpetrate, the murder of another human being; redefining the offense of second-degree felony murder to include the act of unlawfully killing a human being while perpetrating or attempting to perpetrate the murder of another human being; adding murder to the list of felony offenses which do not constitute third-degree felony murder; reenacting ss. 39.464(1)(d), 435.03(2)(b), 435.04(2)(b), 775.0823(1) and (2), 921.0022(3)(i), 943.325(1), 947.146(3), F.S., relating to the termination of parental rights, screening standards, violent offenses against law enforcement officers and others, the Criminal Punishment Code, blood testing, and the Control Release Authority, to incorporate the amendment to 782.04, F.S., in references thereto; providing an effective date.

—was read the second time by title.

Senator Campbell moved the following amendment which was adopted:

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

Section 1. Section 782.04, Florida Statutes, is amended to read:

782.04 Murder.—

(1)(a) The unlawful killing of a human being:

1. When perpetrated from a premeditated design to effect the death of the person killed or any human being; ~~or~~

2. When committed by a person engaged in the perpetration of, or in the attempt to perpetrate, any:

- a. Trafficking offense prohibited by s. 893.135(1),
- b. Arson,
- c. Sexual battery,
- d. Robbery,
- e. Burglary,
- f. Kidnapping,
- g. Escape,
- h. Aggravated child abuse,
- i. Aggravated abuse of an elderly person or disabled adult,
- j. Aircraft piracy,
- k. Unlawful throwing, placing, or discharging of a destructive device or bomb,
- l. Carjacking,
- m. Home-invasion robbery,
- n. Aggravated stalking, ~~or~~
- o. *Murder of another human being; or*

3. Which resulted from the unlawful distribution of any substance controlled under s. 893.03(1), cocaine as described in s. 893.03(2)(a)4., or

opium or any synthetic or natural salt, compound, derivative, or preparation of opium by a person 18 years of age or older, when such drug is proven to be the proximate cause of the death of the user,

is murder in the first degree and constitutes a capital felony, punishable as provided in s. 775.082.

(b) In all cases under this section, the procedure set forth in s. 921.141 shall be followed in order to determine sentence of death or life imprisonment.

(2) The unlawful killing of a human being, when perpetrated by any act imminently dangerous to another and evincing a depraved mind regardless of human life, although without any premeditated design to effect the death of any particular individual, is murder in the second degree and constitutes a felony of the first degree, punishable by imprisonment for a term of years not exceeding life or as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) When a person is killed in the perpetration of, or in the attempt to perpetrate, any:

- (a) Trafficking offense prohibited by s. 893.135(1),
- (b) Arson,
- (c) Sexual battery,
- (d) Robbery,
- (e) Burglary,
- (f) Kidnapping,
- (g) Escape,
- (h) Aggravated child abuse,
- (i) Aggravated abuse of an elderly person or disabled adult,
- (j) Aircraft piracy,
- (k) Unlawful throwing, placing, or discharging of a destructive device or bomb,
- (l) Carjacking,
- (m) Home-invasion robbery, ~~or~~
- (n) Aggravated stalking, *or*
- (o) *Murder of another human being.*

by a person other than the person engaged in the perpetration of or in the attempt to perpetrate such felony, the person perpetrating or attempting to perpetrate such felony is guilty of murder in the second degree, which constitutes a felony of the first degree, punishable by imprisonment for a term of years not exceeding life or as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) The unlawful killing of a human being, when perpetrated without any design to effect death, by a person engaged in the perpetration of, or in the attempt to perpetrate, any felony other than any:

- (a) Trafficking offense prohibited by s. 893.135(1),
- (b) Arson,
- (c) Sexual battery,
- (d) Robbery,
- (e) Burglary,
- (f) Kidnapping,
- (g) Escape,
- (h) Aggravated child abuse,
- (i) Aggravated abuse of an elderly person or disabled adult,

- (j) Aircraft piracy,
- (k) Unlawful throwing, placing, or discharging of a destructive device or bomb,
- (l) Unlawful distribution of any substance controlled under s. 893.03(1), cocaine as described in s. 893.03(2)(a)4., or opium or any synthetic or natural salt, compound, derivative, or preparation of opium by a person 18 years of age or older, when such drug is proven to be the proximate cause of the death of the user,
- (m) Carjacking,
- (n) Home-invasion robbery, or
- (o) Aggravated stalking, or
- (p) *Murder of another human being,*

is murder in the third degree and constitutes a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 2. For the purpose of incorporating the amendment made by this act to section 782.04, Florida Statutes, in references thereto, paragraph (d) of subsection (1) of section 39.464, Florida Statutes, is reenacted to read:

39.464 Grounds for termination of parental rights.—

(1) The department, the guardian ad litem, a licensed child-placing agency, or any person 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:

(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.

Section 3. For the purpose of incorporating the amendment made by this act to section 782.04, Florida Statutes, in references thereto, paragraph (b) of subsection (2) of section 435.03, Florida Statutes, is reenacted to read:

435.03 Level 1 screening standards.—

(2) Any person for whom employment screening is required by statute must not have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under any of the following provisions of the Florida Statutes or under any similar statute of another jurisdiction:

(b) Section 782.04, relating to murder.

Section 4. For the purpose of incorporating the amendment made by this act to section 782.04, Florida Statutes, in references thereto, paragraph (b) of subsection (2) of section 435.04, Florida Statutes, is reenacted to read:

435.04 Level 2 screening standards.—

(2) The security background investigations under this section must ensure that no persons subject to the provisions of this section have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under any of the following provisions of the Florida Statutes or under any similar statute of another jurisdiction:

(b) Section 782.04, relating to murder.

Section 5. For the purpose of incorporating the amendment made by this act to section 782.04, Florida Statutes, in references thereto, subsections (1) and (2) of section 775.0823, Florida Statutes, as amended by section 11 of chapter 97-194, Laws of Florida, are reenacted to read:

775.0823 Violent offenses committed against law enforcement officers, correctional officers, state attorneys, assistant state attorneys, justices, or judges.—Any provision of law to the contrary notwithstanding, the Legislature does hereby provide for an increase and certainty of penalty for any person convicted of a violent offense against any law enforcement or correctional officer, as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9); against any state attorney elected pursuant to s. 27.01 or assistant state attorney appointed under s. 27.181; or against any justice or judge of a court described in Art. V of the State Constitution, which offense arises out of or in the scope of the officer's duty as a law enforcement or correctional officer, the state attorney's or assistant state attorney's duty as a prosecutor or investigator, or the justice's or judge's duty as a judicial officer, as follows:

(1) For murder in the first degree as described in s. 782.04(1), if the death sentence is not imposed, a sentence of imprisonment for life without eligibility for release.

(2) For attempted murder in the first degree as described in s. 782.04(1), a sentence pursuant to the Criminal Punishment Code.

Notwithstanding the provisions of s. 948.01, with respect to any person who is found to have violated this section, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld.

Section 6. For the purpose of incorporating the amendment made by this act to section 782.04, Florida Statutes, in references thereto, paragraph (i) of subsection (3) of section 921.0022, Florida Statutes, as created by section 5 of chapter 97-194, Laws of Florida, is reenacted to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
(i) LEVEL 9		
316.193 (3)(c)3.b.	1st	DUI manslaughter; failing to render aid or give information.
782.04(1)	1st	Attempt, conspire, or solicit to commit premeditated murder.
782.04(3)	1st,PBL	Accomplice to murder in connection with arson, sexual battery, robbery, burglary, and other specified felonies.
782.07(2)	1st	Aggravated manslaughter of an elderly person or disabled adult.
782.07(3)	1st	Aggravated manslaughter of a child.
787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or reward or as a shield or hostage.
787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit or facilitate commission of any felony.
787.01(1)(a)4.	1st,PBL	Kidnapping with intent to interfere with performance of any governmental or political function.
787.02(3)(a)	1st	False imprisonment; child under age 13; perpetrator also commits child abuse, sexual battery, lewd, or lascivious act, etc.

Florida Statute	Felony Degree	Description
790.161	1st	Attempted capital destructive device offense.
794.011(2)	1st	Attempted sexual battery; victim less than 12 years of age.
794.011(2)	Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.
794.011(4)	1st	Sexual battery; victim 12 years or older, certain circumstances.
794.011(8)(b)	1st	Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.
812.13(2)(a)	1st,PBL	Robbery with firearm or other deadly weapon.
812.133(2)(a)	1st,PBL	Carjacking; firearm or other deadly weapon.
847.0145(1)	1st	Selling, or otherwise transferring custody or control, of a minor.
847.0145(2)	1st	Purchasing, or otherwise obtaining custody or control, of a minor.
859.01	1st	Poisoning food, drink, medicine, or water with intent to kill or injure another person.
893.135	1st	Attempted capital trafficking offense.
893.135(1)(a)3.	1st	Trafficking in cannabis, more than 10,000 lbs.
893.135 (1)(b)1.c.	1st	Trafficking in cocaine, more than 400 grams, less than 150 kilograms.
893.135 (1)(c)1.c.	1st	Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.
893.135 (1)(d)1.c.	1st	Trafficking in phencyclidine, more than 400 grams.
893.135 (1)(e)1.c.	1st	Trafficking in methaqualone, more than 25 kilograms.
893.135 (1)(f)1.c.	1st	Trafficking in amphetamine, more than 200 grams.

Section 7. For the purpose of incorporating the amendment made by this act to section 782.04, Florida Statutes, in references thereto, subsection (1) of section 943.325, Florida Statutes, is reenacted to read:

943.325 Blood specimen testing for DNA analysis.—

(1)(a) Any person convicted, or who was previously convicted and is still incarcerated, in this state for any offense or attempted offense defined in chapter 794, chapter 800, s. 782.04, s. 784.045, s. 812.133, or s. 812.135, and who is within the confines of the legal state boundaries, shall be required to submit two specimens of blood to a Department of Law Enforcement designated testing facility as directed by the department.

(b) For the purpose of this section, the term “any person” shall include both juveniles and adults committed to or under the supervision of the Department of Corrections or the Department of Juvenile Justice.

Section 8. For the purpose of incorporating the amendment made by this act to section 782.04, Florida Statutes, in references thereto, subsection (3) of section 947.146, Florida Statutes, as amended by section 31 of chapter 97-194, Laws of Florida, is reenacted to read:

947.146 Control Release Authority.—

(3) Within 120 days prior to the date the state correctional system is projected pursuant to s. 216.136 to exceed 99 percent of total capacity,

the authority shall determine eligibility for and establish a control release date for an appropriate number of parole ineligible inmates committed to the department and incarcerated within the state who have been determined by the authority to be eligible for discretionary early release pursuant to this section. In establishing control release dates, it is the intent of the Legislature that the authority prioritize consideration of eligible inmates closest to their tentative release date. The authority shall rely upon commitment data on the offender information system maintained by the department to initially identify inmates who are to be reviewed for control release consideration. The authority may use a method of objective risk assessment in determining if an eligible inmate should be released. Such assessment shall be a part of the department’s management information system. However, the authority shall have sole responsibility for determining control release eligibility, establishing a control release date, and effectuating the release of a sufficient number of inmates to maintain the inmate population between 99 percent and 100 percent of total capacity. Inmates who are ineligible for control release are inmates who are parole eligible or inmates who:

(a) Are serving a sentence that includes a mandatory minimum provision for a capital offense or drug trafficking offense and have not served the number of days equal to the mandatory minimum term less any jail-time credit awarded by the court;

(b) Are serving the mandatory minimum portion of a sentence enhanced under s. 775.087(2) or (3), or s. 784.07(3);

(c) Are convicted, or have been previously convicted, of committing or attempting to commit sexual battery, incest, or any of the following lewd or indecent assaults or acts: masturbating in public; exposing the sexual organs in a perverted manner; or nonconsensual handling or fondling of the sexual organs of another person;

(d) Are convicted, or have been previously convicted, of committing or attempting to commit assault, aggravated assault, battery, or aggravated battery, and a sex act was attempted or completed during commission of such offense;

(e) Are convicted, or have been previously convicted, of committing or attempting to commit kidnapping, burglary, or murder, and the offense was committed with the intent to commit sexual battery or a sex act was attempted or completed during commission of the offense;

(f) Are convicted, or have been previously convicted, of committing or attempting to commit false imprisonment upon a child under the age of 13 and, in the course of committing the offense, the inmate committed aggravated child abuse, sexual battery against the child, or a lewd, lascivious, or indecent assault or act upon or in the presence of the child;

(g) Are sentenced, have previously been sentenced, or have been sentenced at any time under s. 775.084, or have been sentenced at any time in another jurisdiction as a habitual offender;

(h) Are convicted, or have been previously convicted, of committing or attempting to commit assault, aggravated assault, battery, aggravated battery, kidnapping, manslaughter, or murder against an officer as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9); against a state attorney or assistant state attorney; or against a justice or judge of a court described in Art. V of the State Constitution; or against an officer, judge, or state attorney employed in a comparable position by any other jurisdiction; or

(i) Are convicted, or have been previously convicted, of committing or attempting to commit murder in the first, second, or third degree under s. 782.04(1), (2), (3), or (4), or have ever been convicted of any degree of murder or attempted murder in another jurisdiction;

(j) Are convicted, or have been previously convicted, of DUI manslaughter under s. 316.193(3)(c)3., and are sentenced, or have been sentenced at any time, as a habitual offender for such offense, or have been sentenced at any time in another jurisdiction as a habitual offender for such offense;

(k)1. Are serving a sentence for an offense committed on or after January 1, 1994, for a violation of the Law Enforcement Protection Act under s. 775.0823(2), (3), (4), or (5), and the subtotal of the offender’s sentence points is multiplied pursuant to former s. 921.0014 or s. 921.0024;

2. Are serving a sentence for an offense committed on or after October 1, 1995, for a violation of the Law Enforcement Protection Act under s. 775.0823(2), (3), (4), (5), (6), (7), or (8), and the subtotal of the offender’s sentence points is multiplied pursuant to former s. 921.0014 or s. 921.0024;

(l) Are serving a sentence for an offense committed on or after January 1, 1994, for possession of a firearm, semiautomatic firearm, or machine gun in which additional points are added to the subtotal of the offender's sentence points pursuant to former s. 921.0014 or s. 921.0024; or

(m) Are convicted, or have been previously convicted, of committing or attempting to commit manslaughter, kidnapping, robbery, carjacking, home-invasion robbery, or a burglary under s. 810.02(2).

In making control release eligibility determinations under this subsection, the authority may rely on any document leading to or generated during the course of the criminal proceedings, including, but not limited to, any presentence or postsentence investigation or any information contained in arrest reports relating to circumstances of the offense.

Section 9. Sections 9 and 10 of this act may be cited as the "Jeff Mitchell Act."

Section 10. Subsections (4) and (5) of section 921.141, Florida Statutes, are 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.—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.

(2) ADVISORY SENTENCE BY THE JURY.—After hearing all the evidence, the jury shall deliberate and render an advisory sentence to the court, based upon the following matters:

(a) Whether sufficient aggravating circumstances exist as enumerated in subsection (5);

(b) Whether sufficient mitigating circumstances exist which outweigh the aggravating circumstances found to exist; and

(c) Based on these considerations, whether the defendant should be sentenced to life imprisonment or death.

(3) FINDINGS IN SUPPORT OF SENTENCE OF DEATH.—Notwithstanding the recommendation of a majority of the jury, the court, after weighing the aggravating and mitigating circumstances, shall enter a sentence of life imprisonment or death, but if the court imposes a sentence of death, it shall set forth in writing its findings upon which the sentence of death is based as to the facts:

(a) That sufficient aggravating circumstances exist as enumerated in subsection (5), and

(b) That there are insufficient mitigating circumstances to outweigh the aggravating circumstances.

In each case in which the court imposes the death sentence, the determination of the court shall be supported by specific written findings of fact based upon the circumstances in subsections (5) and (6) and upon the

records of the trial and the sentencing proceedings. If the court does not make the findings requiring the death sentence within 30 days after the rendition of the judgment and sentence, the court shall impose sentence of life imprisonment in accordance with s. 775.082.

(4) REVIEW OF JUDGMENT AND SENTENCE.—The judgment of conviction and sentence of death shall be subject to automatic review by the Supreme Court of Florida and disposition rendered within 2 years after the filing of a notice of appeal. Such review by the Supreme Court shall have priority over all other cases and shall be heard in accordance with rules promulgated by the Supreme Court.

(a) *In any case in which the court has imposed the death sentence, the judgment of conviction and sentence of death shall not be held invalid, overturned, reduced, or otherwise affected because a codefendant in the same case accepted a plea offer from the state in exchange for trial testimony, or an agreement to testify, and was not sentenced to death.*

(b) *No criteria for review by the court regarding aggravating or mitigating circumstances shall be utilized except as authorized in this section. The court shall not engage in any form of proportionality review of a death sentence, including, but not limited to, review of a capital case based on comparable aggravating or mitigating circumstances in other capital cases, based on comparable factors in the defendant's background in other capital cases, or based on the rate of imposition or execution of the death sentence in other capital cases.*

(5) AGGRAVATING CIRCUMSTANCES.—Aggravating circumstances shall be limited to the following:

(a) The capital felony was committed by a person previously convicted of a felony and under sentence of imprisonment or placed on community control or on felony probation.

(b) The defendant was previously convicted of another capital felony or of a felony involving the use or threat of violence to the person.

(c) The defendant knowingly created a great risk of death to many persons.

(d) The capital felony was committed while the defendant was engaged, or was an accomplice, in the commission of, or an attempt to commit, or flight after committing or attempting to commit, any: robbery; sexual battery; aggravated child abuse; abuse of an elderly person or disabled adult resulting in great bodily harm, permanent disability, or permanent disfigurement; arson; burglary; kidnapping; aircraft piracy; or unlawful throwing, placing, or discharging of a destructive device or bomb.

(e) The capital felony was committed for the purpose of avoiding or preventing a lawful arrest or effecting an escape from custody.

(f) The capital felony was committed for pecuniary gain.

(g) The capital felony was committed to disrupt or hinder the lawful exercise of any governmental function or the enforcement of laws.

(h) The capital felony was especially heinous, atrocious, or cruel.

(i) The capital felony was a homicide and was committed in a cold, calculated, and premeditated manner without any pretense of moral or legal justification.

(j) *During the course of committing the capital felony, the defendant inflicted multiple physical injuries upon the victim.*

(k) *The defendant mutilated, dismembered, or sexually abused the victim's body, during or after commission of the capital felony.*

(l)(j) The victim of the capital felony was a law enforcement officer engaged in the performance of his or her official duties.

(m)(k) The victim of the capital felony was an elected or appointed public official engaged in the performance of his or her official duties if the motive for the capital felony was related, in whole or in part, to the victim's official capacity.

(n)(l) The victim of the capital felony was a person less than 12 years of age.

(o)(m) The victim of the capital felony was particularly vulnerable due to advanced age or disability, or because the defendant stood in a position of familial or custodial authority over the victim.

(p) *The victim had an injunction for protection in effect against the defendant when the capital felony was committed.*

(q) *The victim was aware of the impending homicide and asked that his or her life be spared or otherwise requested that the homicide not occur.*

(r)(n) The capital felony was committed by a criminal street gang member, as defined in s. 874.03.

(6) MITIGATING CIRCUMSTANCES.—Mitigating circumstances shall be the following:

(a) The defendant has no significant history of prior criminal activity.

(b) The capital felony was committed while the defendant was under the influence of extreme mental or emotional disturbance.

(c) The victim was a participant in the defendant's conduct or consented to the act.

(d) The defendant was an accomplice in the capital felony committed by another person and his or her participation was relatively minor.

(e) The defendant acted under extreme duress or under the substantial domination of another person.

(f) The capacity of the defendant to appreciate the criminality of his or her conduct or to conform his or her conduct to the requirements of law was substantially impaired.

(g) The age of the defendant at the time of the crime.

(h) The existence of any other factors in the defendant's background that would mitigate against imposition of the death penalty.

However, the court shall not engage in any form of proportionality review of a death sentence, as prohibited in subsection (4).

(7) VICTIM IMPACT EVIDENCE.—Once the prosecution has provided evidence of the existence of one or more aggravating circumstances as described in subsection (5), the prosecution may introduce, and subsequently argue, victim impact evidence. Such evidence shall be designed to demonstrate the victim's uniqueness as an individual human being and the resultant loss to the community's members by the victim's death. Characterizations and opinions about the crime, the defendant, and the appropriate sentence shall not be permitted as a part of victim impact evidence.

(8) APPLICABILITY.—This section does not apply to a person convicted or adjudicated guilty of a capital drug trafficking felony under s. 893.135.

Section 11. Section 782.071, Florida Statutes, is amended to read:

782.071 Vehicular homicide.—“Vehicular homicide” is the killing of a human being by the operation of a motor vehicle by another in a reckless manner likely to cause the death of, or great bodily harm to, another. Vehicular homicide is:

(1) A felony of the ~~second~~ ~~third~~ degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) A felony of the ~~first~~ ~~second~~ degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if:

(a) At the time of the accident, the person knew, or should have known, that the accident occurred; and

(b) The person failed to give information and render aid as required by s. 316.062.

This subsection does not require that the person knew that the accident resulted in injury or death.

Section 12. Section 782.072, Florida Statutes, is amended to read:

782.072 Vessel homicide.—“Vessel homicide” is the killing of a human being by the operation of a vessel as defined in s. 327.02 by another in a reckless manner likely to cause the death of, or great bodily harm to, another. Vessel homicide is:

(1) A felony of the ~~second~~ ~~third~~ degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) A felony of the ~~first~~ ~~second~~ degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if:

(a) At the time of the accident, the person knew, or should have known, that the accident occurred; and

(b) The person failed to give information and render aid as required by s. 327.30(1).

This subsection does not require that the person knew that the accident resulted in injury or death.

Section 13. Paragraphs (g) and (h) of subsection (3) of section 921.0022, Florida Statutes, are amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
		(g) LEVEL 7
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
409.920(2)	3rd	Medicaid provider fraud.
494.0018(2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
782.071	2nd 3rd	Killing of human being by the operation of a motor vehicle in a reckless manner (vehicular homicide).
782.072	2nd 3rd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.
784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.
784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.
784.081(1)	1st	Aggravated battery on specified official or employee.
784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.
790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
790.16(1)	1st	Discharge of a machine gun under specified circumstances.

Florida Statute	Felony Degree	Description	Florida Statute	Felony Degree	Description
796.03	2nd	Procuring any person under 16 years for prostitution.	782.04(4)	2nd	Killing of human without design when engaged in act or attempt of any felony other than arson, sexual battery, robbery, burglary, kidnapping, aircraft piracy, or unlawfully discharging bomb.
800.04	2nd	Handle, fondle, or assault child under 16 years in lewd, lascivious, or indecent manner.	782.071(2)	1st 2nd	Committing vehicular homicide and failing to render aid or give information.
806.01(2)	2nd	Maliciously damage structure by fire or explosive.	782.072(2)	1st 2nd	Committing vessel homicide and failing to render aid or give information.
810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.	790.161(3)	1st	Discharging a destructive device which results in bodily harm or property damage.
810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.	794.011(5)	2nd	Sexual battery, victim 12 years or over, offender does not use physical force likely to cause serious injury.
810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.	806.01(1)	1st	Maliciously damage dwelling or structure by fire or explosive, believing person in structure.
812.014(2)(a)	1st	Property stolen, valued at \$100,000 or more; property stolen while causing other property damage; 1st degree grand theft.	810.02(2)(a)	1st,PBL	Burglary with assault or battery.
812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.	810.02(2)(b)	1st,PBL	Burglary; armed with explosives or dangerous weapon.
812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.	810.02(2)(c)	1st	Burglary of a dwelling or structure causing structural damage or \$1,000 or more property damage.
825.102(3)(b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.	812.13(2)(b)	1st	Robbery with a weapon.
825.1025(2)	2nd	Lewd or lascivious battery upon an elderly person or disabled adult.	812.135(2)	1st	Home-invasion robbery.
825.103(2)(b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000.	825.102(2)	2nd	Aggravated abuse of an elderly person or disabled adult.
827.03(3)(b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.	825.103(2)(a)	1st	Exploiting an elderly person or disabled adult and property is valued at \$100,000 or more.
827.04(4)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.	827.03(2)	2nd	Aggravated child abuse.
872.06	2nd	Abuse of a dead human body.	860.121(2)(c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.
893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) drugs) within 1,000 feet of a school.	860.16	1st	Aircraft piracy.
893.13(4)(a)	1st	Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) drugs).	893.13(1)(b)	1st	Sell or deliver in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.135(1)(a)1.	1st	Trafficking in cannabis, more than 50 lbs., less than 2,000 lbs.	893.13(2)(b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.135(1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.	893.13(6)(c)	1st	Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.135(1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.	893.135(1)(a)2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
893.135(1)(d)1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.	893.135(1)(b)1.b.	1st	Trafficking in cocaine, more than 200 grams, less than 400 grams.
893.135(1)(e)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.	893.135(1)(c)1.b.	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
893.135(1)(f)1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.	893.135(1)(d)1.b.	1st	Trafficking in phencyclidine, more than 200 grams, less than 400 grams.
316.193(3)(c)3.a.	2nd	DUI manslaughter.	893.135(1)(e)1.b.	1st	Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms.
327.35(3)(c)3.	2nd	Vessel BUI manslaughter.	893.135(1)(f)1.b.	1st	Trafficking in amphetamine, more than 28 grams, less than 200 grams.
777.03(2)(a)	1st	Accessory after the fact, capital felony.	895.03(1)	1st	Use or invest proceeds derived from pattern of racketeering activity.
		(h) LEVEL 8	895.03(2)	1st	Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property.

Florida Statute	Felony Degree	Description	Florida Statute	Felony Degree	Description
895.03(3)	1st	Conduct or participate in any enterprise through pattern of racketeering activity.	782.071	3rd	Killing of human being <i>or viable fetus</i> by the operation of a motor vehicle in a reckless manner (vehicular homicide).
Section 14. Paragraph (a) of subsection (9) of section 960.13, Florida Statutes, is amended to read:			782.072	3rd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
960.13 Awards.—			784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
(9)(a) An award may not exceed \$10,000 for treatment or a total of \$15,000 for all compensable cost or losses, <i>unless the department makes a written finding that a crime directly caused major medical expenses or catastrophic economic losses to a victim. However, awards for treatment may not exceed \$10,000.</i> The department may <i>adopt rules that, by rule adopted pursuant to chapter 120, establish criteria governing awards for major medical expenses and catastrophic economic losses and may adopt rules that establish limits below \$15,000 for awards for particular types of costs or losses.</i> Any application filed on or after October 1, 1996, shall be governed under this section.			784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.
			784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
			784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.
			784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
Section 15. Section 782.071, Florida Statutes, is amended to read:			784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.
782.071 Vehicular homicide.—“Vehicular homicide” is the killing of a human being, <i>or the killing of a viable fetus by any injury to the mother caused by the operation of a motor vehicle by another in a reckless manner likely to cause the death of, or great bodily harm to, another.</i> Vehicular homicide is:			784.081(1)	1st	Aggravated battery on specified official or employee.
(1) A felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.			784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.
(2) A felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if:			790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
(a) At the time of the accident, the person knew, or should have known, that the accident occurred; and			790.16(1)	1st	Discharge of a machine gun under specified circumstances.
(b) The person failed to give information and render aid as required by s. 316.062.			796.03	2nd	Procuring any person under 16 years for prostitution.
This subsection does not require that the person knew that the accident resulted in injury or death.			800.04	2nd	Handle, fondle, or assault child under 16 years in lewd, lascivious, or indecent manner.
(3) <i>For purposes of this section, a fetus is viable when it becomes capable of meaningful life outside the womb through standard medical measures.</i>			806.01(2)	2nd	Maliciously damage structure by fire or explosive.
(4) <i>A right of action for civil damages shall exist under s. 768.19, under all circumstances, for all deaths described in this section.</i>			810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
Section 16. Paragraph (g) of subsection (3) of section 921.0022, Florida Statutes, is amended, and paragraph (h) of subsection (3) of that section is reenacted, to read:			810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
921.0022 Criminal Punishment Code; offense severity ranking chart.—			810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
(3) OFFENSE SEVERITY RANKING CHART			812.014(2)(a)	1st	Property stolen, valued at \$100,000 or more; property stolen while causing other property damage; 1st degree grand theft.
Florida Statute	Felony Degree	Description	812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
		(g) LEVEL 7	812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.	825.102(3)(b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.	825.1025(2)	2nd	Lewd or lascivious battery upon an elderly person or disabled adult.
409.920(2)	3rd	Medicaid provider fraud.	825.103(2)(b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000.
494.0018(2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.	827.03(3)(b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).	827.04(4)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
			872.06	2nd	Abuse of a dead human body.

Florida Statute	Felony Degree	Description	Florida Statute	Felony Degree	Description
893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) drugs) within 1,000 feet of a school.	893.13(1)(b)	1st	Sell or deliver in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.13(4)(a)	1st	Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) drugs).	893.13(2)(b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.135(1)(a)1.	1st	Trafficking in cannabis, more than 50 lbs., less than 2,000 lbs.	893.13(6)(c)	1st	Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.135(1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.	893.135(1)(a)2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
893.135(1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.	893.135(1)(b)1.b.	1st	Trafficking in cocaine, more than 200 grams, less than 400 grams.
893.135(1)(d)1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.	893.135(1)(c)1.b.	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
893.135(1)(e)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.	893.135(1)(d)1.b.	1st	Trafficking in phencyclidine, more than 200 grams, less than 400 grams.
893.135(1)(f)1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.	893.135(1)(e)1.b.	1st	Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms.
316.193(3)(c)3.a.	2nd	DUI manslaughter.	893.135(1)(f)1.b.	1st	Trafficking in amphetamine, more than 28 grams, less than 200 grams.
327.35(3)(c)3.	2nd	Vessel BUI manslaughter.	895.03(1)	1st	Use or invest proceeds derived from pattern of racketeering activity.
777.03(2)(a)	1st	Accessory after the fact, capital felony.	895.03(2)	1st	Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property.
782.04(4)	2nd	Killing of human without design when engaged in act or attempt of any felony other than arson, sexual battery, robbery, burglary, kidnapping, aircraft piracy, or unlawfully discharging bomb.	895.03(3)	1st	Conduct or participate in any enterprise through pattern of racketeering activity.
782.071(2)	2nd	Committing vehicular homicide and failing to render aid or give information.			Section 17. For the purpose of incorporating the amendment made by this act to section 782.071, Florida Statutes, in a reference thereto, paragraph (b) of subsection (3) of section 960.03, Florida Statutes, is reenacted to read:
782.072(2)	2nd	Committing vessel homicide and failing to render aid or give information.			960.03 Definitions.—As used in ss. 960.01-960.28, unless the context otherwise requires, the term:
790.161(3)	1st	Discharging a destructive device which results in bodily harm or property damage.			(3) "Crime" means:
794.011(5)	2nd	Sexual battery, victim 12 years or over, offender does not use physical force likely to cause serious injury.			(b) A violation of s. 316.193, s. 316.027(1), or s. 782.071(2), which results in physical injury or death; however, no other act involving the operation of a motor vehicle, boat, or aircraft which results in injury or death shall constitute a crime for the purpose of this chapter unless the injury or death was intentionally inflicted through the use of such vehicle, boat, or aircraft or unless such vehicle, boat, or aircraft is an implement of a crime to which this act applies.
806.01(1)	1st	Maliciously damage dwelling or structure by fire or explosive, believing person in structure.			Section 18. Subsection (3) is added to section 27.709, Florida Statutes, to read:
810.02(2)(a)	1st,PBL	Burglary with assault or battery.			27.709 Commission on the Administration of Justice in Capital Cases.—
810.02(2)(b)	1st,PBL	Burglary; armed with explosives or dangerous weapon.			(3) <i>The Commission on the Administration of Justice in Capital Cases shall conduct a study to evaluate whether the elimination of state postconviction proceedings in death penalty cases will reduce delays in carrying out a sentence of death in capital cases. In conducting the study the Commission shall take public testimony from any interested party. The Commission shall review the average number of postconviction motions and writs filed in capital cases, prior legislative and judicial attempts to reduce delays in capital cases, and the length of time required for capital postconviction claims in state and federal court. The Commission shall consider average delays in capital cases, whether those delays have increased in the last 10 years, and the reasons for any increase in delays. The study shall include a report which addresses the legal, fiscal,</i>
810.02(2)(c)	1st	Burglary of a dwelling or structure causing structural damage or \$1,000 or more property damage.			
812.13(2)(b)	1st	Robbery with a weapon.			
812.135(2)	1st	Home-invasion robbery.			
825.102(2)	2nd	Aggravated abuse of an elderly person or disabled adult.			
825.103(2)(a)	1st	Exploiting an elderly person or disabled adult and property is valued at \$100,000 or more.			
827.03(2)	2nd	Aggravated child abuse.			
860.121(2)(c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.			
860.16	1st	Aircraft piracy.			

and practical considerations concerning the elimination of state postconviction proceedings, and the recommendation of the Commission. Public notice shall be provided, in a manner agreed to by the Commission, for all hearings where the Commission intends to hear public testimony concerning the elimination of state postconviction proceedings in death penalty cases for purposes of this study. The report shall be submitted to the Speaker of the House of Representatives, the President of the Senate, and minority leaders in the House and the Senate by December 1, 1998.

Section 19. *The proviso language immediately preceding Specific Appropriation 962 and the proviso language following Specific Appropriation 620 in the Conference Report On House Bill 4201 which is the General Appropriations Act for fiscal year 1998-1999, shall not be deemed, in whole or in part, to be repealed, nullified or modified in any way by legislation passed during the 1998 regular session of the Legislature unless the legislation makes specific reference to this section. If either the proviso language immediately preceding Specific Appropriation 962 and the proviso language following Specific Appropriation 620 in the Conference Report On House Bill 4201 are repealed or amended by substantive legislation passed during the 1998 regular session of the Legislature, then both sections of proviso are hereby reenacted in full and shall have their full effect as written in the Conference Report On House Bill 4201. This section is hereby repealed on June 30, 1999.*

Section 20. *If any provision of this act or the application thereof to any person or circumstance is held invalid, 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 declared severable.*

Section 21. 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 criminal offenses; amending s. 782.04, F.S.; redefining the offense of capital murder in the first degree to include the act of unlawfully killing a human being while perpetrating, or attempting to perpetrate, the murder of another human being; providing penalties; providing that a person who perpetrates or attempts to perpetrate a murder commits felony murder in the second degree when a person is killed by someone other than the perpetrator; providing penalties; adding murder to the list of felony offenses which do not constitute third-degree felony murder; reenacting ss. 39.464(1)(d), 435.03(2)(b), 435.04(2)(b), 775.0823(1) and (2), 921.0022(3)(i), 943.325(1), and 947.146(3), F.S., relating to the termination of parental rights, screening standards, violent offenses against law enforcement officers and others, the Criminal Punishment Code, blood testing, and the Control Release Authority, to incorporate the amendment to 782.04, F.S., in references thereto; creating the "Jeff Mitchell Act"; amending s. 921.141, F.S., relating to further proceedings to determine sentence of death or life imprisonment for capital felonies; providing that the judgment of conviction and sentence of death imposed in a capital case are not subject to being held invalid, overturned, reduced, or otherwise affected because a codefendant in the same case accepted a plea offer in exchange for trial testimony, or an agreement to testify, and was not sentenced to death; prohibiting the Florida Supreme Court from engaging in any form of proportionality review of a death sentence; providing that criteria for review regarding aggravating or mitigating circumstances shall not be utilized except as authorized under specified provisions; providing additional aggravating circumstances to be weighed by the court; providing for an aggravating circumstance that the capital felony was committed when the victim had an injunction for protection in effect against the defendant; providing for an aggravating circumstance that the defendant inflicted multiple physical injuries upon the victim; providing for an aggravating circumstance that the defendant mutilated, dismembered, or sexually abused the victim's body, during or after commission of the capital felony; providing for an aggravating circumstance that the victim of a homicide had asked that his or her life be spared; amending ss. 782.071, 782.072, F.S.; increasing the penalties imposed for committing the offense of vehicular homicide or vessel homicide; increasing the penalties imposed for committing vehicular homicide or vessel homicide and failing to give information and render aid when the offender knew, or should have known, that the accident occurred; amending s. 921.0022, F.S., relating to the Criminal Punishment Code; conforming references to changes made by the act; amending s. 960.13, F.S.; limiting crimes compensation awards under certain circumstances; authorizing the Department of Legal Affairs to adopt certain rules; amending s. 782.071, F.S.; redefining the offense of "vehicular homicide" to include the killing

of a viable fetus by any injury to the mother caused by the operation of a motor vehicle by another; providing penalties; specifying when a fetus is viable; providing a right of action for civil damages; reenacting ss. 921.0022(3)(h) and 960.03(3), F.S., relating to the offense severity ranking chart and the definition of "crime" with respect to the Florida Crimes Compensation Act, respectively, to incorporate said amendment in references; amending s. 921.0022, F.S., relating to the offense severity ranking chart, to conform terminology; amending s. 27.709, F.S.; providing that the Commission on the Administration of Justice in Capital Cases shall conduct a study concerning the elimination of state postconviction proceedings in death penalty cases; providing that certain proviso language contained in the Conference Report On House Bill 4201 may not be modified through substantive legislation passed during the 1998 regular session of the Legislature unless certain conditions are met; providing that certain proviso language contained in the Conference Report On House Bill 4201 is reenacted if repealed or amended by substantive legislation passed during the 1998 regular session of the Legislature; providing for repeal of section on June 30, 1999; providing for severability; providing an effective date.

POINT OF ORDER

Senator Gutman raised a point of order that pursuant to Rule 7.1 **Amendment 1** contained language of a bill not reported favorably by a Senate committee and was therefore out of order.

RULING ON POINT OF ORDER

On recommendation of Senator W. G. (Bill) Bankhead, Chairman of the Committee on Rules and Calendar, the President ruled the point well taken and the amendment out of order.

Pending further consideration of **CS for SB 524**, on motion by Senator Campbell, by unanimous consent—

HB 4233—A bill to be entitled An act relating to criminal offenses; amending s. 782.04, F.S.; redefining the offense of capital murder in the first degree to include the act of unlawfully killing a human being while perpetrating, or attempting to perpetrate, the murder of another human being; providing penalties; providing that a person who perpetrates or attempts to perpetrate a murder commits felony murder in the second degree when a person is killed by someone other than the perpetrator; providing penalties; adding murder to the list of felony offenses which do not constitute third-degree felony murder; reenacting ss. 39.464(1)(d), 435.03(2)(b), 435.04(2)(b), 775.0823(1) and (2), 921.0022(3)(i), 943.325(1), and 947.146(3), F.S., relating to the termination of parental rights, screening standards, violent offenses against law enforcement officers and others, the Criminal Punishment Code, blood testing, and the Control Release Authority, to incorporate the amendment to 782.04, F.S., in references thereto; creating the "Jeff Mitchell Act"; amending s. 921.141, F.S., relating to further proceedings to determine sentence of death or life imprisonment for capital felonies; providing that the judgment of conviction and sentence of death imposed in a capital case are not subject to being held invalid, overturned, reduced, or otherwise affected because a codefendant in the same case accepted a plea offer in exchange for trial testimony, or an agreement to testify, and was not sentenced to death; prohibiting the Florida Supreme Court from engaging in any form of proportionality review of a death sentence; providing that criteria for review regarding aggravating or mitigating circumstances shall not be utilized except as authorized under specified provisions; providing additional aggravating circumstances to be weighed by the court; providing for an aggravating circumstance that the capital felony was committed when the victim had an injunction for protection in effect against the defendant; providing for an aggravating circumstance that the defendant inflicted multiple physical injuries upon the victim; providing for an aggravating circumstance that the defendant mutilated, dismembered, or sexually abused the victim's body, during or after commission of the capital felony; providing for an aggravating circumstance that the victim of a homicide had asked that his or her life be spared; amending ss. 782.071, 782.072, F.S.; increasing the penalties imposed for committing the offense of vehicular homicide or vessel homicide; increasing the penalties imposed for committing vehicular homicide or vessel homicide and failing to give information and render aid when the offender knew, or should have known, that the accident occurred; amending s. 921.0022, F.S., relating to the Criminal Punishment Code; conforming references to changes made by the act; amending s. 960.13, F.S.; limiting crimes compensation awards under certain circumstances; authorizing the Department of Legal Affairs to

adopt certain rules; amending s. 782.071, F.S.; redefining the offense of "vehicular homicide" to include the killing of a viable fetus by any injury to the mother caused by the operation of a motor vehicle by another; providing penalties; specifying when a fetus is viable; providing a right of action for civil damages; reenacting ss. 921.0022(3)(h) and 960.03(3), F.S., relating to the offense severity ranking chart and the definition of "crime" with respect to the Florida Crimes Compensation Act, respectively, to incorporate said amendment in references; amending s. 921.0022, F.S., relating to the offense severity ranking chart, to conform terminology; amending s. 27.709, F.S.; providing that the Commission on the Administration of Justice in Capital Cases shall conduct a study concerning the elimination of state postconviction proceedings in death penalty cases; providing that certain proviso language contained in the Conference Report On House Bill 4201 may not be modified through substantive legislation passed during the 1998 regular session of the Legislature unless certain conditions are met; providing that certain proviso language contained in the Conference Report On House Bill 4201 is reenacted if repealed or amended by substantive legislation passed during the 1998 regular session of the Legislature; providing for repeal of section on June 30, 1999; providing for severability; providing an effective date.

—a companion measure, was taken up out of order and substituted for **CS for SB 524** and by two-thirds vote read the second time by title.

Senator Campbell moved the following amendment which was adopted:

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

Section 1. Section 782.04, Florida Statutes, is amended to read:

782.04 Murder.—

(1)(a) The unlawful killing of a human being:

1. When perpetrated from a premeditated design to effect the death of the person killed or any human being; ~~or~~

2. When committed by a person engaged in the perpetration of, or in the attempt to perpetrate, any:

- a. Trafficking offense prohibited by s. 893.135(1),
- b. Arson,
- c. Sexual battery,
- d. Robbery,
- e. Burglary,
- f. Kidnapping,
- g. Escape,
- h. Aggravated child abuse,
- i. Aggravated abuse of an elderly person or disabled adult,
- j. Aircraft piracy,
- k. Unlawful throwing, placing, or discharging of a destructive device or bomb,
- l. Carjacking,
- m. Home-invasion robbery,
- n. Aggravated stalking, ~~or~~
- o. *Murder of another human being; or*

3. Which resulted from the unlawful distribution of any substance controlled under s. 893.03(1), cocaine as described in s. 893.03(2)(a)4., or opium or any synthetic or natural salt, compound, derivative, or preparation of opium by a person 18 years of age or older, when such drug is proven to be the proximate cause of the death of the user,

is murder in the first degree and constitutes a capital felony, punishable as provided in s. 775.082.

(b) In all cases under this section, the procedure set forth in s. 921.141 shall be followed in order to determine sentence of death or life imprisonment.

(2) The unlawful killing of a human being, when perpetrated by any act imminently dangerous to another and evincing a depraved mind regardless of human life, although without any premeditated design to effect the death of any particular individual, is murder in the second degree and constitutes a felony of the first degree, punishable by imprisonment for a term of years not exceeding life or as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) When a person is killed in the perpetration of, or in the attempt to perpetrate, any:

- (a) Trafficking offense prohibited by s. 893.135(1),
- (b) Arson,
- (c) Sexual battery,
- (d) Robbery,
- (e) Burglary,
- (f) Kidnapping,
- (g) Escape,
- (h) Aggravated child abuse,
- (i) Aggravated abuse of an elderly person or disabled adult,
- (j) Aircraft piracy,
- (k) Unlawful throwing, placing, or discharging of a destructive device or bomb,
- (l) Carjacking,
- (m) Home-invasion robbery, ~~or~~
- (n) Aggravated stalking, *or*
- (o) *Murder of another human being,*

by a person other than the person engaged in the perpetration of or in the attempt to perpetrate such felony, the person perpetrating or attempting to perpetrate such felony is guilty of murder in the second degree, which constitutes a felony of the first degree, punishable by imprisonment for a term of years not exceeding life or as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) The unlawful killing of a human being, when perpetrated without any design to effect death, by a person engaged in the perpetration of, or in the attempt to perpetrate, any felony other than any:

- (a) Trafficking offense prohibited by s. 893.135(1),
- (b) Arson,
- (c) Sexual battery,
- (d) Robbery,
- (e) Burglary,
- (f) Kidnapping,
- (g) Escape,
- (h) Aggravated child abuse,
- (i) Aggravated abuse of an elderly person or disabled adult,
- (j) Aircraft piracy,
- (k) Unlawful throwing, placing, or discharging of a destructive device or bomb,

(l) Unlawful distribution of any substance controlled under s. 893.03(1), cocaine as described in s. 893.03(2)(a)4., or opium or any synthetic or natural salt, compound, derivative, or preparation of opium by a person 18 years of age or older, when such drug is proven to be the proximate cause of the death of the user,

- (m) Carjacking,
- (n) Home-invasion robbery, or
- (o) Aggravated stalking, or
- (p) *Murder of another human being.*

is murder in the third degree and constitutes a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 2. For the purpose of incorporating the amendment made by this act to section 782.04, Florida Statutes, in references thereto, paragraph (d) of subsection (1) of section 39.464, Florida Statutes, is reenacted to read:

39.464 Grounds for termination of parental rights.—

(1) The department, the guardian ad litem, a licensed child-placing agency, or any person 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:

(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.

Section 3. For the purpose of incorporating the amendment made by this act to section 782.04, Florida Statutes, in references thereto, paragraph (b) of subsection (2) of section 435.03, Florida Statutes, is reenacted to read:

435.03 Level 1 screening standards.—

(2) Any person for whom employment screening is required by statute must not have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under any of the following provisions of the Florida Statutes or under any similar statute of another jurisdiction:

(b) Section 782.04, relating to murder.

Section 4. For the purpose of incorporating the amendment made by this act to section 782.04, Florida Statutes, in references thereto, paragraph (b) of subsection (2) of section 435.04, Florida Statutes, is reenacted to read:

435.04 Level 2 screening standards.—

(2) The security background investigations under this section must ensure that no persons subject to the provisions of this section have been

found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under any of the following provisions of the Florida Statutes or under any similar statute of another jurisdiction:

(b) Section 782.04, relating to murder.

Section 5. For the purpose of incorporating the amendment made by this act to section 782.04, Florida Statutes, in references thereto, subsections (1) and (2) of section 775.0823, Florida Statutes, as amended by section 11 of chapter 97-194, Laws of Florida, are reenacted to read:

775.0823 Violent offenses committed against law enforcement officers, correctional officers, state attorneys, assistant state attorneys, justices, or judges.—Any provision of law to the contrary notwithstanding, the Legislature does hereby provide for an increase and certainty of penalty for any person convicted of a violent offense against any law enforcement or correctional officer, as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9); against any state attorney elected pursuant to s. 27.01 or assistant state attorney appointed under s. 27.181; or against any justice or judge of a court described in Art. V of the State Constitution, which offense arises out of or in the scope of the officer's duty as a law enforcement or correctional officer, the state attorney's or assistant state attorney's duty as a prosecutor or investigator, or the justice's or judge's duty as a judicial officer, as follows:

(1) For murder in the first degree as described in s. 782.04(1), if the death sentence is not imposed, a sentence of imprisonment for life without eligibility for release.

(2) For attempted murder in the first degree as described in s. 782.04(1), a sentence pursuant to the Criminal Punishment Code.

Notwithstanding the provisions of s. 948.01, with respect to any person who is found to have violated this section, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld.

Section 6. For the purpose of incorporating the amendment made by this act to section 782.04, Florida Statutes, in references thereto, paragraph (i) of subsection (3) of section 921.0022, Florida Statutes, as created by section 5 of chapter 97-194, Laws of Florida, is reenacted to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
		(i) LEVEL 9
316.193 (3)(c)3.b.	1st	DUI manslaughter; failing to render aid or give information.
782.04(1)	1st	Attempt, conspire, or solicit to commit premeditated murder.
782.04(3)	1st,PBL	Accomplice to murder in connection with arson, sexual battery, robbery, burglary, and other specified felonies.
782.07(2)	1st	Aggravated manslaughter of an elderly person or disabled adult.
782.07(3)	1st	Aggravated manslaughter of a child.
787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or reward or as a shield or hostage.
787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit or facilitate commission of any felony.
787.01(1)(a)4.	1st,PBL	Kidnapping with intent to interfere with performance of any governmental or political function.
787.02(3)(a)	1st	False imprisonment; child under age 13; perpetrator also commits child abuse, sexual battery, lewd, or lascivious act, etc.
790.161	1st	Attempted capital destructive device offense.
794.011(2)	1st	Attempted sexual battery; victim less than 12 years of age.

Florida Statute	Felony Degree	Description
794.011(2)	Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.
794.011(4)	1st	Sexual battery; victim 12 years or older, certain circumstances.
794.011(8)(b)	1st	Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.
812.13(2)(a)	1st,PBL	Robbery with firearm or other deadly weapon.
812.133(2)(a)	1st,PBL	Carjacking; firearm or other deadly weapon.
847.0145(1)	1st	Selling, or otherwise transferring custody or control, of a minor.
847.0145(2)	1st	Purchasing, or otherwise obtaining custody or control, of a minor.
859.01	1st	Poisoning food, drink, medicine, or water with intent to kill or injure another person.
893.135	1st	Attempted capital trafficking offense.
893.135(1)(a)3.	1st	Trafficking in cannabis, more than 10,000 lbs.
893.135 (1)(b)1.c.	1st	Trafficking in cocaine, more than 400 grams, less than 150 kilograms.
893.135 (1)(c)1.c.	1st	Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.
893.135 (1)(d)1.c.	1st	Trafficking in phencyclidine, more than 400 grams.
893.135 (1)(e)1.c.	1st	Trafficking in methaqualone, more than 25 kilograms.
893.135 (1)(f)1.c.	1st	Trafficking in amphetamine, more than 200 grams.

Section 7. For the purpose of incorporating the amendment made by this act to section 782.04, Florida Statutes, in references thereto, subsection (1) of section 943.325, Florida Statutes, is reenacted to read:

943.325 Blood specimen testing for DNA analysis.—

(1)(a) Any person convicted, or who was previously convicted and is still incarcerated, in this state for any offense or attempted offense defined in chapter 794, chapter 800, s. 782.04, s. 784.045, s. 812.133, or s. 812.135, and who is within the confines of the legal state boundaries, shall be required to submit two specimens of blood to a Department of Law Enforcement designated testing facility as directed by the department.

(b) For the purpose of this section, the term “any person” shall include both juveniles and adults committed to or under the supervision of the Department of Corrections or the Department of Juvenile Justice.

Section 8. For the purpose of incorporating the amendment made by this act to section 782.04, Florida Statutes, in references thereto, subsection (3) of section 947.146, Florida Statutes, as amended by section 31 of chapter 97-194, Laws of Florida, is reenacted to read:

947.146 Control Release Authority.—

(3) Within 120 days prior to the date the state correctional system is projected pursuant to s. 216.136 to exceed 99 percent of total capacity, the authority shall determine eligibility for and establish a control release date for an appropriate number of parole ineligible inmates committed to the department and incarcerated within the state who have been determined by the authority to be eligible for discretionary early

release pursuant to this section. In establishing control release dates, it is the intent of the Legislature that the authority prioritize consideration of eligible inmates closest to their tentative release date. The authority shall rely upon commitment data on the offender information system maintained by the department to initially identify inmates who are to be reviewed for control release consideration. The authority may use a method of objective risk assessment in determining if an eligible inmate should be released. Such assessment shall be a part of the department’s management information system. However, the authority shall have sole responsibility for determining control release eligibility, establishing a control release date, and effectuating the release of a sufficient number of inmates to maintain the inmate population between 99 percent and 100 percent of total capacity. Inmates who are ineligible for control release are inmates who are parole eligible or inmates who:

(a) Are serving a sentence that includes a mandatory minimum provision for a capital offense or drug trafficking offense and have not served the number of days equal to the mandatory minimum term less any jail-time credit awarded by the court;

(b) Are serving the mandatory minimum portion of a sentence enhanced under s. 775.087(2) or (3), or s. 784.07(3);

(c) Are convicted, or have been previously convicted, of committing or attempting to commit sexual battery, incest, or any of the following lewd or indecent assaults or acts: masturbating in public; exposing the sexual organs in a perverted manner; or nonconsensual handling or fondling of the sexual organs of another person;

(d) Are convicted, or have been previously convicted, of committing or attempting to commit assault, aggravated assault, battery, or aggravated battery, and a sex act was attempted or completed during commission of such offense;

(e) Are convicted, or have been previously convicted, of committing or attempting to commit kidnapping, burglary, or murder, and the offense was committed with the intent to commit sexual battery or a sex act was attempted or completed during commission of the offense;

(f) Are convicted, or have been previously convicted, of committing or attempting to commit false imprisonment upon a child under the age of 13 and, in the course of committing the offense, the inmate committed aggravated child abuse, sexual battery against the child, or a lewd, lascivious, or indecent assault or act upon or in the presence of the child;

(g) Are sentenced, have previously been sentenced, or have been sentenced at any time under s. 775.084, or have been sentenced at any time in another jurisdiction as a habitual offender;

(h) Are convicted, or have been previously convicted, of committing or attempting to commit assault, aggravated assault, battery, aggravated battery, kidnapping, manslaughter, or murder against an officer as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9); against a state attorney or assistant state attorney; or against a justice or judge of a court described in Art. V of the State Constitution; or against an officer, judge, or state attorney employed in a comparable position by any other jurisdiction; or

(i) Are convicted, or have been previously convicted, of committing or attempting to commit murder in the first, second, or third degree under s. 782.04(1), (2), (3), or (4), or have ever been convicted of any degree of murder or attempted murder in another jurisdiction;

(j) Are convicted, or have been previously convicted, of DUI manslaughter under s. 316.193(3)(c)3., and are sentenced, or have been sentenced at any time, as a habitual offender for such offense, or have been sentenced at any time in another jurisdiction as a habitual offender for such offense;

(k)1. Are serving a sentence for an offense committed on or after January 1, 1994, for a violation of the Law Enforcement Protection Act under s. 775.0823(2), (3), (4), or (5), and the subtotal of the offender’s sentence points is multiplied pursuant to former s. 921.0014 or s. 921.0024;

2. Are serving a sentence for an offense committed on or after October 1, 1995, for a violation of the Law Enforcement Protection Act under s. 775.0823(2), (3), (4), (5), (6), (7), or (8), and the subtotal of the offender’s sentence points is multiplied pursuant to former s. 921.0014 or s. 921.0024;

(l) Are serving a sentence for an offense committed on or after January 1, 1994, for possession of a firearm, semiautomatic firearm, or machine gun in which additional points are added to the subtotal of the

Florida Statute	Felony Degree	Description
893.135 (1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
893.135 (1)(d)1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
893.135(1)(e)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
893.135(1)(f)1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams. (h) LEVEL 8
316.193 (3)(c)3.a.	2nd	DUI manslaughter.
327.35(3)(c)3.	2nd	Vessel BUI manslaughter.
777.03(2)(a)	1st	Accessory after the fact, capital felony.
782.04(4)	2nd	Killing of human without design when engaged in act or attempt of any felony other than arson, sexual battery, robbery, burglary, kidnapping, aircraft piracy, or unlawfully discharging bomb.
782.071(2)	2nd	Committing vehicular homicide and failing to render aid or give information.
782.072(2)	2nd	Committing vessel homicide and failing to render aid or give information.
790.161(3)	1st	Discharging a destructive device which results in bodily harm or property damage.
794.011(5)	2nd	Sexual battery, victim 12 years or over, offender does not use physical force likely to cause serious injury.
806.01(1)	1st	Maliciously damage dwelling or structure by fire or explosive, believing person in structure.
810.02(2)(a)	1st,PBL	Burglary with assault or battery.
810.02(2)(b)	1st,PBL	Burglary; armed with explosives or dangerous weapon.
810.02(2)(c)	1st	Burglary of a dwelling or structure causing structural damage or \$1,000 or more property damage.
812.13(2)(b)	1st	Robbery with a weapon.
812.135(2)	1st	Home-invasion robbery.
825.102(2)	2nd	Aggravated abuse of an elderly person or disabled adult.
825.103(2)(a)	1st	Exploiting an elderly person or disabled adult and property is valued at \$100,000 or more.
827.03(2)	2nd	Aggravated child abuse.
860.121(2)(c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.
860.16	1st	Aircraft piracy.
893.13(1)(b)	1st	Sell or deliver in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.13(2)(b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.13(6)(c)	1st	Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.135(1)(a)2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
893.135 (1)(b)1.b.	1st	Trafficking in cocaine, more than 200 grams, less than 400 grams.

Florida Statute	Felony Degree	Description
893.135 (1)(c)1.b.	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
893.135 (1)(d)1.b.	1st	Trafficking in phencyclidine, more than 200 grams, less than 400 grams.
893.135 (1)(e)1.b.	1st	Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms.
893.135 (1)(f)1.b.	1st	Trafficking in amphetamine, more than 28 grams, less than 200 grams.
895.03(1)	1st	Use or invest proceeds derived from pattern of racketeering activity.
895.03(2)	1st	Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property.
895.03(3)	1st	Conduct or participate in any enterprise through pattern of racketeering activity.

Section 11. For the purpose of incorporating the amendment made by this act to section 782.071, Florida Statutes, in a reference thereto, paragraph (b) of subsection (3) of section 960.03, Florida Statutes, is reenacted to read:

960.03 Definitions.—As used in ss. 960.01-960.28, unless the context otherwise requires, the term:

(3) "Crime" means:

(b) A violation of s. 316.193, s. 316.027(1), or s. 782.071(2), which results in physical injury or death; however, no other act involving the operation of a motor vehicle, boat, or aircraft which results in injury or death shall constitute a crime for the purpose of this chapter unless the injury or death was intentionally inflicted through the use of such vehicle, boat, or aircraft or unless such vehicle, boat, or aircraft is an implement of a crime to which this act applies.

Section 12. Subsection (3) is added to section 27.709, Florida Statutes, to read:

27.709 Commission on the Administration of Justice in Capital Cases.—

(3) *The Commission on the Administration of Justice in Capital Cases shall conduct a study to evaluate whether the elimination of state postconviction proceedings in death penalty cases will reduce delays in carrying out a sentence of death in capital cases. In conducting the study the Commission shall take public testimony from any interested party. The Commission shall review the average number of postconviction motions and writs filed in capital cases, prior legislative and judicial attempts to reduce delays in capital cases, and the length of time required for capital postconviction claims in state and federal court. The Commission shall consider average delays in capital cases, whether those delays have increased in the last 10 years, and the reasons for any increase in delays. The study shall include a report which addresses the legal, fiscal, and practical considerations concerning the elimination of state postconviction proceedings, and the recommendation of the Commission. Public notice shall be provided, in a manner agreed to by the Commission, for all hearings where the Commission intends to hear public testimony concerning the elimination of state postconviction proceedings in death penalty cases for purposes of this study. The report shall be submitted to the Speaker of the House of Representatives, the President of the Senate, and minority leaders in the House and the Senate by December 1, 1998.*

Section 13. *If any provision of this act or the application thereof to any person or circumstance is held invalid, 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 declared severable.*

Section 14. *The Correctional Privatization Commission, using the \$100,000 from the General Revenue Fund provided in Specific Appropri-*

ation 589 of the Conference Report on House Bill 4201 to the Correctional Privatization Commission for the purpose of developing two invitations to bid, shall develop the two invitations to bid as defined in chapter 287, Florida Statutes, pursuant to the following provisions:

(1) The first invitation to bid shall be for the designing, acquiring, constructing, and operating of one 1,497-bed adult prison designed to house offenders at all security levels. In no case may a contract be awarded pursuant to the first invitation to bid for a project in which the fixed capital outlay costs will exceed \$27,600,000. Notwithstanding any provision of chapter 216, Florida Statutes, to the contrary and with express reference to section 216.351, Florida Statutes, the Executive Office of the Governor shall transfer \$1,166,219 from the General Revenue Fund and \$4,833,781 from the Grants and Donations Trust Fund from Specific Appropriation 598 to Specific Appropriation 589 for the first-year fixed capital outlay costs of the project.

(2) The second invitation to bid must be designed for the designing, acquiring, constructing, and operating of a 350-bed youthful offender facility. In no case may a contract be awarded pursuant to the second invitation to bid for a project in which the fixed capital outlay costs would exceed \$8,950,000. Funding for the fixed capital outlay costs of any contract awarded pursuant to the second invitation to bid shall be subject to legislative appropriation during the 1999 Regular Session.

The Correctional Privatization Commission may award contracts pursuant to the two invitations to bid to the lowest cost-responsive bidders. The authority to issue two invitations to bid and contracts contained in this section shall be in lieu of the authority to issue two invitations to bid and contracts provided in the proviso language following Specific Appropriation 589 of the Conference Report on House Bill 4201. Further, to the extent that the proviso language following Specific Appropriation 589 of the Conference Report on House Bill 4201 is duplicative of the provisions of this section or in conflict thereof, those specific provisions of the proviso language are repealed.

Section 15. 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 criminal justice; amending s. 782.04, F.S.; redefining the offense of capital murder in the first degree to include the act of unlawfully killing a human being while perpetrating, or attempting to perpetrate, the murder of another human being; providing penalties; providing that a person who perpetrates or attempts to perpetrate a murder commits felony murder in the second degree when a person is killed by someone other than the perpetrator; providing penalties; adding murder to the list of felony offenses which do not constitute third-degree felony murder; reenacting ss. 39.464(1)(d), 435.03(2)(b), 435.04(2)(b), 775.0823(1) and (2), 921.0022(3)(i), 943.325(1), and 947.146(3), F.S., relating to the termination of parental rights, screening standards, violent offenses against law enforcement officers and others, the Criminal Punishment Code, blood testing, and the Control Release Authority, to incorporate the amendment to 782.04, F.S., in references thereto; amending ss. 782.071, 782.072, F.S.; increasing the penalties imposed for committing the offense of vehicular homicide or vessel homicide; increasing the penalties imposed for committing vehicular homicide or vessel homicide and failing to give information and render aid when the offender knew, or should have known, that the accident occurred; amending s. 921.0022, F.S., relating to the Criminal Punishment Code; conforming references to changes made by the act; amending s. 960.13, F.S.; limiting crimes compensation awards under certain circumstances; authorizing the Department of Legal Affairs to adopt certain rules; amending s. 782.071, F.S.; redefining the offense of "vehicular homicide" to include the killing of a viable fetus by any injury to the mother caused by the operation of a motor vehicle by another; providing penalties; specifying when a fetus is viable; providing a right of action for civil damages; reenacting ss. 921.0022(3)(h) and 960.03(3), F.S., relating to the offense severity ranking chart and the definition of "crime" with respect to the Florida Crimes Compensation Act, respectively, to incorporate said amendment in references; amending s. 921.0022, F.S., relating to the offense severity ranking chart, to conform terminology; amending s. 27.709, F.S.; providing that the Commission on the Administration of Justice in Capital Cases shall conduct a study concerning the elimination of state postconviction proceedings in death penalty cases; providing that certain proviso language contained in the Conference Report On House Bill 4201 may not be modified through substantive legislation passed during the 1998 regular session of the Legislature

unless certain conditions are met; providing for severability; providing an appropriation from specified trust funds to the Correctional Privatization Commission to develop two invitations to bid, as defined in ch. 287, F.S., for the design, acquisition, construction, and operation of one adult prison and one facility for youthful offenders; providing requirements for the invitation to bid; authorizing the Correctional Privatization Commission to award contracts; superseding proviso language with respect to specific appropriations that are duplicative or in conflict by repeal; providing an effective date.

On motion by Senator Campbell, by two-thirds vote **HB 4233** 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 Sullivan, by two-thirds vote **CS for HB 3389** was withdrawn from the Committees on Education; Governmental Reform and Oversight; and Ways and Means.

On motion by Senator Sullivan—

CS for HB 3389—A bill to be entitled An act relating to nonpublic postsecondary education institutions; amending s. 246.021, F.S.; clarifying the definition of the term "college"; amending s. 246.031, F.S.; revising requirements relating to members of the State Board of Independent Colleges and Universities; amending s. 246.041, F.S.; revising powers and duties of the board; deleting or correcting obsolete references; amending s. 246.084, F.S., relating to colleges receiving an authorization; revising certain requirements; providing for exemption from certain requirements; revising provisions relating to oversight of the review and collection of data for purposes of determining compliance; amending s. 246.085, F.S.; revising provisions relating to issuance of a certificate of exemption; amending s. 246.101, F.S., to conform; amending 246.121, F.S.; correcting obsolete references; amending s. 246.31, F.S., relating to the Institutional Assessment Trust Fund; conforming provisions; providing an effective date.

—a companion measure, was substituted for **CS for SB 924** and read the second time by title.

Senator Horne moved the following amendment which was adopted:

Amendment 1 (with title amendment)—On page 1, between lines 26 and 27, insert:

Section 1. 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, 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. 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 2. 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 3. 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'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 4. 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.

Section 5. Subsection (1) of section 110.1099, Florida Statutes, is amended to read:

110.1099 Education and training opportunities for state employees.—

(1) Education and training are an integral component in improving the delivery of services to the public. Recognizing that the application of productivity-enhancing technology and practice demand continuous educational and training opportunities, state employees may be authorized to receive fundable tuition waivers on a space-available basis or vouchers to attend work-related courses at public universities. Student credit hours generated by state employee fee waivers shall be fundable credit hours.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, delete everything before the enacting clause and insert: A bill to be entitled An act relating to education; 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; amending s. 110.1099, F.S.; clarifying description of tuition waivers; amending s. 246.021, F.S.; clarifying the definition of the term "college"; amending s. 246.031, F.S.; revising requirements relating to members of the State Board of Independent Colleges and Universities; amending s. 246.041, F.S.; revising powers and duties of the board; deleting or correcting obsolete references; amending s. 246.084, F.S., relating to colleges receiving an authorization; revising certain requirements; providing for exemption from certain requirements; revising provisions relating to oversight of the review and collection of data for purposes of determining compliance; amending s. 246.085, F.S.; revising provisions relating to issuance of a certificate of exemption; amending s. 246.101, F.S., to conform; amending 246.121, F.S.; correcting obsolete references; amending s. 246.31, F.S., relating to the Institutional Assessment Trust Fund; conforming provisions; providing an effective date.

On motion by Senator Sullivan, by two-thirds vote CS for HB 3389 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
Burt	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

Consideration of CS for SB 1932 was deferred.

On motion by Senator Crist, by unanimous consent—

HB 3273—A bill to be entitled An act relating to license plates; amending ss. 320.08056 and 320.08058, F.S.; creating a Conserve Wildlife license plate; providing for the distribution of annual use fees received from the sale of such license plates; providing an effective date.

—a companion measure, was taken up out of order and substituted for SB 464 and by two-thirds vote read the second time by title.

Senator Meadows moved the following amendment:

Amendment 1 (with title amendment)—On page 2, between lines 10 and 11, insert:

Section 2. Paragraph (f) 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.—

(f) Certain property Motion picture or video equipment used in motion picture or television production activities or broadcasting and sound recording equipment used in the production of master tapes and master records.—

1. Motion picture or video equipment and sound recording equipment purchased or leased for use in this state in production activities is exempt from the tax imposed by this chapter upon an affirmative showing by the purchaser or lessee to the satisfaction of the department that the equipment will be used for production activities. *There shall be exempt from the tax imposed by this chapter all personal or real property purchased or lease for use in the operation of any television broadcasting station that;*

a. *Has been acquired following the conclusion of bankruptcy proceedings by a previous owner;*

b. *Submits an affidavit from its general manager stating that the broadcasting station employs more than 50 employees and that at least 90 percent of the employees of the bankrupt station were offered jobs following its acquisition;*

c. *Has received more than \$5 million in capital improvements following its acquisition;*

d. *Is located within the boundaries of a metropolitan statistical area and shared common ownership or management with another broadcasting station that has been acquired following bankruptcy which is located in a different metropolitan statistical area;*

e. *Has spent more than \$3 million since 1995 for equipment used in the digital storage of programming; and*

f. *In the year following receipt of a tax refund under this section, broadcasts at no cost to the state youth-oriented anti-tobacco public service announcements of an equal or greater value than the tax refund received by the broadcasting station in the previous year. If the broadcasting station that has received a refund fails to broadcast a sufficient number of public service announcements, the taxpayer must return the refund to the state together with interest and penalties.*

The exemption provided by this paragraph shall inure to the taxpayer only through a refund of previously paid taxes. *The maximum refund allowed in any year may not exceed \$350,000 for any broadcasting station or group of broadcasting stations that share common ownership or management, and no taxpayer may receive a refund for more than 5 years.* Notwithstanding the provisions of s. 212.095, such refund shall be made within 30 days of formal application, which application may be made after the completion of each quarter production activities or on a quarterly basis. Notwithstanding the provisions of chapter 213, the department shall provide the Department of Commerce with a copy of each refund application and the amount of such refund, if any.

2. For the purpose of the exemption provided in subparagraph 1.:

a. "Motion picture or video equipment" and "sound recording equipment" includes only equipment meeting the definition of "section 38 property" as defined in s. 48(a)(1)(A) and (B)(i) of the Internal Revenue Code that is used by the lessee or purchaser exclusively as an integral part of production activities; however, motion picture or video equipment and sound recording equipment does not include supplies, tape, records, film, or video tape used in productions or other similar items; vehicles or vessels; or general office equipment not specifically suited to production activities. In addition, the term does not include equipment purchased or leased by television or radio broadcasting or cable companies licensed by the Federal Communications Commission.

b. "Production activities" means activities directed toward the preparation of a:

(I) Master tape or master record embodying sound; or

(II) Motion picture or television production which is produced for theatrical, commercial, advertising, or educational purposes and utilizes live or animated actions or a combination of live and animated actions. The motion picture or television production shall be commercially produced for sale or for showing on screens or broadcasting on television and may be on film or video tape.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, lines 2 and 3, delete those lines and insert: An act relating to taxation; amending s. 212.08, F.S.; providing tax exemptions relating

to property used in motion picture or television production activities or broadcasting and sound recording activities; amending ss. 320.08056 and 320.08058, F.S.; creating a

POINT OF ORDER

Senator Ostalkiewicz raised a point of order that pursuant to Rule 7.1 **Amendment 1** was not germane to the bill.

RULING ON POINT OF ORDER

On recommendation of Senator W. G. (Bill) Bankhead, Chairman of the Committee on Rules and Calendar, the President ruled the point well taken and the amendment out of order.

On motion by Senator Crist, by two-thirds vote **HB 3273** 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	Diaz-Balart	Horne	Meadows
Bronson	Dudley	Jones	Myers
Brown-Waite	Dyer	Kirkpatrick	Ostalkiewicz
Burt	Forman	Klein	Rossin
Campbell	Geller	Kurth	Silver
Childers	Grant	Latvala	Sullivan
Clary	Gutman	Laurent	Thomas
Cowin	Harris	Lee	Turner
Crist	Holzendorf	McKay	Williams

Nays—None

On motion by Senator Grant, 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 CS for SB 1996 and CS for SB 1182, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for CS for SB 1996 and CS for SB 1182—A bill to be entitled An act relating to charter schools; amending s. 228.056, F.S.; providing for recognition as public schools; revising requirements relating to proposals; providing for appeal of disputes and requiring mediation services; revising limitations on the number of schools; revising provisions relating to eligible students; providing for operation by a nonprofit organization; deleting certain restrictions on holding charter contracts; revising provisions relating to charter terms; providing for public employee status; providing requirements relating to employees; revising requirements relating to student transportation; revising administrative fee provisions and requiring certain administrative and educational services; revising provisions relating to charter school use of certain facilities or property; providing for certain purchasing; authorizing charter schools-in-the-workplace; providing requirements and tax exemption; creating s. 228.0561, F.S.; providing for the distribution of funds from the Charter Schools Capital Outlay Trust Fund; providing eligibility requirements; providing for the recovery of funds; providing duties of the Commissioner of Education; authorizing the use of funds for certain capital outlay purposes of charter schools; requiring a legislative budget request for appropriations from the Charter Schools Capital Outlay Trust Fund; providing effective dates.

House Amendment 1—On page 3, line 3 of the bill before the period insert: , provided that a majority of the parents eligible to vote participate in the ballot process, according to procedures established by rules of the state board

House Amendment 2—On page 3, lines 15 through 26 remove from the bill: all of said lines and insert in lieu thereof: provisions of the contract. *The Department of Education shall provide mediation services*

for any dispute regarding this section subsequent to the approval of a charter application, except disputes regarding charter school application denials. If the Commissioner of Education determines that the dispute cannot be settled through mediation, the dispute may be appealed to an administrative law judge appointed by the Division of Administrative Hearings. The administrative law judge may rule on issues of equitable treatment of the charter school as a public school, whether proposed provisions of the contract violate the intended flexibility granted charter schools by statute, or on any other matter regarding this section except a charter school application denial. The costs of the administrative hearing shall be paid by the party whom the administrative law judge rules against. ~~If, after 6 months, the contract is still~~

House Amendment 3 (with title amendment)—On page 12, line 19 through page 14, line 29 remove from the bill: all of said lines and insert in lieu thereof:

(1) In each year in which funds are appropriated from the Charter Schools Capital Outlay allocation, the Commissioner of Education shall allocate the funds among eligible charter schools. To be eligible for a funding allocation, a charter school must have received final approval from its sponsor pursuant to s. 228.056 for operation during that fiscal year and must serve students in facilities that are not provided by the charter school's sponsor. A charter school is not eligible for a funding allocation if it was created by the conversion of a public school or operates in facilities provided by the charter school's sponsor for a nominal fee or at no charge. Unless otherwise provided in the General Appropriations Act, the funding allocation for each eligible charter school shall be determined by multiplying the school's projected student enrollment by one-thirtieth of the cost-per-student station specified in s. 235.435(6)(b) for an elementary, middle, or high school, as appropriate. If the funds appropriated are not sufficient, the commissioner shall prorate the available funds among eligible charter schools. In the first quarter of the fiscal year, funds shall be distributed on the basis of projected enrollment as provided in this section. The commissioner shall adjust subsequent distributions as necessary to reflect each charter school's actual student enrollment. The commissioner shall establish the intervals and procedures for determining the projected and actual student enrollment of eligible charter schools. If a school district chooses to share funding for the capital outlay purposes described in subsection (2) with the applicable charter school or charter schools, any allocation from the Charter Schools Capital Outlay allocation to the charter school or charter schools shall be reduced by the amount shared.

(2) A charter school's governing body may use funds from the Charter Schools Capital Outlay allocation for any lawful capital outlay purpose pursuant to ss. 235.435 and 236.25.

(3) When a charter is not renewed or is terminated, any unencumbered funds and all equipment and property purchased with public education funds appropriated pursuant to this section shall revert to the ownership of the district school board, as provided for in s. 228.056(10). The reversion of such equipment and property shall include recoverable assets, but not intangible or irrecoverable costs such as rental or leasing fees, normal maintenance, and limited renovations. Any additional issues, such as the shared use of facilities or partial ownership of facilities or property, shall be addressed in the charter contract prior to the expenditure of funds.

(4) The Commissioner of Education shall specify procedures for submitting and approving requests for funding under this section and procedures for documenting expenditures.

(5) The annual legislative budget request of the Department of Education shall include a request for funding for the Charter Schools Capital Outlay allocation. The request shall be based on the projected number of students to be served in charter schools that meet the eligibility requirements of this section.

Section 3. This act shall take effect upon becoming a law.

And the title is amended as follows:

On page 1, line 23 through page 2, line 2 remove from the title of the bill: all of said lines and insert in lieu thereof: creating s. 228.0561, F.S.; providing for the distribution of funds from the Charter Schools Capital Outlay allocation; providing eligibility requirements; providing duties of the Commissioner of Education; authorizing the use of funds for certain capital outlay purposes of charter schools; providing for the

reversion of funds, equipment, and property under certain conditions; requiring a legislative budget request for appropriations from the Charter Schools Capital Outlay allocation; providing an effective date.

Senator Grant moved the following amendment which was adopted:

Senate Amendment 1 (with title amendment) to House Amendment 3—On page 1, line 18 through page 3, line 15, delete those lines and insert:

Section 2. Section 228.0561, Florida Statutes, is created to read:

228.0561 Charter schools capital outlay funding.—

(1) In each year in which funds are appropriated from the Public Education Capital Outlay and Debt Service Trust Fund for charter schools, the Commissioner of Education shall allocate the funds among eligible charter schools. To be eligible for a funding allocation, a charter school must meet the provisions of subsection (6), must have received final approval from its sponsor pursuant to s. 228.056 for operation during that fiscal year, and must serve students in facilities that are not provided by the charter school's sponsor. Prior to the release of capital outlay funds to the charter school, the Department of Education shall enter into a written agreement that includes provisions for attaching a lien to property that has been improved through the use of these funds, in the event that the school terminates operations. Any funds recovered by the state shall be deposited in the Public Education Capital Outlay and Debt Service Trust Fund. A charter school is not eligible for a funding allocation if it was created by the conversion of a public school and operates in facilities provided by the charter school's sponsor for a nominal fee or at no charge. Unless otherwise provided in the General Appropriations Act, the funding allocation for each eligible charter school shall be determined by multiplying the school's projected student enrollment by one-thirtieth of the cost-per-student station specified in s. 235.435(6)(b) for an elementary, middle, or high school, as appropriate. If the funds appropriated are not sufficient, the commissioner shall prorate the available funds among eligible charter schools. In the first quarter of the fiscal year, funds shall be distributed on the basis of projected enrollment as provided in this section. The commissioner shall adjust subsequent distributions as necessary to reflect each charter school's actual student enrollment. The commissioner shall establish the intervals and procedures for determining the projected and actual student enrollment of eligible charter schools. If a school district chooses to share funding for the capital outlay purposes described in subsection (2) with the applicable charter school or charter schools, any allocation from the Public Education Capital Outlay and Debt Service Trust Fund allocation to the charter school or charter schools shall be reduced by the amount shared.

(2) A charter school's governing body with the school board's permission may use funds from the Public Education Capital Outlay and Debt Service Trust Fund for any capital outlay purpose that is directly related to the functioning of the charter school, including the:

(a) Purchase of real property.

(b) Construction, renovation, repair, and maintenance of school facilities.

(c) Purchase, lease-purchase, or lease of permanent or relocatable school facilities.

(d) Purchase of vehicles to transport students to and from the charter school.

(3) When a charter school is nonrenewed or terminated, any unencumbered funds and all equipment and property purchased with public funds shall revert to the ownership of the district school board, as provided for in s. 228.056(10)(e) and (f). The reversion of such equipment, property, and furnishings shall focus on recoverable assets, but not on intangible or irrecoverable costs such as rental or leasing fees, normal maintenance, and limited renovations. If there are additional local issues such as the shared use of facilities or partial ownership of facilities or property, these issues shall be agreed to in the charter contract prior to the expenditure of funds.

(4) The Commissioner of Education shall specify procedures for submitting and approving requests for funding under this section and procedures for documenting expenditures.

(5) *The annual legislative budget request of the Department of Education shall include a request for funding for charter schools from the Public Education Capital Outlay and Debt Service Trust Fund. The request shall be based on the projected number of students to be served in charter schools who meet the eligibility requirements of this section.*

(6)(a) *Effective July 1, 1998, any charter school which has been in continuous operation in the district in which its charter was approved for at least two school years immediately preceding the school year in which the school seeks an appropriation from the Public Education Capital Outlay and Debt Service Trust Fund shall be eligible to receive funds from that trust fund. No other charter schools are eligible to receive funds from the Public Education Capital Outlay and Debt Service Trust Fund.*

(b) *Unless authorized other wise by the Legislature, allocation and proration of funds from the Public Education Capital Outlay and Debt Service Trust Fund shall be made to eligible charter schools by the Commissioner of Education in an amount and in a manner authorized by subsection (1), and only schools eligible for such funds in this subsection shall be considered "eligible charter schools" for such an allocation or proration.*

(c) *There is appropriated from the Public Education Capital Outlay and Debt Service Trust Fund in fiscal year 1998-1999 the amount of \$5,000,000 to be used for capital outlay purposes of charter schools eligible under this subsection and allocated or prorated in an amount and in a manner authorized by this subsection. This paragraph shall be repealed July 1, 1999.*

Section 3. Subsection (7) of section 235.42, Florida Statutes, is amended to read:

235.42 Educational and ancillary plant construction funds; Public Education Capital Outlay and Debt Service Trust Fund; allocation of funds.—

(7) Boards and entities authorized to participate in the trust fund are district school boards, the community college district boards of trustees, the Trustees of the Florida School for the Deaf and the Blind, the Board of Regents, charter schools only if eligible pursuant to s. 228.0561(6), and other units of the state system of public education, and other educational entities defined in s. 228.041 for which funds are purposes authorized by the Legislature.

Section 4. *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 or the Ft. White High School. No funds shall be released for this project before the Special Facility Construction Committee has approved said project.*

Section 5. *Notwithstanding proviso immediately preceding Specific Appropriation 26 of the 1998-1999 General Appropriations Act, funds designated for the Commission on Education Reform and Accountability shall be released beginning July 1, 1998, and shall be released throughout fiscal year 1998-1999 based on a regular release schedule.*

Section 6. *The Governor's Commission on Education, established by Executive Order on September 10, 1996, shall be dissolved on October 31, 1998.*

Section 7. This act shall take effect upon becoming a law.

And the title is amended as follows:

On page 3, line 24 through page 4, line 4, remove from the title of the bill: all of said lines and insert: creating s. 228.0561, F.S.; authorizing distribution of funds to charter schools from the Public Education Capital Outlay and Debt Service Trust Fund and establishing eligibility of charter schools for such funds; establishing an amount and manner for allocation or proration of such funds; providing an appropriation; providing for future repeal of statute; amending s. 235.42, F.S.; clarifying eligibility of educational boards and entities for receipt of funds from the Public Education Capital Outlay and Debt Service Trust Fund; providing an appropriation to the Columbia County School District; providing for the release of funds for the Commission on Education Reform and Accountability; providing for the dissolution of the Governor's Commission on Education; providing an effective date.

THE PRESIDENT PRESIDING

Senators Dyer and Turner offered the following amendment which was moved by Senator Dyer and adopted:

Senate Amendment 2 (with title amendment) to House Amendment 3—On page 3, between lines 13 and 14, insert:

Section 3. *The sum of \$300,000 is appropriated from the General Revenue Fund for the purpose of funding the Teen Voice of America Program for the 1998-1999 fiscal year.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 4, line 4, after the semicolon (;) insert: providing an appropriation to fund the Teen Voice of America Program;

Senator Gutman moved the following amendment which was adopted:

Senate Amendment 3 (with title amendment) to House Amendment 3—On page 3, between lines 13 and 14, insert:

Section 3. *The sum of \$300,000 is appropriated from the General Revenue Fund to Fairchild Tropical Gardens for the Tropical Gardens Education Center for the 1998-1999 fiscal year. Before the release of the funds the project must be matched by \$4,000,000 in local funds and must be reviewed and approved by the Secretary of the Department of Environmental Protection.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 4, line 4, after the semicolon (;) insert: providing an appropriation;

On motion by Senator Grant, the Senate concurred in **House Amendment 3** as amended and requested the House to concur in the Senate amendments to the House amendment; and concurred in **House Amendments 1 and 2**.

CS for CS for SB 1996 and CS for SB 1182 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—39

Madam President	Crist	Horne	Myers
Bankhead	Diaz-Balart	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

SPECIAL ORDER CALENDAR, continued

On motion by Senator Harris, by two-thirds vote **HJR 125** was withdrawn from the Committees on Judiciary; and Rules and Calendar.

On motion by Senator Harris—

HJR 125—A joint resolution proposing an amendment to Section 1 of Article VIII of the State Constitution relating to recording of instruments.

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

That the amendment to Section 1 of Article VIII of the State Constitution set forth below is agreed to and shall be submitted to the electors of Florida for approval or rejection at the general election to be held in November 1998.

SECTION 1. Counties.—

(a) POLITICAL SUBDIVISIONS. The state shall be divided by law into political subdivisions called counties. Counties may be created, abolished or changed by law, with provision for payment or apportionment of the public debt.

(b) COUNTY FUNDS. The care, custody and method of disbursing county funds shall be provided by general law.

(c) GOVERNMENT. Pursuant to general or special law, a county government may be established by charter which shall be adopted, amended or repealed only upon vote of the electors of the county in a special election called for that purpose.

(d) COUNTY OFFICERS. There shall be elected by the electors of each county, for terms of four years, a sheriff, a tax collector, a property appraiser, a supervisor of elections, and a clerk of the circuit court; except, when provided by county charter or special law approved by vote of the electors of the county, any county officer may be chosen in another manner therein specified, or any county office may be abolished when all the duties of the office prescribed by general law are transferred to another office. When not otherwise provided by county charter or special law approved by vote of the electors, the clerk of the circuit court shall be ex officio clerk of the board of county commissioners, auditor, recorder and custodian of all county funds.

(e) COMMISSIONERS. Except when otherwise provided by county charter, the governing body of each county shall be a board of county commissioners composed of five or seven members serving staggered terms of four years. After each decennial census the board of county commissioners shall divide the county into districts of contiguous territory as nearly equal in population as practicable. One commissioner residing in each district shall be elected as provided by law.

(f) NON-CHARTER GOVERNMENT. Counties not operating under county charters shall have such power of self-government as is provided by general or special law. The board of county commissioners of a county not operating under a charter may enact, in a manner prescribed by general law, county ordinances not inconsistent with general or special law, but an ordinance in conflict with a municipal ordinance shall not be effective within the municipality to the extent of such conflict.

(g) CHARTER GOVERNMENT. Counties operating under county charters shall have all powers of local self-government not inconsistent with general law, or with special law approved by vote of the electors. The governing body of a county operating under a charter may enact county ordinances not inconsistent with general law. The charter shall provide which shall prevail in the event of conflict between county and municipal ordinances.

(h) TAXES; LIMITATION. Property situate within municipalities shall not be subject to taxation for services rendered by the county exclusively for the benefit of the property or residents in unincorporated areas.

(i) COUNTY ORDINANCES. Each county ordinance shall be filed with the secretary of state and shall become effective at such time thereafter as is provided by general law.

(j) VIOLATION OF ORDINANCES. Persons violating county ordinances shall be prosecuted and punished as provided by law.

(k) COUNTY SEAT. In every county there shall be a county seat at which shall be located the principal offices and permanent records of all county officers. The county seat may not be moved except as provided by general law. Branch offices for the conduct of county business may be established elsewhere in the county by resolution of the governing body of the county in the manner prescribed by law. No instrument shall be deemed recorded in the county until filed at the county seat, or a branch office designated by the governing body of the county for the recording of instruments, according to law.

BE IT FURTHER RESOLVED that in accordance with the requirements of section 101.161, Florida Statutes, the substance of the amendment proposed herein shall appear on the ballot as follows:

RECORDING OF INSTRUMENTS IN BRANCH OFFICES

Proposing an amendment to Section 1 of Article VIII of the State Constitution authorizing the recording of instruments by filing at a branch office of a county seat.

YES for approval

NO for rejection

—a companion measure, was substituted for **SJR 1610** and read the second time in full. On motion by Senator Harris, by two-thirds vote **HJR 125** was read the third time by title, passed by the required constitutional three-fifths vote of the membership and was certified to the House. The vote on passage was:

Yeas—39

Madam President	Diaz-Balart	Horne	Myers
Bankhead	Dudley	Jones	Ostalkiewicz
Bronson	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 Myers, by two-thirds vote **HB 4515** was withdrawn from the Committees on Health Care; and Ways and Means.

On motion by Senator Myers, the rules were waived and by two-thirds vote—

HB 4515—A bill to be entitled An act relating to health care practitioners; creating s. 455.557, F.S.; providing for standardized credentialing of health care practitioners; providing intent and definitions; providing for a standardized credentials verification program; providing for delegation of credentialing authority by contract; providing for availability of data collected; prohibiting collection of duplicate data; specifying conditions for reliability of data; providing for standards and registration, including a registration fee; preserving health care entities from liability and certain actions for reliance on data provided by a credentials verification entity; providing for practitioner review of data prior to release; providing for validation of credentials; providing liability insurance requirements; providing for rules; providing for reappointment of a task force and providing its purpose; providing an appropriation; providing an effective date.

—a companion measure, was substituted for **SB 1940** and by two-thirds vote read the second time by title. On motion by Senator Myers, by two-thirds vote **HB 4515** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

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	Turner
Childers	Gutman	Lee	Williams
Clary	Hargrett	McKay	
Cowin	Harris	Meadows	

Nays—None

Vote after roll call:

Yea—Thomas

On motion by Senator Bronson, by two-thirds vote **CS for HB 4071** was withdrawn from the Committees on Natural Resources; and Ways and Means.

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

CS for HB 4071—A bill to be entitled An act relating to environmental protection; amending s. 373.4137, F.S.; requiring ongoing annual submissions, to the Department of Environmental Protection and water management districts, by the Department of Transportation of its adopted work program and inventory of impacted habitats; authorizing inclusion of habitat impacts of future transportation projects; providing activities associated with development of mitigation plans; requiring water management districts to consult with entities operating mitigation banks when developing mitigation plans; providing that a water management district's preliminary approval of a mitigation plan does not constitute a decision affecting substantial interests; requiring mitigation plans to include certain information; authorizing exclusion of certain projects from the environmental impact inventory; extending certain mitigation funding through fiscal year 2004-2005; authorizing amendment of annual mitigation plans for certain purposes; providing for uses of funds not directed to implement mitigation plans; deleting obsolete language relating to a report; creating s. 373.4139, F.S.; providing legislative findings and intent; providing for mitigation for mining activities within certain areas; levying a mitigation fee; providing for collection and disposition of such mitigation fees; providing duties of the Department of Revenue; providing for adjustment of the mitigation fee; specifying uses of fee proceeds; amending s. 373.4149, F.S.; revising requirements for development of Phase II of the Lake Belt Plan; repealing s. 373.4149(10), F.S., relating to development of a comprehensive mitigation plan; amending s. 338.223, F.S.; requiring environmental feasibility review prior to advance right-of-way purchases for a proposed turnpike project; providing exceptions for hardship and protective purchases; amending s. 86 of ch. 93-213, Laws of Florida; deleting the requirement for certain repayment of funds appropriated for the state NPDES program from the Pollution Recovery Trust Fund; providing an effective date.

—a companion measure, was substituted for **CS for SB 986** and by two-thirds vote read the second time by title.

Senator Bronson moved the following amendment:

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

Section 1. Section 373.4137, Florida Statutes, is amended to read:

373.4137 Mitigation requirements.—

(1) The Legislature finds that environmental mitigation for the impact of transportation projects proposed by the Department of Transportation can be more effectively achieved by regional, long-range mitigation planning rather than on a project-by-project basis. It is the intent of the Legislature that mitigation to offset the adverse effects of these transportation projects be funded by the Department of Transportation and be carried out by the Department of Environmental Protection and the water management districts, including the use of mitigation banks established pursuant to this part.

(2) Environmental impact inventories for transportation projects proposed by the Department of Transportation shall be developed as follows:

(a) ~~Each June 1 beginning July 1996~~, the Department of Transportation shall submit ~~annually~~ to the Department of Environmental Protection and the water management districts a copy of its adopted work program and an inventory of habitats addressed in the rules adopted pursuant to this part and s. 404 of the Clean Water Act, 33 U.S.C. s. 1344, which may be impacted by its plan of construction for transportation projects in the ~~next first~~ 3 years of the adopted work program. ~~The Department of Transportation may also include in its inventory the habitat impacts of any future transportation project identified in the adopted work program. For the July 1996 submittal,~~ The inventory may exclude those projects which have received permits pursuant to this part and s. 404 of the Clean Water Act, 33 U.S.C. s. 1344, projects for which mitigation planning or design has commenced, or projects for which mitigation has been implemented in anticipation of future permitting needs.

(b) The environmental impact inventory shall include a description of these habitat impacts, including their location, acreage, and type; state water quality classification of impacted wetlands and other surface waters; any other state or regional designations for these habitats; and a survey of threatened species, endangered species, and species of special concern affected by the proposed project.

(3) To fund the mitigation plan for the projected impacts identified in the inventory described in subsection (2), ~~beginning July 1, 1997~~, the Department of Transportation shall identify funds quarterly in an escrow account within the State Transportation Trust Fund established by the Department of Transportation for the benefit of the Department of Environmental Protection. Any interest earnings from the escrow account shall be returned to the Department of Transportation. The Department of Environmental Protection shall request a transfer of funds from the escrow account to the Ecosystem Management and Restoration Trust Fund no sooner than 30 days prior to the date the funds are needed to pay for activities contained in the mitigation programs. The amount transferred each year by the Department of Transportation shall correspond to a cost per acre of \$75,000 multiplied by the projected acres of impact identified in the inventory described in subsection (2) within the water management district for that year. The water management district may draw from the trust fund no sooner than 30 days prior to the date funds are needed to pay for activities associated with development or implementation of the mitigation plan described in subsection (4). *Activities associated with the development of the mitigation plan include, but are not limited to, design, engineering, production, and staff support.* Each July 1, ~~beginning in 1998~~, the cost per acre shall be adjusted by the percentage change in the average of the Consumer Price Index issued by the United States Department of Labor for the most recent 12-month period ending September 30, compared to the base year average, which is the average for the 12-month period ending September 30, 1996. At the end of each year, the projected acreage of impact shall be reconciled with the acreage of impact of projects as permitted pursuant to this part and s. 404 of the Clean Water Act, 33 U.S.C. s. 1344, and the following year's transfer of funds shall be adjusted accordingly to reflect the over-transfer or under-transfer of funds from the preceding year. The Department of Environmental Protection is authorized to transfer such funds from the Ecosystem Management and Restoration Trust Fund to the water management districts to carry out the mitigation programs.

(4) Prior to December 1 of each year ~~31, 1996~~, each water management district, in consultation with the Department of Environmental Protection, the United States Army Corps of Engineers, and other appropriate federal, state, and local governments, ~~and entities operating mitigation banks which have obtained a permit pursuant to s. 373.4136~~, shall develop a plan for the primary purpose of complying with the mitigation requirements adopted pursuant to this part and 33 U.S.C. s. 1344. This plan shall also address significant aquatic and exotic plant problems within wetlands and other surface waters. In developing such plans, the districts shall utilize sound ecosystem management practices to address significant water resource needs and shall focus on activities of the department and the water management districts, such as surface water improvement and management projects and lands identified for potential acquisition or restoration, to the extent such activities comply with the mitigation requirements adopted under this part and 33 U.S.C. s. 1344. In determining the activities to be included in such plans, the districts shall also consider the purchase of credits from public or private mitigation banks permitted under this part and shall include such purchase as a part of the mitigation plan when such purchase would offset the impact of the transportation project, provide equal benefits to the water resources than other mitigation options being considered, and provide the most cost-effective mitigation option. The mitigation plan shall be preliminarily approved by the water management district governing board and shall be submitted to the secretary of the Department of Environmental Protection for review and final approval. *The preliminary approval by the water management district governing board does not constitute a decision that affects substantial interests as provided by s. 120.569.* At least 30 days prior to preliminary approval, the water management district shall provide a copy of the draft mitigation plan to any person who has requested a copy.

(a) *Each mitigation plan shall include a brief explanation of why a mitigation bank was or was not chosen as a mitigation option for each transportation project addressed in the plan, including an estimation and description of identifiable costs of the mitigation bank and nonmitigation bank option to the extent practicable.*

(b)(a) If the Department of Environmental Protection and water management districts are unable to identify mitigation that would offset the impacts of a project included in the inventory, either due to the nature of the impact or the amount of funds available, that project shall not be addressed in the mitigation plan and the project shall not be subject to the provisions of this section.

(c)(b) Specific projects may be excluded from *the environmental impact inventory* and the mitigation plan and shall not be subject to this section upon the agreement of the Department of Transportation, the Department of Environmental Protection, and the appropriate water management district that the inclusion of such projects would hamper the efficiency or timeliness of the mitigation planning and permitting process.

(d)(e) Those transportation projects that are proposed to commence in fiscal year 1996-1997 shall not be addressed in the mitigation plan, and the provisions of subsection (7) shall not apply to these projects. The Department of Transportation may enter into interagency agreements with the Department of Environmental Protection or any water management district to perform mitigation planning and implementation for these projects.

(e) *Surface water improvement and management or aquatic or exotic plant control projects undertaken using the \$12 million advance transferred from the Department of Transportation to the Department of Environmental Protection in fiscal year 1996-1997 shall remain available for mitigation until the \$12 million is fully credited up to and including fiscal year 2004-2005. When these projects are used as mitigation, the \$12 million advance shall be reduced by \$75,000 per acre of impact mitigated. For any fiscal year through and including fiscal year 2004-2005, to the extent the cost of developing and implementing the mitigation plans is less than the amount transferred from the Department of Transportation to the Department of Environmental Protection pursuant to subsection (3), the difference shall be credited towards the \$12 million advance.*

(d) ~~On July 1, 1996, the Department of Transportation shall transfer to the Department of Environmental Protection \$12 million from the State Transportation Trust Fund for the purposes of the surface water improvement management program and to address statewide aquatic and exotic plant problems within wetlands and other surface waters. Such funds shall be considered an advance upon funds that the Department of Transportation would provide for statewide mitigation during the 1997-1998, 1998-1999, and 1999-2000 fiscal years. This use of mitigation funds for surface water improvement management projects or aquatic and exotic plant control may be utilized as mitigation for transportation projects to the extent that it complies with the mitigation requirements adopted pursuant to this part and 33 U.S.C. s. 1344. To the extent that such activities result in mitigation credit for projects permitted in fiscal year 1996-1997, all or part of the \$12 million funding for surface water improvement management projects or aquatic and exotic plant control in fiscal year 1996-1997 shall be drawn from Department of Transportation mitigation funding for fiscal years 1996-1997 rather than from mitigation funding for fiscal years 1997-1998, 1998-1999, and 1999-2000, in an amount equal to the cost per acre of impact described in subsection (3), times the acreage of impact that is mitigated by such plant control activities. Any part of the \$12 million that does not result in mitigation credit for projects permitted in fiscal year 1996-1997 shall remain available for mitigation credit during fiscal years 1997-1998, 1998-1999, or 1999-2000.~~

(5) The water management district shall be responsible for ensuring that mitigation requirements pursuant to 33 U.S.C. s. 1344 are met for the impacts identified in the inventory described in subsection (2), by implementation of the approved plan described in subsection (4) *to the extent funding is provided as funded by the Department of Transportation.* During the federal permitting process, the water management district may deviate from the approved mitigation plan in order to comply with federal permitting requirements.

(6) The mitigation plan shall be updated annually to reflect the most current Department of Transportation work program, *and may be amended throughout the year to anticipate schedule changes or additional projects which may arise.* Each update and amendment of the mitigation plan shall be submitted to the secretary of the Department of Environmental Protection for approval ~~as described in subsection (4).~~ However, such approval shall not be applicable to a deviation as described in subsection (5).

(7) Upon approval by the secretary of the Department of Environmental Protection, the mitigation plan shall be deemed to satisfy the mitigation requirements under this part and any other mitigation requirements imposed by local, regional, and state agencies for impacts identified in the inventory described in subsection (2). The approval of the secretary shall authorize the activities proposed in the mitigation plan, and no other state, regional, or local permit or approval shall be necessary.

(8) This section shall not be construed to eliminate the need for the Department of Transportation to comply with the requirement to implement practicable design modifications, including realignment of transportation projects, to reduce or eliminate the impacts of its transportation projects on wetlands and other surface waters as required by rules adopted pursuant to this part, or to diminish the authority under this part to regulate other impacts, including water quantity or water quality impacts, or impacts regulated under this part that are not identified in the inventory described in subsection (2).

(9) The recommended mitigation plan shall be annually submitted to the Executive Office of the Governor and the Legislature through the legislative budget request of the Department of Environmental Protection in accordance with chapter 216. Any funds not directed to implement the mitigation plan should, to the greatest extent possible, be directed to fund aquatic and exotic plant problems within the wetlands and other surface waters.

~~(10) By December 1, 1997, the Department of Environmental Protection, in consultation with the water management districts, shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives describing the implementation of this section, including the use of public and private mitigation banks and other types of mitigation approved in the mitigation plan. The report shall also recommend any amendments to this section necessary to improve the process for developing and implementing mitigation plans for the Department of Transportation. The report shall also include a specific section on how private and public mitigation banks are utilized within the mitigation plans.~~

Section 2. Paragraph (b) of subsection (2) of section 338.223, Florida Statutes, is amended to read:

338.223 Proposed turnpike projects.—

(2)

(b) In accordance with the legislative intent expressed in s. 337.273, *and after the requirements of paragraph (1)(c) have been met,* the department may acquire lands and property before making a final determination of the economic feasibility of a project. *The requirements of paragraph (1)(c) shall not apply to hardship and protective purchases of advance right-of-way by the department.* The cost of advance acquisition of right-of-way may be paid from bonds issued under s. 337.276 or from turnpike revenues. *For purposes of this paragraph, the term "hardship purchase" means purchase from a property owner of a residential dwelling of not more than four units who is at a disadvantage due to health impairment, job loss, or significant loss of rental income. For purposes of this paragraph, the term "protective purchase" means a purchase to limit development, building, or other intensification of land uses within the area right-of-way needed for transportation facilities. The department shall give written notice to the Department of Environmental Protection 30 days prior to final agency acceptance as set forth in s. 119.07(3)(n), which notice shall allow the Department of Environmental Protection to comment. Hardship and protective purchases of right-of-way shall not influence the environmental feasibility of the project, including the decision relative to the need to construct the project or the selection of a specific location. Costs to acquire and dispose of property acquired as hardship and protective purchases are considered costs of doing business for the department and shall not be considered in the determination of environmental feasibility for the project.*

Section 3. Section 86 of chapter 93-213, Laws of Florida, is amended to read:

Section 86. The Department of Environmental Regulation is authorized 54 career service positions for administering the state NPDES program. Twenty-five career service positions are authorized for startup of the program beginning July 1, 1993, and the remaining 29 career service positions beginning January 1, 1994. The state NPDES program staffing

shall start July 1, 1993, with completion targeted for 6 months following United States Environmental Protection Agency authorization to administer the National Pollutant Discharge Elimination System program. Implementation of positions is subject to review and final approval by the secretary of the Department of Environmental Regulation. The sum of \$3.2 million is hereby appropriated from the Pollution Recovery Trust Fund to cover program startup costs. ~~Such funds are to be repaid from a fund the Legislature deems appropriate, no later than July 1, 2000.~~

Section 4. Section 373.4139, Florida Statutes, is created to read:

373.4139 Dade County Lake Belt Mitigation Plan; mitigation for mining activities within the Dade County Lake Belt.—

(1) *The Legislature finds that the impact of mining within the Dade County Lake Belt Area can best be offset by a mitigation plan that is designated the "Lake Belt Mitigation Plan." The per-ton mitigation fee assessed on limestone sold from the Dade County Lake Belt Area shall be used for acquiring environmentally sensitive lands and for restoration, maintenance, and other environmental purposes. Further, the Legislature finds that the public benefit of a sustainable supply of limestone construction materials for public and private projects requires a coordinated approach to permitting activities on wetlands within the Dade County Lake Belt in order to provide the certainty necessary to encourage substantial and continued investment in the limestone processing plant and equipment required to efficiently extract the limestone resource. It is the intent of the Legislature that the Lake Belt Mitigation Plan satisfy all local, state, and federal requirements for mining activity within the Dade County Lake Belt Area.*

(2) *To provide for the mitigation of wetland resources lost to mining activities within the Dade County Lake Belt Area, effective October 1, 1998, a mitigation fee is imposed on each ton of limerock and sand extracted by any person who engages in the business of extracting limerock or sand from within the Dade County Lake Belt Area. The mitigation fee is at the rate of 5 cents for each ton of limerock and sand sold from within the Dade County Lake Belt Area in raw, processed, or manufactured form, including, but not limited to, sized aggregate, asphalt, cement, concrete, and other limerock and concrete products. Any limerock or sand that is used within the mine from which the limerock or sand is extracted is exempt from the fee. The amount of the mitigation fee imposed under this section must be stated separately on the invoice provided to the purchaser of the limerock product from the limerock miner, or its subsidiary or affiliate, for which the mitigation fee applies. The limerock miner, or its subsidiary or affiliate, who sells the limerock product shall collect the mitigation fee and forward the proceeds of the fee to the Department of Revenue on or before the 20th day of the month following the calendar month in which the sale occurs.*

(3) *The mitigation fee imposed by this section must be reported to the Department of Revenue. Payment of the mitigation fee must be accompanied by a form prescribed by the Department of Revenue. The proceeds of the fee, less administrative costs, must be transferred by the Department of Revenue to the South Florida Water Management District and deposited into the Lake Belt Mitigation Trust Fund. As used in this section, the term "proceeds of the fee" means all funds collected and received by the Department of Revenue under this section, including interest and penalties on delinquent mitigation fees. The amount deducted for administrative costs may not exceed 3 percent of the total revenues collected under this section and may equal only those administrative costs reasonably attributable to the mitigation fee.*

(4)(a) *The Department of Revenue shall administer, collect, and enforce the mitigation fee authorized under this section in accordance with the procedures used to administer, collect, and enforce the general sales tax imposed under chapter 212. The provisions of chapter 212, with respect to the authority of the Department of Revenue to audit and make assessments, the keeping of books and records, and the interest and penalties imposed on delinquent fees apply to this section. The fee may not be included in computing estimated taxes under s. 212.11, and the dealer's credit for collecting taxes or fees provided for in s. 212.12, does not apply to the mitigation fee imposed by this section.*

(b) *In administering this section, the Department of Revenue may employ persons and incur expenses for which funds are appropriated by the Legislature. The Department of Revenue shall adopt rules and prescribe and publish forms necessary to administer this section. The De-*

partment of Revenue shall establish audit procedures and may assess delinquent fees.

(5) *Beginning January 1, 2000, and each January 1 thereafter, the per-ton mitigation fee shall be increased by 1.9 percentage points, plus a cost growth index. The cost growth index shall be the percentage change in the weighted average of the Employment Cost Index for All Civilian Workers (ecu 100011), issued by the United States Department of Labor for the most recent 12-month period ending on September 30, and the percentage change in the Producer Price Index for All Commodities (WPU 00000000), issued by the United States Department of Labor for the most recent 12-month period ending on September 30, compared to the weighted average of these indices for the previous year. The weighted average shall be calculated as 0.6 times the percentage change in the Employment Cost Index for All Civilian Workers (ecu 100011), plus 0.4 times the percentage change in the Producer Price Index for All Commodities (WPU 00000000). If either index is discontinued, it shall be replaced by its successor index, as identified by the United States Department of Labor.*

(6)(a) *The proceeds of the mitigation fee must be used to conduct mitigation activities that are appropriate to offset the loss of the value and functions of wetlands as a result of mining activities in the Dade County Lake Belt Area and must be used in a manner consistent with the recommendations contained in the reports submitted to the Legislature by the Dade County Lake Belt Plan Implementation Committee and adopted under s. 373.4149. Such mitigation may include the purchase, enhancement, restoration, and management of wetlands and uplands, the purchase of mitigation credit from a permitted mitigation bank, and any structural modifications to the existing drainage system to enhance the hydrology of the Dade County Lake Belt Area. Funds may also be used to reimburse other funding sources, including the Save Our Rivers Land Acquisition Program and the Internal Improvement Trust Fund, for the purchase of lands that were acquired in areas appropriate for mitigation due to rock mining and to reimburse governmental agencies that exchanged land under s. 373.4149, for mitigation due to rock mining.*

(b) *Expenditures must be approved by an interagency committee that consists of representatives from each of the following: the Miami-Dade County Department of Environmental Resource Management, the Department of Environmental Protection, the South Florida Water Management District, and the Game and Fresh Water Fish Commission. In addition, the limerock mining industry shall select a representative to serve as a nonvoting member of the interagency committee. At the discretion of the committee, additional members may be added to represent federal regulatory, environmental, and fish and wildlife agencies.*

(7) *Payment of the fee imposed by this section satisfies the mitigation requirements imposed under sections 373.403-373.439, Florida Statutes, and any applicable county ordinance for loss of the value and functions of the wetlands mined. In addition, it is the intent of the Legislature that the payment of the mitigation fee imposed by this section satisfy all federal mitigation requirements for the wetlands mined.*

(8) *If a general permit by the United States Army Corps of Engineers, or an appropriate long-term permit for mining, consistent with the Dade County Lake Belt Plan, this section, and s. 378.4115, 373.4149, and 373.4415, is not issued on or before September 30, 2000, the fee imposed by this section is suspended until reenacted by the Legislature.*

(9)(a) *The interagency committee established in this section shall annually prepare and submit to the governing board of the South Florida Water Management District a report evaluating the mitigation costs and revenues generated by the mitigation fee.*

(b) *No sooner than January 31, 2010, and no more frequently than every 10 years thereafter, the interagency committee shall submit to the Legislature a report recommending any needed adjustments to the mitigation fee to ensure that the revenue generated reflects the actual costs of the mitigation.*

Section 5. Subsections (5), (6), (10), (11), and (12) of section 373.4149, Florida Statutes, are amended to read:

373.4149 Dade County Lake Belt Plan.—

(5) *The committee shall develop Phase II of the Lake Belt Plan which shall:*

- (a) Include a detailed master plan to further implementation;
- (b) Further address compatible land uses, opportunities, and potential conflicts;
- (c) Provide for additional wellfield protection;
- (d) Provide measures to prevent the reclassification of the Northwest Dade County wells as groundwater under the direct influence of surface water;
- (e) Secure additional funding sources; ~~and~~
- (f) Consider the need to establish a land authority; ~~and~~
- (g) *Analyze the hydrological impacts resulting from the future mining included in the Lake Belt Plan and recommend appropriate mitigation measures, if needed, to be incorporated into the Lake Belt Mitigation Plan.*

(6) The committee shall remain in effect until January 1, ~~2002~~ 2001, and shall meet as deemed necessary by the chair. The committee shall monitor and direct progress toward developing and implementing the plan. The committee shall submit progress reports to the governing board of the South Florida Water Management District and the Legislature by December 31 of each year. These reports shall include a summary of the activities of the committee, updates on all ongoing studies, any other relevant information gathered during the calendar year, and the committee recommendations for legislative and regulatory revisions. The committee shall submit a Phase II report and plan to the governing board of the South Florida Water Management District and the Legislature by December 31, 2000, to supplement the Phase I report submitted on February 28, 1997. The Phase II report must include the detailed master plan for the Dade County Lake Belt Area together with the final reports on all studies, the final recommendations of the committee, the status of implementation of Phase I recommendations and other relevant information, and the committee's recommendation for legislative and regulatory revisions.

~~(10) The Department of Environmental Protection, in conjunction with the South Florida Water Management District and the Dade County Department of Environmental Resources Management, is directed to develop a comprehensive mitigation plan for the Dade County Lake Belt Plan, subject to approval by the Legislature, which offsets the loss of wetland functions and values resulting from rock mining in mining-supported and allowable areas.~~

~~(10)(11)~~ The secretary of the Department of Environmental Protection, the secretary of the Department of Community Affairs, the secretary of the Department of Transportation, the Commissioner of Agriculture, the executive director of the Game and Freshwater Fish Commission, and the executive director of the South Florida Water Management District may enter into agreements with landowners, developers, businesses, industries, individuals, and governmental agencies as necessary to effectuate the provisions of this section.

~~(11)(12)~~(a) All agencies of the state shall review the status of their landholdings within the boundaries of the Dade County Lake Belt. Those lands for which no present or future use is identified must be made available, together with other suitable lands, to the committee for its use in carrying out the objectives of this act.

(b) It is the intent of the Legislature that lands provided to the committee be used for land exchanges to further the objectives of this act.

Section 6. *Section 36, Township 53 South, Range 39 East, is excluded from the geographical area described as the Dade County Lake Belt Area and delineated in 373.4149(3), Florida Statutes. Land uses in this excluded area shall be compatible with the Dade County Lake Belt Plan.*

Section 7. Subsection (8) is added to section 373.421, Florida Statutes, to read:

373.421 Delineation methods; formal determinations.—

(8) *Whenever the location of a wetland delineation, approved or performed by the department or the district, is certified pursuant to chapter 471 or chapter 472, the delineation shall be accepted as a formal determi-*

nation pursuant to section 373.421(2) or shall be accepted or as part of a permit issued pursuant to this part.

Section 8. Subsections (8) and (9) are added to section 373.139, Florida Statutes, to read:

(8) *The Legislature declares that the Kissimmee River, Florida Project as identified in the Project Cooperation Agreement between the Department of the Army and the South Florida Water Management District, dated March 22, 1994, and the C-111 Project as identified in the Central and Southern Florida Flood Control Project Real Estate Design Memorandum Canal 111, South Dade County, Florida are in the public interest, for a public purpose and are necessary for the public health and welfare. Through July 1, 2000, the governing board of the district is empowered and authorized to acquire fee title or easement by eminent domain for the limited purpose of implementing the Kissimmee River, Florida Project and the C-111 Project, more fully described above, and the acquisition of real property, including by eminent domain, for these objectives constitutes a public purpose for which it is in the public interest to expend public funds.*

(9) *Through July 1, 2000, the South Florida Water Management District may disburse state or district funds to any agency or department of the Federal Government in any agreement or arrangement to take property or any interest therein by eminent domain, pursuant to federal law, unless such arrangement diminishes or deprives a person or entity of any right, privilege, or compensation that they would otherwise have if the property or interest was taken by eminent domain under Florida law. This subsection shall not apply to federal grant funds received by the state or district.*

Section 9. Subsection (1) of section 337.19, Florida Statutes, is amended to read:

337.19 Suits by and against department; limitation of actions; forum.—

(1) *Suits at law and in equity may be brought and maintained by and against the department on any contract claim arising from the breach of an express provision or an implied covenant of a written agreement or a written directive issued by the department pursuant to the written agreement. In any such suit, the department and the contractor shall have all of the same rights, obligations, remedies, and defenses as a private person under a like contract, except that no liability may be based on an oral modification of the written contract or written directive. However, this section shall not be construed to in any way prohibit the department from limiting its liability or damages through provisions in its contracts. Notwithstanding anything to the contrary contained herein, no employee or agent of the department may be held personally liable to an extent greater than that provided under s. 768.28 under contract for work done; provided, that no suit sounding in tort shall be maintained against the department.*

Section 10. *If any provision of this act or the application thereof to any person or circumstance is held invalid, 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 declared severable.*

Section 11. 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 environmental protection; amending s. 373.4137, F.S.; requiring ongoing annual submissions, to the Department of Environmental Protection and water management districts, by the Department of Transportation of its adopted work program and inventory of impacted habitats; authorizing inclusion of habitat impacts of future transportation projects; providing activities associated with development of mitigation plans; requiring water management districts to consult with entities operating mitigation banks when developing mitigation plans; providing that a water management district's preliminary approval of a mitigation plan does not constitute a decision affecting substantial interests; requiring mitigation plans to include certain information; authorizing exclusion of certain projects from the environmental impact inventory; extending certain mitigation funding through fiscal year 2004-2005; authorizing amendment of annual mitigation plans for certain purposes; providing for uses of funds not directed to

implement mitigation plans; deleting obsolete provisions relating to a report; amending s. 338.223, F.S.; requiring environmental feasibility review prior to advance right-of-way purchases for a proposed turnpike project; providing exceptions for hardship and protective purchases; amending s. 86 of ch. 93-213, Laws of Florida; deleting a scheduled repayment of funds previously appropriated for startup costs of the National Pollutant Discharge Elimination System program; creating s. 373.4139, F.S.; providing legislative findings and intent with respect to a mitigation plan for the Dade County Lake Belt Area to offset the impact of mining activities; imposing a fee on the commercial extraction of limerock and sand from the Dade County Lake Belt Area; requiring the proceeds of the mitigation fee to be paid to the Department of Revenue; providing for transfer of proceeds of the mitigation fee to the South Florida Water Management District and deposited into the Lake Belt Mitigation Trust Fund; providing for the Department of Revenue to administer the collection of the fee; authorizing the department to adopt rules; providing for an annual adjustment of the fee rate after a specified date; specifying purposes for which the proceeds of the mitigation fee may be used; requiring that expenditures be approved by an interagency committee; providing for membership of the committee; providing that payment of the fee satisfies certain requirements for mitigation; providing for suspension of imposition of the fee under certain circumstances; requiring the interagency committee to submit certain reports; amending s. 373.4149, F.S.; providing additional requirements for the Dade County Lake Belt Plan; extending the term of the Dade County Lake Belt Plan Implementation Committee; deleting a requirement that the Department of Environmental Protection develop a mitigation plan to offset loss of wetlands due to rock mining; excluding certain property from the Dade County Lake Belt Area; amending s. 373.421, F.S.; providing that certain delineations of wetlands shall be accepted as formal determinations or as part of a permit issued under Part IV of ch. 373, F.S.; providing for the adoption of rules; amending s. 373.139, F.S.; allowing the disbursement of certain district funds or assets in eminent domain proceedings under certain circumstances for a specified period; providing standing to sue for certain persons; providing a declaration that the Kissimmee River Project is in the public interest and for a public purpose; authorizing certain eminent domain proceedings; amending s. 337.19, F.S.; authorizing suits to be brought against the department for the breach of an expressed provision or an implied covenant; providing that liability may not be based on an oral modification of a written contract; providing severability; providing an effective date.

Senator Bronson moved the following amendments to **Amendment 1** which were adopted:

Amendment 1A—On page 18, line 16, delete the second “or”

Amendment 1B—On page 18, delete line 28 and insert: *public health and welfare. The governing*

Senators Forman and Gutman offered the following amendment to **Amendment 1** which was moved by Senator Forman and failed:

Amendment 1C (with title amendment)—On page 20, between lines 11 and 12, insert:

Section 11. *Based on the conservation, recreational, land acquisition, and ecological objectives of this state and the legislatively declared public interest in acquiring the lands in the East Everglades Buffer Strip and Pennsuco wetlands, the South Florida Water Management District is directed to pursue the immediate acquisition of Tracts Nos. 304-974, 304-966, 300-919, and 304-968 in Cell No. 26, Dade County, East Everglades Buffer Strip. The South Florida Water Management District is authorized to purchase such properties at a price equal to or less than the average of the two most recent M.A.I. appraisals. If negotiations do not result in the execution of mutually binding sales contracts for all such properties, the district shall, by August 1, 1998, initiate condemnation proceedings in accordance with the quick-take provisions of chapters 73 and 74, Florida Statutes, on such parcels. Any acquisition or condemnation value resulting from this section is inadmissible and irrelevant with respect to any other acquisition in the project area or to calculating any adjustment in the fee specified in section 373.4139(9), Florida Statutes.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 20, line 22, after the semicolon (;) insert: providing for the acquisition of lands in the East Everglades Buffer Strip and Pennsuco wetlands;

Amendment 1 as amended was adopted.

POINT OF ORDER

Senator Crist 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.

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 Bronson, by two-thirds vote **CS for HB 4071** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

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

Nays—3

Crist	Klein	Latvala
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On motion by Senator Diaz-Balart, by two-thirds vote **CS for HB 1667** was withdrawn from the Committees on Natural Resources; and Ways and Means.

On motion by Senator Diaz-Balart, by unanimous consent—

CS for HB 1667—A bill to be entitled An act relating to trust funds; creating the Lake Belt Mitigation Trust Fund within the South Florida Water Management District; providing for sources of moneys and purposes; providing an exemption from termination; providing an effective date.

—was taken up out of order and read the second time by title. On motion by Senator Diaz-Balart, by two-thirds vote **CS for HB 1667** 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—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	Hargrett	McKay	Williams
Cowin	Harris	Meadows	

Nays—None

On motion by Senator Grant, by two-thirds vote **CS for HB 117** 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 Grant—

CS for HB 117—A bill to be entitled An act relating to the tax on sales, use, and other transactions; amending s. 212.08, F.S.; providing

an exemption for the Gasparilla Distance Classic Association, Inc., in specified circumstances; providing an effective date.

—a companion measure, was substituted for **SB 732** and read the second time by title. On motion by Senator Grant, by two-thirds vote **CS for HB 117** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

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

Nays—None

On motion by Senator Dudley, by two-thirds vote **HB 4063** was withdrawn from the Committees on Commerce and Economic Opportunities; and Ways and Means.

On motion by Senator Dudley—

HB 4063—A bill to be entitled An act relating to public lodging establishments; amending s. 509.32, F.S.; changing the date of submission of an annual report to the Governor by the Division of Hotels and Restaurants of the Department of Business Regulation; amending s. 509.191, F.S.; reducing the period of time in which certain unclaimed property left in a public lodging or public food service establishment must be held by the establishment; amending s. 509.201, F.S.; revising requirements for publishing advertisements relating to rates charged at specified public lodging establishments; providing an effective date.

—a companion measure, was substituted for **CS for SB 1934** and read the second time by title. On motion by Senator Dudley, by two-thirds vote **HB 4063** was read the third time by title, passed and 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	Dyer	Kurth	Silver
Burt	Forman	Latvala	Sullivan
Campbell	Geller	Laurent	Thomas
Casas	Gutman	Lee	Turner
Childers	Hargrett	McKay	Williams
Clary	Harris	Meadows	
Cowin	Horne	Myers	

Nays—None

Consideration of **CS for CS for SB 1994** was deferred.

CS for SB 300—A bill to be entitled An act relating to economic development; authorizing tax credits to a certain business; amending s. 212.08, F.S.; exempting certain property based in enterprise zones from the sales tax 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. 290.0055, F.S.; extending the date by which certain

counties may apply to amend enterprise zone boundary lines; amending s. 290.0065, F.S.; providing for amendment of the boundaries of an enterprise zone designated pursuant to s. 290.0065(5)(b), F.S., upon application by the county to the Office of Tourism, Trade, and Economic Development; authorizing the Office of Tourism, Trade, and Economic Development to amend the boundaries of certain enterprise zones upon request from certain counties; providing restrictions; providing an appropriation to the Department of Community Affairs; providing an appropriation to the Office of Tourism, Trade, and Economic Development for the Technological Research and Development Authority; providing an effective date.

—was read the second time by title

An amendment was considered and adopted to conform **CS for SB 300** to **HB 3225**.

Pending further consideration of **CS for SB 300** as amended, on motion by Senator Hargrett, by two-thirds vote **HB 3225** was withdrawn from the Committees on Ways and Means; and Community Affairs.

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

HB 3225—A bill to be entitled An act relating to economic development; providing an appropriation to the Office of Tourism, Trade, and Economic Development for the Technological Research and Development Authority; authorizing tax credits to a certain business; amending s. 212.08, F.S.; exempting certain property based in enterprise zones from the sales tax 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. 290.0065, F.S.; providing for amendment of the boundaries of an enterprise zone designated pursuant to s. 290.0065(5)(b), F.S., upon application by the county to the Office of Tourism, Trade, and Economic Development; authorizing the Office of Tourism, Trade, and Economic Development to amend the boundaries of certain enterprise zones upon request from certain counties; providing restrictions; providing for repeal; amending s. 290.0055, F.S.; providing extended date for application to amend certain boundary lines; providing an effective date.

—a companion measure, was substituted for **CS for SB 300** as amended and by two-thirds vote read the second time by title. On motion by Senator Hargrett, by two-thirds vote **HB 3225** was read the third time by title, passed and 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	Kurth	Sullivan
Burt	Forman	Latvala	Thomas
Campbell	Geller	Laurent	Turner
Casas	Gutman	Lee	Williams
Childers	Hargrett	Meadows	
Clary	Harris	Myers	
Cowin	Horne	Ostalkiewicz	

Nays—None

On motion by Senator Horne, by two-thirds vote **HB 4491** was withdrawn from the Committees on Rules and Calendar; and Ways and Means.

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

HB 4491—A bill to be entitled An act relating to trust funds; creating the Florida School District Review Trust Fund, to be administered by the

Office of Program Policy Analysis and Government Accountability; providing for source of funds; directing the office to use the trust fund to pay the cost of best financial management practices reviews; providing for refunds to school districts; providing for future review and termination or re-creation of the trust fund; providing for annual carryforward of funds; amending s. 230.23025, F.S.; providing for the deposit of funds from school districts; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB 2352** and by two-thirds vote read the second time by title. On motion by Senator Horne, by two-thirds vote **HB 4491** 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—37

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

Nays—None

CS for SB 1028—A bill to be entitled An act relating to obtaining personal property or certain services illegally; amending s. 812.15, F.S.; prohibiting the possession or advertisement for sale of certain equipment designed and primarily useful for unauthorized reception of cable system communications; providing penalties; amending s. 812.155, F.S.; prescribing acts that constitute prima facie evidence of intent to defraud; providing authorized means for demand for return; requiring notice on rental agreements; providing penalties; providing an effective date.

—was read the second time by title.

An amendment was considered and adopted to conform **CS for SB 1028** to **HB 1317**.

Pending further consideration of **CS for SB 1028** as amended, on motion by Senator Gutman, by two-thirds vote **HB 1317** was withdrawn from the Committees on Commerce and Economic Opportunities; and Judiciary.

On motion by Senator Gutman—

HB 1317—A bill to be entitled An act relating to obtaining personal property or certain services illegally; amending s. 812.15, F.S.; prohibiting the possession or advertisement for sale of certain equipment designed and primarily useful for unauthorized reception of cable system communications; providing penalties; amending s. 812.155, F.S.; prescribing acts that constitute prima facie evidence of intent to defraud; providing authorized means for demand for return; requiring notice on rental agreements; providing penalties; providing an effective date.

—a companion measure, was substituted for **CS for SB 1028** as amended and read the second time by title. On motion by Senator Gutman, by two-thirds vote **HB 1317** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

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

Nays—1

Ostalkiewicz

HB 3689—A bill to be entitled An act relating to historical resources; amending s. 267.021, F.S.; revising the definition of “historic property” or “historic resource”; repealing s. 267.16(4), F.S., which requires the Division of Historical Resources of the Department of State to maintain the Florida Folklife Archives; repealing s. 267.162, F.S., which creates the Florida Folklife Grant Program within the Division of Historical Resources of the Department of State; providing an effective date.

—was read the second time by title. On motion by Senator Kirkpatrick, by two-thirds vote **HB 3689** was read the third time by title, passed and 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	Forman	Kurth	Sullivan
Burt	Geller	Latvala	Thomas
Campbell	Grant	Laurent	Turner
Casas	Gutman	McKay	Williams
Childers	Hargrett	Meadows	
Clary	Harris	Myers	
Cowin	Horne	Ostalkiewicz	

Nays—None

On motion by Senator Silver, by two-thirds vote **CS for HB 3345** was withdrawn from the Committees on Transportation and Community Affairs.

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

CS for HB 3345—A bill to be entitled An act relating to regulation of wrecker operators and persons immobilizing vehicles; amending s. 1.01, F.S.; defining the term “wrecker operator”; providing for a law enforcement officer to place a hold order on a motor vehicle in a wrecker operator’s storage facility; prescribing conditions on such acts; authorizing county and municipal wrecker operator systems; prohibiting certain acts in contravention of such systems; providing penalties; amending ss. 125.0103 and 166.043, F.S.; providing that counties must establish maximum fees which may be charged for the towing or immobilization of vehicles; amending s. 316.193, F.S.; providing for a receipt to the wrecker operator to be given at the time of release of a vehicle impounded or immobilized as a result of a charge of driving under the influence; amending s. 321.051, F.S.; revising provisions authorizing the Florida Highway Patrol to establish a wrecker operator system; prohibiting certain acts in contravention of such system; providing penalties; amending s. 322.34, F.S.; revising provisions relating to impoundment or immobilization of vehicles being operated while the operator’s license is suspended, revoked, canceled, or disqualified; providing for payment of accrued charges; amending s. 713.78, F.S.; providing that law allowing a lien for recovering, towing, or storing a vehicle does not authorize a lien for immobilizing a vehicle; providing liability for damages or theft in connection with a towed vehicle; amending s. 319.30, F.S.; conforming a cross reference; providing an effective date.

—a companion measure, was substituted for **CS for SB 710** and by two-thirds vote read the second time by title.

Senator Silver moved the following amendments which were adopted:

Amendment 1 (with title amendment)—On page 9, line 23 through page 11, line 2, delete those lines and insert:

(d) In addition to the penalty imposed under paragraph (a), paragraph (b), or paragraph (c), the court shall also order the impoundment or immobilization of a vehicle owned, leased, or rented by the vehicle that was driven by, or in the actual physical control of, the offender, unless the court finds that the family of the owner of the vehicle has no other public or private means of transportation. The period of impoundment or immobilization is 10 days, or, for the second conviction within 3 years,

30 days, or, for the third conviction within 5 years, 90 days and may not be concurrent with probation or imprisonment. If the vehicle is leased or rented, the period of impoundment or immobilization may not extend beyond the expiration of the lease or rental agreement. Within 7 business days after the date that the court issues the order of impoundment or immobilization, the clerk of the court shall send notice by certified mail, return receipt requested, to ~~the registered owner of the vehicle if the registered owner is a person other than~~ the offender and to each person of record claiming a lien against the *immobilized or impounded* vehicle. All costs and fees for the impoundment or immobilization, including the cost of notification, must be paid by the ~~offender owner of the vehicle or, if the vehicle is leased or rented, by the person leasing or renting the vehicle.~~ The person who owns a vehicle that is impounded or immobilized under this paragraph, or a person who has a lien of record against such a vehicle, may, within 10 days after the date that person has knowledge of the location of the vehicle, file a complaint in the county in which the owner resides to determine whether the vehicle was wrongfully taken or withheld from the owner or lienholder. Upon the filing of a complaint, the owner or lienholder may have the vehicle released by posting with the court a bond or other adequate security equal to the amount of the costs and fees for impoundment or immobilization, including towing or storage, to ensure the payment of such costs and fees if the owner or lienholder does not prevail. When the bond is posted and the fee is paid as set forth in s. 28.24, the clerk of the court shall issue a certificate releasing the vehicle. At the time of release, after reasonable inspection, the owner or lienholder must give a receipt to the towing or storage company indicating any loss or damage to the vehicle or to the contents of the vehicle.

And the title is amended as follows:

On page 1, lines 16-20, delete those lines and insert: s. 316.193, F.S.; providing that the vehicle to be impounded or immobilized need not be the vehicle involved in the D.U.I., but must be a vehicle owned, leased, or rented by the offender; providing that the D.U.I. offender will bear all costs and fees of impoundment or immobilization of the vehicle, including cost of notification; amending s. 321.051, F.S.; revising

Amendment 2 (with title amendment)—On page 11, between lines 25 and 26, insert:

Section 7. Paragraphs (d) and (e) of subsection (5) of section 320.08, Florida Statutes, are amended to read:

320.08 License taxes.—Except as otherwise provided herein, there are hereby levied and imposed annual license taxes for the operation of motor vehicles, mopeds, motorized bicycles as defined in s. 316.003(2), and mobile homes, as defined in s. 320.01, which shall be paid to and collected by the department or its agent upon the registration or renewal of registration of the following:

(5) SEMITRAILERS, FEES ACCORDING TO GROSS VEHICLE WEIGHT; SCHOOL BUSES; SPECIAL PURPOSE VEHICLES.—

(d) A wrecker, as defined in s. 320.01(40), which is used to tow a vessel as defined in s. 327.02(36), a disabled, abandoned, stolen-recovered, or impounded motor vehicle as defined in s. 320.01(38), or a replacement motor vehicle as defined in s. 320.01(39): \$30 flat.

(e) A wrecker, as defined in s. 320.01(40), which is used to tow any motor vehicle, regardless of whether or not such motor vehicle is a disabled motor vehicle as defined in s. 320.01(38), or a replacement motor vehicle as defined in s. 320.01(39), a vessel as defined in s. 327.02(36), or any other cargo, as follows:

1. Gross vehicle weight of 10,000 pounds or more, but less than 15,000 pounds: \$87 flat.

2. Gross vehicle weight of 15,000 pounds or more, but less than 20,000 pounds: \$131 flat.

3. Gross vehicle weight of 20,000 pounds or more, but less than 26,000 pounds: \$186 flat.

4. Gross vehicle weight of 26,000 pounds or more, but less than 35,000 pounds: \$240 flat.

5. Gross vehicle weight of 35,000 pounds or more, but less than 44,000 pounds: \$300 flat.

6. Gross vehicle weight of 44,000 pounds or more, but less than 55,000 pounds: \$572 flat.

7. Gross vehicle weight of 55,000 pounds or more, but less than 62,000 pounds: \$678 flat.

8. Gross vehicle weight of 62,000 pounds or more, but less than 72,000 pounds: \$800 flat.

9. Gross vehicle weight of 72,000 pounds or more: \$979 flat.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 20, after the first semicolon (;) insert: amending s. 320.08, F.S.; providing for certain license taxes to apply to wreckers used to tow vessels;

Amendment 3 (with title amendment)—On page 11, between lines 25 and 26, insert:

Section 7. Paragraph (a) of subsection (1) of section 320.04, Florida Statutes, is amended to read:

320.04 Registration service charge.—

(1)(a) There shall be a service charge of \$2.50 for each application which is handled in connection with original issuance, duplicate issuance, or transfer of any license plate, mobile home sticker, or validation sticker or with transfer or duplicate issuance of any registration certificate. There may also be a service charge of up to \$1 for the issuance of each license plate validation sticker and mobile home sticker issued from an automated vending facility or printer dispenser machine which shall be payable to and retained by the department to provide for automated vending facilities or printer dispenser machines used to dispense such stickers by ~~in~~ each tax collector's or license tag agent's employee office.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 20, after the first semicolon (;) insert: amending s. 320.04, F.S.; providing a service charge for validation stickers issued by printer dispenser machines

Amendment 4—On page 14, line 24 through page 15, line 10, delete those lines and insert: section has been leased or rented or if there are any persons of record with a lien upon the vehicle. Either the arresting agency or the towing service, whichever is in possession of the vehicle, shall notify by express courier service with receipt or certified mail, return receipt requested, within 7 business days after the date of the immobilization or impoundment of the vehicle, the registered owner and all persons having a recorded lien against the vehicle ~~telephone any lessor or lienholder before 5 p.m. on the business day after the day that the vehicle~~ has been impounded or immobilized. A lessor, rental car company, or lienholder may then obtain the vehicle, upon payment of any lawful towing or storage charges. If the vehicle is a rental vehicle subject to a written contract, the charges may be separately charged to the renter, in addition to the rental rate, along with other separate fees, charges, and recouments disclosed on the rental agreement. If the storage facility fails to provide timely notice to a lessor, rental car company, or lienholder as required by this paragraph, the storage facility shall be responsible for payment of any towing or storage charges necessary to release the vehicle to a lessor, rental car company, or lienholder that accrue after the notice period, which charges may then be assessed against the driver of the vehicle if the vehicle was lawfully impounded or immobilized.

Senator Silver moved the following amendment:

Amendment 5 (with title amendment)—On page 16, line 3 through page 24, line 22, delete those lines and insert:

713.78 Liens for recovering, towing, or storing vehicles and undocumented vessels.—

(1) For the purposes of this section, the term:

(a) "Vehicle" means any mobile item, whether motorized or not, which is mounted on wheels.

(b) "Vessel" has the same meaning as the term "undocumented vessel" as defined in s. 372.02(36).

(c)(b) "Wrecker" means any truck or other vehicle which is used to tow, carry, or otherwise transport motor vehicles or vessels upon the streets and highways of this state and which is equipped for that purpose with a boom, winch, car carrier, or other similar equipment.

(2) Whenever a person regularly engaged in the business of transporting vehicles or vessels by wrecker, tow truck, or car carrier recovers, removes, or stores a vehicle, vessel, or mobile home upon instructions from:

- (a) The owner thereof; or
- (b) The owner or lessor, or a person authorized by the owner or lessor, of property on which such vehicle is wrongfully parked, and such removal is done in compliance with s. 715.07; or
- (c) Any law enforcement agency; or
- (d) A mobile home park owner as defined in s. 723.003 who has a current writ of possession for a mobile home lot pursuant to s. 723.061, she or he shall have a lien on such vehicle or vessel for a reasonable towing fee and for a reasonable storage fee; except that no storage fee shall be charged if such vehicle is stored for less than 6 hours.

(3) This section does not authorize any person to claim a lien on a vehicle for fees or charges connected with the immobilization of such vehicle using a vehicle boot or other similar device pursuant to s. 715.07.

(4)(a)(3)(a) Any person regularly engaged in the business of recovering, towing, or storing vehicles or vessels who comes into possession of a vehicle or vessel pursuant to subsection (2), and who claims a lien for recovery, towing, or storage services, shall give notice to the registered owner and to all persons claiming a lien thereon, as disclosed by the records in the Department of Highway Safety and Motor Vehicles or of a corresponding agency in any other state.

(b) Notice by certified mail, return receipt requested, shall be sent within 7 business days after the date of storage of the vehicle or vessel to the registered owner and to all persons of record claiming a lien against the vehicle or vessel. It shall state the fact of possession of the vehicle or vessel, that a lien as provided in subsection (2) is claimed, that charges have accrued and the amount thereof, that the lien is subject to enforcement pursuant to law, and that the owner or lienholder, if any, has the right to a hearing as set forth in subsection (5) (4), and that any vehicle or vessel which remains unclaimed, or for which the charges for recovery, towing, or storage services remain unpaid, may be sold in 35 days free of all prior liens.

(c) If attempts to locate the owner or lienholder prove unsuccessful, the towing-storage operator shall, after 7 working days, excluding Saturday and Sunday, of the initial tow or storage, notify the public agency of jurisdiction in writing by certified mail or acknowledged hand delivery that the towing-storage company has been unable to locate the owner or lienholder and a physical search of the vehicle or vessel has disclosed no ownership information and a good faith effort has been made. For purposes of this paragraph, subsection (9) (8), and s. 715.05, "good faith effort" means that the following checks have been performed by the company to establish prior state of registration and for title:

1. Check of vehicle or vessel for any type of tag, tag record, temporary tag, or regular tag.
2. Check of law enforcement report for tag number or other information identifying the vehicle or vessel, if the vehicle or vessel was towed at the request of a law enforcement officer.
3. Check of trip sheet or tow ticket of tow truck operator to see if a tag was on vehicle at beginning of tow, if private tow.
4. If there is no address of the owner on the impound report, check of law enforcement report to see if an out-of-state address is indicated from driver license information.
5. Check of vehicle or vessel for inspection sticker or other stickers and decals that may indicate a state of possible registration.

6. Check of the interior of the vehicle or vessel for any papers that may be in the glove box, trunk, or other areas for a state of registration.

7. Check of vehicle for vehicle identification number.

8. Check of vessel for vessel registration number.

9. Check of vessel hull for a hull identification number which should be carved, burned, stamped, embossed, or otherwise permanently affixed to the outboard side of the transom or, if there is no transom, to the outmost seaboard side at the end of the hull that bears the rudder or other steering mechanism.

(5)(a)(4)(a) The owner of a vehicle or vessel removed pursuant to the provisions of subsection (2), or any person claiming a lien, other than the towing-storage operator, within 10 days after the time she or he has knowledge of the location of the vehicle or vessel, may file a complaint in the county court of the county in which the vehicle or vessel is stored or in which the owner resides to determine if her or his property was wrongfully taken or withheld from her or him.

(b) Upon filing of a complaint, an owner or lienholder may have her or his vehicle or vessel released upon posting with the court a cash or surety bond or other adequate security equal to the amount of the charges for towing or storage and lot rental amount to ensure the payment of such charges in the event she or he does not prevail. Upon the posting of the bond and the payment of the applicable fee set forth in s. 28.24, the clerk of the court shall issue a certificate notifying the lienor of the posting of the bond and directing the lienor to release the vehicle or vessel. At the time of such release, after reasonable inspection, she or he shall give a receipt to the towing-storage company reciting any claims she or he has for loss or damage to the vehicle or vessel or the contents thereof.

(c) Upon determining the respective rights of the parties, the court may award damages and costs in favor of the prevailing party. In any event, the final order shall provide for immediate payment in full of recovery, towing, and storage fees by the vehicle or vessel owner or lienholder; or the agency ordering the tow; or the owner, lessee, or agent thereof of the property from which the vehicle or vessel was removed.

(6)(5) Any vehicle or vessel which is stored pursuant to subsection (2) and which remains unclaimed, or for which reasonable charges for recovery, towing, or storage remain unpaid or for which a lot rental amount is due and owing to the mobile home park owner, as evidenced by a judgment for unpaid rent, and any contents not released pursuant to subsection (10) (9), may be sold by the owner or operator of the storage space for such towing or storage charge or unpaid lot rental amount after 35 days from the time the vehicle or vessel is stored therein. The sale shall be at public auction for cash. If the date of the sale was not included in the notice required in subsection (4) (3), notice of the sale shall be given to the person in whose name the vehicle, vessel, or mobile home is registered, to the mobile home park owner, and to all persons claiming a lien on the vehicle or vessel as shown on the records of the Department of Highway Safety and Motor Vehicles or of the corresponding agency in any other state. Notice shall be sent by certified mail, return receipt requested, to the owner of the vehicle or vessel and the person having the recorded lien on the vehicle or vessel at the address shown on the records of the registering agency and shall be mailed not less than 15 days before the date of the sale. After diligent search and inquiry, if the name and address of the registered owner or the owner of the recorded lien cannot be ascertained, the requirements of notice by mail may be dispensed with. In addition to the notice by mail, public notice of the time and place of sale shall be made by publishing a notice thereof one time, at least 10 days prior to the date of the sale, in a newspaper of general circulation in the county in which the sale is to be held. The proceeds of the sale, after payment of reasonable towing and storage charges, costs of the sale, and the unpaid lot rental amount, in that order of priority, shall be deposited with the clerk of the circuit court for the county if the owner is absent, and the clerk shall hold such proceeds subject to the claim of the person legally entitled thereto. The clerk shall be entitled to receive 5 percent of such proceeds for the care and disbursement thereof. The certificate of title issued under this law shall be discharged of all liens unless otherwise provided by court order.

(7)(a)(6) A wrecker operator No person regularly engaged in the business of recovering, towing, or storing vehicles or vessels is not shall be liable for damages connected with such services, theft of such vehicles or vessels, or theft of personal property contained in such vehicles or vessels,

provided that *such services* they have been performed with reasonable care and provided, further, that, in the case of removal of a vehicle *or vessel* upon the request of a person purporting, and reasonably appearing, to be the owner or lessee, or a person authorized by the owner or lessee, of the property from which such vehicle *or vessel* is removed, such removal has been done in compliance with s. 715.07. *Further, a wrecker operator is not liable for damage connected with such services when complying with the lawful directions of a law enforcement officer to remove a vehicle stopped, standing, or parked upon a street or highway in such a position as to obstruct the normal movement of traffic or in such a condition as to create a hazard to other traffic upon the street or highway.*

(b) *For the purposes of this subsection, a wrecker operator is presumed to use reasonable care to prevent the theft of a vehicle or vessel or of any personal property contained in such vehicle stored in the wrecker operator's storage facility if all of the following apply:*

1. *The wrecker operator surrounds the storage facility with a chain-link or solid-wall type fence at least 6 feet in height;*

2. *The wrecker operator has illuminated the storage facility with lighting of sufficient intensity to reveal persons and vehicles at a distance of at least 150 feet during nighttime; and*

3. *The wrecker operator uses one or more of the following security methods to discourage theft of vehicles or vessels or of any personal property contained in such vehicles or vessels stored in the wrecker operator's storage facility:*

a. *A night dispatcher or watchman remains on duty at the storage facility from sunset to sunrise;*

b. *A security dog remains at the storage facility from sunset to sunrise;*

c. *Security cameras or other similar surveillance devices monitor the storage facility; or*

d. *A security guard service examines the storage facility at least once each hour from sunset to sunrise.*

(c) *Any law enforcement agency requesting that a motor vehicle be removed from an accident scene, street, or highway must conduct an inventory and prepare a written record of all personal property found in the vehicle before the vehicle is removed by a wrecker operator. A wrecker operator is not liable for the loss of personal property alleged to be contained in such a vehicle when such personal property was not identified on the inventory record prepared by the law enforcement agency requesting the removal of the vehicle.*

(8)(7) A person regularly engaged in the business of recovering, towing, or storing vehicles *or vessels*, except a person licensed under chapter 493 while engaged in "repossession" activities as defined in s. 493.6101, may not operate a wrecker, tow truck, or car carrier unless the name, address, and telephone number of the company performing the service is clearly printed in contrasting colors on the driver and passenger sides of its vehicle. The name must be in at least 3-inch permanently affixed letters, and the address and telephone number must be in at least 1-inch permanently affixed letters.

(9)(8) Failure to make good faith best efforts to comply with the notice requirements of this section shall preclude the imposition of any storage charges against such vehicle *or vessel*.

(10)(9) Persons who provide services pursuant to this section shall permit vehicle *or vessel* owners or their agents, which agency is evidenced by a writing acknowledged by the owner before a notary public or other person empowered by law to administer oaths, to inspect the towed vehicle *or vessel* and shall release to the owner or agent all personal property not affixed to the vehicle *or vessel* which was in the vehicle *or vessel* at the time the vehicle *or vessel* came into the custody of the person providing such services.

(11)(a)(4)(a) Any person regularly engaged in the business of recovering, towing, or storing vehicles *or vessels* who comes into possession of a vehicle *or vessel* pursuant to subsection (2) and who has complied with the provisions of subsections (3) and (6) (5), when such vehicle *or vessel* is to be sold for purposes of being dismantled, destroyed, or changed in

such manner that it is not the motor vehicle, *vessel*, or mobile home described in the certificate of title, shall apply to the county tax collector for a certificate of destruction. A certificate of destruction, which authorizes the dismantling or destruction of the vehicle *or vessel* described therein, shall be reassignable and shall accompany the vehicle *or vessel* for which it is issued, when such vehicle *or vessel* is sold for such purposes, in lieu of a certificate of title. The application for a certificate of destruction *must* ~~shall~~ include an affidavit from the applicant that it has complied with all applicable requirements of this section and, if the vehicle *or vessel* is not registered in this state, by a statement from a law enforcement officer that the vehicle *or vessel* is not reported stolen, and shall be accompanied by such documentation as may be required by the department.

(b) The Department of Highway Safety and Motor Vehicles shall charge a fee of \$3 for each certificate of destruction. A service charge of \$4.25 shall be collected and retained by the tax collector who processes the application.

(c) The Department of Highway Safety and Motor Vehicles may adopt such rules as it deems necessary or proper for the administration of this subsection.

(12)(a)(4)(a) Any person who violates any provision of ~~subsection (1), subsection (2), subsection (4), subsection (5), subsection (6), or subsection (7) through (6)~~ is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) Any person who violates the provisions of subsections (8) (7) through (11) (4) is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Any person who uses a false or fictitious name, gives a false or fictitious address, or makes any false statement in any application or affidavit required under the provisions of this section is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

And the title is amended as follows:

On page 2, lines 1-4, delete those lines and insert: storing a vehicle or vessel does not authorize a lien for immobilizing a vehicle or vessel; creating a procedure for liens for towing and storage charges on undocumented vessels in the same manner as currently permitted for vehicles; providing liability for damages or theft in connection with a towed vehicle or vessel; amending s. 319.30, F.S.; conforming a

Senator Silver moved the following amendment to **Amendment 5** which was adopted:

Amendment 5A—On page 1, line 24, delete "372.02(36)" and insert: *327.02(36)*

Amendment 5 as amended was adopted.

Senator Silver moved the following amendment which was adopted:

Amendment 6—In title, on page 1, line 20, after the first semicolon (;) insert: amending s. 320.08, F.S.; providing for certain license taxes to apply to wreckers used to tow vessels;

Senator Lee moved the following amendment which was adopted:

Amendment 7 (with title amendment)—On page 24, between lines 29 and 30, insert:

Section 11. Subsection (6) of section 316.193, Florida Statutes, is amended to read:

316.193 Driving under the influence; penalties.—

(6) With respect to any person convicted of a violation of subsection (1), regardless of any penalty imposed pursuant to subsection (2), subsection (3), or subsection (4):

(a) For the first conviction, the court shall place the defendant on probation for a period not to exceed 1 year and, as a condition of such probation, shall order the defendant to participate in public service or a community work project for a minimum of 50 hours; or the court may order instead, that any defendant pay an additional fine of \$10 for each

hour of public service or community work otherwise required, if, after consideration of the residence or location of the defendant at the time public service or community work is required, payment of the fine is in the best interests of the state. However, the total period of probation and incarceration may not exceed 1 year. *The court must also, as a condition of probation, order the impoundment or immobilization of the vehicle that was operated by or in the actual control of the defendant or any one vehicle registered in the defendant's name at the time of impoundment or immobilization, for a period of 10 days or for the unexpired term of any lease or rental agreement that expires within 10 days. The impoundment or immobilization must not occur concurrently with the incarceration of the defendant. The impoundment or immobilization order may be dismissed in accordance with paragraph (e), paragraph (f), or paragraph (g).*

(b) For the second conviction for an offense that occurs within a period of 5 years after the date of a prior conviction for violation of this section, the court shall order imprisonment for not less than 10 days. *The court must also, as a condition of probation, order the impoundment or immobilization of the vehicle that was operated by or in the actual control of the defendant or any one vehicle registered in the defendant's name at the time of impoundment or immobilization, for a period of 30 days or for the unexpired term of any lease or rental agreement that expires within 30 days. The impoundment or immobilization must not occur concurrently with the incarceration of the defendant. The impoundment or immobilization order may be dismissed in accordance with paragraph (e), paragraph (f), or paragraph (g).* At least 48 hours of confinement must be consecutive.

(c) For the third or subsequent conviction for an offense that occurs within a period of 10 years after the date of a prior conviction for violation of this section, the court shall order imprisonment for not less than 30 days. *The court must also, as a condition of probation, order the impoundment or immobilization of the vehicle that was operated by or in the actual control of the defendant or any one vehicle registered in the defendant's name at the time of impoundment or immobilization, for a period of 90 days or for the unexpired term of any lease or rental agreement that expires within 90 days. The impoundment or immobilization must not occur concurrently with the incarceration of the defendant. The impoundment or immobilization order may be dismissed in accordance with paragraph (e), paragraph (f), or paragraph (g).* At least 48 hours of confinement must be consecutive.

(d) *The court must at the time of sentencing the defendant issue an order for the impoundment or immobilization of a vehicle. Within 7 business days after the date that the court issues the order of impoundment or immobilization, and once again 30 business days before the actual impoundment or immobilization of the vehicle, the clerk of the court must send notice by certified mail, return receipt requested, to the registered owner of each vehicle, if the registered owner is a person other than the defendant, and to each person of record claiming a lien against the vehicle.*

(e) *A person who owns but was not operating the vehicle when the offense occurred may submit to the court a police report indicating that the vehicle was stolen at the time of the offense or documentation of having purchased the vehicle after the offense was committed from an entity other than the defendant or the defendant's agent. If the court finds that the vehicle was stolen or that the sale was not made to circumvent the order and allow the defendant continued access to the vehicle, the order must be dismissed and the owner of the vehicle will incur no costs. If the court denies the request to dismiss the order of impoundment or immobilization, the petitioner may request an evidentiary hearing.*

(f) *A person who owns but was not operating the vehicle when the offense occurred, and whose vehicle was stolen or who purchased the vehicle after the offense was committed directly from the defendant or the defendant's agent, may request an evidentiary hearing to determine whether the impoundment or immobilization should occur. If the court finds that either the vehicle was stolen or the purchase was made without knowledge of the offense, that the purchaser had no relationship to the defendant other than through the transaction, and that such purchase would not circumvent the order and allow the defendant continued access to the vehicle, the order must be dismissed and the owner of the vehicle will incur no costs.*

(g) *The court shall also dismiss the order of impoundment or immobilization of the vehicle if the court finds that the family of the owner of the vehicle has no other private means of transportation.*

~~(d) In addition to the penalty imposed under paragraph (a), paragraph (b), or paragraph (c), the court shall also order the impoundment or immobilization of the vehicle that was driven by, or in the actual physical control of, the offender, unless the court finds that the family of the owner of the vehicle has no other public or private means of transportation. The period of impoundment or immobilization is 10 days, or, for the second conviction within 3 years, 30 days, or, for the third conviction within 5 years, 90 days and may not be concurrent with probation or imprisonment. If the vehicle is leased or rented, the period of impoundment or immobilization may not extend beyond the expiration of the lease or rental agreement. Within 7 business days after the date that the court issues the order of impoundment or immobilization, the clerk of the court shall send notice by certified mail, return receipt requested, to the registered owner of the vehicle if the registered owner is a person other than the offender and to each person of record claiming a lien against the vehicle.~~

(h) All costs and fees for the impoundment or immobilization, including the cost of notification, must be paid by the owner of the vehicle or, if the vehicle is leased or rented, by the person leasing or renting the vehicle, *unless the impoundment or immobilization order is dismissed. All provisions of s. 713.78 shall apply.*

(i) The person who owns a vehicle that is impounded or immobilized under this paragraph, or a person who has a lien of record against such a vehicle *and who has not requested a review of the impoundment pursuant to paragraph (e), paragraph (f), or paragraph (g),* may, within 10 days after the date that person has knowledge of the location of the vehicle, file a complaint in the county in which the owner resides to determine whether the vehicle was wrongfully taken or withheld from the owner or lienholder. Upon the filing of a complaint, the owner or lienholder may have the vehicle released by posting with the court a bond or other adequate security equal to the amount of the costs and fees for impoundment or immobilization, including towing or storage, to ensure the payment of such costs and fees if the owner or lienholder does not prevail. When the bond is posted and the fee is paid as set forth in s. 28.24, the clerk of the court shall issue a certificate releasing the vehicle. At the time of release, after reasonable inspection, the owner or lienholder must give a receipt to the towing or storage company indicating any loss or damage to the vehicle or to the contents of the vehicle.

(j)(e) A defendant, in the court's discretion, may be required to serve all or any portion of a term of imprisonment to which the defendant has been sentenced pursuant to this section in a residential alcoholism treatment program or a residential drug abuse treatment program. Any time spent in such a program must be credited by the court toward the term of imprisonment.

For the purposes of this section, any conviction for a violation of s. 327.35; a previous conviction for the violation of former s. 316.1931, former s. 860.01, or former s. 316.028; or a previous conviction outside this state for driving under the influence, driving while intoxicated, driving with an unlawful blood-alcohol level, driving with an unlawful breath-alcohol level, or any other similar alcohol-related or drug-related traffic offense, is also considered a previous conviction for violation of this section. However, in satisfaction of the fine imposed pursuant to this section, the court may, upon a finding that the defendant is financially unable to pay either all or part of the fine, order that the defendant participate for a specified additional period of time in public service or a community work project in lieu of payment of that portion of the fine which the court determines the defendant is unable to pay. In determining such additional sentence, the court shall consider the amount of the unpaid portion of the fine and the reasonable value of the services to be ordered; however, the court may not compute the reasonable value of services at a rate less than the federal minimum wage at the time of sentencing.

Section 12. Subsection (6) of section 327.35, Florida Statutes, is amended to read:

327.35 Boating under the influence; penalties.—

(6) With respect to any person convicted of a violation of subsection (1), regardless of any other penalty imposed:

(a) For the first conviction, the court shall place the defendant on probation for a period not to exceed 1 year and, as a condition of such probation, shall order the defendant to participate in public service or a community work project for a minimum of 50 hours. *The court must*

also, as a condition of probation, order the impoundment or immobilization of the vessel that was operated by or in the actual control of the defendant or any one vehicle registered in the defendant's name at the time of impoundment or immobilization, for a period of 10 days or for the unexpired term of any lease or rental agreement that expires within 10 days. The impoundment or immobilization must not occur concurrently with the incarceration of the defendant. The impoundment or immobilization order may be dismissed in accordance with paragraph (e) or paragraph (f). The total period of probation and incarceration may not exceed 1 year.

(b) For the second conviction for an offense that occurs within a period of 5 years after the date of a prior conviction for violation of this section, the court shall order imprisonment for not less than 10 days. The court must also, as a condition of probation, order the impoundment or immobilization of the vessel that was operated by or in the actual control of the defendant or any one vehicle registered in the defendant's name at the time of impoundment or immobilization, for a period of 30 days or for the unexpired term of any lease or rental agreement that expires within 30 days. The impoundment or immobilization must not occur concurrently with the incarceration of the defendant. The impoundment or immobilization order may be dismissed in accordance with paragraph (e) or paragraph (f). At least 48 hours of confinement must be consecutive.

(c) For the third or subsequent conviction for an offense that occurs within a period of 10 years after the date of a prior conviction for violation of this section, the court shall order imprisonment for not less than 30 days. The court must also, as a condition of probation, order the impoundment or immobilization of the vessel that was operated by or in the actual control of the defendant or any one vehicle registered in the defendant's name at the time of impoundment or immobilization, for a period of 90 days or for the unexpired term of any lease or rental agreement that expires within 90 days. The impoundment or immobilization must not occur concurrently with the incarceration of the defendant. The impoundment or immobilization order may be dismissed in accordance with paragraph (e) or paragraph (f). At least 48 hours of confinement must be consecutive.

(d) The court must at the time of sentencing the defendant issue an order for the impoundment or immobilization of a vessel. Within 7 business days after the date that the court issues the order of impoundment, and once again 30 business days before the actual impoundment or immobilization of the vessel, the clerk of the court must send notice by certified mail, return receipt requested, to the registered owner of each vessel, if the registered owner is a person other than the defendant, and to each person of record claiming a lien against the vessel.

(e) A person who owns but was not operating the vessel when the offense occurred may submit to the court a police report indicating that the vessel was stolen at the time of the offense or documentation of having purchased the vessel after the offense was committed from an entity other than the defendant or the defendant's agent. If the court finds that the vessel was stolen or that the sale was not made to circumvent the order and allow the defendant continued access to the vessel, the order must be dismissed and the owner of the vessel will incur no costs. If the court denies the request to dismiss the order of impoundment or immobilization, the petitioner may request an evidentiary hearing.

(f) A person who owns but was not operating the vessel when the offense occurred, and whose vessel was stolen or who purchased the vessel after the offense was committed directly from the defendant or the defendant's agent, may request an evidentiary hearing to determine whether the impoundment or immobilization should occur. If the court finds that either the vessel was stolen or the purchase was made without knowledge of the offense, that the purchaser had no relationship to the defendant other than through the transaction, and that such purchase would not circumvent the order and allow the defendant continued access to the vessel, the order must be dismissed and the owner of the vessel will incur no costs.

~~(d) In addition to any other penalty imposed, the court shall also order the impoundment or immobilization of the vessel that was operated by, or in the actual physical control of, the offender. The period of impoundment or immobilization is 10 days, or, for the second conviction within 3 years, 30 days, or, for the third conviction within 5 years, 90 days and may not be concurrent with probation or imprisonment. If the vessel is leased or rented, the period of impoundment or immobilization may not extend beyond the expiration of the lease or rental agreement.~~

~~Within 7 business days after the date that the court issues the order of impoundment or immobilization, the clerk of the court shall send notice by certified mail, return receipt requested, to the registered owner of the vessel if the registered owner is a person other than the offender and to each person of record claiming a lien against the vessel.~~

(g) All costs and fees for the impoundment or immobilization, including the cost of notification, must be paid by the owner of the vessel or, if the vessel is leased or rented, by the person leasing or renting the vessel, unless the impoundment or immobilization order is dismissed.

(h) The person who owns a vessel that is impounded or immobilized under this paragraph, or a person who has a lien of record against such a vessel and who has not requested a review of the impoundment pursuant to paragraph (e) or paragraph (f), may, within 10 days after the date that person has knowledge of the location of the vessel, file a complaint in the county in which the owner resides to determine whether the vessel was wrongfully taken or withheld from the owner or lienholder. Upon the filing of a complaint, the owner or lienholder may have the vessel released by posting with the court a bond or other adequate security equal to the amount of the costs and fees for impoundment or immobilization, including towing or storage, to ensure the payment of the costs and fees if the owner or lienholder does not prevail. When the bond is posted and the fee is paid as set forth in s. 28.24, the clerk of the court shall issue a certificate releasing the vessel. At the time of release, after reasonable inspection, the owner or lienholder must give a receipt to the towing or storage company indicating any loss or damage to the vessel or to the contents of the vessel.

(i)(e) A defendant, in the court's discretion, may be required to serve all or any portion of a term of imprisonment to which the defendant has been sentenced pursuant to this section in a residential alcoholism treatment program or a residential drug abuse treatment program. Any time spent in such a program must be credited by the court toward the term of imprisonment.

For the purposes of this section, any conviction for a violation of s. 316.193, a previous conviction for the violation of former s. 316.1931, former s. 860.01, or former s. 316.028, or a previous conviction outside this state for driving under the influence, driving while intoxicated, driving with an unlawful blood-alcohol level, driving with an unlawful breath-alcohol level, or any other similar alcohol-related or drug-related traffic offense, is also considered a previous conviction for violation of this section.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 2, line 5, after the semicolon (;) insert: amending s. 316.193; providing for impoundment or immobilization of a vehicle; providing circumstances for dismissal of the impoundment or immobilization order; amending s. 327.35, F.S.; providing for impoundment or immobilization of a vessel; providing circumstances for dismissal of a court's impoundment or immobilization order;

On motion by Senator Silver, by two-thirds vote **CS for HB 3345** 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	Diaz-Balart	Jones	Ostaskiewicz
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	Hargrett	McKay	Williams
Cowin	Harris	Meadows	

Nays—None

On motion by Senator Cowin, by two-thirds vote **CS for HB 4051** was withdrawn from the Committees on Agriculture; Governmental Reform and Oversight; and Ways and Means.

On motion by Senator Cowin—

CS for HB 4051—A bill to be entitled An act relating to agriculture; creating ss. 570.251-570.2815, F.S.; creating the "Florida Agricultural Development Act"; providing legislative findings; providing definitions; establishing the Florida Agricultural Development Authority; providing powers and duties; providing for membership of a board; providing for terms of board members; providing for organization of the board; providing general powers of the authority; providing for an executive director and specifying duties; requiring an annual report; providing for the use of surplus moneys by the authority; providing for combination of state and federal programs to facilitate the purposes of the authority; establishing a beginning farmer loan program; providing purposes of the loan program; authorizing the authority to participate in federal programs; requiring the authority to provide for loan criteria by rule; authorizing the authority to provide loan requirements; authorizing the authority to make loans to beginning farmers for agricultural land and improvements and depreciable agricultural property; authorizing the authority to make loans to mortgage lenders and other lenders; authorizing the authority to purchase mortgage loans and secured loans from mortgage lenders; providing powers of the authority relating to loans; providing for the issuance of bonds and notes by the authority; authorizing the authority to establish bond reserve funds; providing remedies of bondholders and holders of notes; providing for the pledging of bonds by the state; providing that bonds and notes shall be considered legal investments; providing requirements with respect to funds of the authority; authorizing examination of accounts by the Auditor General; requiring a report; providing limitation of liability for members of the authority; requiring the assistance of state officers, agencies, and departments; providing for construction of the act; requiring disclosure of specified conflicts of interest; prohibiting certain participation in the event of a conflict of interest; specifying conflicts of interest with respect to the executive director of the authority; providing exemption from competitive bid laws; providing for receipt of specified trust assets by the authority; authorizing the authority to enter into specified agreements; providing for liability; providing for additional beginning farmer and loan assistance programs; authorizing additional beginning farmer loan program; requiring the authority to establish and develop an agricultural loan assistance program; providing program criteria; requiring the authority to create and develop alternative agriculture assistance programs; providing for the adoption of rules with respect to enforcement of provisions relative to such programs; authorizing the authority to bring action for enforcement; creating s. 159.8082, F.S.; establishing the agricultural development bond pool; amending s. 159.804, F.S.; providing for specific allocations of state volume limitations to the agricultural development bond pool; amending s. 159.809, F.S.; including the agricultural development bond pool within provisions relating to recapture of unused amounts for addition to the state allocation pool; providing an effective date.

—a companion measure, was substituted for CS for CS for SB 1994 and read the second time by title. On motion by Senator Cowin, by two-thirds vote CS for HB 4051 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	Hargrett	McKay	Williams
Cowin	Harris	Meadows	

Nays—None

SB 612—A bill to be entitled An act relating to admissions to sporting events; amending s. 212.04, F.S.; exempting from taxation admissions to certain collegiate tournament games and baseball all-star games; providing an effective date.

—was read the second time by title.

An amendment was considered and adopted to conform SB 612 to CS for HB 73.

Pending further consideration of SB 612 as amended, on motion by Senator Crist, by two-thirds vote CS for HB 73 was withdrawn from the Committees on Ways and Means, Subcommittee E (Finance and Tax); Ways and Means; Commerce and Economic Opportunities; and Community Affairs.

On motion by Senator Crist—

CS for HB 73—A bill to be entitled An act relating to tax on sales, use, and other transactions; amending s. 212.04, F.S.; exempting admissions to certain collegiate tournament games, baseball all-star games, and postseason collegiate football games from the tax on admissions; providing an effective date.

—a companion measure, was substituted for SB 612 as amended and read the second time by title. On motion by Senator Crist, by two-thirds vote CS for HB 73 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

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

Nays—1

Ostalkiewicz

CS for SB 1636—A bill to be entitled An act relating to the Cigarette Tax Collection Trust Fund; amending s. 210.20, F.S.; providing for a portion of the revenues from the cigarette tax to be paid monthly to the Board of Directors of the H. Lee Moffitt Cancer and Research Institute, for the purpose of financing a cancer-research facility at the University of South Florida; providing duties of the institute's board of directors; providing for uses of the transferred moneys, including the issuance of tax-exempt bonds, to be used as specified; providing that proceeds of the cigarette tax which are transferred under this act are pledged to cover the costs of constructing, furnishing, and equipping the cancer-research facility; providing an effective date.

—was read the second time by title.

An amendment was considered and adopted to conform CS for SB 1636 to HB 3783.

Pending further consideration of CS for SB 1636 as amended, on motion by Senator Brown-Waite, by two-thirds vote HB 3783 was withdrawn from the Committees on Health Care; and Ways and Means.

On motion by Senator Brown-Waite, by two-thirds vote—

HB 3783—A bill to be entitled An act relating to the Cigarette Tax Collection Trust Fund; amending s. 210.20, F.S.; providing for a portion of the revenues from the cigarette tax to be paid monthly to the Board of Directors of the H. Lee Moffitt Cancer and Research Institute, for the purpose of financing a cancer-research facility at the University of South Florida; providing duties of the institute's board of directors; providing for uses of the transferred moneys, including the issuance of tax-exempt bonds; requiring the Board of Directors of the H. Lee Moffitt Cancer Center and Research Institute to administer funds, manage the project, provide assistance during construction, and operate the facility when complete; providing for the replacement of certain tax dollars annually; providing an effective date.

—a companion measure, was substituted for CS for SB 1636 as amended and by two-thirds vote read the second time by title. On motion by Senator Brown-Waite, by two-thirds vote HB 3783 was read the third time by title, passed the required constitutional three-fifths

vote of the membership and certified to the House. The vote on passage was:

Yeas—38

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

Nays—None

CS for SB 1572—A bill to be entitled An act relating to funeral and cemetery services; providing a short title; amending s. 497.005, F.S.; defining “care and maintenance”; creating s. 497.0255, F.S.; providing a duty of care and maintenance of licensed cemeteries in this state; providing rulemaking authority to the Board of Funeral and Cemetery Services for such purpose; amending s. 497.229, F.S.; providing circumstances under which a cemetery or component thereof may be deemed a public nuisance and providing for abatement thereof; amending s. 497.253, F.S.; providing additional requirements with respect to the conveyance of cemetery property to noncemetery uses, including certain notice; creating s. 497.255, F.S.; providing standards for construction and significant alteration or renovation of mausoleums and columbaria; providing rulemaking authority with respect to such standards to the board, in conjunction with the Board of Building Codes and Standards, and providing for incorporation of a portion thereof in the State Minimum Building Codes; requiring all newly constructed and significantly altered or renovated mausoleums and columbaria to conform to such standards and applicable building codes; amending s. 497.257, F.S.; including columbaria in provisions relating to preconstruction requirements applicable to mausoleums and belowground crypts; amending s. 497.417, F.S.; deleting authority of the trustee of a trust to purchase life insurance policies and annuity contracts; amending s. 497.527, F.S.; authorizing the Attorney General to bring a civil action for violation of chapter 497, relating to regulation of funeral and cemetery services, in the appropriate court; providing for damages; amending s. 872.02, F.S., relating to prohibitions against injuring or removing tombs or monuments or disturbing the contents of graves or tombs; increasing penalties; specifying that the term “tomb” includes any mausoleum, columbarium, and belowground crypt; amending s. 245.07, F.S.; revising provisions relating to retention and disposition of bodies received by an anatomical board; creating the Task Force on Abandoned and Neglected Cemeteries within the Department of Banking and Finance; providing for appointment of members and election of officers; authorizing reimbursement for per diem and travel; requiring the department to provide administrative and staff support; providing duties; requiring preliminary and final reports; providing for termination of the task force; providing an appropriation; providing effective dates.

—was read the second time by title.

An amendment was considered and adopted to conform **CS for SB 1572** to **HB 3763**.

Pending further consideration of **CS for SB 1572** as amended, on motion by Senator Harris, by two-thirds vote **HB 3763** was withdrawn from the Committees on Banking and Insurance; Community Affairs; and Ways and Means.

On motion by Senator Harris—

HB 3763—A bill to be entitled An act relating to funeral and cemetery services; providing a short title; amending s. 497.005, F.S.; defining “care and maintenance”; creating s. 497.0255, F.S.; providing a duty of care and maintenance of licensed cemeteries in this state; providing rulemaking authority to the Board of Funeral and Cemetery Services for such purpose; amending s. 497.229, F.S.; providing circumstances under which a cemetery or component thereof may be deemed a public nuisance and providing for abatement thereof; amending s. 497.253, F.S.; providing additional requirements with respect to the conveyance of

cemetery property to noncemetery uses, including certain notice; creating s. 497.255, F.S.; providing standards for construction and significant alteration or renovation of mausoleums and columbaria; providing rulemaking authority with respect to such standards to the board, in conjunction with the Board of Building Codes and Standards, and providing for incorporation of a portion thereof in the State Minimum Building Codes; requiring all newly constructed and significantly altered or renovated mausoleums and columbaria to conform to such standards and applicable building codes; amending s. 497.257, F.S.; including columbaria in provisions relating to preconstruction requirements applicable to mausoleums and belowground crypts; amending s. 497.417, F.S.; deleting authority of the trustee of a trust to purchase life insurance policies and annuity contracts; repealing subsection (12) of s. 497.429, F.S., deleting the requirement that the trustee of an alternative preneed contract trust make valuations of assets and provide annual reports to the purchaser and the board; amending s. 497.527, F.S.; authorizing the Attorney General to bring a civil action for violation of chapter 497, relating to regulation of funeral and cemetery services, in the appropriate court; providing for damages; amending s. 872.02, F.S., relating to prohibitions against injuring or removing tombs or monuments or disturbing the contents of graves or tombs; increasing penalties; specifying that the term “tomb” includes any mausoleum, columbarium, and belowground crypt; amending s. 245.07, F.S.; revising provisions relating to retention and disposition of bodies received by an anatomical board; creating the Task Force on Abandoned and Neglected Cemeteries within the Department of Banking and Finance; providing for appointment of members and election of officers; authorizing reimbursement for per diem and travel; requiring the department to provide administrative and staff support; providing duties; requiring preliminary and final reports; providing for termination of the task force; providing an appropriation; providing effective dates.

—a companion measure, was substituted for **CS for SB 1572** as amended and read the second time by title. On motion by Senator Harris, by two-thirds vote **HB 3763** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

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

Nays—None

The Senate resumed consideration of—

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.

—which was previously considered April 30 with pending **House Amendment 1**.

Senator Latvala moved the following amendment which was adopted:

Senate Amendment 1 (with title amendment) to House Amendment 1—On page 1, line 17 through page 4, line 22, delete those lines and insert:

Section 1. Paragraph (f) of subsection (1) of section 440.15, Florida Statutes, is 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.

(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, including retirement benefits, disability benefits, and any other payment of wages by the employer during the period of disability, 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).

And the title is amended as follows:

On page 27, lines 7-10, delete those lines and insert: amending s. 440.15, F.S.; providing a

On motion by Senator Latvala, 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 1092 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—36

Madam President	Burt	Crist	Forman
Bankhead	Casas	Diaz-Balart	Geller
Bronson	Childers	Dudley	Grant
Brown-Waite	Clary	Dyer	Gutman

Hargrett	Klein	McKay	Silver
Harris	Kurth	Meadows	Sullivan
Horne	Latvala	Myers	Thomas
Jones	Laurent	Ostalkiewicz	Turner
Kirkpatrick	Lee	Scott	Williams

Nays—2

Campbell	Rossin
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Vote after roll call:

Yea to Nay—Dyer, Forman, Geller

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 1506, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 1506—A bill to be entitled An act relating to marine resources; amending s. 253.72, F.S.; amending s. 370.01, F.S.; defining food fish for human consumption; providing restrictions for certain areas for harvesting shellfish; amending s. 370.06, F.S.; providing an exemption for totally disabled residents for a restricted species endorsement; providing qualifications for the issuance of a marine life endorsement on a saltwater products license; providing for a moratorium on the issuance of endorsements; providing for the transfer and reissuance of endorsements; providing for a report; amending s. 370.0608, F.S.; revising the distribution of funds collected from the sale of recreational saltwater fishing licenses; amending s. 370.092, F.S.; creating a major violation for the possession of specified nets on certain vessels; providing specific rulemaking authority for the regulation of nets on boats of a specific length; directing the Marine Fisheries Commission to adopt rules prohibiting the possession and sale of mullet taken in illegal gill or entangling nets; providing a penalty for violations; prohibiting the use of certain nets composed of specified materials; providing a definition; amending s. 370.093, F.S.; authorizing the Marine Fisheries Commission to adopt rules implementing s. 370.093, F.S.; amending s. 370.1405, F.S.; authorizing the Department of Environmental Protection to adopt certain rules; amending s. 370.142, F.S.; providing for a surcharge to be assessed upon the initial transfer of a transferable crawfish trap certificate outside the original transferor's immediate family; prohibiting the lease of lobster trap certificates after July 1, 1998; providing additional penalties for violations relating to traps; providing for the continuation of the Marine Fisheries Commission notwithstanding its scheduled abolition; amending s. 370.13, F.S.; restricting the issuance of stone crab trap numbers until July 1, 2000; providing for renewal under certain circumstances; amending s. 370.135, F.S.; restricting the issuance of new blue crab endorsements for a certain period of time; providing for renewal or replacement under certain circumstances; amending s. 370.021, F.S.; providing additional penalties for violations involving buying saltwater products from an unlicensed seller or the sale of saltwater products by an unlicensed seller; authorizing the suspension, revocation, or denial of renewal of licenses for specified major violations involving finfish, shrimp, marine life species, crawfish, stone crabs, and blue crabs; requiring clerks of courts to certify the final disposition of specified court proceedings to the Department of Environmental Protection; amending s. 370.07, F.S.; authorizing the sharing of wholesale saltwater products dealer reports with other states under specified conditions; providing civil penalties for violation of recordkeeping and reporting requirements; prohibiting a licensed retail dealer or a licensed restaurant from buying saltwater products from any person other than a licensed wholesale or retail dealer; repealing s. 370.1127, F.S., relating to mullet regulation west of the Ochlockonee River; providing an effective date.

House Amendment 1 (with title amendment)—On page 32, between lines 10 and 11 of the bill, insert:

Section 15. (1) *Notwithstanding Section 1. of CS/HB 3673 to the contrary, this section shall be considered the last and complete intent of the Legislature regardless of when it is presented to the Secretary of State.*

(2) Subsection (8) is added to section 373.406, Florida Statutes, to read:

373.406 Exemptions.—The following exemptions shall apply:

(8) *Certified aquaculture activities which apply appropriate best management practices adopted pursuant to s. 597.004 are exempt from this part.*

Section 16. (1) *Notwithstanding Section 1. of CS/HB 3673 to the contrary, this section shall be considered the last and complete intent of the Legislature regardless of when it is presented to the Secretary of State.*

(2) Subsection (5) is added to section 403.0885, Florida Statutes, to read:

403.0885 Establishment of federally approved state National Pollutant Discharge Elimination System (NPDES) Program.—

(5) *Certified aquaculture activities under s. 597.004 that have individual production units whose annual production and water discharge are less than the parameters established by the NPDES program are exempt from wastewater management regulations. For purposes herein, the term "individual production units" shall be determined by rule of the Department of Agriculture and Consumer Services.*

And the title is amended as follows:

On page 3, line 11 after the semicolon (;) insert: amending s. 373.046, F.S.; clarifying jurisdiction over aquaculture activities; 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;

On motion by Senator Latvala, the Senate concurred in the House amendment.

CS for SB 1506 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	Dyer	Kurth	Silver
Burt	Forman	Latvala	Sullivan
Campbell	Geller	Laurent	Thomas
Casas	Gutman	Lee	Turner
Childers	Hargrett	McKay	Williams
Clary	Harris	Meadows	
Cowin	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 HB 4259 as further amended, and requests the concurrence of the Senate.

John B. Phelps, Clerk

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.

House Amendment 1 (with title amendment) to Senate Amendment 1—On page 1, line 17 through page 66, line 8, remove from the amendment all of said lines including the text of all unengrossed senate amendments to senate amendment: and insert in lieu thereof:

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. 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.*

Section 3. 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 4. 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 5. 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 6. 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 7. 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 8. 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 9. 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 10. Subsections (4) through (14) of section 240.35, Florida Statutes, as amended by chapter 97-383, Laws of Florida, are renum-

bered 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)(44) 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 11. 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)(e) 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 12. 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 13. 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.

Section 14. 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 15. 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 16. 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 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 17. 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 18. 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 19. 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 20. 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 21. 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 22. 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 23. 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 24. 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 25. 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 26. 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 27. 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 28. 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 29. 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 30. 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 31. 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 32. 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 33. 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 34. 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 35. 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 36. 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 37. 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 38. 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 39. 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 40. 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 capi-

tal 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 ~~Scholar's 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 41. 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 42. *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 43. 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 44. *Sections 240.154, 240.278, 240.521, 240.522, 240.523, and 240.525, Florida Statutes, are repealed.*

Section 45. 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 46. 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 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. An institution may not impose additional criteria to determine a student's eligibility to receive a grant award.*

(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)(e) ~~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 47. 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. An institution may not impose additional criteria to determine a student's eligibility to receive a grant award.~~

(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)(e) 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 48. 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. An institution may not impose additional criteria to determine a student's eligibility to receive a grant award.

(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 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)(e) 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 49. 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)(f)~~, 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 ex-

empt 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 para-

graph. 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)e. 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 50. 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 51. 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 52. 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.

Section 53. Effective January 1, 1999, section 240.207, Florida Statutes, is amended to read:

240.207 Board of Regents; appointment of members; qualifications and terms of office.—

(1) The Board of Regents shall consist of the Commissioner of Education and 13 12 citizens of this state who shall be selected from the state at large, representative of the geographical areas of the state; who shall have been residents and citizens thereof for a period of at least 10 years prior to their appointment (one of whom shall be a member registered as a full-time student in the State University System and who shall have been a resident of this state for at least 5 years prior to appointment in lieu of the 10 years required of other members); and who shall be appointed by the Governor, approved by three members of the Cabinet, and confirmed by the Senate. However, no appointee shall take office until after his or her appointment has been approved by three members of the Cabinet. The State Board of Education shall develop rules and procedures for review and approval of the appointees. Except for the Commissioner of Education and except for the full-time student member, who shall serve for 1 year, the terms of office for the members of the Board of Regents appointed after the effective date of this act shall be 4 6 years and until their successors are appointed and qualified, except in case of an appointment to fill a vacancy, in which case the appointment shall be for the unexpired term, and except as in this section otherwise provided. No member shall be selected from any county to serve with any other member from the same county, except that not more than two members may be selected from a county which has a population in excess of 900,000, and with the exceptions of the student member, who shall be selected at large, and the Commissioner of Education. The Governor shall fill all vacancies, subject to the above approval and confirmation, that may at any time occur on the board.

(2) Members may be removed for cause at any time upon the concurrence of a majority of the members of the State Board of Education.

~~(3) To create an orderly succession of Regents and the appointment of two Regents each year, one additional Regent shall be appointed in 1991 to serve a 6 year term, and one additional Regent shall be appointed in 1992 to serve a 6 year term. For the four seats with terms ending in 1993, the Governor shall make one appointment for a 3 year term and two appointments for regular 6 year terms. For 1 year, from January 1992 to January 1993, there shall be a total of 15 Regents. All the members of the Board of Regents serving on May 3, 1991, shall complete their regular terms, as prescribed by the Secretary of State.~~

Section 54. Subsections (2) and paragraphs (b) and (e) of subsection (3) of section 240.209, Florida Statutes, are amended to read:

240.209 Board of Regents; powers and duties.—

(2) The Board of Regents shall appoint a Chancellor to serve at its pleasure who shall perform such duties as are assigned to him or her by the board. The board shall fix the compensation and other conditions of employment for the Chancellor. The board shall also provide for the compensation and other conditions of employment for employees necessary to assist the board and the Chancellor in the performance of their duties. The Chancellor shall be the chief administrative officer of the board and shall be responsible for appointing all employees of the board who shall serve under his or her direction and control. The Chancellor ~~must shall~~ be a person qualified by training and experience to understand the problems and needs of the state in the field of postsecondary education. Search committee activities for the selection of the Chancellor up to the point of transmitting a list of nominees to the Board of Regents shall be confidential and exempt from the provisions of ss. 119.07(1) and 286.011.

(3) The board shall:

(b) Appoint or remove the president of each university in accordance with procedures and rules adopted by the Board of Regents. The board may appoint a search committee to assist in evaluating presidential candidates. Each appointment of a university president shall be conducted in accordance with the provisions of ss. 119.07 and 286.011. The board shall determine the compensation and other conditions of employment for each president. ~~The board shall not provide a tenured faculty appointment to any president who is removed through termination by the board or resignation tendered at the request of the board.~~

(e) Establish student fees.

1. By no later than December 1 of each year, the board shall raise the systemwide standard for resident undergraduate matriculation and financial aid fees for the subsequent fall term, up to but no more than 25 percent of the prior year's cost of undergraduate programs. In implementing this paragraph, fees charged for graduate, medical, veterinary, and dental programs may be increased by the Board of Regents in the same percentage as the increase in fees for resident undergraduates. However, in the absence of legislative action to the contrary in an appropriations act, the board may not approve annual fee increases for resident students in excess of 10 percent. The sum of nonresident student matriculation and tuition fees must be sufficient to defray the full cost of undergraduate education. Graduate, medical, veterinary, and dental fees charged to nonresidents may be increased by the board in the same percentage as the increase in fees for nonresident undergraduates. However, in implementing this policy and in the absence of legislative action to the contrary in an appropriations act, annual fee increases for nonresident students may not exceed 25 percent. In the absence of legislative action to the contrary in the General Appropriations Act, the fees shall go into effect for the following fall term.

2. When the appropriations act requires a new fee schedule, the board shall establish a systemwide standard fee schedule required to produce the total fee revenue established in the appropriations act based on the product of the assigned enrollment and the fee schedule. The board may approve the expenditure of any fee revenues resulting from the product of the fee schedule adopted pursuant to this section and the assigned enrollment.

3. Upon provision of authority in a General Appropriations Act to spend revenue raised pursuant to this section, the board shall approve

a university request to implement a matriculation and out-of-state tuition fee schedule which is calculated to generate revenue which varies no more than 10 percent from the standard fee revenues authorized through an appropriations act. In implementing an alternative fee schedule, the increase in cost to a student taking 15 hours in one term shall be limited to 5 percent. Matriculation and out-of-state tuition fee revenues generated as a result of this provision are to be expended for implementing a plan for achieving accountability goals adopted pursuant to s. 240.214(2) and for implementing a Board of Regents-approved plan to contain student costs by reducing the time necessary for graduation without reducing the quality of instruction. The plans shall be recommended by a universitywide committee, at least one-half of whom are students appointed by the student body president. A chairperson, appointed jointly by the university president and the student body president, shall vote only in the case of a tie.

4. The board is authorized to collect for financial aid purposes an amount not to exceed 5 percent of the student tuition and matriculation fee per credit hour. The revenues from fees are to remain at each campus and replace existing financial aid fees. Such funds shall be disbursed to students as quickly as possible. The board shall specify specific limits on the percent of the fees collected in a fiscal year which may be carried forward unexpended to the following fiscal year. A minimum of 50 percent of funds from the student financial aid fee shall be used to provide financial aid based on absolute need. A student who has received an award prior to July 1, 1984, shall have his or her eligibility assessed on the same criteria that was used at the time of his or her original award.

5. The board may recommend to the Legislature an appropriate systemwide standard matriculation and tuition fee schedule.

6. The Education and General Student and Other Fees Trust Fund is hereby created, to be administered by the Department of Education. Funds shall be credited to the trust fund from student fee collections and other miscellaneous fees and receipts. The purpose of the trust fund is to support the instruction and research missions of the State University System. 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 shall remain in the trust fund and shall be available for carrying out the purposes of the trust fund.

Section 55. Section 240.136, Florida Statutes, is created to read:

240.136 Suspension and removal from office of elected student government officials; referendum.—Each state university and community college student government association shall establish a process within 60 days of this act becoming a law to provide for the removal from office of any elected student government official who has been convicted of a violation of criminal law or has been found civilly liable for an act of moral turpitude, after all available rights of judicial appeal have been exercised or waived or have expired. The process shall include a procedure for the immediate suspension of the student government official from elected office following the conviction or civil finding and during any appeal, and shall provide for the temporary successor to the subject office pending completion of any appeal. The process must also include a procedure for registered students to petition for a referendum recommending to the student government association the removal of a student official from elected office. The referendum must be held within 60 days of filing of the petition. The recommendation to remove the subject official from elected office shall be made by majority vote of the students participating in the referendum. The action of a student government association under this section shall be subject to an appeal to the university or community college president or designee.

Section 56. Except as otherwise provided in this act, this act shall take effect July 1, 1998.

And the title is amended as follows:

On page 66, line 16 through page 69, line 24 of the amendment remove all of said lines: and insert in lieu thereof: 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. 233.061, F.S.; including the study of Hispanic and Women's contributions to the United States in required public school instruction; 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; 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; amending s. 240.207, F.S.; providing terms of office for members of the Board of Regents; amending s. 240.209, F.S.; revising provisions relating to the selection of the Chancellor; deleting a restriction on the faculty appointment of former university presidents; creating s. 240.136, F.S.; requiring state university and community college student government associations to establish a process for removal of certain student government officials; providing requirements; providing for a referendum; providing effective dates.

On motion by Senator Forman, the Senate concurred in the House amendment to the Senate amendment.

HB 4259 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—38

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	Hargrett	McKay	
Cowin	Harris	Meadows	

Nays—None

SPECIAL ORDER CALENDAR, continued

On motion by Senator Dudley, by two-thirds vote **HB 4219** was withdrawn from the Committees on Criminal Justice; and Governmental Reform and Oversight.

On motion by Senator Dudley—

HB 4219—A bill to be entitled An act relating to mutual aid agreements; amending s. 23.1225, F.S.; redefining the term “mutual aid agreement” to include certain agreements between one or more law enforcement agencies and either a school board that employs school safety officers or a state university that employs or appoints university police officers; providing for a state university to enter and lend assistance pursuant to such agreements; providing an effective date.

—a companion measure, was substituted for **CS for SB 1932** and read the second time by title. On motion by Senator Dudley, by two-thirds vote **HB 4219** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

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

Nays—None

SENATOR BANKHEAD PRESIDING

On motion by Senator Hargrett, by two-thirds vote **HB 4765** was withdrawn from the Committees on Transportation and Community Affairs.

On motion by Senator Hargrett, the rules were waived and by two-thirds vote—

HB 4765—A bill to be entitled An act relating to transportation; amending s. 20.23, F.S.; requiring the Turnpike District to relocate to Sumter County in fiscal year 2000; amending s. 206.606, F.S.; revising the distribution of certain fuel tax proceeds; renumbering and amending s. 335.166, F.S.; transferring responsibility for welcome centers’ staff to the Florida Commission on Tourism; requiring a study of toll road agencies and the Turnpike District by the Florida Transportation Commission; renumbering and amending s. 334.065, F.S.; revising provisions related to the funding source and the advisory board of the Center for Urban Transportation Research; amending s. 316.003, F.S.; defining the term “neighborhood vehicle”; amending s. 316.063, F.S.; changing the term “accident” to “crash”; revising the penalty for obstructing traffic upon damaging an unattended vehicle or other property; creating s. 316.0815, F.S.; giving public transit buses the right-of-way when reentering the traffic flow; amending s. 316.091, F.S.; providing that on

specified highways certain commercial vehicles may drive only in certain lanes; amending s. 316.1967, F.S.; reduces the number of outstanding parking violations which trigger the county clerk to report to the Department of Highway Safety and Motor Vehicles; amending s. 316.2055, F.S.; providing a uniform reference to the penalty for a pedestrian noncriminal traffic offense punishable under chapter 318, F.S.; amending s. 316.555, F.S.; exempting certain silvicultural and agricultural vehicles and equipment from weight restrictions on county roads; amending s. 318.15, F.S.; providing for payment of a certain service fee to tax collector; amending s. 318.18, F.S.; providing that fines for construction zone speed violations shall only be doubled under certain circumstances; amending s. 320.01, F.S.; defining the term "agricultural products"; amending s. 320.04, F.S.; providing a service charge for validation stickers issued by printer dispenser machines; amending s. 320.055, F.S.; revising registration renewal period for certain vehicles; providing for staggered fleet registration; repealing s. 320.065, F.S., relating to the registration of certain rental trailers for hire and semitrailers used to haul agricultural products; amending s. 320.0657, F.S.; defining the term "fleet"; providing registration fees; providing penalties for late or improper registration; amending s. 320.0715, F.S.; exempting certain commercial motor vehicles from the International Registration Plan; creating s. 321.045, F.S.; establishing the mission and program objectives of the Florida Highway Patrol; amending s. 20.18, F.S.; creating the Division of Factory-built Housing in the Department of Community Affairs; providing a mission statement for the department; transferring certain powers, duties, functions, personnel, property, and appropriations of the department to the division; transferring certain powers, duties, functions, personnel, property, and appropriations of the Department of Highway Safety and Motor Vehicles to the division; authorizing the Department of Community Affairs and the Department of Highway Safety and Motor Vehicles to enter into agreements to effectuate such transfers; providing for transfer of the mobile home portion of the Mobile Home and Recreational Vehicle Protection Trust Fund into the department's operating trust fund for certain purposes; transferring the portion of the Highway Safety Operating Trust Fund relating to mobile homes into the department's operating trust fund for certain purposes; amending s. 320.781, F.S., to conform; amending s. 553.36, F.S.; providing a definition; amending s. 553.38, F.S.; providing responsibility of the Division of Factory-built Housing to administer part IV of chapter 553, F.S.; creating ss. 553.431, 553.4315, 553.433, 553.434, 553.435, 553.4365, 553.437, 553.438, 553.446, 553.448, 553.449, 553.450, 553.451, 553.452, 553.453, 553.455, 553.456, 553.457, and 553.458, F.S.; recreating certain provisions under chapter 320, F.S., within part IV of chapter 553, F.S., to conform; transferring and renumbering ss. 320.823, 320.8335, and 320.840, F.S., to conform; transferring, renumbering, and amending ss. 320.77, 320.8255, 320.827, 320.8285, 320.830, 320.831, 320.8325, F.S., to conform; requiring the division to adopt rules on manufactured housing installation systems; requiring the development of certain standards for park trailers; amending s. 320.8249, F.S., to conform; limiting certain local government's ability to charge certain permit fees relating to mobile home parks; amending ss. 161.55, 319.001, 320.131, 320.27, 320.28, 320.71, 320.781, 320.822, 320.8225, 320.8231, 320.8232, 320.824, 320.8245, 320.8256, 320.8285, 320.834, 320.835, 320.861, 320.865, 325.202, 325.203, 325.213, and 627.351, F.S., to conform; repealing s. 320.771(8) and (11), F.S., relating to licensed mobile home dealers selling recreational vehicles and licensed recreational vehicle dealers setting up mobile homes; amending s. 322.1615, F.S.; revising language with respect to nighttime driving restrictions for persons with learner's driver licenses; amending s. 331.304, F.S.; revising the boundaries of spaceport territory; adding certain property located in Santa Rosa, Okaloosa, and Walton Counties to spaceport territory; amending 322.28, F.S.; revising language with respect to judicial stays on administrative suspensions of driving privileges; amending s. 332.003, F.S.; correcting a reference; amending s. 332.004, F.S.; redefining the terms "airport" and "airport or aviation discretionary capacity improvement projects"; amending s. 332.007, F.S.; directing the department to provide priority funding for commercial and dual-use space transportation projects; creating s. 332.009, F.S.; amending s. 334.044, F.S.; providing specific rule-making authority; repealing s. 334.044(15), F.S., relating to certain rule-making authority; providing for application; amending s. 334.0445, F.S.; extending the time period for the model career service classification plan in the Department of Transportation; amending s. 335.0415, F.S.; modifying the date on which jurisdiction and responsibility for public roads is determined; repealing s. 335.165, F.S., relating to welcome stations; amending s. 337.11, F.S.; deleting a requirement for contract approval by a contractor's surety; amending s. 337.185, F.S.; revising the State Arbitration Board contract claim program; amending s. 337.19, F.S.; revising provisions relating to suits by

and against the Department of Transportation and the liability of the department; amending s. 337.403, F.S.; authorizing the department to participate in the cost of clearing and grubbing necessary to perform utility improvement, relocation, or removal work under certain circumstances; amending s. 338.229, F.S.; authorizing the department to provide restrictions on the sale, transfer, lease, or other disposition or operation of any portion of the turnpike system which reduces the revenue available for the payment of bondholders; amending s. 479.01, F.S.; redefining the terms "commercial or industrial zone" and "unzoned commercial or industrial area"; amending s. 479.07, F.S.; revising provisions relating to reinstatement of expired outdoor advertising permits; amending s. 479.16, F.S.; increasing the square footage allowable on certain signs; amending chapter 96-423, Laws of Florida; authorizing the department to sell certain state property and directing the proceeds of the sale to the State Transportation Trust Fund; providing appropriations; amending s. 832.06, F.S.; providing procedures for receipt by tax collector of worthless check or draft for driver license or identification card; amending ss. 319.23, 320.08, and 320.086, F.S.; deleting reference to collectible vehicles; revising dates with respect to certain ancient or antique motor vehicles; exempting certain vehicles from the act; providing for the issuance of license plates to certain ancient or antique firefighting apparatus or motor vehicles; providing an appropriation; providing effective dates.

—a companion measure, was substituted for **CS for SB 1426** and by two-thirds vote read the second time by title.

Senator Hargrett moved the following amendment:

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

Section 1. Section 316.0815, Florida Statutes, is created to read:

316.0815 Duty to yield to public transit vehicles.—

(1) *The driver of a vehicle shall yield the right of way to a publicly owned transit bus traveling in the same direction which has signaled and is reentering the traffic flow.*

(2) *This section does not relieve the driver of a public transit vehicle from the duty to drive with due regard for the safety of all persons using the roadway.*

Section 2. Subsection (2) of section 318.15, Florida Statutes, is amended to read:

318.15 Failure to comply with civil penalty or to appear; penalty.—

(2) After suspension of the driver's license and privilege to drive of a person under subsection (1), the license and privilege may not be reinstated until the person complies with all obligations and penalties imposed on him or her under s. 318.18 and presents to a driver license office a certificate of compliance issued by the court, together with the \$25 nonrefundable service fee imposed under s. 322.29, or pays the aforementioned \$25 service fee to the clerk of the court *or a tax collector* clearing such suspension. Such person shall also be in compliance with requirements of chapter 322 prior to reinstatement.

Section 3. Paragraph (c) of subsection (3) of section 318.18, Florida Statutes, is amended to read:

318.18 Amount of civil penalties.—The penalties required for a non-criminal disposition pursuant to s. 318.14 are as follows:

(3)

(c) A person cited for exceeding the speed limit in a legally posted school zone or a posted construction zone will be assessed a fine double the amount listed in paragraph (b). *The fine shall be doubled for construction zone violations only if construction personnel are present or operating equipment on the road or immediately adjacent to the road under construction.*

Section 4. Subsection (1) of section 334.0445, Florida Statutes, is amended to read:

334.0445 Model career service classification and compensation plan.—

(1) Effective July 1, 1994, the Legislature grants to the Department of Transportation in consultation with the Department of Management Services, the Executive Office of the Governor, legislative appropriations committees, legislative personnel committees, and the affected certified bargaining unions, the authority on a pilot basis to develop and implement a model career service classification and compensation system. Such system shall be developed for use by all state agencies. Authorization for this program will *end June 30, 2000* ~~be for 3 fiscal years beginning July 1, 1994, and ending June 30, 1997~~; however, the department may elect or be directed by the Legislature to return to the current system at anytime during this period if the model system does not meet the stated goals and objectives.

Section 5. Subsection (1) of section 335.0415, Florida Statutes, is amended to read:

335.0415 Public road jurisdiction and transfer process.—

(1) The jurisdiction of public roads and the responsibility for operation and maintenance within the right-of-way of any road within the state, county, and municipal road system shall be that which exists *immediately preceding the adoption of chapter 95-257 on July 1, 1995*.

Section 6. Subsection (16) of section 337.11, Florida Statutes, is amended to read:

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

(16) The department is authorized to undertake and contract to provide an owner controlled insurance plan (OCIP) on any construction project or group of related construction projects if the head of the department determines that an OCIP will be both cost-effective for the department and otherwise in its best interests. Such OCIP may provide insurance coverage for the department and for worker's compensation and employers liability and general liability and builders risk for contractors, *consultants as described in s. 287.055*, and subcontractors, for and in conjunction with any or all work performed on such projects. The department may directly purchase such coverage in the manner provided for the purchase of commodities pursuant to s. 287.057, or self-insure, or use a combination thereof, any other statutory provisions or limitations on self-insurance or purchase of insurance notwithstanding. The department's authority hereunder includes the purchase of risk management, risk and loss control, safety management, investigative and claims adjustment services, advancement of funds for payment of claims, and other services reasonably necessary to process and pay claims under and administer the OCIP. In addition to any prequalification required under s. 337.14, no contractor shall be prequalified to bid on an OCIP project unless the contractor's casualty and loss experience and safety record meets the minimum requirements for OCIP coverage issuance on the project, were the contractor to be awarded the project. Exercise of the department's authority under this subsection shall not be deemed a waiver of sovereign immunity.

Section 7. Subsections (1), (2), (3), (7), and (8) of section 337.185, Florida Statutes, are amended to read:

337.185 State Arbitration Board.—

(1) To facilitate the prompt settlement of claims for additional compensation arising out of construction contracts between the department and the various contractors with whom it transacts business, the Legislature does hereby establish the State Arbitration Board, referred to in this section as the "board." For the purpose of this section, "claim" shall mean the aggregate of all outstanding claims by a party arising out of a construction contract. Every contractual claim in an amount up to *\$250,000* ~~\$100,000~~ per contract or, at the claimant's option, up to *\$500,000* ~~\$250,000~~ per contract that cannot be resolved by negotiation between the department and the contractor shall be arbitrated by the board after acceptance of the project by the department. As an exception, either party to the dispute may request that the claim be submitted to binding private arbitration. A court of law may not consider the settlement of such a claim until the process established by this section has been exhausted.

(2) The board shall be composed of three members. One member shall be appointed by the head of the department, and one member shall be elected by those construction companies who are under contract with the department. The third member shall be chosen by agreement of the other two members. Whenever the third member has a conflict of interest regarding affiliation with one of the parties, the other two members shall select an alternate member for that hearing. *The head of the department may select an alternate or substitute to serve as the department member for any hearing or term.* Each member shall serve a 2-year term. The board shall elect a chair, each term, who shall be the administrator of the board and custodian of its records.

(3) A hearing may be requested by the department or by a contractor who has a dispute with the department which, under the rules of the board, may be the subject of arbitration. The board shall conduct the hearing within 45 days of the request. The party requesting the board's consideration shall give notice of the hearing to each member. If the board finds that a third party is necessary to resolve the dispute, the board may vote to dismiss the claim, which may thereafter be pursued *in accordance with the laws of this state in a court of law*.

(7) ~~The members member of the board elected by construction companies and the third member of the board~~ may receive compensation for the performance of their duties hereunder, from administrative fees received by the board. *No department employee may receive compensation from the board.* The compensation amount shall be determined by the board, but shall not exceed *\$125 per hour, up to \$1,000 per day maximum* ~~\$750 per day~~ for each member authorized to receive compensation. Nothing in this section shall prevent the member elected by construction companies from being an employee of an association affiliated with the industry, even if the sole responsibility of that member is service on the board. Travel expenses for the industry member may be paid by an industry association, if necessary. The board may allocate funds annually for clerical and other administrative services.

(8) The party requesting arbitration shall pay a fee to the board in accordance with a schedule established by it, not to exceed \$500 per claim which is \$25,000 or less, not to exceed \$1,000 per claim which is in excess of \$25,000 but not exceeding \$50,000, not to exceed \$1,500 per claim which is in excess of \$50,000 but not exceeding \$100,000, not to exceed \$2,000 per claim which is in excess of \$100,000 but not exceeding \$200,000, and not to exceed *\$3,000* ~~\$2,500~~ per claim which is in excess of \$200,000 but not exceeding *\$300,000, not to exceed \$4,000 per claim which is in excess of \$300,000 but not exceeding \$400,000, and not exceeding \$5,000 per claim which is in excess of \$400,000 but not exceeding \$500,000* ~~\$250,000~~, to cover the cost of administration and compensation of the board.

Section 8. Subsection (1) of section 337.19, Florida Statutes, is amended to read:

337.19 Suits by and against department; limitation of actions; forum.—

(1) Suits at law and in equity may be brought and maintained by and against the department on any *contract claim under contract for work done arising from the breach of an express provision or an implied covenant of a written agreement or a written directive issued by the department pursuant to the written agreement.* ~~In any such suit, the department and the contractor shall have all of the same rights, obligations, remedies, and defenses as a private person under a like contract, except that no liability may be based on an oral modification of the written contract or written directive. However, this section shall not be construed to in any way prohibit the department from limiting its liability or damages through provisions in its contracts. Notwithstanding anything to the contrary contained herein, no employee or agent of the department may be held personally liable to an extent greater than that under s. 768.28;~~ provided, that no suit sounding in tort shall be maintained against the department.

Section 9. Subsection (4) is added to section 337.29, Florida Statutes, to read:

337.29 Vesting of title to roads; liability for torts.—

(4) *Notwithstanding any other provision of law, the department and other governmental entities may enter into contracts between two or more governmental entities which specifically require each government to take responsibility for the negligence of its employees and agents. The contract*

must provide that each governmental entity will indemnify and hold the other governmental entities that are parties to the contract harmless from any damage, loss, or injury arising out of the negligence of that governmental entity or its agents or employees. However, nothing in this subsection may be construed to authorize a waiver of sovereign immunity beyond the waiver under s. 768.28.

Section 10. Subsection (1) of section 337.403, Florida Statutes, is amended to read:

337.403 Relocation of utility; expenses.—

(1) Any utility heretofore or hereafter placed upon, under, over, or along any public road or publicly owned rail corridor that is found by the authority to be unreasonably interfering in any way with the convenient, safe, or continuous use, or the maintenance, improvement, extension, or expansion, of such public road or publicly owned rail corridor shall, upon 30 days' written notice to the utility or its agent by the authority, be removed or relocated by such utility at its own expense except as provided in paragraphs (a), ~~and~~ (b), and (c).

(a) If the relocation of utility facilities, as referred to in s. 111 of the Federal-Aid Highway Act of 1956, Pub. L. No. 627 of the 84th Congress, is necessitated by the construction of a project on the federal-aid interstate system, including extensions thereof within urban areas, and the cost of such project is eligible and approved for reimbursement by the Federal Government to the extent of 90 percent or more under the Federal Aid Highway Act, or any amendment thereof, then in that event the utility owning or operating such facilities shall relocate such facilities upon order of the department, and the state shall pay the entire expense properly attributable to such relocation after deducting therefrom any increase in the value of the new facility and any salvage value derived from the old facility.

(b) When a joint agreement between the department and the utility is executed for utility improvement, relocation, or removal work to be accomplished as part of a contract for construction of a transportation facility, the department may participate in those utility improvement, relocation, or removal costs that exceed the department's official estimate of the cost of such work by more than 10 percent. The amount of such participation shall be limited to the difference between the official estimate of all the work in the joint agreement plus 10 percent and the amount awarded for this work in the construction contract for such work. The department may not participate in any utility improvement, relocation, or removal costs that occur as a result of changes or additions during the course of the contract.

(c) When an agreement between the department and the utility is executed for utility improvement, relocation, or removal work to be accomplished in advance of a contract for construction of a transportation facility, the department may participate in the cost of clearing and grubbing necessary to perform such work.

Section 11. Paragraph (b) of subsection (2) of section 338.223, Florida Statutes, is amended to read:

338.223 Proposed turnpike projects.—

(2)

(b) In accordance with the legislative intent expressed in s. 337.273, and after the requirements of paragraph (1)(c) have been met, the department may acquire lands and property before making a final determination of the economic feasibility of a project. The requirements of paragraph (1)(c) do not apply to hardship and protective purchases of advance right-of-way by the department. The cost of advance acquisition of right-of-way may be paid from bonds issued under s. 337.276 or from turnpike revenues. For purposes of this subsection, the term "hardship purchase" means a purchase from a property owner of a residential dwelling of not more than four units who is at a disadvantage due to health impairment, job loss, or significant loss of rental income. For purposes of this subsection, the term "protective purchase" means a purchase to limit development, building, or other intensification of land uses within the area right-of-way needed for transportation facilities. The department shall give written notice to the Department of Environmental Protection 30 days prior to final agency acceptance as set forth under s. 119.03(7)(n), which notice shall allow the Department of Environmental Protection to comment. Hardship and protective purchases of right-of-way shall not influence the environmental feasibility of the project, including the decision

relative to the need to construct the project or the selection of a specific location. Costs to acquire and dispose of property acquired as hardship and protective purchases are considered costs of doing business for the department and shall not be considered in the determination of environmental feasibility for the project.

Section 12. Section 338.229, Florida Statutes, is amended to read:

338.229 Pledge to bondholders not to restrict certain rights of department.—The state does pledge to, and agree with, the holders of the bonds issued pursuant to ss. 338.22-338.244 that the state will not limit or restrict the rights vested in the department to construct, reconstruct, maintain, and operate any turnpike project as defined in ss. 338.22-338.244 or to establish and collect such tolls or other charges as may be convenient or necessary to produce sufficient revenues to meet the expenses of maintenance and operation of the turnpike system and to fulfill the terms of any agreements made with the holders of bonds authorized by this act and that the state will not in any way impair the rights or remedies of the holders of such bonds until the bonds, together with interest on the bonds, are fully paid and discharged. *In implementing this section, the department is specifically authorized to provide for further restrictions on the sale, transfer, lease, and other disposition or operation of any portion of the turnpike system which reduces the revenue available for payment of bondholders.*

Section 13. Subsections (3) and (23) of section 479.01, Florida Statutes, are amended to read:

479.01 Definitions.—As used in this chapter, the term:

(3) "Commercial or industrial zone" means ~~a parcel of land~~ ~~an area within 660 feet of the nearest edge of the right-of-way of the interstate or federal-aid primary system~~ ~~designated predominately for commercial or industrial use~~ ~~under both the future land use map of the comprehensive plan and the land development regulations adopted under pursuant to chapter 163.~~ ~~If a parcel is located in an area designated for multiple uses on the future land-use map of a comprehensive plan and the land development regulations do not clearly designate that parcel for a specific use, the area will be considered an unzoned commercial or industrial area if it meets the criteria of subsection (23).~~ ~~Where a local governmental entity has not enacted a comprehensive plan by local ordinance but has zoning regulations governing the area, the zoning of an area shall determine whether the area is designated predominately for commercial or industrial uses.~~

(23) "Unzoned commercial or industrial area" means ~~a parcel of land designated by the~~ ~~an area within 660 feet of the nearest edge of the right-of-way of the interstate or federal-aid primary system~~ ~~where the land use is not covered by a future land use map of the comprehensive plan for multiple uses that include commercial or industrial uses but are not specifically designated for commercial or industrial uses under the land development regulations and or zoning regulation pursuant to subsection (2),~~ ~~in which there are located three or more separate and distinct conforming industrial or commercial activities are located.~~

(a) These activities must satisfy the following criteria:

1. At least one of the commercial or industrial activities must be located on the same side of the highway and within 800 feet of the sign location;

2. The commercial or industrial activities must be within 660 feet from the nearest edge of the right of way; and

3. The commercial or industrial activities must be within 1,600 feet of each other.

Distances specified in this paragraph must be measured from the nearest outer edge of the primary building, or primary building complex when the individual units of the complex are connected by covered walkways, ~~uses located within a 1,600-foot radius of each other and generally recognized as commercial or industrial by zoning authorities in this state.~~

(b) Certain activities, including, but not limited to, the following, may not be so recognized as commercial or industrial activities:

1. (a) Signs.

2. Communication towers.

3.(b) Agricultural, forestry, ranching, grazing, farming, and related activities, including, but not limited to, wayside fresh produce stands.

4.(c) Transient or temporary activities.

5.(d) Activities not visible from the main-traveled way.

6.(e) Activities conducted more than 660 feet from the nearest edge of the right-of-way.

7.(f) Activities conducted in a building principally used as a residence.

8.(g) Railroad tracks and minor sidings.

Section 14. Paragraph (b) of subsection (8) of section 479.07, Florida Statutes, is amended to read:

479.07 Sign permits.—

(8)

(b) If a permittee has not submitted his or her fee payment by the expiration date of the licenses or permits, the department shall send a notice of violation to the permittee within 45 days after the expiration date, requiring the payment of the permit fee within 30 days after the date of the notice and payment of a delinquency fee equal to 10 percent of the original amount due or, in the alternative to these payments, requiring the filing of a request for an administrative hearing to show cause why his or her sign should not be subject to immediate removal due to expiration of his or her license or permit. If the permittee submits payment as required by the violation notice, his or her license or permit will be automatically reinstated and such reinstatement will be retroactive to the original expiration date. If the permittee does not respond to the notice of violation within the 30-day period, the department shall, within 30 days, issue a final notice of sign removal and may, following 90 days after the date of the department's final notice of sign removal, remove the sign without incurring any liability as a result of such removal. However, *if at any time prior to removal of the sign if within 90 days after the date of the department's final notice of sign removal*, the permittee demonstrates that a good faith error on the part of the permittee resulted in cancellation or nonrenewal of the permit, the department may reinstate the permit if:

1.—~~The sign has not yet been disassembled by the permittee;~~

2.—~~Conflicting applications have not been filed by other persons;~~

1.3. ~~A~~ The permit reinstatement fee of up to \$300, based on the size of the sign, is paid;

2.4. All other permit renewal and delinquent permit fees due as of the reinstatement date are paid; and

3.5. The permittee reimburses the department for all actual costs resulting from the permit cancellation or nonrenewal ~~and sign removal~~.

Conflicting applications filed by other persons for the same or competing site covered by a permit subject to the provisions of this paragraph shall not be approved until after the sign subject to the expired permit has been removed.

Section 15. Subsection (15) of section 479.16, Florida Statutes, is amended to read:

479.16 Signs for which permits are not required.—The following signs are exempt from the requirement that a permit for a sign be obtained under the provisions of this chapter but are required to comply with the provisions of s. 479.11(4)-(8):

(15) Signs not in excess of 16 square feet placed at a road junction with the State Highway System denoting only the distance or direction of a residence or farm operation, or, in a rural area where a hardship is created because a small business is not visible from the road junction with the State Highway System, one sign not in excess of 16 ~~8~~ square feet, denoting only the name of the business and the distance and direction to the business. The small-business-sign provision of this subsection does not apply to charter counties and may not be implemented if the Federal Government notifies the department that implementation will adversely affect the allocation of federal funds to the department.

Section 16. Subsection (1) of section 832.06, Florida Statutes, is amended to read:

832.06 Prosecution for worthless checks given tax collector for licenses or taxes; refunds.—

(1) Whenever any person, firm, or corporation violates the provisions of s. 832.05 by drawing, making, uttering, issuing, or delivering to any county tax collector any check, draft, or other written order on any bank or depository for the payment of money or its equivalent for any tag, title, lien, tax (except ad valorem taxes), penalty, or fee relative to a boat, airplane, or motor vehicle; any occupational license, beverage license, or sales or use tax; ~~or any hunting or fishing license; or any driver's license or identification card~~, the county tax collector, after the exercise of due diligence to locate the person, firm, or corporation which drew, made, uttered, issued, or delivered the check, draft, or other written order for the payment of money, or to collect the same by the exercise of due diligence and prudence, shall swear out a complaint in the proper court against the person, firm, or corporation for the issuance of the worthless check or draft. If the state attorney cannot sign the information due to lack of proof, as determined by the state attorney in good faith, for a prima facie case in court, he or she shall issue a certificate so stating to the tax collector. If payment of the dishonored check, draft, or other written order, together with court costs expended, is not received in full by the county tax collector within 30 days after service of the warrant, 30 days after conviction, or 60 days after the collector swears out the complaint or receives the certificate of the state attorney, whichever is first, the county tax collector shall make a written report to this effect to the Department of Highway Safety and Motor Vehicles relative to airplanes and motor vehicles, to the Department of Environmental Protection relative to boats, to the Department of Revenue relative to occupational licenses and the sales and use tax, to the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation relative to beverage licenses, or to the Game and Fresh Water Fish Commission relative to hunting and fishing licenses, containing a statement of the amount remaining unpaid on the worthless check or draft. If the information is not signed, the certificate of the state attorney is issued, and the written report of the amount remaining unpaid is made, the county tax collector may request the sum be forthwith refunded by the appropriate governmental entity, agency, or department. If a warrant has been issued and served, he or she shall certify to that effect, together with the court costs and amount remaining unpaid on the check. The county tax collector may request that the sum of money certified by him or her be forthwith refunded by the Department of Highway Safety and Motor Vehicles, the Department of Environmental Protection, the Department of Revenue, the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation, or the Game and Fresh Water Fish Commission to the county tax collector. Within 30 days after receipt of the request, the Department of Highway Safety and Motor Vehicles, the Department of Environmental Protection, the Department of Revenue, the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation, or the Game and Fresh Water Fish Commission, upon being satisfied as to the correctness of the certificate of the tax collector, or the report, shall refund to the county tax collector the sums of money so certified or reported. If any officer of any court issuing the warrant is unable to serve it within 60 days after the issuance and delivery of it to the officer for service, the officer shall make a written return to the county tax collector to this effect. Thereafter, the county tax collector may certify that the warrant has been issued and that service has not been had upon the defendant and further certify the amount of the worthless check or draft and the amount of court costs expended by the county tax collector, and the county tax collector may file the certificate with the Department of Highway Safety and Motor Vehicles relative to motor vehicles and airplanes, with the Department of Environmental Protection relative to boats, with the Department of Revenue relative to occupational licenses and the sales and use tax, with the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation relative to beverage licenses, or with the Game and Fresh Water Fish Commission relative to hunting and fishing licenses, together with a request that the sums of money so certified be forthwith refunded by the Department of Highway Safety and Motor Vehicles, the Department of Environmental Protection, the Department of Revenue, the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation, or the Game and Fresh Water Fish Commission to the county tax collector, and within 30 days after receipt of the request, the Department of Highway

Safety and Motor Vehicles, the Department of Environmental Protection, the Department of Revenue, the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation, or the Game and Fresh Water Fish Commission, upon being satisfied as to the correctness of the certificate, shall refund the sums of money so certified to the county tax collector.

Section 17. Subsection (82) is added to section 316.003, Florida Statutes, to read:

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

(82) “*Neighborhood vehicle*” means a type of golf cart that is a self-propelled, electrically powered motor vehicle, which is emission free, designed to be and is operated at speeds of 25 miles per hour or less, has at least four wheels in contact with the ground, has an unloaded weight of less than 1,800 pounds, and is equipped with efficient brakes, headlights, brakelights, turnsignals, windshield, rear view mirrors, and safety belts.

Section 18. Subsection (5) is added to section 316.091, Florida Statutes, to read:

316.091 Limited access facilities; interstate highways; use restricted.—

(5) A person may drive a commercial motor vehicle having a gross vehicle weight of 26,001 pounds or more or 3 axles or more, or a combination of vehicles weighing 26,001 pounds or more, upon any limited access facility with six or more lanes only in the two right through lanes, except when exiting the facility. However, in congested urban areas the Department of Transportation may allow commercial motor vehicles to operate in additional lanes when necessary for the safe flow of traffic.

Section 19. Subsection (6) of section 316.1967, Florida Statutes, is amended to read:

(6) Any county or municipality may provide by ordinance that the clerk of the court or traffic bureau shall supply the department with a magnetically encoded computer tape reel or cartridge or send by other electronic means data which is machine readable by the installed computer system at the department, listing persons who have two three or more outstanding parking violations, including violations of s. 316.1955. Each county shall provide by ordinance that the clerk of the court or the traffic violations bureau shall supply the department with a magnetically encoded computer tape reel or cartridge or send by other electronic means data that is machine readable by the installed computer system at the department, listing persons who have outstanding violations of s. 316.1955 or similar ordinance that regulates parking in spaces designated for use by persons who have disabilities. The department shall mark the appropriate registration record of persons who are so reported. Section 320.03(8) applies to each person whose name appears on the list.

Section 20. Subsection (42) is added to section 320.01, Florida Statutes, to read:

320.01 Definitions, general.—As used in the Florida Statutes, except as otherwise provided, the term:

For purposes of this chapter, “*agricultural products*” means any food product; any agricultural, horticultural, or livestock product; any raw material used in plant food formulation; or any plant food used to produce food and fiber.

Section 21. Paragraph (a) of subsection (1) of section 320.04, Florida Statutes, is amended to read:

320.04 Registration service charge.—

(1)(a) There shall be a service charge of \$2.50 for each application which is handled in connection with original issuance, duplicate issuance, or transfer of any license plate, mobile home sticker, or validation sticker or with transfer or duplicate issuance of any registration certificate. There may also be a service charge of up to \$1 for the issuance of each license plate validation sticker and mobile home sticker issued from an automated vending facility or printer dispenser machine which shall

be payable to and retained by the department to provide for automated vending facilities or printer dispenser machines used to dispense such stickers by in each tax collector’s or license tag agent’s employee office.

Section 22. Subsections (2) and (7) of section 320.055, Florida Statutes, are amended to read:

320.055 Registration periods; renewal periods.—The following registration periods and renewal periods are established:

(2) For a vehicle subject to registration under s. 320.08(11), the registration period begins January 1 and ends December 31. For a vehicle subject to this registration period, the renewal period is the 31-day period prior to expiration beginning January 1.

(7) For those vehicles subject to registration under s. 320.0657, the department shall implement a system that distributes the registration renewal process throughout the year. For a vehicle subject to registration under s. 320.065, the registration period begins December 1 and ends November 30. For a vehicle subject to this registration period, the renewal period is the 31-day period beginning December 1.

Section 23. Section 320.065, Florida Statutes, is repealed.

Section 24. Section 320.0657, Florida Statutes, is amended to read:

320.0657 Permanent registration; fleet license plates.—

(1) For purposes of this section, the term “*fleet*” means nonapportioned motor vehicles owned or leased by a company and used for business purposes. Vehicle numbers comprising a “*fleet*” shall be established by the Department of Highway Safety and Motor Vehicles. Vehicles registered as short-term rental vehicles are excluded from the provisions of this section.

(2)(a) The owner or lessee of a fleet of motor vehicles shall, upon application in the manner and at the time prescribed and upon approval by the department and payment of the license tax prescribed under s. 320.08(2), (3), (4), (5)(a) and (b), (6)(a), (7), and (8), be issued permanent fleet license plates. All vehicles with a fleet license plate shall have the company’s name or logo and unit number displayed so that they are readily identifiable. The provisions of s. 320.0605 do not apply to vehicles registered in accordance with this section, and no annual validation sticker is required.

(a) The owner or lessee of 250 or more nonapportioned commercial motor vehicles licensed under s. 320.08(2), (3), (4), (5)(a)1. and (b), and (7), who has posted a bond as prescribed by department rules, may apply via magnetically encoded computer tape reel or cartridge which is machine readable by the installed computer system at the department for permanent license plates. All vehicles with a fleet license plate shall have the company’s name or logo and unit number displayed so that they are readily identifiable. The provisions of s. 320.0605 shall not apply to vehicles registered in accordance with this section, and no annual validation sticker is required.

(b) The plates, which shall be of a distinctive color, shall have the word “*Fleet*” appearing at the bottom and the word “*Florida*” appearing at the top. The plates shall conform in all respects to the provisions of this chapter, except as specified herein.

(c) In addition to the license tax prescribed by s. 320.08(2), (3), (4), (5)(a) and (b), (6)(a), (7), and (8), an annual fleet management fee of \$2 shall be charged. A one-time license plate manufacturing fee of \$1.50 shall be charged for plates issued for the established number of vehicles in the fleet. If the size of the fleet is increased, a \$10-per-vehicle issuance fee will be charged to include the license plate manufacturing fee. If the license plate manufacturing cost increases, the department shall increase the license-plate manufacturing fee to recoup its cost. Fees collected shall be deposited into the Highway Safety Operating Trust Fund. Payment of registration license tax and fees shall be made annually and be evidenced only by the issuance of a single receipt by the department. The provisions of s. 320.0605 do not apply to vehicles registered in accordance with this section, and no annual validation sticker is required.

(e) In addition to the license tax prescribed by s. 320.08(2), (3), (4), (5)(a)1. and (b), and (7), an annual fee of \$6 shall be charged for each vehicle registered hereunder. Of this \$6 fee, \$2.50 shall be retained as a service charge by the tax collector, if the registration occurs at such

office, or by the department, if the registration occurs at offices of the department. Receipts from the \$6 fee not retained by tax collectors shall be deposited into the Highway Safety Operating Trust Fund. Payment of registration license tax and fees shall be made annually and be evidenced only by the issuance of a single receipt by the department. Half-year registrations shall not be available for vehicles registered in accordance with the provisions of this section. The provision of s. 320.06(1)(b) shall not apply to the fleet renewal process.

(2) All recipients of permanent license plates authorized by this section shall submit an annual audit as prescribed by rule of the department. Such audit shall include a percentage of the vehicles registered by each owner or lessee, not to exceed 10 percent. The department shall randomly select the vehicles to be audited and shall forward a listing of said vehicles only to the office of the auditor performing the audit. Every attempt shall be made to provide for groupings of vehicles based in the same location; however, the location shall change from year to year. The audit shall be prepared by a certified public accountant licensed under chapter 473, at the recipient's expense, and shall be performed to standards prescribed by the department. Such audits shall be delivered to the department on or before February 15 of each calendar year. Any fees or taxes which the audit determines are due the department shall be submitted to the department along with such audit. In addition, any company found to be habitually abusing the privileges afforded by permanent licensure shall forfeit the bond required in subsection (1), and may be required by the department to relinquish all permanent license plates, and not be eligible to continue to participate in the program.

(3) The department is authorized to adopt such rules as necessary to comply with this section.

(4) If a recipient of fleet license plates fails to properly and timely renew or initially register vehicles in its fleet, the department may impose a delinquency penalty of \$50 or 10 percent of the delinquent taxes due, whichever is greater, if the failure is for not more than 30 days, with an additional 10 percent penalty for each additional 30 days, or fraction thereof, during the time the failure continues, not to exceed a total penalty of 100 percent in the aggregate. However, the penalty may not be less than \$50.

(5) All recipients of fleet license plates authorized by this section must provide the department with an annual vehicle reconciliation and must annually surrender all unassigned license plates. Failure to comply may result in fines of up to \$1,000 for each occurrence or in suspension or termination from the fleet program.

Section 25. Section 331.304, Florida Statutes, is amended to read:

331.304 Spaceport territory.—The following property shall constitute spaceport territory:

(1) Certain real property located in Brevard County that is included within the 1997 boundaries of Patrick Air Force Base, Cape Canaveral Air Station, John F. Kennedy Space Center with the following boundaries:

- (a) Northern boundary—Latitude 28°32'30" North.
- (b) Eastern boundary—The mean high water line of the shore along the Atlantic Ocean.
- (c) Western boundary—Cape Road (State Road 401).
- (d) Southern boundary—Latitude 28°26' North.

(2) Certain real property located in Gulf County with the following boundaries:

- (a) Northern boundary—Latitude 29°40'45" North from longitude 85°20' West in a westerly direction to the mean high water line of the Gulf of Mexico.
- (b) Eastern boundary—Longitude 85°20' West.
- (c) Western boundary—The mean high water line of the shore along the Gulf of Mexico.
- (d) Southern boundary—The mean high water line of the shore along the Gulf of Mexico.

(3) Certain real property located in Santa Rosa, Okaloosa, and Walton Counties that is included within the 1997 boundaries of Eglin Air Force Base.

Section 26. Subsection (6) of section 322.28, Florida Statutes, is amended to read:

322.28 Period of suspension or revocation.—

(6) No court shall stay the administrative suspension of a driving privilege under s. 322.2615 or s. 322.2616 shall be stayed upon a request for during judicial review of the departmental order that resulted in such suspension and, except as provided in former s. 322.261, no suspension or revocation of a driving privilege shall be stayed upon an appeal of the conviction or order that resulted therein.

Section 27. Present subsections (15) through (30) of section 334.044, Florida Statutes, are renumbered as subsections (16) through (31), respectively, and a new subsection (15) is added to that section, to read:

334.044 Department; powers and duties.—The department shall have the following general powers and duties:

(15) To regulate and prescribe conditions for the transfer of stormwater to the state right-of-way as a result of man-made changes to adjacent properties.

(a) Such regulation shall be through a permitting process designed to ensure the safety and integrity of the Department of Transportation facilities and to prevent an unreasonable burden on lower properties.

(b) The department is specifically authorized to adopt rules which set forth the purpose, necessary definitions, permit exceptions, permit and assurance requirements, permit application procedures, permit forms, general conditions for a drainage permit, provisions for suspension or revocation of a permit, and provisions for department recovery of fines, penalties and costs incurred due to permittee actions. In order to avoid duplication and overlap with other units of government, the department shall accept a surface water management permit issued by a water management district, the Department of Environmental Protection, a surface water management permit issued by a delegated local government or a permit issued pursuant to an approved Stormwater Management Plan or Master Drainage Plan; provided issuance is based on requirements equal to or more stringent than those of the department.

Section 28. Subsection (15) of section 334.044, Florida Statutes, as created by section 1 of Committee Substitute for Senate Bill 846 as enacted by the Legislature during 1998 Regular Session is repealed.

Section 29. Subsection (1) of section 14 of chapter 96-423, Laws of Florida, is amended to read:

Section 14. (1) Notwithstanding chapter 253, Florida Statutes, or chapter 270, Florida Statutes, the Department of Transportation, on behalf of the Board of Trustees of the Internal Improvement Trust Fund, may sell the state real property located at 5200 East Colonial Drive, Orlando, Florida, which is utilized by the Department of Highway Safety and Motor Vehicles. Any such sale shall be at fair market value. Proceeds from the sale shall be deposited in the State Transportation Trust Fund, or the existing lease between the Board of Trustees of the Internal Improvement Trust Fund and the Department of Business and Professional Regulation for use of the regional service center located at 133 South Semoran Boulevard, Orlando, Florida, the department, with the technical assistance and staff support of the Department of Management Services, may sell the regional service center. Proceeds from the sale shall be deposited in the Professional Regulation Trust Fund and distributed to the accounts of the professions, based on each profession's pro rata share of the costs of the original purchase and renovation of the real estate. The Board of Trustees of the Internal Improvement Trust Fund shall execute and deliver a deed of conveyance for the purpose of carrying into effect a contract or agreement of sale.

Section 30. In the event additional federal funds are received through reauthorization of the Federal Intermodal Surface Transportation Efficiency Act, the department shall apply \$4.6 million to the Winchester and Englewood Corridor projects, provided such use of transportation funds is endorsed by the Charlotte and Sarasota/Manatee Metropolitan Planning Organization. Prior to receiving any new federal funds, the department shall allocate \$1 million to the Winchester and Englewood Corridor

projects as an advance on the \$4.6 million of additional federal funds to be applied to the projects.

Section 31. An amount not to exceed \$78,000 of the funds included in appropriation item 1916C of chapter 94-357, Laws of Florida may be used to purchase land at the Florida Highway Patrol station in Cross City and Dixie County.

Section 32. A new subsection (6) is added to section 206.46, Florida Statutes, to read:

(6) \$1.5 million per year shall be transferred to the Board of Regents and shall be spent solely for purposes of s. 334.065. Except for projects mandated by law, state-funded base projects shall not be undertaken without approval of the advisory board. The membership of the board shall consist of nine experts in transportation-related areas, including the secretaries of the Florida Departments of Transportation, Community Affairs, and Environmental Protection, or their designees, and a member of the Florida Transportation Commission.

Section 33. The Clean Fuel Florida Task Force.—

(1) The Clean Fuel Florida Task Force is hereby established under the Florida Department of Community Affairs (DCA) to study the implementation of alternative fuel and cleaner burning fuel vehicles and to formulate recommendations on expanding the use of alternative fuel and cleaner burning fuel vehicles in Florida. The Task Force will be staffed by the DCA which will be reimbursed for reasonable costs and expenses in support of Task Force activities and as determined by the Task Force.

(2) Within 30 days after the effective date of this legislation, the Secretary of the Florida Department of Community Affairs shall appoint members of the Task Force. The Task Force shall consist of one representative from each of the following:

(a) Secretary or Designee from the Florida Department of Community Affairs;

(b) Secretary or Designee from the Florida Department of Environmental Protection;

(c) Secretary or Designee from the Florida Department of Education;

(d) Secretary or Designee from the Florida Department of Transportation;

(e) Secretary or Designee from the Florida Department of Agriculture;

(f) Florida biodiesel industry;

(g) Florida electric vehicle industry;

(h) Florida natural gas industry;

(i) Florida propane gas industry;

(j) Florida Suncoast, Gold Coast or Space Coast Clean City Coalition;

(k) Enterprise Florida;

(l) Florida Alliance for Clean Technology;

(m) Florida Petroleum Marketers Association;

(n) Florida Petroleum Council;

(o) Florida Association of Counties;

(p) Florida League of Cities.

(3) Task Force members shall receive no compensation or honorarium for their services, but will be reimbursed for travel expenses in accordance with policy set forth by this Task Force.

(4) The Task Force shall hold its first meeting within 30 days of membership appointment. Within 90 days of their first meeting, Task Force members shall make recommendations to DCA for establishing and implementing pilot programs in Florida that provide experience and support the best use expansion of the alternative fuel and cleaner burning fuel vehicles industry in Florida. Recommendations shall include, but

not be limited to, formulas for distribution, reporting mechanisms, and public education. In conjunction with DCA, the Task Force will develop, implement, and continually monitor the pilot programs.

(5) In addition to the pilot programs, the Task Force shall assess federal, state, and local initiatives to identify incentives that encourage successful alternative fuel and cleaner burning fuel vehicles, and identify what barriers now exist. These recommendations will provide guidance on the best use of state and other resources to expand the alternative fuel and cleaner burning fuel vehicles market in Florida and maximize the return on that investment in terms of job creation, economic development, and mobile source emissions reduction.

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

(a) "Alternative fuels" and "cleaner burning fuels" means fuels that are intended for use in transportation vehicles, including electricity, biodiesel, natural gas, propane, reformulated fuel, and any other cleaner burning fuel that is designated by the United States Environmental Protection Agency for use in transportation vehicles.

(b) "Alternative fuel vehicles" also referred to as "AFV's" include on-and-off-road transportation vehicles, light-duty, medium-duty, or heavy-duty which are powered by an alternative fuel or a combination of alternative fuels or as revised in the future by DCA in partnership with the Task Force.

Section 34. Paragraph (b) of subsection (4) of section 320.06, Florida Statutes is amended to read:

320.06 Registration certificates, license plates, and validation stickers generally.—

(4)

(b) For the purposes of authorizing the corporation organized pursuant to chapter 946 to manufacture license plates and validation stickers, as well as temporary tags, disabled hang tags, vessel decals, and fuel use decals, for the Department of Highway Safety and Motor Vehicles, as provided in this chapter, The reference to the Department of Corrections in paragraph (a) means the Department of Corrections or the corporation organized pursuant to chapter 946, and the Department of Highway Safety and Motor Vehicles is not required to obtain competitive bids in order to contract with such corporation.

Section 35. Effective January 1, 1999, section 73.0511, Florida Statutes, is amended to read:

73.0511 Prelitigation notice and offer of full compensation.—Before an eminent domain action is initiated under chapter 73 or chapter 74 ~~Prior to instituting litigation~~, the condemning authority shall notify the fee owners appearing of record on the date the offer is made of their statutory rights under s. 73.091 and shall make a written offer of full compensation for the property to be acquired and any damages to the remainder caused by the taking, naming the fee owners to whom it is made. The notice and written offer must be sent to the fee owners' last known address listed on the county ad valorem tax roll. Notice to one fee owner constitutes notice to all fee owners on multiple-ownership property. This section may not be interpreted as shifting the burden of proof of either the condemning authority or fee owners at a valuation trial under chapter 73 or chapter 74, as otherwise provided by law. The governmental condemning authority is not required to give notice to a person who acquires title to the property subsequent to the notice required by this section.

Section 36. Effective July 1, 1998, for eminent domain actions filed after July 1, 1998, subsection (2) of section 337.27, section 337.271, subsection (2) of section 348.0008, subsection (2) of section 348.759, and subsection (2) of section 348.957, Florida Statutes, are repealed.

Section 37. Subsection (6) is added to section 253.82, Florida Statutes, to read:

253.82 Title of state or private owners to Murphy Act lands.—

(6)(a) All reservations of easements on deeds by the Board of Trustees of the Internal Improvement Trust Fund conveying land acquired under chapter 18296, Laws of Florida, 1937, are hereby vested by operation of law, and without the necessity of instruments of conveyance from the

Board of Trustees of the Internal Improvement Trust Fund, in the governmental entity having right and title to the road to which the reservations are adjacent. All reservations adjacent to a road that was designated as a state road at the time of the reservation, which road is currently held by the state, are conveyed to the Department of Transportation. All reservations adjacent to a road that was designated as a state road at the time of the reservation, which road is located in an unincorporated area of a county or owned by the county within any incorporated area, are conveyed to the respective county. All other reservations within an incorporated area adjacent to a road that was designated as a state road at the time of the reservation, which reservations are not otherwise conveyed to the state or the county, are conveyed to the incorporated area. The conveyance includes all right, title, and interest in the reservation held by the Board of Trustees of the Internal Improvement Trust Fund.

(b) Every entity that holds title to Murphy Act reservations must establish a procedure for reviewing any deed that contains a reservation when a review is requested or a road project is anticipated. The review process must provide for:

1. A determination of whether the language of the deed created a reservation at the time of the original conveyance.
2. A review of any release of the reservation provided by the property owner.
3. The recording of a notice of the nonexistence of a reservation if reservation language in the deed does not impact the property.
4. A determination of whether any or all of the reservation may be released, and a form for recording the release.
5. A process to allow for review through mediation if requested by the property owner or through binding arbitration pursuant to chapter 44.

Any fee charged may not exceed the actual cost to review the deed, perform an appeal, and pay any recording expenses. Any such fee may not exceed \$300.

(c)1. Any owner of property encumbered by a Murphy Act road reservation who has been denied a release of all or part of the reservation or who has received notice of a governmental entity's intent to preserve the reservation under s. 712.05 may appeal to the entity and show that the reservation substantially denies the property owner the current economic use of the property held by the owner. For purposes of this determination, the term "current economic use" means the use of the property on the date notice of the easement is filed under s. 712.05.

2. Upon a determination by the governmental entity that the reservation substantially denies the property owner the current economic use of the property held by the owner, the governmental entity must purchase the real property and improvements not retained by the property owner in fee simple title or release all or part of the reservation as necessary to allow for beneficial use of the property.

3. If the governmental entity and property owner are unable to agree as to whether the reservation substantially denies the current economic use of the property or as to the purchase price, the property owner may request mediation or binding arbitration under chapter 44 to resolve these issues.

4. Before the payment of any compensation, the property owner must provide the governmental entity copies of any title insurance policies and notice of any compensation received from a title company related to the easement.

(7) The process for release of any road reservation covered by this section or payment for property impacted by the use of a reservation covered by this section must be solely in accordance with this section. Any action for the taking of property related to road construction is separate and distinct from an action under this section.

(8) The governmental entity is not liable for attorney's fees or costs incurred by the owner in establishing the impact of the road reservation on the property.

Section 38. Section 712.04, Florida Statutes, is amended to read:

712.04 Interests extinguished by marketable record title.—Subject to the matters stated in s. 712.03, such marketable record title shall be

free and clear of all estates, interests, claims, or charges whatsoever, the existence of which depends upon any act, title transaction, event or omission that occurred prior to the effective date of the root of title. All such estates, interests, claims, or charges, however denominated, whether such estates, interests, claims, or charges are or appear to be held or asserted by a person sui juris or under a disability, whether such person is within or without the state, whether such person is natural or corporate, or is private or governmental, are hereby declared to be null and void, except that this chapter shall not be deemed to affect any right, title, or interest of the United States, Florida, or any of its officers, boards, commissions, or other agencies reserved in the patent or deed by which the United States, Florida, or any of its agencies parted with title. However, all reservations of easements in deeds by the Trustees of the Internal Improvement Trust Fund conveying land acquired under chapter 18296, Laws of Florida, 1937, shall be extinguished by the Marketable Record Title Act on July 1, 2001, subject to the provisions of s. 712.03, and further subject to the right of any governmental entity that holds title to the reservations to preserve such reservations as are necessary for future transportation projects in adopted transportation plans by filing notice under s. 712.05 before July 1, 2001.

Section 39. Subsection (3) is added to section 712.05, Florida Statutes, to read:

712.05 Effect of filing notice.—

(3) Any governmental entity that claims a road reservation pursuant to a deed conveyed under the Murphy Act may preserve the reservation or any portion thereof necessary for future transportation projects in adopted transportation plans and protect the reservation from extinguishment by the operation of this chapter by filing for record, prior to July 1, 2001, a notice, in writing, in accordance with the provisions of this chapter. The notice preserves the reservation or portion thereof for 10 years following the date of record if the reservation is used or identified by the governmental entity in the final design plans of a road project scheduled for construction to begin before the end of the 10-year period. Any reservation used or identified in the final design plans of a road project scheduled for construction to begin before the end of the 10-year period is not extinguished.

Section 40. The Legislature finds that balancing property and business interests of private citizens and governmental entities is an important function of the Legislature. Likewise, the Legislature finds that, in the balancing of those interests, prelitigation offers of compensation assist in reducing the costs of acquisition; that an entire lot, block, or tract of land should be acquired only when the public purpose and necessity are related to the engineering needs of a project and not the saving of acquisition costs to the detriment of business owners; that orderly procedures for the transference of deeds under the Murphy Act should be established to save administrative costs; that provision should be made for the underlying fee owner to be eligible for compensation for the denial of economic use caused by the exercise of a reservation pursuant to deeds under the Murphy Act. Therefore, the Legislature finds that this act fulfills an important state interest.

Section 41. Employees of an Off Street Parking Authority of a city of 2,000,000 or more residents are prohibited from ordering the towing of any vehicle but may request the assistance of a law enforcement officer where an authority employee determines that a vehicle is illegally parked and should be removed.

Section 42. Subsection (5) is added to section 320.0715, Florida Statutes, to read:

320.0715 International Registration Plan; motor carrier services; permits; retention of records.—

(5) The provisions of this section do not apply to any commercial motor vehicle domiciled in a foreign state that enters this state solely for the purpose of bringing a commercial vehicle in for repairs, or picking up a newly purchased commercial vehicle, so long as the commercial motor vehicle is operated by its owner and is not hauling a load.

Section 43. Section 373.4137, Florida Statutes, is amended to read:

373.4137 Mitigation requirements.—

(1) The Legislature finds that environmental mitigation for the impact of transportation projects proposed by the Department of Transpor-

tation can be more effectively achieved by regional, long-range mitigation planning rather than on a project-by-project basis. It is the intent of the Legislature that mitigation to offset the adverse effects of these transportation projects be funded by the Department of Transportation and be carried out by the Department of Environmental Protection and the water management districts, including the use of mitigation banks established pursuant to this part.

(2) Environmental impact inventories for transportation projects proposed by the Department of Transportation shall be developed as follows:

(a) ~~Each June 1 beginning July 1996, the Department of Transportation shall submit annually to the Department of Environmental Protection and the water management districts a copy of its adopted work program and an inventory of habitats addressed in the rules adopted pursuant to this part and s. 404 of the Clean Water Act, 33 U.S.C. s. 1344, which may be impacted by its plan of construction for transportation projects in the next first 3 years of the adopted work program. The Department of Transportation may also include in its inventory the habitat impacts of any future transportation project identified in the adopted work program. For the July 1996 submittal, the inventory may exclude those projects which have received permits pursuant to this part and s. 404 of the Clean Water Act, 33 U.S.C. s. 1344, projects for which mitigation planning or design has commenced, or projects for which mitigation has been implemented in anticipation of future permitting needs.~~

(b) The environmental impact inventory shall include a description of these habitat impacts, including their location, acreage, and type; state water quality classification of impacted wetlands and other surface waters; any other state or regional designations for these habitats; and a survey of threatened species, endangered species, and species of special concern affected by the proposed project.

(3) To fund the mitigation plan for the projected impacts identified in the inventory described in subsection (2), ~~beginning July 1, 1997, the Department of Transportation shall identify funds quarterly in an escrow account within the State Transportation Trust Fund established by the Department of Transportation for the benefit of the Department of Environmental Protection. Any interest earnings from the escrow account shall be returned to the Department of Transportation. The Department of Environmental Protection shall request a transfer of funds from the escrow account to the Ecosystem Management and Restoration Trust Fund no sooner than 30 days prior to the date the funds are needed to pay for activities contained in the mitigation programs. The amount transferred each year by the Department of Transportation shall correspond to a cost per acre of \$75,000 multiplied by the projected acres of impact identified in the inventory described in subsection (2) within the water management district for that year. The water management district may draw from the trust fund no sooner than 30 days prior to the date funds are needed to pay for activities associated with development or implementation of the mitigation plan described in subsection (4). Activities associated with the development of the mitigation plan include, but are not limited to, design, engineering, production, and staff support. Each July 1, beginning in 1998, the cost per acre shall be adjusted by the percentage change in the average of the Consumer Price Index issued by the United States Department of Labor for the most recent 12-month period ending September 30, compared to the base year average, which is the average for the 12-month period ending September 30, 1996. At the end of each year, the projected acreage of impact shall be reconciled with the acreage of impact of projects as permitted pursuant to this part and s. 404 of the Clean Water Act, 33 U.S.C. s. 1344, and the following year's transfer of funds shall be adjusted accordingly to reflect the over-transfer or under-transfer of funds from the preceding year. The Department of Environmental Protection is authorized to transfer such funds from the Ecosystem Management and Restoration Trust Fund to the water management districts to carry out the mitigation programs.~~

(4) Prior to December 1 of each year ~~31, 1996, each water management district, in consultation with the Department of Environmental Protection, the United States Army Corps of Engineers, and other appropriate federal, state, and local governments, and entities operating mitigation banks which have obtained a permit pursuant to s. 373.4136, shall develop a plan for the primary purpose of complying with the mitigation requirements adopted pursuant to this part and 33 U.S.C. s. 1344. This plan shall also address significant aquatic and exotic plant problems within wetlands and other surface waters. In developing such plans, the districts shall utilize sound ecosystem management practices to address~~

significant water resource needs and shall focus on activities of the department and the water management districts, such as surface water improvement and management projects and lands identified for potential acquisition or restoration, to the extent such activities comply with the mitigation requirements adopted under this part and 33 U.S.C. s. 1344. In determining the activities to be included in such plans, the districts shall also consider the purchase of credits from public or private mitigation banks permitted under this part and shall include such purchase as a part of the mitigation plan when such purchase would offset the impact of the transportation project, provide equal benefits to the water resources than other mitigation options being considered, and provide the most cost-effective mitigation option. The mitigation plan shall be preliminarily approved by the water management district governing board and shall be submitted to the secretary of the Department of Environmental Protection for review and final approval. *The preliminary approval by the water management district governing board does not constitute a decision that affects substantial interests as provided by s. 120.569.* At least 30 days prior to preliminary approval, the water management district shall provide a copy of the draft mitigation plan to any person who has requested a copy.

(a) *Each mitigation plan shall include a brief explanation of why a mitigation bank was or was not chosen as a mitigation option for each transportation project addressed in the plan, including an estimation and description of identifiable costs of the mitigation bank and nonmitigation bank option to the extent practicable.*

(b)(a) If the Department of Environmental Protection and water management districts are unable to identify mitigation that would offset the impacts of a project included in the inventory, either due to the nature of the impact or the amount of funds available, that project shall not be addressed in the mitigation plan and the project shall not be subject to the provisions of this section.

(c)(b) Specific projects may be excluded from the environmental impact inventory and the mitigation plan and shall not be subject to this section upon the agreement of the Department of Transportation, the Department of Environmental Protection, and the appropriate water management district that the inclusion of such projects would hamper the efficiency or timeliness of the mitigation planning and permitting process.

(d)(e) Those transportation projects that are proposed to commence in fiscal year 1996-1997 shall not be addressed in the mitigation plan, and the provisions of subsection (7) shall not apply to these projects. The Department of Transportation may enter into interagency agreements with the Department of Environmental Protection or any water management district to perform mitigation planning and implementation for these projects.

(e) *Surface water improvement and management or aquatic or exotic plant control projects undertaken using the \$12 million advance transferred from the Department of Transportation to the Department of Environmental Protection in fiscal year 1996-1997 shall remain available for mitigation until the \$12 million is fully credited up to and including fiscal year 2004-2005. When these projects are used as mitigation, the \$12 million advance shall be reduced by \$75,000 per acre of impact mitigated. For any fiscal year through and including fiscal year 2004-2005, to the extent the cost of developing and implementing the mitigation plans is less than the amount transferred from the Department of Transportation to the Department of Environmental Protection pursuant to subsection (3), the difference shall be credited towards the \$12 million advance.*

(d) ~~On July 1, 1996, the Department of Transportation shall transfer to the Department of Environmental Protection \$12 million from the State Transportation Trust Fund for the purposes of the surface water improvement management program and to address statewide aquatic and exotic plant problems within wetlands and other surface waters. Such funds shall be considered an advance upon funds that the Department of Transportation would provide for statewide mitigation during the 1997-1998, 1998-1999, and 1999-2000 fiscal years. This use of mitigation funds for surface water improvement management projects or aquatic and exotic plant control may be utilized as mitigation for transportation projects to the extent that it complies with the mitigation requirements adopted pursuant to this part and 33 U.S.C. s. 1344. To the extent that such activities result in mitigation credit for projects permitted in fiscal year 1996-1997, all or part of the \$12 million funding for surface water improvement management projects or aquatic and exotic~~

plant control in fiscal year 1996-1997 shall be drawn from Department of Transportation mitigation funding for fiscal year 1996-1997 rather than from mitigation funding for fiscal years 1997-1998, 1998-1999, and 1999-2000, in an amount equal to the cost per acre of impact described in subsection (3), times the acreage of impact that is mitigated by such plant control activities. Any part of the \$12 million that does not result in mitigation credit for projects permitted in fiscal year 1996-1997 shall remain available for mitigation credit during fiscal years 1997-1998, 1998-1999, or 1999-2000.

(5) The water management district shall be responsible for ensuring that mitigation requirements pursuant to 33 U.S.C. s. 1344 are met for the impacts identified in the inventory described in subsection (2), by implementation of the approved plan described in subsection (4) to the extent funding is provided as funded by the Department of Transportation. During the federal permitting process, the water management district may deviate from the approved mitigation plan in order to comply with federal permitting requirements.

(6) The mitigation plan shall be updated annually to reflect the most current Department of Transportation work program, and may be amended throughout the year to anticipate schedule changes or additional projects which may arise. Each update and amendment of the mitigation plan shall be submitted to the secretary of the Department of Environmental Protection for approval as described in subsection (4). However, such approval shall not be applicable to a deviation as described in subsection (5).

(7) Upon approval by the secretary of the Department of Environmental Protection, the mitigation plan shall be deemed to satisfy the mitigation requirements under this part and any other mitigation requirements imposed by local, regional, and state agencies for impacts identified in the inventory described in subsection (2). The approval of the secretary shall authorize the activities proposed in the mitigation plan, and no other state, regional, or local permit or approval shall be necessary.

(8) This section shall not be construed to eliminate the need for the Department of Transportation to comply with the requirement to implement practicable design modifications, including realignment of transportation projects, to reduce or eliminate the impacts of its transportation projects on wetlands and other surface waters as required by rules adopted pursuant to this part, or to diminish the authority under this part to regulate other impacts, including water quantity or water quality impacts, or impacts regulated under this part that are not identified in the inventory described in subsection (2).

(9) The recommended mitigation plan shall be annually submitted to the Executive Office of the Governor and the Legislature through the legislative budget request of the Department of Environmental Protection in accordance with chapter 216. Any funds not directed to implement the mitigation plan should, to the greatest extent possible, be directed to fund aquatic and exotic plant problems within the wetlands and other surface waters.

(10) ~~By December 1, 1997, the Department of Environmental Protection, in consultation with the water management districts, shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives describing the implementation of this section, including the use of public and private mitigation banks and other types of mitigation approved in the mitigation plan. The report shall also recommend any amendments to this section necessary to improve the process for developing and implementing mitigation plans for the Department of Transportation. The report shall also include a specific section on how private and public mitigation banks are utilized within the mitigation plans.~~

Section 44. Section 86 of chapter 93-213, Laws of Florida, is amended to read:

Section 86. The Department of Environmental Regulation is authorized 54 career service positions for administering the state NPDES program. Twenty-five career service positions are authorized for startup of the program beginning July 1, 1993, and the remaining 29 career service positions beginning January 1, 1994. The state NPDES program staffing shall start July 1, 1993, with completion targeted for 6 months following United States Environmental Protection Agency authorization to administer the National Pollutant Discharge Elimination System program. Implementation of positions is subject to review and final ap-

proval by the secretary of the Department of Environmental Regulation. The sum of \$3.2 million is hereby appropriated from the Pollution Recovery Trust Fund to cover program startup costs. ~~Such funds are to be repaid from a fund the Legislature deems appropriate, no later than July 1, 2000.~~

Section 45. Section 373.4139, Florida Statutes, is created to read:

373.4139 Dade County Lake Belt Mitigation Plan; mitigation for mining activities within the Dade County Lake Belt. —

(1) The Legislature finds that the impact of mining within the Dade County Lake Belt Area can best be offset by a mitigation plan that is designated the "Lake Belt Mitigation Plan." The per-ton mitigation fee assessed on limestone sold from the Dade County Lake Belt Area shall be used for acquiring environmentally sensitive lands and for restoration, maintenance, and other environmental purposes. Further, the Legislature finds that the public benefit of a sustainable supply of limestone construction materials for public and private projects requires a coordinated approach to permitting activities on wetlands within the Dade County Lake Belt in order to provide the certainty necessary to encourage substantial and continued investment in the limestone processing plant and equipment required to efficiently extract the limestone resource. It is the intent of the Legislature that the Lake Belt Mitigation Plan satisfy all local, state, and federal requirements for mining activity within the Dade County Lake Belt Area.

(2) To provide for the mitigation of wetland resources lost to mining activities within the Dade County Lake Belt Area, effective October 1, 1998, a mitigation fee is imposed on each ton of limerock and sand extracted by any person who engages in the business of extracting limerock or sand from within the Dade County Lake Belt Area. The mitigation fee is at the rate of 5 cents for each ton of limerock and sand sold from within the Dade County Lake Belt Area in raw, processed, or manufactured form, including, but not limited to, sized aggregate, asphalt, cement, concrete, and other limerock and concrete products. Any limerock or sand that is used within the mine from which the limerock or sand is extracted is exempt from the fee. The amount of the mitigation fee imposed under this section must be stated separately on the invoice provided to the purchaser of the limerock product from the limerock miner, or its subsidiary or affiliate, for which the mitigation fee applies. The limerock miner, or its subsidiary or affiliate, who sells the limerock product shall collect the mitigation fee and forward the proceeds of the fee to the Department of Revenue on or before the 20th day of the month following the calendar month in which the sale occurs.

(3) The mitigation fee imposed by this section must be reported to the Department of Revenue. Payment of the mitigation fee must be accompanied by a form prescribed by the Department of Revenue. The proceeds of the fee, less administrative costs, must be transferred by the Department of Revenue to the South Florida Water Management District and deposited into the Lake Belt Mitigation Trust Fund. As used in this section, the term "proceeds of the fee" means all funds collected and received by the Department of Revenue under this section, including interest and penalties on delinquent mitigation fees. The amount deducted for administrative costs may not exceed 3 percent of the total revenues collected under this section and may equal only those administrative costs reasonably attributable to the mitigation fee.

(4)(a) The Department of Revenue shall administer, collect, and enforce the mitigation fee authorized under this section in accordance with the procedures used to administer, collect, and enforce the general sales tax imposed under chapter 212. The provisions of chapter 212, with respect to the authority of the Department of Revenue to audit and make assessments, the keeping of books and records, and the interest and penalties imposed on delinquent fees apply to this section. The fee may not be included in computing estimated taxes under s. 212.11, and the dealer's credit for collecting taxes or fees provided for in s. 212.12, does not apply to the mitigation fee imposed by this section.

(b) In administering this section, the Department of Revenue may employ persons and incur expenses for which funds are appropriated by the Legislature. The Department of Revenue shall adopt rules and prescribe and publish forms necessary to administer this section. The Department of Revenue shall establish audit procedures and may assess delinquent fees.

(5) Beginning January 1, 2000, and each January 1 thereafter, the per-ton mitigation fee shall be increased by 1.9 percentage points, plus a

cost growth index. The cost growth index shall be the percentage change in the weighted average of the Employment Cost Index for All Civilian Workers (ecu 100011), issued by the United States Department of Labor for the most recent 12-month period ending on September 30, and the percentage change in the Producer Price Index for All Commodities (WPU 00000000), issued by the United States Department of Labor for the most recent 12-month period ending on September 30, compared to the weighted average of these indices for the previous year. The weighted average shall be calculated as 0.6 times the percentage change in the Employment Cost Index for All Civilian Workers (ecu 100011), plus 0.4 times the percentage change in the Producer Price Index for All Commodities (WPU 00000000). If either index is discontinued, it shall be replaced by its successor index, as identified by the United States Department of Labor.

(6)(a) The proceeds of the mitigation fee must be used to conduct mitigation activities that are appropriate to offset the loss of the value and functions of wetlands as a result of mining activities in the Dade County Lake Belt Area and must be used in a manner consistent with the recommendations contained in the reports submitted to the Legislature by the Dade County Lake Belt Plan Implementation Committee and adopted under s. 373.4149. Such mitigation may include the purchase, enhancement, restoration, and management of wetlands and uplands, the purchase of mitigation credit from a permitted mitigation bank, and any structural modifications to the existing drainage system to enhance the hydrology of the Dade County Lake Belt Area. Funds may also be used to reimburse other funding sources, including the Save Our Rivers Land Acquisition Program and the Internal Improvement Trust Fund, for the purchase of lands that were acquired in areas appropriate for mitigation due to rock mining and to reimburse governmental agencies that exchanged land under s. 373.4149, for mitigation due to rock mining.

(b) Expenditures must be approved by an interagency committee that consists of representatives from each of the following: the Miami-Dade County Department of Environmental Resource Management, the Department of Environmental Protection, the South Florida Water Management District, and the Game and Fresh Water Fish Commission. In addition, the limerock mining industry shall select a representative to serve as a nonvoting member of the interagency committee. At the discretion of the committee, additional members may be added to represent federal regulatory, environmental, and fish and wildlife agencies.

(7) Payment of the fee imposed by this section satisfies the mitigation requirements imposed under sections 373.403-373.439, Florida Statutes, and any applicable county ordinance for loss of the value and functions of the wetlands mined. In addition, it is the intent of the Legislature that the payment of the mitigation fee imposed by this section satisfy all federal mitigation requirements for the wetlands mined.

(8) If a general permit by the United States Army Corps of Engineers, or an appropriate long-term permit for mining, consistent with the Dade County Lake Belt Plan, this section, and s. 378.4115, 373.4149, and 373.4415, is not issued on or before September 30, 2000, the fee imposed by this section is suspended until reenacted by the Legislature.

(9)(a) The interagency committee established in this section shall annually prepare and submit to the governing board of the South Florida Water Management District a report evaluating the mitigation costs and revenues generated by the mitigation fee.

(b) No sooner than January 31, 2010, and no more frequently than every 10 years thereafter, the interagency committee shall submit to the Legislature a report recommending any needed adjustments to the mitigation fee to ensure that the revenue generated reflects the actual costs of the mitigation.

Section 46. Subsections (5), (6), (10), (11), and (12) of section 373.4149, Florida Statutes, are amended to read:

373.4149 Dade County Lake Belt Plan.—

(5) The committee shall develop Phase II of the Lake Belt Plan which shall:

- (a) Include a detailed master plan to further implementation;
- (b) Further address compatible land uses, opportunities, and potential conflicts;

- (c) Provide for additional wellfield protection;
- (d) Provide measures to prevent the reclassification of the Northwest Dade County wells as groundwater under the direct influence of surface water;:
- (e) Secure additional funding sources; and
- (f) Consider the need to establish a land authority; and

(g) Analyze the hydrological impacts resulting from the future mining included in the Lake Belt Plan and recommend appropriate mitigation measures, if needed, to be incorporated into the Lake Belt Mitigation Plan.

(6) The committee shall remain in effect until January 1, 2002 2001, and shall meet as deemed necessary by the chair. The committee shall monitor and direct progress toward developing and implementing the plan. The committee shall submit progress reports to the governing board of the South Florida Water Management District and the Legislature by December 31 of each year. These reports shall include a summary of the activities of the committee, updates on all ongoing studies, any other relevant information gathered during the calendar year, and the committee recommendations for legislative and regulatory revisions. The committee shall submit a Phase II report and plan to the governing board of the South Florida Water Management District and the Legislature by December 31, 2000, to supplement the Phase I report submitted on February 28, 1997. The Phase II report must include the detailed master plan for the Dade County Lake Belt Area together with the final reports on all studies, the final recommendations of the committee, the status of implementation of Phase I recommendations and other relevant information, and the committee's recommendation for legislative and regulatory revisions.

~~(10) The Department of Environmental Protection, in conjunction with the South Florida Water Management District and the Dade County Department of Environmental Resources Management, is directed to develop a comprehensive mitigation plan for the Dade County Lake Belt Plan, subject to approval by the Legislature, which offsets the loss of wetland functions and values resulting from rock mining in mining-supported and allowable areas.~~

(10)(11) The secretary of the Department of Environmental Protection, the secretary of the Department of Community Affairs, the secretary of the Department of Transportation, the Commissioner of Agriculture, the executive director of the Game and Freshwater Fish Commission, and the executive director of the South Florida Water Management District may enter into agreements with landowners, developers, businesses, industries, individuals, and governmental agencies as necessary to effectuate the provisions of this section.

(11)(12)(a) All agencies of the state shall review the status of their landholdings within the boundaries of the Dade County Lake Belt. Those lands for which no present or future use is identified must be made available, together with other suitable lands, to the committee for its use in carrying out the objectives of this act.

(b) It is the intent of the Legislature that lands provided to the committee be used for land exchanges to further the objectives of this act.

Section 47. Section 36, Township 53 South, Range 39 East, is excluded from the geographical area described as the Dade County Lake Belt Area and delineated in 373.4149(3), Florida Statutes. Land uses in this excluded area shall be compatible with the Dade County Lake Belt Plan.

Section 48. Subsection (8) is added to section 373.421, Florida Statutes, to read:

373.421 Delineation methods; formal determinations.—

(8) Whenever the location of a wetland delineation, approved or performed by the department or the district, is certified pursuant to chapter 471 or chapter 472, the delineation shall be accepted as a formal determination pursuant to section 373.421(2) or shall be accepted or as part of a permit issued pursuant to this part.

Section 49. Subsections (8) and (9) are added to section 373.139, Florida Statutes, to read:

(8) *The Legislature declares that the Kissimmee River, Florida Project as identified in the Project Cooperation Agreement between the Department of the Army and the South Florida Water Management District, dated March 22, 1994, and the C-111 Project as identified in the Central and Southern Florida Flood Control Project Real Estate Design Memorandum Canal 111, South Dade County, Florida are in the public interest, for a public purpose and are necessary for the public health and welfare. The governing board of the district is empowered and authorized to acquire fee title or easement by eminent domain for the limited purpose of implementing the Kissimmee River, Florida Project and the C-111 Project, more fully described above, and the acquisition of real property, including by eminent domain, for these objectives constitutes a public purpose for which it is in the public interest to expend public funds.*

(9) *Through July 1, 2000, the South Florida Water Management District may disburse state or district funds to any agency or department of the Federal Government in any agreement or arrangement to take property or any interest therein by eminent domain, pursuant to federal law, unless such arrangement diminishes or deprives a person or entity of any right, privilege, or compensation that they would otherwise have if the property or interest was taken by eminent domain under Florida law. This subsection shall not apply to federal grant funds received by the state or district.*

Section 50. *If any provision of this act or the application thereof to any person or circumstance is held invalid, 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 declared severable.*

Section 51. *Legislative intent.—The Legislature recognizes that the purchase of a boat or other waterborne vessel is a major consumer purchase and that a defective boat or other waterborne vessel creates a hardship for the consumer. The Legislature recognizes that a review of such considerations as industry practices, existing regulations, the extent of consumer abuse or unfair trade practices, if any, and fiscal impact is necessary in order to determine whether adoption of a cost-effective system will benefit the residents of this state.*

Section 52. *Notwithstanding the proviso language preceding line item 1061 of HB4201 to the contrary, the Florida Boating Advisory Council, in lieu of the Attorney General, shall conduct a series of workshops that shall include broad representation from the marine manufacturing industry and vessel sales and service industry (dealers) and consumers. The Department of Agriculture and Consumer Services shall appoint representation to the workshops.*

(2) *By March 1, 1999, the Florida Boating Advisory Council shall report to the Legislature the findings and recommendations resulting from these workshops.*

(3) *Upon submission of the report to the Legislature, this section shall stand repealed.*

Section 53. Paragraph (c) of subsection (1) of section 206.606, Florida Statutes, is amended to read:

206.606 Distribution of certain proceeds.—

(1) Moneys collected pursuant to ss. 206.41(1)(g) and 206.87(1)(e) shall be deposited in the Fuel Tax Collection Trust Fund created by s. 206.875. Such moneys, exclusive of the service charges imposed by s. 215.20, and exclusive of refunds granted pursuant to s. 206.41, shall be distributed monthly to the State Transportation Trust Fund, except that:

(e) ~~—\$1.5 million per year shall be transferred to the Board of Regents and shall be spent solely for purposes of s. 334.065.~~

Section 54. *When the Department of Transportation receives federal funds through reauthorization of the Federal Intermodal Surface Transportation Efficiency Act, the department shall expend \$5,000,000 from the State Transportation Trust fund for Orlando Area Metropolitan Planning Organization project No. 5147232, for the construction of an interchange on Interstate 4 at Conroy Road.*

Section 55. This act shall take effect upon becoming a law unless otherwise provided.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to transportation; creating s. 316.0815, F.S.; providing publicly owned transit vehicles right of way when reentering traffic flow; amending s. 318.15, F.S.; authorizing tax collectors to collect driver's license reinstatement fees; amending s. 318.18, F.S.; providing that fines for construction zone speed violations shall be doubled only under certain circumstances; amending s. 334.0445, F.S.; extending the time period for the model career service classification and compensation plan in the Department of Transportation; amending s. 335.0415, F.S.; clarifying the jurisdiction and responsibility for operation and maintenance of roads; amending s. 337.11, F.S.; providing that consultants may be covered by the department's owner controlled insurance plan; amending s. 337.185, F.S.; increasing the amount of a contractual claim that goes to the State Arbitration Board; allowing the department to select an alternate to serve as the department's representative on the board; revising compensation for serving on the board; amending the fee schedule for arbitration; amending s. 337.19, F.S.; authorizing suits to be brought against the department for the breach of an expressed provision or an implied covenant; providing that no liability may be based on an oral modification of the written contract; amending s. 337.29, F.S.; providing for intergovernmental indemnification; amending s. 337.403, F.S.; authorizing the Department of Transportation to participate in the cost of clearing and grubbing with utilities prior to construction of a transportation facility; amending s. 338.223, F.S.; clarifying certain procedures for hardship and protective purchases; amending s. 338.229, F.S.; authorizing the department to restrict the sale, transfer, lease, or other disposition of any part of the turnpike system; amending s. 479.01, F.S.; redefining the terms "commercial or industrial zone" and "unzoned commercial or industrial area" for the purposes of the laws regulating outdoor advertising; providing criteria for an unzoned commercial or industrial area; amending s. 479.07, F.S.; revising provisions related to reinstatement of expired outdoor advertising permits; amending s. 479.16, F.S.; providing a permit exemption for certain outdoor advertising signs; amending s. 832.06, F.S.; authorizing tax collectors to seek prosecution against a person for writing a worthless check for a driver's license or identification card; amending s. 316.003, F.S.; defining the term "neighborhood vehicle"; amending s. 316.091, F.S.; providing that on specified highways certain commercial vehicles may drive only in certain lanes; amending s. 316.1967, F.S.; reduces the number of outstanding parking violations which trigger the county clerk to report to the Department of Highway Safety and Motor Vehicles; amending s. 320.01, F.S.; defining the term "agricultural products"; amending s. 320.04, F.S.; providing a service charge for validation stickers issued by printer dispenser machines; amending s. 320.055, F.S.; revising registration renewal period for certain vehicles; providing for staggered fleet registration; repealing s. 320.065, F.S., relating to the registration of certain rental trailers for hire and semitrailers used to haul agricultural products; amending s. 320.0657, F.S.; defining the term "fleet"; providing registration fees; providing penalties for late or improper registration amending s. 331.304, F.S.; revising the boundaries of spaceport territory; adding certain property located in Santa Rosa, Okaloosa, and Walton Counties to spaceport territory; amending 322.28, F.S.; revising language with respect to judicial stays on administrative suspensions of driving privileges; amending s. 334.044, F.S.; providing specific rule-making authority; repealing s. 334.044(15), F.S., relating to certain rule-making authority in Senate Bill 846; providing for application; amending chapter 96-423, Laws of Florida; authorizing the department to sell certain state property and directing the proceeds of the sale to the State Transportation Trust Fund; providing for transfer of funds; amending 206.46, F.S.; creating the Clean Fuel Florida Task Force; providing for appointment of members; providing for meetings and responsibilities; providing purpose; amending s. 320.06, F.S.; authorizing PRIDE to manufacture and distribute additional tags and decals; identification card; amending s. 73.0511, F.S.; providing requirements with respect to prelitigation; providing prelitigation notice to fee owners; providing for prelitigation offer to fee owners; repealing s. 337.27(2), F.S., which provides for the acquisition of lands and property; repealing s. 337.271, F.S., which provides for negotiations for acquisitions by the Department of Transportation; repealing s. 348.0008, F.S., which provides for the acquisition of lands and property in the Florida Expressway Authority Act; repealing s. 348.759(2), F.S., which provides for the acquisition of lands or property by the Orlando-Orange County Expressway Authority; repealing s. 348.957(2), F.S., which provides for the acquisition of lands or property by the Seminole County Expressway Authority; amending s. 253.82, F.S.; providing for all transportation easements acquired under the Murphy Act to be conveyed to the Department of Transportation or

the governmental entity currently having title to the adjacent roadway; requiring the establishment of a procedure for review of deeds containing transportation reservations acquired under the Murphy Act; setting requirements for the review process; providing compensation for certain property owners where the reservation denies current economic use of the property; providing for mediation or arbitration; amending ss. 712.04, 712.05, F.S.; providing for the release of certain easements held by governmental entities; providing for preservation of certain road easement reservations scheduled to begin within a specified period; providing legislative intent; providing a prohibition of towing under certain circumstances; amending s. 320.0715, F.S.; exempting certain commercial motor vehicles from the International Registration Plan; amending s. 373.4137, F.S.; requiring ongoing annual submissions to the Department of Environmental Protection and water management districts by the Department of Transportation of its adopted work program and inventory of impacted habitats; authorizing inclusion of habitat impacts of future transportation projects; providing activities associated with development of mitigation plans; requiring water management districts to consult with entities operating mitigation banks when developing mitigation plans; providing that a water management district's preliminary approval of a mitigation plan does not constitute a decision affecting substantial interests; requiring mitigation plans to include certain information; authorizing exclusion of certain projects from the environmental impact inventory; extending certain mitigation funding through fiscal year 2004-2005; authorizing amendment of annual mitigation plans for certain purposes; providing for uses of funds not directed to implement mitigation plans; deleting obsolete provisions relating to a report; amending s. 86 of ch. 93-213, Laws of Florida; deleting a scheduled repayment of funds previously appropriated for startup costs of the National Pollutant Discharge Elimination System program; creating s. 373.4139, F.S.; providing legislative findings and intent with respect to a mitigation plan for the Dade County Lake Belt Area to offset the impact of mining activities; imposing a fee on the commercial extraction of limerock and sand from the Dade County Lake Belt Area; requiring the proceeds of the mitigation fee to be paid to the Department of Revenue; providing for transfer of proceeds of the mitigation fee to the South Florida Water Management District and deposited into the Lake Belt Mitigation Trust Fund; providing for the Department of Revenue to administer the collection of the fee; authorizing the department to adopt rules; providing for an annual adjustment of the fee rate after a specified date; specifying purposes for which the proceeds of the mitigation fee may be used; requiring that expenditures be approved by an interagency committee; providing for membership of the committee; providing that payment of the fee satisfies certain requirements for mitigation; providing for suspension of imposition of the fee under certain circumstances; requiring the interagency committee to submit certain reports; amending s. 373.4149, F.S.; providing additional requirements for the Dade County Lake Belt Plan; extending the term of the Dade County Lake Belt Plan Implementation Committee; deleting a requirement that the Department of Environmental Protection develop a mitigation plan to offset loss of wetlands due to rock mining; excluding certain property from the Dade County Lake Belt Area; amending s. 373.421, F.S.; providing that certain delineations of wetlands shall be accepted as formal determinations or as part of a permit issued under Part IV of ch. 373, F.S.; providing for the adoption of rules; amending s. 373.139, F.S.; allowing the disbursement of certain district funds or assets in eminent domain proceedings under certain circumstances for a specified period; providing standing to sue for certain persons; providing a declaration that the Kissimmee River Project is in the public interest and for a public purpose; authorizing certain eminent domain proceedings; providing severability; establishing legislative intent relating to a review of marine vessel sales and protection of consumers; requiring the Florida Boating Advisory Council to conduct workshops and report results to the Legislature; providing for future repeal of workshop provisions; providing for the expenditure of certain funds for the construction of an interchange; amending s. 206.606, F.S.; revising the distribution of certain fuel tax proceeds; providing federal funding for an Orlando interchange project; providing effective dates.

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

Amendment 1A (with title amendment)—On page 29, line 2 through page 31, line 14, delete those lines

And the title is amended as follows:

On page 59, line 27 through page 60, line 1, delete those lines and insert: State Transportation Trust Fund; amending s. 206.46, F.S.; providing transfer of funds; amending s. 320.06, F.S.; authorizing

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

Amendment 1B (with title amendment)—On page 56, between lines 17 and 18, insert:

Section 55. Effective July 1, 1998, paragraph (d) is added to subsection (2) of section 20.18, Florida Statutes, and subsection (7) is added to said section, 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:

(d) *Bureau of Factory-built Housing.*

(7) *The Department of Community Affairs shall be the agency responsible for ensuring that there is adequate affordable housing in this state through the use of factory-built homes, that the federal code on mobile homes is strictly observed by manufacturers, and that the state code for manufactured buildings is an efficient method for providing manufactured buildings to residents of this state. The department shall also be the agency responsible for the installation of mobile homes and manufactured buildings to such an extent that residents of this state are as safe as possible.*

Section 56. *Effective July 1, 1998:*

(1) *All statutory powers, duties, functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the Bureau of Mobile Home and Recreational Vehicle Construction of the Department of Highway Safety and Motor Vehicles relating to regulation and administration of mobile homes, and all existing authority and actions of the bureau, including, but not limited to, all pending and completed actions on orders and rules, all enforcement matters, and delegations, interagency agreements, and contracts with federal, state, regional, and local governments and private entities relating to regulation and administration of mobile homes, are hereby transferred to the Bureau of Factory-built Housing of the Department of Community Affairs.*

(2) *The Department of Community Affairs and the Department of Highway Safety and Motor Vehicles shall have the authority to enter into interagency agreements with each other concerning any matter affected by the transfer of the Bureau of Mobile Home and Recreational Vehicle Construction to the Department of Community Affairs to promote the efficient and effective operation of both departments.*

Section 57. (1) *Effective July 1, 1998, the portion of the Mobile Home and Recreational Vehicle Protection Trust Fund created under s. 320.781, Florida Statutes, relating to mobile homes is transferred to the Operating Trust Fund of the Department of Community Affairs to be administered and managed by the Bureau of Factory-built Housing of the Department of Community Affairs pursuant to s. 553.433, Florida Statutes.*

(2) *Effective July 1, 1998, that portion of the Highway Safety Operating Trust Fund, created under s. 318.39, Florida Statutes, and into which fees and penalties relating to mobile home regulation, manufacture, licensure, and installation, are deposited, and all fees and penalties that are deposited into the General Revenue Fund, are transferred to the Operating Trust Fund of the Department of Community Affairs to be administered and managed by the Bureau of Factory-built Housing.*

Section 58. *Effective July 1, 1998, all statutory powers, duties, and functions of the Department of Highway Safety and Motor Vehicles relating to the regulation or licensing of mobile home manufacturers, dealers or installers, are transferred to the Bureau of Factory-built Housing of the Department of Community Affairs.*

Section 59. Subsection (2) of section 320.8235, Florida Statutes, is amended to read:

320.8235 Mobile homes and park trailers; tie-down requirements; ~~minimum~~ installation standards; injunctions; penalty.—

(2) *The Department of Community Affairs department shall promulgate rules and regulations setting forth ~~minimum~~ standards for the*

manufacture and of installation of manufactured housing installation systems, composed of anchors, buckles, straps, stabilizer plates, and piers or other requirements mandated by a manufacturer's installation manual. ~~anchors, tie-downs, over the roof ties, or other reliable methods of securing mobile homes or park trailers when over the roof ties are not suitable due to factors such as unreasonable cost, design of the mobile home or park trailer, or potential damage to the mobile home or park trailer. Such systems devices required under this section, when properly installed, shall insure a manufactured home remains secured to the ground when subjected to winds equal to or less than their HUD code design criteria and shall cause the mobile home or park trailer to resist wind overturning and sliding. In promulgating such~~ Such rules and regulations, the Department of Community Affairs may make such discriminations regarding mobile home or park trailer tie-down requirements shall be reasonably related to the as are reasonable when factors such as age, and windzone of the manufactured housing, location, and practicality of tying down a mobile home or park trailer are considered. The Department of Community Affairs shall also develop standards for installation and anchoring systems for park trailers. Fees and civil penalties collected by the Department of Community Affairs pursuant to s. 320.8325 shall be deposited into a trust fund for the use by the Department of Community Affairs for the testing of manufactured housing installation systems and their individual components to insure that such products being delivered to consumers in this state meet the wind design criteria adopted by the Department of Community Affairs.

Section 60. When mobile homeowners in a mobile home park obtain evaluations of the wind resistance of their mobile homes and make improvements in accordance thereto using funds from the General Appropriations Act pursuant to s. 627.0629, the applicable local, county, or municipal government may charge only one building permit or any other applicable fee or charge, not to exceed the usual permit fee or charge that would have applied to a single mobile homeowner, for the entire mobile home park in which such evaluations are being performed.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 64, line 9, after the semicolon (;) insert: amending s. 20.18, F.S.; creating the Bureau of Factory-built Housing in the Department of Community Affairs; providing powers and duties of the bureau; transferring certain powers, duties, and assets, of the Bureau of Mobile Home and Recreational Vehicle Construction of the Department of Highway Safety and Motor Vehicles to the Bureau of Factory-built Housing; authorizing interagency agreements; transferring certain portions of the Mobile Home and Recreational Vehicle Protection Trust Fund to the Operating Trust Fund of the Department of Community Affairs; transferring certain portions of the Highway Safety Operating Trust Fund and certain other fees and penalties to the Operating Trust Fund of the Department of Community Affairs; transferring certain statutory powers, duties, and functions of the Department of Highway Safety and Motor Vehicles to the Bureau of Factory-built Housing of the Department of Community Affairs; amending s. 320.8325, F.S.; providing for the adoption of rules relating to manufactured housing installation systems, and for the development of standards for park trailers; limiting the power of certain local governments to charge certain permit fees relating to mobile home parks;

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

Amendment 1C (with title amendment)—On page 56, between lines 17 and 18, insert:

Section 55. 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 56. 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 57. 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 58. 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 59. 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.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 64, line 9, after the semicolon (;) insert: 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 amend-

ments for port transportation facilities and projects from a time limitation; 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;

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

Amendment 1D (with title amendment)—On page 56, between lines 17 and 18, insert:

Section 55. *Funds provided in Specific Appropriation 1355A for a Vessel Tracking Information System for the Tampa Bay Area in the 1997-1998 General Appropriations Act which are unexpended on June 30, 1998, are reappropriated for fiscal year 1998-1999 to the Tampa Port Authority. The proviso language following Specific Appropriation 1355A shall be met before distribution of these reappropriated funds.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 64, line 9, after the semicolon (;) insert: providing for reappropriation to the Tampa Port Authority of specified funds appropriated for the 1997-1998 fiscal year;

THE PRESIDENT PRESIDING

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

Amendment 1E (with title amendment)—On page 31, line 31 through page 32, line 20, delete section 35 and redesignate subsequent sections.

And the title is amended as follows:

On page 60, lines 3-7, delete those lines and insert: tags and decals; identification card;

Senators Brown-Waite and Cowin offered the following amendment to **Amendment 1** which was moved by Senator Brown-Waite:

Amendment 1F (with title amendment)—On page 56, between lines 17 and 18, insert:

Section 55. Paragraphs (a) of subsection (4) of section 20.23, Florida Statutes, is amended to read:

20.23 Department of Transportation.—There is created a Department of Transportation which shall be a decentralized agency.

(4)(a) The operations of the department shall be organized into eight districts, including a turnpike district, each headed by a district secretary. The district secretaries shall report to the Assistant Secretary for District Operations. The headquarters of the districts shall be located in Polk, Columbia, Washington, Broward, Volusia, Dade, Hillsborough, and Leon Counties. The turnpike district must be relocated to *Sumter Orange* County in the year ~~2002~~ 2000. In order to provide for efficient operations and to expedite the decisionmaking process, the department shall provide for maximum decentralization to the districts. However, before making a decision to centralize or decentralize department operations or relocate the turnpike district, the department must first determine if the decision would be cost-effective and in the public's best interest. The department shall periodically evaluate such decisions to ensure that they are appropriate.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 64, line 9, after the semicolon (;) insert: amending s. 20.23, F.S.; revising provisions relating to the turnpike district;

Senators Brown-Waite and Cowin offered the following substitute amendment for **Amendment 1F** which was moved by Senator Brown-Waite and adopted:

Amendment 1G (with title amendment)—On page 56, between lines 17 and 18, insert:

Section 55. Paragraph (a) of section 20.23, Florida Statutes, is amended to read:

20.23 Department of Transportation.—There is created a Department of Transportation which shall be a decentralized agency.

(4)(a) The operations of the department shall be organized into eight districts, including a turnpike district, each headed by a district secretary. The district secretaries shall report to the Assistant Secretary for District Operations. The headquarters of the districts shall be located in Polk, Columbia, Washington, Broward, Volusia, Dade, Hillsborough, and Leon Counties. ~~The turnpike district must be relocated to Orange County in the year 2000. By June 30, 1999, the Office of Program Policy Analysis and Government Accountability shall present a recommendation to the Secretary of Transportation for the designation of a site for the relocation of the Turnpike District headquarters. Sumter County shall be considered as a possible site. Any such relocated headquarters facility shall be the most cost-effective and operationally efficient site and be in the best interest of the public and the state. By December 31, 1999, the department shall submit a plan to relocate the Turnpike District headquarters to the Governor, Senate and House Transportation Committees.~~ In order to provide for efficient operations and to expedite the decision-making process, the department shall provide for maximum decentralization to the districts. However, before making a decision to centralize or decentralize department operations ~~or relocate the turnpike district,~~ the department must first determine if the decision would be cost-effective and in the public's best interest. The department shall periodically evaluate such decisions to ensure that they are appropriate.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 64, line 9, after the semicolon (;) insert: amending s. 20.23, F.S.; revising provisions relating to the turnpike district;

Amendment 1 as amended was adopted.

On motion by Senator Hargrett, by two-thirds vote **HB 4765** 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	Kirkpatrick	Rossin
Bankhead	Dudley	Klein	Scott
Bronson	Dyer	Kurth	Silver
Brown-Waite	Forman	Latvala	Sullivan
Burt	Geller	Laurent	Thomas
Casas	Gutman	Lee	Turner
Childers	Hargrett	McKay	Williams
Clary	Harris	Meadows	
Cowin	Horne	Myers	
Crist	Jones	Ostalkiewicz	

Nays—2

Campbell	Grant
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On motion by Senator Gutman, by two-thirds vote **HB 3407** was withdrawn from the Committees on Education; and Ways and Means.

On motion by Senator Gutman—

HB 3407—A bill to be entitled An act relating to courses of study; amending s. 233.061, F.S.; including the study of Hispanic and Women's contributions to the United States in required public school instruction; providing an effective date.

—a companion measure, was substituted for **CS for SB 1142** and read the second time by title. On motion by Senator Gutman, by two-thirds vote **HB 3407** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

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

Nays—None

DISTRICT STAFF RECOGNITION

At the request of President Jennings, the Senate district staff was present in the chamber. The President, on behalf of the entire Senate, thanked the district staff for their support and hard work during the 1998 session.

RECOGNITION OF PRESIDENT AND PRESIDENT PRO TEMPORE

On behalf of the Senate, the President invited Senator Casas to the rostrum where he was presented a signed picture of the 1996-98 Senate. Senator Sullivan read a resolution honoring Senator Casas and presented him a gift on behalf of the Senate.

Senator Sullivan then read a resolution honoring President Jennings and presented her a gift on behalf of the Senate.

SPECIAL RECOGNITION

Senators Clary, Cowin, Klein and Lee, the freshman Senators elected in the 1996 General Election, and Senators Geller and Laurent, the freshman Senators elected in 1998 Special Elections, were granted permission to recognize Senator Fred Dudley as their chosen role model.

On motion by Senator Diaz-Balart, 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 1372, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 1372—A bill to be entitled An act relating to insurance; amending ss. 624.425, 624.428, 624.478, 626.112, F.S.; requiring agents to be appointed; amending s. 624.501, F.S.; clarifying application of fees for title insurance agents; amending s. 626.022, F.S.; providing for applicability of ch. 626, F.S.; amending s. 626.051, F.S.; revising the definition of the term "life agent"; prescribing requirements for soliciting or selling variable life insurance, variable annuity contracts, and other indeterminate value contracts; amending s. 626.062, F.S.; conforming a cross-reference; amending ss. 626.141, 626.171, 626.181, 626.211, 626.221, 626.266, 626.281, 626.311, 626.511, 626.521, 626.561, 626.611, 626.621, 626.641, 626.651, 626.727, 626.730, 626.732, 626.733, 626.877, F.S.; including customer representatives within and deleting claims investigators from application of certain provisions; excluding solicitors; authorizing the department to secure a credit and character report on certain persons; providing limits; providing requirements of the department; amending s. 626.451, F.S.; requiring law enforcement agencies, the state attorney's office, and court clerks to notify the department of agents found guilty of felonies; amending s. 626.201, F.S.; providing for interrogatories before reinstatement; amending s. 626.321, F.S.; authorizing certain entities that hold a limited license for credit life or disability insurance to sell credit property insurance; authorizing persons who hold a limited license for credit insurance to hold certain additional

licenses; amending s. 626.331, F.S.; requiring licensure of certain agents for certain appointments; providing that an appointment fee is not refundable; amending s. 626.342, F.S.; prohibiting furnishing supplies to certain agents; amending s. 626.541, F.S.; specifying names and addresses required of certain personnel of corporations; amending s. 626.592, F.S.; revising provisions relating to designation of primary agents; amending s. 626.601, F.S.; authorizing the department to initiate investigation of agents or other licensees under certain conditions; amending s. 626.681, F.S.; providing for administrative fines in addition to certain actions; increasing such fines; amending s. 626.691, F.S.; authorizing the department to place certain persons on probation in addition to suspending, revoking, or refusing to renew a license or appointment; creating s. 626.692, F.S.; providing for restitution under certain circumstances; amending s. 626.7351, F.S.; specifying additional qualifications for a customer representative's license; amending s. 626.739, F.S.; specifying a temporary license as general lines insurance agent; amending s. 626.741, F.S.; authorizing the department to issue a customer representative license to certain persons; providing a limitation; providing procedures for agent licensure of certain persons under certain circumstances; providing for cancellation of a nonresident agent's license; amending ss. 626.792, 626.835, F.S.; providing procedures for issuing a resident agent's license to certain persons; amending s. 626.837, F.S.; clarifying conditions of placing certain excess or rejected risks; amending s. 626.8411, F.S.; conforming a cross-reference; amending s. 626.8417, F.S.; revising the qualifications for licensure as a title insurance agent; amending s. 626.8418, F.S.; increasing the amount of the deposit or bond of a title insurance agency; specifying that the bond of a title insurance agency must be posted with the department and must inure to the benefit of damaged insurers and insureds; amending ss. 626.8437, 626.844, F.S.; clarifying application of grounds for refusal, suspension, or revocation of license or appointment; amending s. 626.8443, F.S.; providing additional limitations on activities during suspension or after revocation of a license; amending s. 626.852, F.S.; providing for applicability; amending s. 626.858, F.S.; revising the definition of the term "nonresident adjuster" to define "nonresident company employee adjuster"; creating s. 626.8582, F.S.; defining the term "nonresident public adjuster"; creating s. 626.8884, F.S.; defining the term "nonresident independent adjuster"; amending s. 626.865, F.S.; increasing the bonding requirements for public adjusters; amending s. 626.873, F.S.; providing for licensure and qualifications for resident company employee adjusters; creating s. 626.8732, F.S.; providing for licensure and qualifications for nonresident public adjusters; creating s. 626.8734, F.S.; providing for licensure and qualifications for nonresident independent adjusters; creating s. 626.8736, F.S.; providing for service of process on nonresident independent adjusters and on nonresident public adjusters; creating s. 626.8737, F.S.; establishing a retaliatory tax provision regarding certain fines, taxes, penalties, license fees, monetary deposits, securities, or other obligations, limitations, or prohibitions imposed by another state upon Florida resident insurance adjusters in connection with the issuance of, or activities under, a nonresident adjuster's license under that state's laws; creating s. 626.8738, F.S.; providing a criminal penalty for acting as a resident or nonresident public adjuster without the required license; amending s. 626.869, F.S.; requiring certain continuing education courses; clarifying requirements of such courses; amending s. 626.8695, F.S.; providing for notice to the department; requiring designation of primary adjuster on forms prescribed by the department; amending s. 626.872, F.S.; prohibiting the department from issuing a temporary adjuster's license to certain persons; amending s. 626.873, F.S.; providing procedures for licensing certain persons as resident adjusters; providing for cancellation of nonresident adjuster's license; amending s. 626.875, F.S.; prescribing time for keeping adjusters' records; amending s. 626.922, F.S.; requiring surplus lines agents to perform certain duties relating to evidence of insurance; amending s. 626.928, F.S.; increasing bonds for surplus lines agents; amending ss. 626.927, 626.9271, 626.929, 626.935, 626.944, F.S.; requiring appointment in addition to licensure of certain persons; amending s. 627.745, F.S.; clarifying a provision related to final examination; amending s. 634.420, F.S.; clarifying application of accountability provisions; amending s. 634.317, F.S.; providing for responsibility and accountability of sales representatives; amending s. 642.036, F.S.; deleting requirement that the addresses of certain agents be filed with the department; repealing s. 626.112(6), F.S., relating to licensing of claims investigators; amending s. 624.412, F.S.; deleting provisions relating to minimum trust deposits by alien insurers; amending s. 627.681, F.S.; prescribing terms for credit life insurance and credit disability insurance; repealing s. 626.532, F.S., relating to insurance vending machine licenses; repealing s. 626.857, F.S., relating to the definition of "claims investigator"; creating s. 624.4072, F.S.; exempting minority-owned

property and casualty insurers from prescribed taxes and assessments for specified period; specifying conditions; providing for future repeal; providing an effective date.

House Amendment 1 (with title amendment)—On page 76, between lines 13 and 14 of the bill insert:

Section 68. Effective upon this act becoming a law, subsection (2) of section 626.918, Florida Statutes, is amended to read:

626.918 Eligible surplus lines insurers.—

(2) No unauthorized insurer shall be or become an eligible surplus lines insurer unless made eligible by the department in accordance with the following conditions:

(a) Eligibility of the insurer must be requested in writing by a Florida-licensed surplus lines agent;

(b) The insurer must be currently an authorized insurer in the state or country of its domicile as to the kind or kinds of insurance proposed to be so placed and must have been such an insurer for not less than the 3 years next preceding or must be the wholly owned subsidiary of such authorized insurer or must be the wholly owned subsidiary of an already eligible surplus lines insurer as to the kind or kinds of insurance proposed for a period of not less than the 3 years next preceding. However, the department may waive the 3-year requirement if the insurer provides a product or service not readily available to the consumers of this state or has operated successfully for a period of at least 1 year next preceding and has capital and surplus of not less than \$25 million;

(c) Before granting eligibility, the requesting surplus lines agent or the insurer shall furnish the department with a duly authenticated copy of its current annual financial statement in the English language and with all monetary values therein expressed in United States dollars, at an exchange rate (in the case of statements originally made in the currencies of other countries) then-current and shown in the statement, and with such additional information relative to the insurer as the department may request;

(d)1. The insurer must have and maintain surplus as to policyholders of not less than \$15 million; in addition, an alien insurer must also have and maintain in the United States a trust fund for the protection of all its policyholders in the United States under terms deemed by the department to be reasonably adequate, in an amount not less than 5.4 million. Any such surplus as to policyholders or trust fund shall be represented by investments consisting of eligible investments for like funds of like domestic insurers under part II of chapter 625 provided, however, that in the case of an alien insurance company, any such surplus as to policyholders may be represented by investments permitted by the domestic regulator of such alien insurance company if such investments are substantially similar in terms of quality, liquidity, and security to eligible investments for like funds of like domestic insurers under part II of chapter 625;

2. For those surplus lines insurers that were eligible on January 1, 1994, and that maintained their eligibility thereafter, the required surplus as to policyholders shall be:

- a. On December 31, 1994, and until December 30, 1995, \$2.5 million.
- b. On December 31, 1995, and until December 30, 1996, \$3.5 million.
- c. On December 31, 1996, and until December 30, 1997, \$4.5 million.
- d. On December 31, 1997, and until December 30, 1998, \$5.5 million.
- e. On December 31, 1998, and until December 30, 1999, \$6.5 million.
- f. On December 31, 1999, and until December 30, 2000, \$8 million.
- g. On December 31, 2000, and until December 30, 2001, \$9.5 million.
- h. On December 31, 2001, and until December 30, 2002, \$11 million.
- i. On December 31, 2002, and until December 30, 2003, \$13 million.
- j. On December 31, 2003, and thereafter, \$15 million.

3. The capital and surplus requirements as set forth in subparagraph 2. do not apply in the case of an insurance exchange created by the laws of individual states, where the exchange maintains capital and surplus pursuant to the requirements of that state, or maintains capital and surplus in an amount not less than \$50 million in the aggregate. For an insurance exchange which maintains funds in the amount of at least \$12 million for the protection of all insurance exchange policyholders, each individual syndicate shall maintain minimum capital and surplus in an amount not less than \$3 million. If the insurance exchange does not maintain funds in the amount of at least \$12 million for the protection of all insurance exchange policyholders, each individual syndicate shall meet the minimum capital and surplus requirements set forth in subparagraph 2.;

4. A surplus lines insurer which is a member of an insurance holding company that includes a member which is a Florida domestic insurer as set forth in its holding company registration statement, as set forth in s. 628.801 and rules adopted promulgated thereunder, may elect to maintain surplus as to policyholders in an amount equal to the requirements of s. 624.408, subject to the requirement that the surplus lines insurer shall at all times be in compliance with the requirements of chapter 625.

The election shall be submitted to the department and shall be effective upon the department's being satisfied that the requirements of subparagraph 4. ~~this sub-subparagraph~~ have been met. The initial date of election shall be the date of department approval. The election approval application shall be on a form adopted by department rule. *The department may approve an election form submitted pursuant to subparagraph 4. only if it was on file with the department before February 28, 1998;*

(e) The insurer must be of good reputation as to the providing of service to its policyholders and the payment of losses and claims;

(f) The insurer must be eligible, as for authority to transact insurance in this state, under s. 624.404(3); and

(g) This subsection does not apply as to unauthorized insurers made eligible under s. 626.917 as to wet marine and aviation risks.

And the title is amended as follows:

On page 5, line 11 after the semicolon (;) insert: amending s. 626.918, F.S.; allowing the department to approve a surplus lines insurer's election of alternative surplus requirements only if the election was filed before a specified date;

House Amendment 2 (with title amendment)—On page 87, between lines 3 and 4, insert:

Section 81. Section 624.123, Florida Statutes, is created to read:

624.123 Certain international health insurance policies; exemption from code.—

(1) International health insurance policies and applications may be solicited and sold in this state at any international airport to a resident of a foreign country. Such international health insurance policies shall be solicited and sold only by a licensed health insurance agent and unwritten only by an admitted insurer. For purposes of this subsection:

(a) "International airport" means any airport in Florida with U. S. Customs service, which enplanes more than 1 million passengers per year.

(b) "International health insurance policy" means health insurance, as defined in s. 627.6561(5)(a)2., which is offered to an individual, covering only a resident of a foreign country on an annual basis.

(c) "Resident of a foreign country" does not include any United States citizen, any natural person maintaining his or her residence in this country, or any natural person staying in this state continuously for more than 120 days.

(2) Any international health insurance policy sold, and any application provided, to residents of foreign countries pursuant to this subsection shall contain the following conspicuous, boldfaced disclaimer in at least 12 point type: "This individual health insurance policy may be sold only to a person not a resident of the United States. This policy does not comply with coverage, underwriting, and other provisions of the Florida Insur-

ance Code, and must comply with coverage, underwriting, and other insurance regulatory provisions of your country of residence."

(3) Any insurer underwriting international health insurance policies pursuant to this subsection is subject to all applicable provisions of the Insurance Code, except as otherwise provided in this subsection. International health insurance policies are not subject to any form approval, rate approval, underwriting restrictions, guaranteed availability, or coverage mandates provided in the Insurance Code. Health insurance agents who are licensed and appointed pursuant to chapter 626 may solicit, sell, effect, collect premium on, and deliver international health insurance policies in accordance with this section. Solicitation or sale of an international health insurance policy to a U. S. citizen or to a natural person not a resident of a foreign country is a willful violation of the provisions of s. 626.611.

(4) Any international health insurance policy or application solicited, provided, entered into, issued, or delivered pursuant to this subsection is exempt from all provisions of the Insurance Code, except that such policy, contract, or agreement is subject to the provisions of ss. 624.155, 624.316, 624.3161, 626.951, 626.9511, 626.9521, 626.9541, 626.9551, 626.9561, 626.9571, 626.9581, 626.9591, 626.9601, 627.413, 627.4145, 627.428, and 627.6043.

And the title is amended as follows:

On page 6, line 11, after the semicolon (;) insert: creating s. 624.123, F.S.; providing definitions; authorizing licensed agents to sell international health insurance policies to residents of foreign countries at international airports; requiring a specified disclaimer; providing exemptions from regulation under the Insurance Code; specifying applicable provisions;

House Amendment 3 (with title amendment)—On page 87, lines 17 and 18 of the bill remove from the bill: all of said lines and insert in lieu thereof:

Section 83. Section 627.192, Florida Statutes, is created to read:

627.192 Workers' compensation insurance; employee leasing arrangements.—

(1) The purpose of this section is to ensure that an employer who leases some or all of its workers properly obtains workers' compensation insurance coverage for all of its employees, including those leased from or coemployed with another entity, and that premium paid by an employee leasing company is commensurate with exposure and anticipated claim experience for all employees.

(2) For purposes of the Florida Insurance Code:

(a) "Employee leasing" shall have the same meaning as set forth in s. 468.520(4).

(b) "Experience rating modification" means a factor applied to a premium to reflect a risk's variation from the average risk. The experience modification is determined by comparing actual losses to expected losses, using the risk's own past experience.

(c) "Leased employee" means a person performing services for a lessee under an employee leasing arrangement.

(d) "Lessee" means an entity which obtains all or part of its workforce from another entity through an employee leasing arrangement or which employs the services of an entity through an employee leasing arrangement.

(e) "Lessor" means an employee leasing company, as set forth in part XI of chapter 468, engaged in the business of or holding itself out as being in the business of employee leasing. A lessor may also be referred to as an employee leasing company.

(f) "Premium subject to dispute" means that the insured has provided a written notice of dispute to the insurer or service carrier, has initiated any applicable proceeding for resolving such disputes as prescribed by law or rating organization procedures approved by the department, or has initiated litigation regarding the premium dispute. The insured must have detailed the specific areas of dispute and provided an estimate of the premium the insured believes to be correct. The insured must have paid any undisputed portion of the bill.

(3) A lessor that obtains coverage in the voluntary workers' compensation market may elect, with the voluntary market insurer's knowledge and consent, to secure the coverage on leased employees through a workers' compensation policy issued to the lessor. The insurer of the lessor may, in its discretion, take all reasonable steps to ascertain exposure under the policy and collect the appropriate premium by:

(a) Requiring the lessor to provide a complete description of lessor's operations.

(b) Requiring periodic reporting by the lessor of covered lessees' payroll, classifications, claims information, loss data, and jurisdictions with exposure. This reporting may be supplemented by a requirement for lessees to submit to the carrier Internal Revenue Service Form 941 or its equivalent on a quarterly basis.

(c) Auditing the lessor's operations.

(d) Using other reasonable measures to determine the appropriate premium.

(4) A lessor that applies for coverage or is covered through the voluntary market shall also maintain and furnish to the insurer on an annual basis, and as the insurer may otherwise reasonably require, sufficient information to permit the calculation of an experience modification factor for each lessee upon termination of the employee leasing relationship. Information accruing during the term of the leasing arrangement which is used to calculate an experience modification factor for a lessee upon termination of the leasing relationship shall continue to be used in the future experience ratings of the lessor. Such information shall include:

(a) The lessee's corporate name.

(b) The lessee's taxpayer or employer identification number.

(c) Payroll summaries and class codes applicable to each lessee, and, if requested by the insurer, a listing of all leased employees associated with a given lessee.

(d) Claims information grouped by lessee, and any other information maintained by or readily available to the lessor that is necessary for the calculation of an experience modification factor for each lessee.

(5) In addition to any other provision of law, any material violation of this section by an employee leasing company is grounds for cancellation or nonrenewal of the lessor's insurance policy provided that the employee leasing company has been provided a reasonable opportunity to cure the violation. If an employee leasing company has received notice that its workers' compensation insurance policy will be canceled or nonrenewed, the leasing company shall notify by certified mail, within 15 days after receipt of the notice, all of the lessees for which there is an employee leasing arrangement covered under the policy to be canceled, except notice is not required if the employee leasing company has obtained another insurance policy with an effective date that is the same as the date of cancellation or nonrenewal.

(6) If the employee leasing arrangement with a lessee is terminated, the lessee shall be assigned an experience modification factor which reflects its experience during the experience period specified by the approved experience rating plan, including, if applicable, experience incurred for leased employees under the employee leasing arrangements. The employee leasing company shall notify the insurer of its intent to terminate any lessee relationship prior to termination when feasible. When prior notice is not feasible, the employee leasing company shall notify its insurer within 5 working days following actual termination.

(7) This section shall not have any effect on the statutory obligation, if any, of a lessee to secure workers' compensation coverage for employees that the lessee does not coemploy or lease pursuant to an employee leasing arrangement.

(8) A lessee shall not enter into an employee leasing relationship or be eligible for workers' compensation coverage in the voluntary market if the lessee owes its current or a prior insurer any premium for workers' compensation insurance, or if the lessee owes its current or prior employee leasing company amounts due under the service agreement, except for premium or amounts due that are subject to dispute. For the purposes of this section and compliance with other laws and regulations, a lessor may rely on a sworn statement by the lessee that the lessee has met any and

all prior premium or fee obligations, unless the lessor has actual knowledge to the contrary.

(9) Insurers shall conduct annual audits of payroll and classifications of employee leasing companies in order to ensure that the appropriate premium is charged for workers' compensation coverage. The audits shall be conducted to ensure that all sources of payment by lessors to employees, subcontractors, and independent contractors have been reviewed and the accuracy of classifications of employees have been verified. Insurers may provide for more frequent audits of lessors based on such factors as amount of premium, type of business, loss ratios, or other relevant factors. Payroll and classification verification audit rules of insurers must include, but need not be limited to, use by the insurer of state and federal reports of employee income, payroll and other accounting records, certificates of insurance maintained by subcontractors, and duties of employees.

(10) If a lessor or a lessee fails to provide reasonable access to payroll and classification records for a payroll and classification audit, the insured shall pay a premium to the insurer not to exceed three times the most recent estimated annual premium. However, the lessor is not subject to such penalty if the failure to obtain the needed records is the direct result of the acts or omissions of the lessee.

(11) This section shall take effect July 1, 1998, and shall apply to any workers' compensation insurance policy issued to or renewed with an employee leasing company on or after October 1, 1998.

Section 84. Except as otherwise provided herein, this act shall take effect October 1, 1998.

And the title is amended as follows:

On page 6, line 11 remove from the title of the bill: all of said line and insert in lieu thereof: repeal; creating s. 627.192, F.S.; providing purposes; providing definitions; authorizing certain lessors to secure workers' compensation insurance coverage on leased employees under certain circumstances; providing procedures; requiring such lessors to provide certain information to insurers for certain purposes; providing for cancellation or nonrenewal of such insurance under certain circumstances; providing for notice; providing an exception; providing for assigning an experience modification factor to lessees under a terminated employee leasing arrangement; requiring notice; providing application; prohibiting lessees from entering into employee leasing relationships or from being eligible for certain workers' compensation coverage under certain circumstances; requiring insurers to conduct audits of employee leasing companies for certain purposes; specifying procedures; requiring the insured to pay additional premiums if the lessor or lessee fails to provide certain audit access; providing an exception; providing application; providing effective dates.

House Amendment 4—On page 86, lines 18-27 remove from the bill: all of said lines and insert in lieu thereof:

(2) Subsection (1) applies only to personal lines and commercial lines residential property insurance policies as defined in s. 627.4025, and applies only to an insurer that has employees in this state and has a home office or a regional office in this state. With respect to any tax year or assessment year, the exemptions provided by subsection (1) apply only if during the year an average of at least 10 percent of the insurer's Florida residential property policies in force covered properties located in enterprise zones designated pursuant to s. 290.0065.

House Amendment 5 (with title amendment)—On page 87, between lines 14 and 15 of the bill insert:

Section 82. 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 refiled 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 refilled 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 a qualified entity. The commission is authorized to select and contract with a 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 a 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 a qualified entity, such entity 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 a 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 83. There is hereby appropriated \$200,000 from the Special Disability Trust Fund to the Special Disability Trust Fund Privatization Commission to implement this act.

And the title is amended as follows:

On page 6, line 10 after the semicolon (;) insert: 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 a 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;

House Amendment 6 (with title amendment)—On page 87, between lines 14 and 15 of the bill insert:

Section 82. Paragraph (e) of subsection (4) of section 215.555, Florida Statutes, is amended to read:

215.555 Florida Hurricane Catastrophe Fund.—

(4) REIMBURSEMENT CONTRACTS.—

(e)1. Except as provided in subparagraphs 2. and 3., the contract shall provide that if an insurer demonstrates to the board that it is likely to qualify for reimbursement under the contract, and demonstrates to the board that the immediate receipt of moneys from the board is likely to prevent the insurer from becoming insolvent, the board shall advance the insurer, at market interest rates, the amounts necessary to maintain the solvency of the insurer, up to 50 percent of the board's estimate of the reimbursement due the insurer. The insurer's reimbursement shall be reduced by an amount equal to the amount of the loan and interest thereon.

2. With respect only to an entity created under s. 627.351, the contract shall also provide that the board may, upon application by such entity, advance to such entity, at market interest rates, up to 90 percent of the lesser of:

a. The board's estimate of the amount of reimbursement due to such entity; or

b. The entity's share of the actual reimbursement premium paid for that contract year, multiplied by the currently available liquid assets of the fund. In order for the entity to qualify for an advance under this subparagraph, the entity must demonstrate to the board that the advance is essential to allow the entity to pay claims for a covered event and the board must determine that the fund's assets are sufficient and are sufficiently liquid to allow the board to make an advance to the entity and still fulfill the board's reimbursement obligations to other insurers. The entity's final reimbursement for any contract year in which an advance has been made under this subparagraph must be reduced by an amount equal to the amount of the advance and any interest on such advance. In order to determine what amounts, if any, are due the entity, the board may require the entity to report its exposure and its losses at any time to determine retention levels and reimbursements payable.

3. The contract shall also provide specifically and solely with respect to any limited apportionment company under s. 627.351(2)(b)3. that the board may, upon application by such company, advance to such company the amount of the estimated reimbursement payable to such company as calculated pursuant to paragraph (d), ~~up to the lesser of:~~

a. ~~Ninety percent of the board's estimate of the reimbursement due to such company, or~~

b. ~~Ninety percent of the company's share of the total fund premiums applied to the board's currently available liquid assets,~~

~~at market rates, if the company demonstrates to the board that the immediate receipt of such moneys is essential to permit it to pay claims for a covered event and if the board determines that the fund's assets are sufficient and are sufficiently liquid to permit the board to make an advance to such company and at the same time fulfill its reimbursement obligations to the insurers that are participants in the fund. Such company's final reimbursement for any contract year in which an advance pursuant to this subparagraph has been made shall be reduced by an amount equal to the amount of the advance and interest thereon. In order to determine what amounts, if any, are due to such company, the board may require such company to report its exposure and its losses at such times as may be required to determine retention levels and loss reimbursements payable.~~

Section 83. Paragraph (f) of subsection (2) of section 624.316, Florida Statutes, is amended to read:

624.316 Examination of insurers.—

(2)

(f)1.a. An examination under this section must be conducted at least once every year with respect to a domestic insurer that has continuously held a certificate of authority for less than 3 years. The examination must cover the preceding fiscal year or the period since the last examination of the insurer. The department may limit the scope of the examination ~~if the insurer has demonstrated sufficient compliance as determined under subparagraph 3.~~

b. The department may not accept an independent certified public accountant's audit report in lieu of an examination required by this subparagraph.

c. An insurer may not be required to pay more than \$25,000 to cover the costs of any one examination under this subparagraph.

2. An examination under this section must be conducted not less frequently than once every 5 years with respect to an insurer that has continuously held a certificate of authority, without a change in ownership subject to s. 624.4245 or s. 628.461, for more than 15 years ~~and has demonstrated sufficient compliance as determined under subparagraph 3.~~ The examination must cover the preceding 5 fiscal years of the insurer or the period since the last examination of the insurer. This subparagraph does not limit the ability of the department to conduct more frequent examinations.

3. ~~The department must, by rule, adopt procedures and criteria for determining if an insurer has demonstrated sufficient compliance with this code and cooperation with the department. The rules must include~~

consideration of such factors as financial strength, timeliness, consumer service, economic and community contributions and support, responsiveness to department requests, and any other relevant factors. The department must annually publish and disseminate a listing of those insurers found to demonstrate sufficient compliance under the rules, including special recognition for community contributions and support.

Section 84. Subsection (4) is added to section 624.426, Florida Statutes, to read:

624.426 Exceptions to resident agent and countersignature law.— Section 624.425 does not apply to:

(4) Policies of insurance issued by insurers whose agents represent only one company or group of companies under common ownership if a company within one group is transferring policies to another company within the same group and the agent of record remains the same.

Section 85. Subsections (1)-(12) of section 624.610, Florida Statutes, are renumbered as subsections (2)-(13) of said section, respectively, new subsection (1) is added to said section, and renumbered subsection (2) of said section is amended, to read:

624.610 Reinsurance.—

(1) The purpose of this section is to protect the interests of insureds, claimants, ceding insurers, assuming insurers, and the public. It is the intent of the Legislature to ensure adequate regulation of insurers and reinsurers and adequate protection for those to whom they owe obligations. In furtherance of that state interest, the Legislature requires that upon the insolvency of a non-United States insurer or reinsurer which provides security to fund its United States obligations in accordance with this section, such security shall be maintained in the United States and claims shall be filed with and valued by the State Insurance Commissioner with regulatory oversight, and the assets shall be distributed in accordance with the insurance laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic United States insurance companies. The Legislature declares that the matters contained in this section are fundamental to the business of insurance in accordance with 15 U.S.C. ss. 1011-1012.

(3)(2)

(b) Credit in accounting and financial statements on account of reinsurance ceded to a nonapproved reinsurer may be allowed only:

1. When it is demonstrated by the ceding insurer to the satisfaction of the department that such reinsurer maintains the standards and meets the financial requirements applicable to an authorized insurer;

2. To the extent of deposits by, or funds withheld from, such reinsurer pursuant to express provision therefor in the reinsurance contract as security for the payment of the obligations thereunder if such deposits or funds are held subject to withdrawal by, and under the control of, the ceding insurer or such deposits or funds are placed in trust for such purposes in a bank which is a member of the Federal Reserve System if withdrawals from the trust cannot be made without the consent of the ceding insurer. The funds withheld may be cash or securities which are qualified as admitted assets under part II of chapter 625 and which have a market value equal to or greater than the credit taken; or

3. To the extent that the amount of a clean, unconditional, evergreen, and irrevocable letter of credit, issued for a term of not less than 1 year and in conformity with the requirements set forth in this subparagraph, equals or exceeds the liability of an unauthorized or unapproved reinsurer for unearned premiums, outstanding losses, and an adequate reserve for incurred but not reported losses under a specific reinsurance agreement. The requirements are that such a clean and irrevocable letter of credit be issued under arrangements satisfactory to the department as constituting security to the ceding insurer substantially equal to that of a deposit under subparagraph 2. and that the letter be issued by a banking institution which is a member of the Federal Reserve System and which has financial standing satisfactory to the commissioner. The department may adopt rules requiring that the letter adhere in its wording to a format for letters of credit as the format has been or may be adopted or approved by the National Association of Insurance Commissioners.

4. When the reinsurance is ceded to a reinsurer which maintains a trust fund, in a bank or trust company that is subject to supervision by

any state of the United States or that is a member of the Federal Reserve System, for the payment of the valid claims for business written in the United States. The trust shall consist of a trusteed account in an amount not less than the reinsurer's liabilities attributable to reinsurance by ceding insurers for business written in the United States and, in addition, the reinsurer shall maintain a trusteed surplus of not less than \$20 million. Such trust shall be established in a form approved, and any amendments to the trust approved, by the insurance commissioner where the trust is domiciled, or the insurance commissioner of another state who, pursuant to the terms of the trust agreement, has accepted principal regulatory oversight of the trust. The trust shall remain in effect for as long as the reinsurer has outstanding obligations due under the reinsurance agreements subject to the trust. The trust assets must be in cash or securities which are qualified as admitted assets under part II of chapter 625 and which have a market value of the required liabilities and trusteed surplus. The reinsurer shall report quarterly to the insurance commissioner information substantially the same as that required to be reported on the National Association of Insurance Commissioners Annual Statement form by licensed insurers to enable the insurance commissioner to determine the sufficiency of the trust fund. The trust and the reinsurer shall be subject to examination as determined by the commissioner.

5. The credit permitted by subparagraph (a)4. and the credit permitted by subparagraph (b)2. shall not be allowed unless the assuming insurer in substance agrees in the trust agreement to the following conditions:

a. Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because it contains an amount less than the amount required by the department or, if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation, or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the ~~commissioner superintendent~~ with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the ~~commissioner superintendent~~ with regulatory oversight all of the assets of United States trust beneficiaries.

b. The assets shall be distributed by, and claims of United States trust beneficiaries shall be filed with and valued by, the ~~commissioner superintendent~~ with regulatory oversight in accordance with the laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic insurance companies.

c. If the ~~commissioner superintendent~~ with regulatory oversight determines that the assets of the trust fund or any part thereof are not necessary to satisfy the claims for business written in the United States, the assets or any part thereof shall be returned by the ~~commissioner superintendent~~ with regulatory oversight to the trustee for distribution in accordance with the trust agreement.

d. The grantor shall waive any right otherwise available to it under United States law that is inconsistent with this provision.

(c) For the purposes of this subsection only, the term "ceding insurer" shall include any health maintenance organization operating under a certificate of authority issued under part I of chapter 641.

Section 86. Paragraph (a) of subsection (2) of section 627.7275, Florida Statutes, is amended to read:

627.7275 Motor vehicle property damage liability.—

(2)(a) Insurers writing motor vehicle insurance in this state shall make available, subject to the insurers' usual underwriting restrictions, coverage under policies as described in subsection (1) of this section to any applicant for private passenger motor vehicle insurance coverage who is seeking the coverage in order to reinstate the applicant's driving privileges in this state when the driving privileges were revoked or suspended pursuant to s. 316.646 or s. 627.733 due to the failure of the applicant to maintain required security. The policy shall be issued for a period of at least 6 months and as to the minimum coverages required under this section shall not be cancelable by the insured for any reason or by the insurer after a period not to exceed 30 days during which the insurer must complete underwriting of the policy. After the insurer has completed underwriting the policy within the 30-day period, the insurer shall notify the Department of Highway Safety and Motor Vehicles that the policy is in full force and effect and the policy shall not be cancelable

for the remainder of the policy period. A premium shall be collected and coverage shall be in effect for the 30-day period during which the insurer is completing the underwriting of the policy whether or not the person's driver license, motor vehicle tag, and motor vehicle registration are in effect. Once the noncancelable provisions of the policy become effective, the coverage or risk shall not be changed during the policy period and the premium shall be *nonrefundable fully-earned*. If, during the pendency of the 2-year proof of insurance period required under s. 627.733(7), the insured obtains additional coverage or coverage for an additional risk *or changes territories, the insured then she or he* must obtain a new 6-month noncancelable policy in accordance with the provisions of this section. *However, if the insured must obtain a new 6-month policy and obtains the policy from the same insurer, the policyholder shall receive credit on the new policy for any premium paid on the previously issued policy.*

Section 87. Subsections (1) and (2) of section 627.9126, Florida Statutes, are amended to read:

627.9126 Annual reports of information by liability insurers required.—

(1) Each insurer transacting commercial multiperil, products liability, commercial automobile liability, private passenger automobile liability, or other line of liability insurance shall maintain information as specified in this section. Such information shall be maintained for each line of insurance and for direct Florida business only. The department *may* ~~shall annually~~ conduct a sampling of claims or actions for damages for personal injury or property damage claimed to have been caused by error, omission, or negligence of insureds 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.
- (2) Upon request of the department, an insurer shall, within 60 days, submit to the department a report *that which* contains:
- (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.

Section 88. Section 627.913, Florida Statutes, is amended to read:

627.913 Reports of information by products liability insurers required.—

~~(1)~~ *The department may require any insurer authorized to write a policy of products liability insurance in the state to shall* transmit the following information, based on its statewide products liability insurance writings. *Upon the request of, to the department, an each year in the annual report of such insurer shall, within 60 days, submit to the department a report that contains:*

- ~~(1)(a)~~ Premiums written;
- ~~(2)(b)~~ Premiums earned;
- ~~(3)(c)~~ Unearned premiums;
- ~~(4)(d)~~ The dollar amount of claims paid;
- ~~(5)(e)~~ Incurred claims, not including claims incurred but not reported;
- ~~(6)(f)~~ Claims closed without payment, and the amount reserved for such claims;
- ~~(7)(g)~~ Loss reserves for all claims except claims incurred but not reported;
- ~~(8)(h)~~ Reserves for claims incurred but not reported;
- ~~(9)(i)~~ Losses paid as a percentage of the amount reserved for such losses;

~~(10)(j)~~ Net investment gain or loss and other income gain or loss allocated to products liability lines according to the allocation formula used in the annual insurance expense exhibit;

~~(11)(k)~~ Underwriting income or loss;

~~(12)(l)~~ Actual expenses in detail, including, but not limited to, loss adjustment expense; commissions; general expense; and advertising, home office, and defense costs;

~~(13)(m)~~ Claims settled after a suit was filed;

~~(14)(n)~~ Claims paid based on a judgment; and

~~(15)(o)~~ Judgments appealed by the insurer, together with the total results of such appeals.

~~(2) The department shall provide a summary of information provided pursuant to subsection (1) in its annual report.~~

~~(3) In the first year that an insurer makes a report pursuant to subsection (1), the insurer shall provide only the information required by paragraphs (a) through (l) of subsection (1) and shall provide such information for the current year and the 3 previous years.~~

Section 89. *Section 624.22, Florida Statutes, is repealed.*

And the title is amended as follows:

On page 6, line 10 after the semicolon (;) insert: amending s. 215.555, F.S.; revising the method of reimbursement to insurers under the Florida Hurricane Catastrophe Fund; amending s. 624.316, F.S.; deleting certain rulemaking authority of the Department of Insurance relating to insurer compliance; amending s. 624.426, F.S.; providing that certain transferred policies are exempt from the resident agent and countersignature law; amending s. 624.610, F.S.; specifying purposes of regulation of reinsurance; correcting cross references; amending s. 627.7275, F.S.; modifying coverage requirements and premiums relating to motor vehicle property damage liability; amending s. 627.9126, F.S.; authorizing the Department of Insurance to sample claims or actions for damages; amending s. 627.913, F.S.; revising requirements for annual reports by products liability insurers; repealing s. 624.22, F.S., relating to purposes of regulation of reinsurance;

On motion by Senator Diaz-Balart, the Senate concurred in the House amendments.

CS for SB 1372 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—36

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

Nays—None

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed SB 1292, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 1292—A bill to be entitled An act relating to controlled substances; amending s. 893.12, F.S.; deleting the requirement that a copy of the record of the destruction of seized controlled substances be sent to the Drug Enforcement Administration; amending s. 893.138, F.S.; increasing the maximum cumulative fine that may be levied against properties

designated public nuisances for drug-related activity or other offenses; providing an effective date.

House Amendment 1 (with title amendment)—On page 3, between lines 7 and 8, of the bill insert:

Section 3. *The Department of Health is hereby directed to contract with South Florida Substance Abuse, Inc., in the amount of \$400,000 during fiscal year 1998-1999, to provide HIV/AIDS and methadone treatment to clients served by such facility. For the purposes of this section, the sum of \$400,000 is hereby appropriated from the General Revenue Fund to the Department of Health in fiscal year 1998-1999.*

And the title is amended as follows:

On page 1, line 10, after the semicolon (;) insert: requiring the Department of Health to contract with South Florida Substance Abuse, Inc., to provide certain treatment to clients served by such facility and providing an appropriation therefor;

On motion by Senator Gutman, the Senate concurred in the House amendment.

SB 1292 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	Dudley	Kirkpatrick	Rossin
Bronson	Dyer	Klein	Scott
Brown-Waite	Forman	Kurth	Silver
Burt	Geller	Latvala	Sullivan
Campbell	Grant	Laurent	Thomas
Casas	Gutman	Lee	Turner
Childers	Hargrett	McKay	Williams
Clary	Harris	Meadows	
Cowin	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 1114, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 1114—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 non-profit 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.

House Amendment 1 (with title amendment)—On page 6, line 10 through page 65, line 13, remove from the bill: all of said lines and insert in lieu thereof:

Section 1. Present subsection (4) of section 414.026, Florida Statutes, is redesignated as subsection (6) and amended, and new subsection (4) is 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)(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. The local coalition's transition plan shall provide for the utilization of space leased by the Department of Labor and Employment Security for WAGES service functions. By October 1, 1998, the coalition may have negotiated and entered into new lease agreements or subleased for said space from the Department of Labor and Employment Security. In the event the coalition does not utilize the Department of Labor and Employment Security leased space, the Department of Labor and Employment Security shall not be obligated to pay under any lease agreement for WAGES services entered into by the Department since July 1, 1996.

(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. Section 414.030, Florida Statutes, is created to read:

414.030 WAGES Program Employment Projects.—

(1) The Legislature finds that the success of the WAGES Program depends upon the existence of sufficient employment opportunities compatible with the education and skill levels of participants in the WAGES Program. The Legislature further finds that extraordinary assistance may need to be granted for certain economic development projects that can have a great impact on the employment of WAGES participants. It is the intent of the Legislature to authorize the Governor and local governments to marshal state and local resources in a coordinated and timely manner to foster the development and completion of economic development projects that have been identified as having a great impact on the employment of WAGES participants.

(2) By August 1 of each year, each local WAGES coalition, in consultation with city and county economic development organizations, shall identify economic development projects that can have the greatest impact on employing WAGES participants in their areas. Each local WAGES coalition shall provide a prioritized list of no more than 5 such projects to the state WAGES board by August 1 of each year. The coalitions shall identify local resources that are available to foster the development and completion of each project.

(3)(a) By September 1 of each year, the state WAGES board, in consultation with Enterprise Florida, Inc., shall review and prioritize the list of projects identified pursuant to subsection (2) using the following criteria:

1. The project is located in an area with a large number of hardship extensions requiring a third year in the program in order to get job placement;

2. The project is located in an area with high unemployment in the major categories of jobs where WAGES participants are normally placed; and

3. The local WAGES coalition has demonstrated diligent efforts to place WAGES participants in jobs through a variety of programs; including job placement programs, partnership programs with private businesses, and full utilization of available resources; and

4. The local WAGES coalition has identified a number of local, regional, or federal resources that could be used to match any state resources used to foster the development or completion of the project.

(b) To the greatest extent possible, the state WAGES board shall foster the development or completion of the projects identified pursuant to paragraph (a) using existing state and local resources under the control of the state WAGES board and local WAGES coalition. To the extent that such projects cannot be developed or completed from resources available to the state WAGES board or local WAGES coalitions, the board may identify and prioritize no more than 10 projects, of which no more than 3 may be located in Dade County, that need extraordinary state and local assistance. The state WAGES board shall provide the list of projects needing extraordinary assistance to the Governor and each WAGES Program Employment Project Coordinator designated pursuant to subsection (4) by September 1 of each year.

(4)(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, and 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., Institute of Food and Agricultural Science, the State Board of Community Colleges, the Division of Workforce Development of the Department of Education, State University System, and the Office of Planning and Budgeting shall select from within such organizations a person to be designated as the WAGES Program Employment Project Coordinator.

(b) By October 1 of each year, each WAGES Program Employment Project Coordinator shall determine what resources are available at the organization to foster the development and completion of the economic development projects received pursuant to subsection (3). Each coordinator shall provide this determination to the Governor by October 1 of each year.

(5)(a) By October 15 of each year, the Governor may, by executive order, designate these projects as WAGES Program Employment Projects, and direct the agencies to use the resources identified pursuant to subsection (4) to develop or complete such projects. The order shall direct such agencies to contract with the appropriate local WAGES coalition to develop or complete such projects.

(b) Notwithstanding the eligibility provisions of s. 403.973, the Governor may waive such eligibility requirements by executive order for projects that have been identified as needing expedited permitting.

(c) To the extent that resources identified pursuant to subsection (4) have been appropriated by the Legislature for a specific purpose that does not allow for the expenditure of such resources on the projects, the Governor may use the budget amendment process in chapter 216 to request that these resources be released to the Governor's Office to accomplish the development or completion of the project.

(d) Any executive order issued by the Governor pursuant to this section shall expire within 90 days, unless renewed for an additional 60 days by the Governor. However, no executive order may be issued by the Governor pursuant to this section for a period in excess of 150 days.

(6) Each local WAGES coalition with jurisdiction over an area where a WAGES Program Employment Project has been designated by the Governor pursuant to subsection (5) shall enter into a contract with the appropriate local, state, or private entities to ensure that the project is developed and completed. Such contracts may include, but are not limited to, contracts with applicable state agencies, and businesses to provide training, education, and employment opportunities for WAGES participants.

(7) By March 15 of each year, the state WAGES board 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 that includes, but is not limited to, a description of the activities, expenditures, and projects undertaken pursuant to this section, and a description of what, if any, legislative action that may be necessary.

(8)(a) The Auditor General may, pursuant to his or her own authority or at the direction of the Legislature, conduct a financial audit of the expenditure of resources pursuant to this section.

(b) Prior to the 2000 Regular Session of the Legislature, the Office of Program Policy Analysis and Government Accountability, shall conduct a review of the projects developed or completed pursuant to this section. The review shall be comprehensive in its scope, but, at a minimum, must be conducted in a manner as to specifically determine:

1. The impact the provisions contained in this section had on the development and completion of the projects identified pursuant to this section.

2. Whether it would be sound public policy to continue or discontinue to foster the development or completion of projects using the processes provided in this section. The report shall be submitted by January 1, 2000, to the President of the Senate, the Speaker of the House of Representatives, the Senate Minority Leader, and the House Minority Leader.

Section 4. 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 cease 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 minimum wage.

(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 exempted 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)(e) Other good cause exceptions for noncompliance.—Individuals who are temporarily unable to participate due to circumstances beyond their control may be exempted 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 Program participant.

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 maximum of 12 additional months, for each month in which the participant is fully complying with the work activities of the WAGES Program through unsubsidized private sector employment. 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 a lifetime limit of 48 months. 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.

(3) In addition to the exemptions listed in subsection (2), 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).

(4)(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.

(5)(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.

(6)(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.

(7)(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.

(8)(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.

(9)(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.

(10)(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.

(11) *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.*

(12)(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)(e) 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 program 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 program 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 program 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 program 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, or the secretary's designee.*

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 414.20, 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 15. Section 414.25, Florida Statutes, is amended to read:

414.25 Exemption from leased real property requirements.—In order to facilitate implementation of this chapter with respect to establishing jobs and benefits offices, the Department of Labor and Employment Security and the Department of Children and Family Services are exempt from the requirements of 255.25(2)(b) and 255.25(3)(a) which relate to the requirement of advertisement for and receipt of competitive bids for the procurement of leased real property. *This exemption expires June 30, 1999 s. 255.25 which relate to the procurement of leased real property. This exemption expires June 30, 1998.*

Section 16. 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 17. 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 18. 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 19. 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 20. 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 Program 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 Program participant.*

Section 21. 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 Program 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 22. 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 Program participant.*

Section 23. 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 State WAGES Emergency Response 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 State WAGES Emergency Response Team.*

Section 24. 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 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 or the Department of Labor and Employment Security:*

(a) A determination that the family is a WAGES Program 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.

(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.

(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.

(4) The Department of Labor and Employment Security shall have authority to adopt rules pursuant to the Administrative Procedure Act to determine that a community has the capacity to provide services and employment opportunities for a relocated family.

(5) The Department of Children and Family Services shall have authority to adopt rules pursuant to the Administrative Procedure Act to develop and implement relocation plans and to draft an agreement restricting a family from applying for temporary cash assistance within 6 months after receiving a relocation assistance payment.

(6) The Department of Labor and Employment Security shall have authority to adopt rules pursuant to the Administrative Procedure Act to determine that a community has the capacity to provide services and employment opportunities for a relocated family.

(7) The Department of Children and Family Services shall have authority to adopt rules pursuant to the Administrative Procedure Act to develop and implement relocation plans and to draft an agreement restricting a family from applying for temporary cash assistance within 6 months after receiving a relocation assistance payment.

Section 25. (1) The sum of \$32 million is hereby appropriated from the Employment Security Administration Trust Fund for the Department of Labor and Employment Security, which shall be used to assist WAGES Coalitions to prepare, place, and support WAGES programs participants in jobs or other approved work-related activities. Such expenditures from the Employment Security Administration Trust Fund which are based on receipts from the Temporary Assistance for Needy Families block grant shall be expended in accordance with the requirements and limitations of Part A of Title IV of the Social Security Act, as amended, or any other applicable federal requirement or limitation. Prior to any expenditure of such funds, the Secretary of the Department of Children and Family

Services or his designee shall certify that controls are in place to ensure that such funds are expended in accordance with the requirements and limitations of federal law and that any reporting requirements of federal law are met. It shall be the responsibility of any entity to which such funds are appropriated to obtain the required certification prior to any expenditure of funds. The appropriation provided in this subsection is void if an appropriation for the same amount and for the same purposes is contained in another bill that passes after the passage of this bill during the 1998 Regular Session or an extension thereof.

(2) 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.

(3) The following resources are designated for support of the WAGES Program Employment Projects. Any expenditures from the Temporary Assistance for Needy Families block grant or Job Training Partnership Act shall be expended in accordance with the requirements and limitations of part A of Title IV of the Social Security Act, as amended or any other applicable federal requirement or limitation. Prior to any expenditure of such funds, the secretaries of the departments of Children and Family Services and Labor and Employment Security, or their designees shall certify that controls are in place to insure such funds are expended in accordance with the requirements and limitations of federal law and that any reporting requirements of federal law are met. It shall be the responsibility of any entity to which such funds are appropriated to obtain the required certification prior to any expenditure of funds.

(a) Up to \$25 million of funds designated for WAGES reserve is to be expended for WAGES Program Employment Projects.

(b) Up to \$7.5 million from Employment Security Administration Trust Fund amounts associated with the Welfare-to-Work grant is to be reserved for WAGES Program Employment Projects. Of the \$7.5 million reserved, \$2.5 million is to be provided to the Institute of Food and Agricultural Sciences of the University of Florida for WAGES job opportunities, and \$1 million is to be provided to the Department of Military Affairs to provide job readiness services for WAGES Program participants as approved by the State WAGES Board.

And the title is amended as follows:

On page 1, line 2, of the bill through page 6, line 6, of the bill remove: all of said lines and insert in lieu thereof: 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; 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; creating s. 414.030, F.S.; creating a process for fostering the development or completion of certain WAGES Program Employment Projects, providing duties and requirements; 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. 414.105, F.S.; 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. 414.0252, F.S.; providing definitions; amending s. 414.095, F.S.; allowing certain individuals to qualify as noncitizens for purpose of the WAGES Program, allowing WAGES participants to receive information regarding domestic violence support services, providing that risk of domestic violence is good

cause for not cooperating with paternity establishment; amending s. 414.115, F.S.; providing that limited temporary cash assistance provisions do not apply to certain circumstances resulting from rape, incest, or sexual exploitation; 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; amending s. 414.20, F.S.; clarifying transportation options available to local WAGES coalitions to assist WAGES participants; amending s. 414.25, F.S.; extending the exemption from leased real property requirements for the WAGES Program to June 30, 1999; 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; amending s. 212.096, F.S.; expanding enterprise zone sales tax credit to JTPA or WAGES Program 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 Program 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; 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 authority for rules; providing appropriations;

House Amendment 1 to House Amendment 1—On page 9, line 28, through page 12, line 31, remove from the amendment: all of said lines and insert in lieu thereof:

(2) *By August 1 of each year, each local city and county economic development organizations in consultation with local WAGES coalitions, shall identify economic development projects that can have the greatest impact on employing WAGES participants in their areas. Each local economic development organization shall provide a prioritized list of no more than 5 such projects to Enterprise Florida, Inc., by August 1 of each year. The organizations shall identify local resources that are available to foster the development and completion of each project.*

(3)(a) *By September 1 of each year, Enterprise Florida, Inc., in consultation with the state WAGES Board shall review and prioritize the list of projects identified pursuant to subsection (2) using the following criteria:*

1. *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;*

2. *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;*

3. *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;*

4. *Areas with a low ratio of new jobs per WAGES participant;*

5. *Areas with a low ratio of job openings requiring less than a high school degree per WAGES participant;*

6. *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;*

7. *Areas with unusually high unemployment; and*

8. *Areas identified as labor surplus areas using the criteria established by the U.S. Department of Labor Employment and Training Administration.*

(b) *To the greatest extent possible, Enterprise Florida, Inc., shall foster the development or completion of the projects identified pursuant to paragraph (a) using existing state and local resources under the control of Enterprise Florida, Inc. To the extent that such projects cannot be developed or completed from resources available to Enterprise Florida, Inc., may identify and prioritize no more than 10 projects, of which no more than 3 may be located in Dade County, that need extraordinary state and local assistance. Enterprise Florida, Inc., shall provide the list of projects needing extraordinary assistance to the Governor and each WAGES Program Employment Project Coordinator designated pursuant to subsection (4) by September 1 of each year.*

(4)(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, and 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., Institute of Food and Agricultural Science, the State Board of Community Colleges, the Division of Workforce Development of the Department of Education, State University System, and the Office of Planning and Budgeting shall select from within such organizations a person to be designated as the WAGES Program Employment Project Coordinator.*

(b) *By October 1 of each year, each WAGES Program Employment Project Coordinator shall determine what resources are available at the organization to foster the development and completion of the economic development projects received pursuant to subsection (3). Each coordinator shall provide this determination to the Governor by October 1 of each year.*

(5)(a) *By October 15 of each year, the Governor may, by executive order, designate these projects as WAGES Program Employment Projects, and direct the agencies to use the resources identified pursuant to subsection (4) to develop or complete such projects. The order shall direct such agencies to contract with the appropriate local WAGES coalition to develop or complete such projects.*

(b) *Notwithstanding the eligibility provisions of s. 403.973, the Governor may waive such eligibility requirements by executive order for projects that have been identified as needing expedited permitting.*

(c) *To the extent that resources identified pursuant to subsection (4) have been appropriated by the Legislature for a specific purpose that does not allow for the expenditure of such resources on the projects, the Governor may use the budget amendment process in chapter 216 to request that these resources be released to the Governor's Office to accomplish the development or completion of the project.*

(d) *Any executive order issued by the Governor pursuant to this section shall expire within 90 days, unless renewed for an additional 60 days by the Governor. However, no executive order may be issued by the Governor pursuant to this section for a period in excess of 150 days.*

(6) *Each local WAGES coalition with jurisdiction over an area where a WAGES Program Employment Project has been designated by the Governor pursuant to subsection (5) shall enter into a contract with the appropriate local, state, or private entities to ensure that the project is developed and completed. Such contracts may include, but are not limited to, contracts with applicable state agencies, and businesses to provide training, education, and employment opportunities for WAGES participants.*

(7) *By March 15 of each year, Enterprise Florida, Inc., shall submit to the state WAGES Board, the Governor, the President of the Senate, the*

On motion by Senator Harris, the Senate concurred in the House amendment.

CS for SB 1114 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	Horne	Myers
Bankhead	Diaz-Balart	Jones	Ostalkiewicz
Bronson	Dudley	Kirkpatrick	Rossin
Brown-Waite	Dyer	Klein	Silver
Burt	Forman	Kurth	Sullivan
Campbell	Geller	Latvala	Thomas
Casas	Grant	Laurent	Turner
Childers	Gutman	Lee	Williams
Clary	Hargrett	McKay	
Cowin	Harris	Meadows	

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 1660, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for CS for SB 1660—A bill to be entitled An act relating to children and families; creating s. 383.145, F.S.; creating the Healthy Families Florida program; providing legislative findings and intent; providing purpose; requiring integrated community-based delivery of services; specifying program requirements; providing responsibilities of the Department of Health and the Department of Children and Family Services; providing for development, implementation, and administration of the program; specifying criteria for community program grant funding; requiring collaboration with existing community boards, coalitions, providers, and planning groups; authorizing contracts for training and evaluation; providing for quality assurance; establishing the Healthy Families Florida Advisory Committee; providing for application for a federal waiver; providing appropriations; 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 Department of Children and Family Services shall contract with a private nonprofit corporation to implement the Healthy Families Florida program. The private nonprofit corporation shall be incorporated for the purpose of identifying, funding, supporting, and evaluating programs and community initiatives to improve the development and life outcomes of children and to preserve and strengthen families with a primary emphasis on prevention. The private nonprofit corporation shall implement the program. The program shall work in partnership with existing community-based home visitation and family support resources to provide assistance to families in an effort to prevent child abuse. The program shall be voluntary for participants and shall require the informed consent of the participants at the initial contact. The Kempe Family Stress Checklist shall not be used.*

Section 2. *There is hereby appropriated to the Department of Children and Family Services the sum of \$10 million from tobacco settlement receipts residing in the department's Grants and Donations Trust Fund to implement this act.*

Section 3. This act shall take effect on 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 the Department of Children and Family Services; requiring the department to contract with a private nonprofit corporation to implement the Healthy Families Florida program for child abuse prevention services; providing an appropriation; providing an effective date.

On motion by Senator Kurth, the Senate concurred in the House amendment.

CS for CS for SB 1660 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	Diaz-Balart	Jones	Ostalkiewicz
Bankhead	Dudley	Kirkpatrick	Rossin
Bronson	Dyer	Klein	Scott
Brown-Waite	Forman	Kurth	Silver
Burt	Geller	Latvala	Sullivan
Campbell	Grant	Laurent	Thomas
Childers	Gutman	Lee	Turner
Clary	Hargrett	McKay	Williams
Cowin	Harris	Meadows	
Crist	Horne	Myers	

Nays—None

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives receded from House Amendment(s) 3 to Senate Amendment 1, and further amended Senate Amendment 1, and passed CS for HB 3145, as amended and requests the concurrence of the House.

John B. Phelps, Clerk

CS for HB 3145—A bill to be entitled An act relating to health care; creating s. 381.0045, F.S.; creating the "Targeted Outreach for Pregnant Women Act of 1998"; providing purpose; requiring the Department of Health to establish a pilot program; providing requirements; requiring interim and final reports; providing an appropriation; providing an effective date.

House Amendment 4 to Senate Amendment 1—On page 1, lines 18-25, remove from the amendment: all of said lines and insert in lieu thereof:

Section 3. *There is hereby appropriated a lump sum of \$15,600,000 from the Tobacco Settlement Trust Fund and \$1,400,000 from non-recurring General Revenue for the following:*

Implementation of the act; to replace the Tampa Branch Health Laboratory; for construction/renovation of the Hendry County Health Department; the Healthy Moms and Healthy Babies facility at the University of South Florida; and for the Center for Urban Transportation Research at the University of South Florida.

Section 4. *Effective July 1, 1998, paragraph (c) of subsection (1) of section 206.606, Florida Statutes, as amended by chapter 96-321, Laws of Florida, is hereby repealed.*

House Title Amendment 5 to Senate Amendment 1—

The title is amended as follows:

On page 4, line 21, of the amendment, after the semicolon insert: repealing s. 206.606(1)(c) relating to the distribution of certain proceeds with respect to motor fuel taxes;

On motion by Senator Harris, the Senate concurred in the House amendments to the Senate amendment.

CS for HB 3145 passed as amended and the action of the Senate was 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	Hargrett	McKay	Williams
Cowin	Harris	Meadows	

Nays—None

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 720, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 720—A bill to be entitled An act relating to alcohol and tobacco sales; amending s. 562.45, F.S.; providing restrictions on locations for on-premises consumption of alcoholic beverages; amending s. 562.11, F.S.; authorizing law enforcement officers to use persons under a certain age to test vendor compliance with provisions restricting the sale of alcoholic beverages to certain minors; amending s. 567.01, F.S.; providing for local-option elections to determine sales of intoxicating liquors, wines, or beer by the drink; amending s. 567.06, F.S.; providing ballot instructions for local-option elections; amending s. 567.07, F.S.; providing for a local option election for sole purpose of determining whether intoxicating liquors, wines, or beer may be sold by the drink for consumption on premises; amending ss. 569.002 and 569.101, F.S.; authorizing law enforcement officers to use persons under a certain age to test vendor compliance with provisions restricting the sale of tobacco products to certain minors; amending s. 569.11, F.S.; specifying times within which community service or fines are satisfied; providing effective dates.

House Amendment 1 (with title amendment)—Remove from the bill: Everything after the enacting clause and insert in lieu thereof:

Section 1. Subsection (7) of section 569.002, Florida Statutes, is amended to read:

569.002 Definitions.—As used in this chapter, the term:

(7) “Any person under the age of 18” does not include any person under the age of 18 who:

(a) Has had his or her disability of nonage removed under chapter 743;

(b) Is in the military reserve or on active duty in the Armed Forces of the United States;

(c) Is otherwise emancipated by a court of competent jurisdiction and released from parental care and responsibility; *or*

(d) Is acting in his or her scope of lawful employment with an entity licensed under the provisions of chapter 210 or this chapter; ~~or~~

~~(e) Is working in conjunction with a law enforcement agency to test the compliance of dealers with this chapter.~~

Section 2. This act shall take effect upon becoming a law.

And the title is amended as follows:

On page 1, lines 2-27, remove from the title of the bill all of said lines: and insert in lieu thereof: An act relating to tobacco sales; amending s. 569.002, F.S.; revising the definition of “any person under the age of 18”; providing an effective date.

On motion by Senators Lee and Hargrett, the Senate concurred in the House amendment.

CS for SB 720 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	Clary	Grant	Kurth
Bankhead	Cowin	Gutman	Latvala
Bronson	Crist	Hargrett	Laurent
Brown-Waite	Diaz-Balart	Harris	Lee
Burt	Dudley	Horne	McKay
Campbell	Dyer	Jones	Meadows
Casas	Forman	Kirkpatrick	Myers
Childers	Geller	Klein	Ostalkiewicz

Rossin	Silver	Thomas	Williams
Scott	Sullivan	Turner	
Nays—None			

SPECIAL RECOGNITION OF THE GOVERNOR

Upon request of the President, The Honorable Lawton Chiles, Governor, joined her at the rostrum and addressed the Senate.

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has refused to concur in Senate Amendment(s) 2 and 3 to House Amendment(s) 3 and concurred in Senate Amendment 1 to House Amendment 3 to CS for SB 1996 and CS for SB 1182 and requests the Senate to recede.

John B. Phelps, Clerk

CS for CS for SB 1996 and CS for SB 1182—A bill to be entitled An act relating to charter schools; amending s. 228.056, F.S.; providing for recognition as public schools; revising requirements relating to proposals; providing for appeal of disputes and requiring mediation services; revising limitations on the number of schools; revising provisions relating to eligible students; providing for operation by a nonprofit organization; deleting certain restrictions on holding charter contracts; revising provisions relating to charter terms; providing for public employee status; providing requirements relating to employees; revising requirements relating to student transportation; revising administrative fee provisions and requiring certain administrative and educational services; revising provisions relating to charter school use of certain facilities or property; providing for certain purchasing; authorizing charter schools-in-the-workplace; providing requirements and tax exemption; creating s. 228.0561, F.S.; providing for the distribution of funds from the Charter Schools Capital Outlay Trust Fund; providing eligibility requirements; providing for the recovery of funds; providing duties of the Commissioner of Education; authorizing the use of funds for certain capital outlay purposes of charter schools; requiring a legislative budget request for appropriations from the Charter Schools Capital Outlay Trust Fund; providing effective dates.

On motion by Senator Grant, the Senate receded from **Senate Amendments 2 and 3 to House Amendment 3**, and concurred in **House Amendment 3** as amended by **Senate Amendment 1**.

CS for CS for SB 1996 and CS for SB 1182 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	Crist	Jones	Ostalkiewicz
Bankhead	Diaz-Balart	Kirkpatrick	Scott
Bronson	Dudley	Klein	Silver
Brown-Waite	Forman	Kurth	Sullivan
Burt	Geller	Latvala	Thomas
Campbell	Grant	Laurent	Turner
Casas	Gutman	Lee	Williams
Childers	Hargrett	McKay	
Clary	Harris	Meadows	
Cowin	Horne	Myers	

Nays—2

Dyer	Rossin
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REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Special Order Calendar for Friday, May 1, 1998: CS for CS for HB’s 683 and 2131, CS for SB 2080, HB 1747, SB 1080, SJR 2140, SB 1034, HB 4153, SB 1416, CS for SB 792, CS for SB 1396, SB 1220, CS for SB 562, CS for SB 1620, CS for SB 2158, CS for SB 2150, CS for SB 680, SB 970, CS for SB 296, CS for SB 524, 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 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 CS for SB 388, CS for SB 1742, CS for SB 2214, SJR 610, SB 2090, CS for SB 994, CS for CS for SB 1554, CS for SB 1868, 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

The Committee on Rules and Calendar submits the following bills to be placed on the Local Bill Calendar for Friday, May 1, 1998: SB 1520, SB 2586, SB 2594, SB 2596, SB 2598, SB 2600, SB 2602, SB 2672, SB 2734, HB 3433, HB 3435, HB 3513, HB 3541, HB 3543, HB 3637, HB 3647, HB 3649, HB 3651, HB 3669, HB 3725, HB 3767, HB 3769, HB 3823, HB 3829, HB 3831, HB 3833, HB 3835, HB 3837, HB 3839, HB 3841, HB 3843, HB 3845, HB 3847, HB 3851, HB 3855, HB 3857, HB 3859, HB 3917, HB 3919, HB 3957, HB 3959, HB 3961, HB 3963, HB 3965, HB 3967, HB 4029, HB 4033, HB 4081, HB 4097, HB 4099, HB 4103, HB 4127, HB 4133, HB 4171, HB 4243, HB 4249, HB 4253, HB 4285, HB 4287, HB 4289, HB 4291, HB 4293, HB 4305, HB 4307, HB 4319, HB 4323, HB 4325, HB 4349, HB 4391, HB 4463, HB 4465, HB 4467, HB 4469, HB 4505, HB 4531, HB 4545, HB 4547, HB 4691, HB 4743, HB 4777, HB 4797, HB 4799, HB 4821, HB 3853

Respectfully submitted,
W. G. (Bill) Bankhead, Chairman

EXECUTIVE BUSINESS

The Honorable Toni Jennings April 30, 1998
President, The Florida Senate

Dear President Jennings:

The following executive appointments were referred to the Senate Committee on Executive Business, Ethics and Elections for action pursuant to Rule 12.7(a) of the Rules of the Florida Senate:

<i>Office and Appointment</i>	<i>For Term Ending</i>
Board of Accountancy Appointees: Callhoun, Charles H. III Martin, Mirtha Valdes Rodriguez, Jose Ramon	10/31/2001 10/31/2001 10/31/2000
Board of Acupuncture Appointee: Black, Emily Winkle	10/31/2001
Board of Architecture and Interior Design Appointees: Rosier, Wayne Shiff, Michael Alan Wirtz, Michael H.	10/31/2001 10/31/2001 10/31/2001
Florida Board of Auctioneers Appointees: Burgess, Donna Jan Larrua, Herminia M.	10/31/2001 10/31/2001
Barbers' Board Appointees: McKinney, O. Marie Rosen, Richard Larry	10/31/2001 10/31/2001
Florida Building Code Administrators and Inspectors Board Appointees: Alexander, Stanton Malone Bertolami, Margaret Welmers Mount, David Lloyd Pass, Margaret Collins	10/31/2001 10/31/2001 10/31/2001 10/31/1998
Board of Building Codes and Standards Appointees: Bassett, Steven Cook Calpini, John Robert Joyner, Huston N., Jr. Kopczynski, Medard K. Lipka, Leonard Norman Mehlretter, James Robert Richardson, Diana B.	12/08/2001 03/11/2001 01/30/1999 01/09/2001 02/03/1999 01/13/2001 02/07/2001
<i>Office and Appointment</i>	<i>For Term Ending</i>
Walthour, William Sam	02/07/2001
Board of Chiropractic Appointees: Jenkins, Gene Edgar, Jr. Serrano, Andrea	10/31/2001 10/31/2001
Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling Appointees: Adejdkun-Ojo, Elizabeth Adebisi Gray, Susan W. Hicks, Mary W. Landis, Charles E. Sherrard, Peter A. D.	10/31/1999 10/31/2000 10/31/2000 10/31/2001 10/31/2001
Regulatory Council of Community Association Managers Appointees: Grosskopf, John E. Roschuni, Elliott Joseph	10/31/2001 10/31/1998
Construction Industry Licensing Board Appointees: Barge, James Allen Karpf, Ronald Melvin Laird, Robert D. Maurer, Lauren Stokes, Susan C.	10/31/2001 10/31/2001 10/31/2001 10/31/2001 10/31/2001
Board of Cosmetology Appointees: Biggett, Earl S. Blanco, Mary Madonna	10/31/2001 10/31/2001
Board of Dentistry Appointees: Douglas, Helen Ann Levine, Phil Jay Ross, Charles Lee	10/31/2001 10/31/2001 10/31/2001
Electrical Contractors' Licensing Board Appointees: Autrey, Ronald Andrew Mills, Douglas Hall Morris, Herbert Kent	10/31/2001 10/31/2001 10/31/2001
Board of Professional Engineers Appointees: Anderson, Melvin William Miller, R. Gerry Springstead, John Walton	10/31/2001 10/31/2001 10/31/2001
Board of Funeral and Cemetery Services Appointees: Ballas, Parascho Peter Betsey, Sam Washington, Jr. Knopke, Keenan Lacy Quattlebaum, G. Earl Revitz, Mark Jeffrey Stiegman, Donald Lawrence	09/08/1999 09/08/2001 09/08/2001 09/08/1999 09/08/1999 09/08/2001
Board of Funeral Directors and Embalmers Appointees: Roberson, Kenneth Loy Rosier, Patricia F.	10/31/1999 10/31/2001
Board of Professional Geologists Appointees: Hutton, Harry Hayes Kwader, Thomas	10/31/2001 10/31/2001
Board of Hearing Aid Specialists Appointees: Augustus-Fidelia, Vicki Regina Currow, Neal C. Telischi, Fred F.	10/31/2001 10/31/2001 10/31/2001
Board of Landscape Architecture Appointees: Buffington, Leonard Wayne Burmer, Jane Futrell Siegel, Jeffrey Laurence	10/31/2001 10/31/2001 10/31/1998
Board of Massage Therapy Appointees: Gran, Austin B. Harrison, Karen Marie Poulin, Robert Armand	10/31/1998 10/31/2001 10/31/2001
Board of Medicine Appointees: Acosta-Rua, Gaston Jose Cherney, Becky J. Glotfelty, John William	10/31/2001 10/31/2001 10/31/2001

<i>Office and Appointment</i>	<i>For Term Ending</i>
Leon, Gustavo G.	10/31/1998
Board of Nursing Appointees: Crawford, Christine	10/31/2001
Makransky, Nancy Ann	10/31/1999
Oles, Cathy Ann	10/31/2001
Streisand, Max M.	10/31/2001
Board of Nursing Home Administrators Appointees: Handel, Leo K.	10/31/2001
Wynn, Alma McKinney	10/31/2001
Board of Occupational Therapy Practice Appointees: Gonzalez, Yasmin	10/31/2000
Johnson, Judith Head	10/31/2000
Lundelius, Walter Dudley, Sr.	10/31/1998
McIntosh, Lisa Carlisle	10/31/1999
Scott, Rodney P.	10/31/1998
Thompson, Tina Joann	10/31/2001
Watson, Michele D.	10/31/1999
Board of Opticianry Appointees: Mathews, Caroline Walton	10/31/2001
Rowley, Harry Clayton	10/31/2001
Board of Optometry Appointee: Braverman, Howard Joel	10/31/2001
Board of Orthotists and Prosthetists Appointees: Bukacheski, Terri Sparber	10/31/1998
Chayet, Mary Thomas	10/31/2000
Fletcher, Stephen Barry	10/31/1998
Fredrick, Jeffrey Ryan	10/31/2000
Gallo, Morris Glenn	10/31/1999
Grogan, Dennis Paul	10/31/2001
Rumac, Arlene Shelley	10/31/1999
Board of Osteopathic Medicine Appointees: Agudo, Nora D.	10/31/2001
Kaufman, Ronald B.	10/31/2001
Board of Pharmacy Appointees: Fong, Helen Lai Quen	10/31/2001
Fucarino, Daniel Dominic	10/31/1999
Noyes, Lucius George	10/31/2001
Stamitoles, Michael W.	10/31/1999
Wood, Marina Garcia	10/31/2001
Board of Physical Therapy Practice Appointees: Bello, Barbara Wynne	10/31/2001
Candela, Antoinette Carlotti	10/31/2001
Board of Pilot Commissioners Appointees: Buffington, John Michael	10/31/2001
Fuller, James Walden	10/31/2000
Robas, Victoria Bowen	10/31/2001
Board of Podiatric Medicine Appointee: Hickey, Jill	10/31/2001
Board of Psychology Appointees: Ames-Dennard, Sharon Renee	10/31/2001
Schwartz, Pamela Bowen	10/31/2001
Florida Real Estate Appraisal Board Appointees: Basile, Dennis Edward	10/31/2001
Berry, Marjorie Whitehurst	10/31/2000
Florida Real Estate Commission Appointees: Saunders, Dean P.	10/31/2001
Stein, Clifford Marshall	10/31/2001
Board of Speech-Language Pathology and Audiology Appointee: Heise, Cynthia Dearmin	10/31/2001
Board of Professional Surveyors and Mappers Appointees: Armstead, Ralph	10/31/2001
Echezabal, Henry Angel, Sr.	10/31/2001
Oliver, Patricia Gail	10/31/2001

<i>Office and Appointment</i>	<i>For Term Ending</i>
Board of Veterinary Medicine Appointees: Lightfoot, Teresa Lane	10/31/2001
Miller, Carol Snyder	10/31/2001

As required by Rule 12.7(a), the committee caused to be conducted an inquiry into the qualifications, experience, and general suitability of the above-named appointees for appointment to the offices indicated. In aid of such inquiry the committee held a public hearing at which members of the public were invited to attend and offer evidence concerning the qualifications, experience, and general suitability of each appointee.

After due consideration of the findings of such inquiry and the evidence adduced at the public hearings, the committee respectfully advises and recommends that:

- (1) the executive appointments of the above-named appointees, to the offices and for the terms indicated, be *confirmed* by the Senate;
- (2) Senate action on said appointments be taken prior to the adjournment of the 1998 Regular Session; and
- (3) there is no necessity known to the committee for the deliberations on said appointments to be held in executive session.

Respectfully submitted,
Charlie Crist, Chairman

On motion by Senator Crist, the report was adopted and the Senate confirmed the appointments identified in the foregoing report of the committee to the offices and for the terms indicated in accordance with the recommendation of the committee. The vote 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, The Florida Senate April 30, 1998

Dear President Jennings:

The following executive appointments were referred to the Senate Committee on Executive Business, Ethics and Elections for action pursuant to Rule 12.7(a) of the Rules of the Florida Senate:

<i>Office and Appointment</i>	<i>For Term Ending</i>
Greater Orlando Aviation Authority Appointees: McNulty, C. Howard	04/16/2002
Starling, Alan C.	04/16/2000
Escambia County Civil Service Board Appointees: Einbecker, Pauline Godwin	02/09/2001
Glover, Robert Bryan, Jr.	02/13/2001
Green, DeVaughn	02/13/2001
Hillsborough County Civil Service Board Appointees: Howton, Drew M.	07/02/2001
Joanow, Olga J.	07/02/2001
Mayor, Ernesto, Jr.	07/02/2001
Shirley, Terrence Michael	07/02/1999
Stagi, Joseph Vincent	07/02/2001
Citrus County Hospital Board Appointees: Brannen, Joseph Samuel	07/11/2001

<i>Office and Appointment</i>	<i>For Term Ending</i>	<i>Office and Appointment</i>	<i>For Term Ending</i>
		Appointee: Dudley, Sue	10/01/1998
		Treasure Coast Regional Planning Council, Region 10	
Board of Trustees of South Lake County Hospital District	07/07/2000	Appointees: Corley, Freddie B.	10/01/2000
	07/05/2001	Coyle, Nelia M.	10/01/2000
Appointees: Arnold, Carmen Schoolcraft	07/05/2001	Flanigan, John F.	10/01/2000
Conley, Michael H.	07/05/2001	Hartman, Peter C.	10/01/1999
Jordan, Lennon D.	07/05/2001		
Vander Meer, Jacob Martin	07/05/2000	South Florida Regional Planning Council, Region 11	
Wickham, Donald Cecil	07/05/2001	Appointees: McTigue, Robert E.	10/01/2000
Williams, Ted Eugene	07/05/2001	Rutledge, Pierre E.	10/01/2000
Jacksonville Port Authority		Board of Trustees of the John and Mable Ringling Museum of Art	
Appointees: Baker, Edward L'Engle	09/30/2000	Appointees: Jenkins, Dorothy Chao	12/31/2000
Hulsey, Mark	09/30/2001	Johnson, Carolyn Grace	12/31/2000
Tampa Port Authority			
Appointee: Gabremariam, Fassil	11/25/2001	As required by Rule 12.7(a), the committee caused to be conducted an inquiry into the qualifications, experience, and general suitability of the above-named appointees for appointment to the offices indicated. In aid of such inquiry the committee held a public hearing at which members of the public were invited to attend and offer evidence concerning the qualifications, experience, and general suitability of each appointee.	
Historic Pensacola Preservation Board of Trustees		After due consideration of the findings of such inquiry and the evidence adduced at the public hearings, the committee respectfully advises and recommends that:	
Appointees: Bowden, Jesse Earle	06/30/2001	(1) the executive appointments of the above-named appointees, to the offices and for the terms indicated, be <i>confirmed</i> by the Senate;	
Rentz, Lucile (Lucy) Hart	06/30/2001	(2) Senate action on said appointments be taken prior to the adjournment of the 1998 Regular Session; and	
West Florida Regional Planning Council, Region 1		(3) there is no necessity known to the committee for the deliberations on said appointments to be held in executive session.	
Appointees: Peebles, Bill W., Jr.			
Wagner, Muriel Wright			
Apalachee Regional Planning Council, Region 2			
Appointees: Davis, Jim	10/01/1998		
Fleming, Billy R.	10/01/1998		
Keys, Jimmie Lee	10/01/1998		
North Central Florida Regional Planning Council, Region 3			
Appointees: Blakewood, Stephen Wyman	10/01/2000		
Deming, William Michael	10/01/2000		
Foister, Billy Ray	10/01/2000		
Franklin, Lorata Frazier	10/01/2000		
Hodges, Evan W.	10/01/2000		
McInnis, Kathryn Land	10/01/2000		
McPherson, Dale Joseph	10/01/2000		
Philman, Emory James	10/01/2000		
Northeast Florida Regional Planning Council, Region 4			
Appointees: Barber, Margaret M.	10/01/2000		
Halley, Harry J.	10/01/2000		
Ruzecki, Mary Ann	10/01/2000		
Withlacoochee Regional Planning Council, Region 5			
Appointees: Davis, Marjorie C.	10/01/2000		
Jenkins, Evangeline E.	10/01/2000		
Maxey, Warnell B.	10/01/2000		
East Central Florida Regional Planning Council, Region 6			
Appointees: Arrington, Dale V.	10/01/1999		
Buchanan, Stuart P.	10/01/2000		
Ervin, Thomas L., Jr.	10/01/2000		
Glover, Eleanor Elizabeth	10/01/1999		
Hansel, Lynn R.	10/01/1998		
Hattaway, James A.	10/01/2000		
Lamar, H. Arthur	10/01/2000		
Central Florida Regional Planning Council, Region 7			
Appointees: Jones, Mary E.	10/01/2000		
Martz, John C.	10/01/2000		
Tampa Bay Regional Planning Council, Region 8			
Appointees: Ayala, Rina P.	10/01/2000		
Catalfamo, Joseph J.	10/01/2000		
Reeves, Frederick Tracy	10/01/2000		
Romano, Barbara B.	10/01/2000		
Silverberg, Jane Esther	10/01/2000		
Young, Helen W.	10/01/2000		
Southwest Florida Regional Planning Council, Region 9			

As required by Rule 12.7(a), the committee caused to be conducted an inquiry into the qualifications, experience, and general suitability of the above-named appointees for appointment to the offices indicated. In aid of such inquiry the committee held a public hearing at which members of the public were invited to attend and offer evidence concerning the qualifications, experience, and general suitability of each appointee.

After due consideration of the findings of such inquiry and the evidence adduced at the public hearings, the committee respectfully advises and recommends that:

- (1) the executive appointments of the above-named appointees, to the offices and for the terms indicated, be *confirmed* by the Senate;
- (2) Senate action on said appointments be taken prior to the adjournment of the 1998 Regular Session; and
- (3) there is no necessity known to the committee for the deliberations on said appointments to be held in executive session.

Respectfully submitted,
Charlie Crist, Chairman

On motion by Senator Crist, the report was adopted and the Senate confirmed the appointments identified in the foregoing report of the committee to the offices and for the terms indicated in accordance with the recommendation of the committee. The vote was:

Yeas—39

Madam President	Crist	Holzendorf	Myers
Bankhead	Diaz-Balart	Horne	Ostalciewicz
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	McKay	Williams
Cowin	Harris	Meadows	

Nays—None

The Honorable Toni Jennings
President, The Florida Senate

April 30, 1998

Dear President Jennings:

The following executive appointments were referred to the Senate Committee on Executive Business, Ethics and Elections for action pursuant to Rule 12.7(a) of the Rules of the Florida Senate:

Office and Appointment

*For Term
Ending*

Florida Black Business Investment Board		
Appointees: Carswell, Keith A.		09/30/2001
Gant, Frederick Jerome		09/30/2000

Capital Collateral Regional Counsel-Northern, Middle & Southern Region

<i>Office and Appointment</i>	<i>For Term Ending</i>	<i>Office and Appointment</i>	<i>For Term Ending</i>
Appointees: Moser, John Wilson III Smith, Gregory C.	09/30/2000 09/30/2000	Game and Fresh Water Fish Commission Appointee: Hedgepeth, Quinton L.	01/06/2003
Capitol Center Planning Commission Appointee: Anstis, James H.	09/30/2001	Florida Housing Finance Agency Appointee: Lydecker, Charles Harvey	11/13/2000
Florida Citrus Commission Appointees: Burke, Martha Roe Davis, Joe L., Sr. Gargano, Christopher W. McPherson, Rex V. II	05/31/2000 05/31/2001 05/31/2001 05/31/2001	Florida Commission on Human Relations Appointees: Brooks, Clarethea D. Edwards Ofuani, Sharon Louise Sosa, Aristides (Ari)	09/30/2001 09/30/2001 09/30/2001
State Board of Community Colleges Appointees: Belton, C. Ronald Lang, Joseph Hagedorn Wilson, Alberta K. Yarber, Matthew Franklin	09/30/2002 09/30/2002 09/30/2002 09/30/1998	State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools Appointees: Brenner, Scott F. Euliano, Neil R. McCormick, Fenwick Donald	07/01/2000 07/01/2000 07/01/2000
Florida Commission on Community Service Appointees: Bishop, Barney Tipton III Bostic, James Donaldson Dhonau, Norma Joyce Fine, Helen M. (Pat) Gerwens, Joseph C. Llorente, Carlos M. Oliva, Maria Cristina Shimberg, James Heiman, Jr. Tubbs, LeVester Young, George William Zipperer, Roberta Herman	09/14/2000 09/14/2000 09/14/1999 09/14/2000 09/14/2000 09/14/2000 09/14/1998 09/14/1999 09/14/2000 09/14/2000 09/14/1999	Southeast Interstate Low-Level Radioactive Waste Management Commission Appointees: Heber, Sharon L. Hodes, Richard Samuel Hunter, Richard Gavin	Pleasure of Governor 06/30/1999 06/30/1998
State of Florida Correctional Medical Authority Appointees: Brown, Marsha Lewis Windom, Robert Emerson	07/01/2001 09/30/2001	Marine Fisheries Commission Appointees: Barsh, Barbara C. Moss, Reginald A. (Tony)	08/01/2001 08/01/2001
Board of Trustees for the Florida School for the Deaf and the Blind Appointee: Kinsey, Randolph	11/13/2001	Florida Inland Navigation District Appointees: Bunnell, George Pettit Locker, Laurence D. Taylor, James Oliver Thompson, Pierre Dutasta Waddell, Marshall Brent	01/09/2001 01/09/2001 01/09/2001 01/09/2001 01/09/2001
Florida Development Finance Corporation Appointee: Serravezza, William James	05/02/1998	Parole Commission Appointee: Henry, Jimmie Lee	06/30/1998
Education Practices Commission Appointees: Porter, Diane Margaret Raulerson, Phoebe Hodges Williams, Grace A.	09/30/2001 09/30/2001 09/30/2001	Pilotage Rate Review Board Appointee: Bentley, Chris Howard	10/31/2001
Education Standards Commission Appointees: Harvey-Pratt, Rosa L. Kaupke, Donn V.	09/30/1999 09/30/1999	Prepaid Postsecondary Education Expense Board Appointee: Starling, Bruce Cordell	06/30/2000
Florida Elections Commission, Chair Appointee: Crotty, Valerie Moos	01/04/1999	Board of Directors, Prison Rehabilitative Industries and Diversified Enterprises, Inc. Appointees: Alvarez, Marcelo A. Goode, R. Ray	09/30/2000 09/30/2000
Florida Elections Commission Appointees: Byrd, Anne Jolley Thomas Cunningham, J. Courtney Drage, Thomas Brochmann, Jr. Epps, Kenneth Lamar McClure, Julie G. Ostrau, Norman M. Patronis, Jimmy Theo, Jr.	12/31/2000 12/31/1999 12/31/1999 12/31/1999 12/31/2000 12/31/2000 12/31/1999	Public Employees Relations Commission Appointee: Jackson, Cassandra Kellam	01/01/2002
Board of Employee Leasing Companies Appointees: Goldman, Richard Alan Samuels, Robert J.	10/31/1998 10/31/2001	Florida Public Service Commission Appointees: Garcia, Jose (Joe) Antonio Jacobs, Ennis Leon, Jr.	01/01/2002 01/01/2002
Environmental Regulation Commission Appointees: Bayer, Dennis Knox Muga, Ricardo D. Nicholson-Choice, Maribel N. Rogers, Roy	07/01/1999 07/01/2001 07/01/2001 07/01/2001	Commission for Purchase from the Blind or Other Severely Handicapped Appointees: Coloney, Wayne H. Furches, Sandra BeVilleville	10/01/2001 10/01/2000
Commission on Ethics Appointees: Batman, Linda McKnight Hart, Kenneth R. Krahen, David H. Phelan, Mary Alice Barrett	06/30/1999 06/13/1999 06/30/1999 06/30/1999	Board of Regents Appointees: Harding, James Raymond Lindsay, Elizabeth G. Uhlfelder, Steven Joel	09/01/1998 01/01/2004 01/01/2004
		State Retirement Commission Appointees: Roberts, Dorothy Brooks Whitelock, Pamela Love Wright, Joseph Thomas	12/31/2001 12/31/2001 12/31/1999
		Director, Division of State Group Insurance Appointee: Slavin, Charles P.	Pleasure of Governor
		Board of Supervisors, Spaceport Florida Authority Appointees: Brown, Hugh McNeil Fisher, Donna Cowart Morris, Ronald Loyd	06/30/2001 06/30/2001 06/30/2000

<i>Office and Appointment</i>	<i>For Term Ending</i>	Ostalkiewicz Rossin	Scott Silver	Sullivan Thomas	Turner Williams
		Nays—None			
Ogden, Thomas	06/30/2000				
Romjue, Mary Kalen	06/30/2001				
Sharkey, Jeffrey Brian	06/30/2000				
Williamson, Kenneth E.	06/30/2000				April 30, 1998
The Honorable Toni Jennings President, The Florida Senate					
Dear Madam President:					
The following executive appointments were referred to the Senate Committee on Executive Business, Ethics and Elections for action pur- suant to Rule 12.7(a) of the Rules of the Florida Senate:					

Secretary of Transportation	<i>For Term Ending</i>	<i>Office and Appointment</i>		<i>For Term Ending</i>
Appointee: Barry, Thomas Francis, Jr.	Pleasure of Governor			
Florida Board of Auctioneers				
Appointee: Browning, John P., Jr.	09/30/2001	Appointee: Dansby, Grace Hopson		10/31/1999
Florida Building Code Administrators and Inspectors Board				
Appointee: Dyal, Reuben Carson	06/30/2001	Appointee: Mount, David Lloyd		10/31/1997
Board of Building Codes and Standards				
Appointee: Sullivan, Hulan M.	11/16/1998	Appointees: Bassett, Steven C. Weeder, Charles E.		12/08/1997 04/05/2001

As required by Rule 12.7(a), the committee caused to be conducted an inquiry into the qualifications, experience, and general suitability of the above-named appointees for appointment to the offices indicated. In aid of such inquiry the committee held a public hearing at which members of the public were invited to attend and offer evidence concerning the qualifications, experience, and general suitability of each appointee.

After due consideration of the findings of such inquiry and the evidence adduced at the public hearings, the committee respectfully advises and recommends that:

- (1) the executive appointments of the above-named appointees, to the offices and for the terms indicated, be *confirmed* by the Senate;
- (2) Senate action on said appointments be taken prior to the adjournment of the 1998 Regular Session; and
- (3) there is no necessity known to the committee for the deliberations on said appointments to be held in executive session.

Respectfully submitted,
Charlie Crist, Chairman

MOTION

On motion by Senator Crist, the following executive appointment was added to the foregoing report:

<i>Office and Appointment</i>	<i>For Term Ending</i>
Game and Fresh Water Fish Commission	
Appointee: Adams, James L., Jr.	01/04/2001

On motion by Senator Crist, the report was adopted and the Senate confirmed the appointments identified in the foregoing report of the committee to the offices and for the terms indicated in accordance with the recommendation of the committee. The vote was:

Yeas—40

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	Myers

Florida Board of Auctioneers	<i>For Term Ending</i>
Appointee: Dansby, Grace Hopson	10/31/1999
Florida Building Code Administrators and Inspectors Board	
Appointee: Mount, David Lloyd	10/31/1997
Board of Building Codes and Standards	
Appointees: Bassett, Steven C. Weeder, Charles E.	12/08/1997 04/05/2001
Capital Collateral Regional Counsel-Northern, Middle & Southern Region	
Appointees: Kenny, Peter Warren Maas, Roger R.	09/30/2000 07/31/1997
Capitol Center Planning Commission	
Appointee: Wallrapp, Ana Rabelo	09/30/2001
Florida Citrus Commission	
Appointee: Owens, William E.	05/31/2001
Board of Trustees of Valencia Community College	
Appointee: Del Hoya, Santiago F.	05/31/2001
Florida Elections Commission	
Appointee: Childers, Catherine Lynn	12/31/2000
Board of Professional Engineers	
Appointee: Springstead, John W.	10/31/1997
Board of Funeral and Cemetery Services	
Appointee: Atwood, James W.	09/08/2001
Board of Funeral Directors and Embalmers	
Appointees: Garcia, Manuel M. McQueen, John Thomas	10/31/2001 10/31/1999
Health Care Board	
Appointee: Carr, John Scott	09/30/1999
Board of Medicine	
Appointee: Acosta-Rua, Gaston J.	10/31/1997
Board of Occupational Therapy Practice	
Appointee: Thompson, Tina Joann	10/31/1997
Board of Pharmacy	
Appointee: Noble, Daniel Raymond	10/31/2001
Board of Pilot Commissioners	
Appointee: Winegeart, James Perrow	10/31/1997
Apalachee Regional Planning Council, Region 2	
Appointees: Crum, Eloise M. Gatlin, Manuel R. Kelly, Vivian Davis	10/01/1997 10/01/1997 10/01/1997
East Central Florida Regional Planning Council, Region 6	
Appointees: Martinez, Wilfredo Russell, Robin Evans	10/01/1997 10/01/1997
Tampa Bay Regional Planning Council, Region 8	
Appointees: Ayala, Rina P.	10/01/1997

<i>Office and Appointment</i>	<i>For Term Ending</i>	<i>Office and Appointment</i>	<i>For Term Ending</i>
Reeves, Frederick Tracy	10/01/1997	Appointees: Danger, Charles	01/06/2001
Romano, Barbara B.	10/01/1997	McRoy, James E.	02/11/2001
Interim Director, Division of State Group Insurance		Regulatory Council of Community Association Managers	
Appointee: Poppell, Ronald Larkin	Pleasure of Governor	Appointee: Gavalda, Teresa	10/31/1998
Interim Secretary of the Department of Transportation		Florida Communities Trust	
Appointee: Carlile, Leslie Frank	Pleasure of Governor	Appointees: Perez, Julian Humberto	01/31/2001
		Tschinkel, Victoria Jean	01/31/2001
Governing Board of the Southwest Florida Water Management District		Board of Trustees of Brevard Community College	
Appointee: Menendez, Brenda	03/01/1998	Appointee: Johnson, Eugene Cecil	05/31/2001
Hillsborough River Basin Board of the Southwest Florida Water Management District		Board of Trustees of Broward Community College	
Appointee: Baker, Julie Ansley	03/01/1998	Appointee: Ortis, Frank Carmen	05/31/2001
The Senate Committee on Executive Business, Ethics and Elections has failed to consider these appointments because:		Board of Trustees of Central Florida Community College	
(a) the terms of the following persons have expired: Gaston J. Acosta-Rua, Rina Ayala, Julie Ansley Baker, Steven C. Bassett, Eloise M. Crum, Manuel R. Gatlin, Vivian Davis Kelly, Roger R. Maas, Wilfredo Martinez, Brenda Menendez, David L. Mount, Frederick T. Reeves, Barbara B. Romano, Robin Evans Russell, John W. Springstead, Tina J. Thompson and James P. Winegeart.		Appointees: Donar, Chrysanthia (Sandy) Eileen	05/31/2001
(b) the following persons have resigned: James W. Atwood, effective 1/31/98; John Scott Carr, effective 2/27/98; Catherine Lynn Childers, effective 3/24/98; Grace Hopson Dansby, effective 3/26/98; Santiago F. Del Hoya, effective 2/16/98; Manuel M. Garcia, effective 3/18/98; Peter Warren Kenny, effective the date his successor qualifies for office or 45 days following adjournment sine die of the 1998 Legislature, whichever is earlier; John Thomas McQueen, effective 12/31/97; Ana Rabelo Wallrapp, effective 4/13/98; and Charles E. Weeder, effective 3/27/98.		Hall, Cynthia Arnetta	05/31/2001
(c) Daniel Raymond Noble and William E. Owens are deceased; and		Mann, Loy Ann Meeks	05/31/2001
(d) the INTERIM Secretary of Transportation position of Leslie Frank Carlile is no longer valid as a Secretary has now been appointed and the INTERIM Director of the Division of State Group Insurance position of Ronald Larkin Poppell is no longer valid as a Director has now been appointed.		Palmer, Whitfield McRory, Jr.	05/31/1999
		Board of Trustees of Chipola Junior College	
		Appointees: Hudson, Eddie Myron	05/31/2001
		Odom, John Howard	05/31/2001
		Shuler, Gary H.	05/31/2001
		Board of Trustees of Daytona Beach Community College	
		Appointees: Blossom, L. Roland	05/31/2001
		Ford, James H.	05/31/2001
		Gardner, James Edward	05/31/2001
		Board of Trustees of Edison Community College	
		Appointees: Baquero, Washington D.	05/31/2001
		Peeples, Vernon E.	05/31/2001
		Snow, Marie Fossett	05/31/2001
		Board of Trustees of Florida Community College at Jacksonville	
		Appointees: Hufstetler, Connie Croom	05/31/2001
		Kelley, Howard W., Jr.	05/31/2001
		Lockett, Earlene Toby	05/31/2001
		Mayo, Jimmie L.	05/31/1998
		Board of Trustees of Florida Keys Community College	
		Appointees: Almeda, Patricia Ann	05/31/2001
		Clark, Mona Carlisa	05/31/2001
		Board of Trustees of Gulf Coast Community College	
		Appointees: Rice, Lillie Mae	05/31/2001
		Roberson, Ralph Christian	05/31/2001
		Smith, George Houston	05/31/2001
		Board of Trustees of Hillsborough Community College	
		Appointees: Dawson, Warren Hope	05/31/2001
		Weatherford, Doris L.	05/31/2001
		Board of Trustees of Indian River Community College	
		Appointees: Stewart, Ventria Eloise	05/31/2001
		Thurlow, Thomas Henry, Jr.	05/31/2001
		Board of Trustees of Lake City Community College	
		Appointees: Harvey, Alan	05/31/2001
		Jones, Susan C.	05/31/2001
		Tunsil, Joyce P.	05/31/2001
		Board of Trustees of Lake-Sumter Community College	
		Appointees: Charron, Victor	05/31/2001
		Jones, Helen L.	05/31/2001
		Wood, Peggy Swain	05/31/2001
		Board of Trustees of Manatee Community College	
		Appointees: Fogarty, Julia Botet	05/31/2000
		McRae, Johncyna A.	05/31/2001
		Moore, Robert Leslie	05/31/2001
		Smith, Jan Ellis	05/31/2001
		Board of Trustees of Miami-Dade Community College	
		Appointees: Ibarra, Barbara A.	05/31/2001

Respectfully submitted,
Charlie Crist, Chairman

On motion by Senator Crist, the report was adopted and the Senate failed to consider the appointments identified in the foregoing report of the committee to the offices and for the terms indicated in accordance with the recommendation of the committee.

Faye Blanton
 Secretary of the Senate

May 1, 1998

Dear Secretary Blanton:

Please be advised that the following executive appointments were temporarily passed; not considered by the Committee on Executive Business, Ethics and Elections; withdrawn by the Governor; otherwise left pending in Committee; or have not been acted upon by the full Senate upon adjournment of the 1998 session of the Florida Legislature:

Office and Appointment

For Term Ending

Greater Orlando Aviation Authority	
Appointee: Pugh, James H., Jr.	04/16/2002
Board of Building Codes and Standards	

<i>Office and Appointment</i>	<i>For Term Ending</i>
Richter, Garrett S.	03/01/2000
Governing Board of the Southwest Florida Water Management District	
Appointees: Davis, Pamela J.	03/01/2002
Martin, James E.	03/01/2002
Menendez, Brenda	03/01/2002
Alafia River Basin Board of the Southwest Florida Water Management District	
Appointees: Lane, Julian (Jay) B., Jr.	03/01/2000
Rutenberg, Daniel	03/01/2000
Coastal Rivers Basin Board of the Southwest Florida Water Management District	
Appointees: Helie, Kingdon (King)	03/01/2000
Tria, Leonard F., Jr.	03/01/1999
West, Margaret Anne	03/01/1999
Hillsborough River Basin Board of the Southwest Florida Water Management District	
Appointees: Griffin, John Phillip	03/01/2000
MacKinnon, Ardis L.	03/01/2000
Northwest Hillsborough County Basin Board of the Southwest Florida Water Management District	
Appointee: Romano, Barbara Barritt	03/01/2000
Peace River Basin Board of the Southwest Florida Water Management District	
Appointees: Barben, Robert H.	03/01/2000
Moore-Bailey, Doris Marie	03/01/2000
Wotitzky, Edward L.	03/01/2000
Pinellas-Anclote River Basin Board of the Southwest Florida Water Management District	
Appointees: Updegraff, Ramona Moorefield	03/01/2000
Welch, David T.	03/01/2000
Withlacoochee River Basin Board of the Southwest Florida Water Management District	
Appointee: Vogel, John Thomas	03/01/2000
Governing Board of the Suwannee River Water Management District	
Appointee: Wershow, Jonathan F.	03/01/1999

Respectfully submitted,
Charlie Crist, Chairman

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 1329, HB 3273, CS for HB 3345; has passed as amended HB 1139, CS for HB 3201, HB 3225, CS for HB 3487, CS for HB 4071, HB 4155, HB 4233, HB 4491, HB 4515, HB 4765; has passed as amended by the required Constitutional three-fifths vote of the membership HB 3783 and requests the concurrence of the Senate.

John B. Phelps, Clerk

By the Committee on Law Enforcement and Public Safety; and Representative Roberts-Burke and others—

CS for HB 1329—A bill to be entitled An act relating to medical examiners; amending s. 406.06, F.S.; specifying certain circumstances under which a medical examiner may be suspended; amending s. 406.075, F.S.; providing additional disciplinary measures and grounds for discipline applicable to medical examiners; amending s. 406.11, F.S.; restricting to certain purposes the examinations, investigations, and autopsies medical examiners are required or authorized to make or have

performed; requiring notification of and approval by next of kin for a medical examiner to retain or furnish any body part of a deceased person for research or certain other purposes; providing for adoption of rules to incorporate by reference parameters or guidelines of practice or standards of conduct relating to examinations, investigations, and autopsies performed by medical examiners; providing an effective date.

—was referred to the Committee on Criminal Justice.

By Representative Merchant and others—

HB 3273—A bill to be entitled An act relating to license plates; amending ss. 320.08056 and 320.08058, F.S.; creating a Conserve Wildlife license plate; providing for the distribution of annual use fees received from the sale of such license plates; providing an effective date.

(Taken up out of order and passed this day.)

By the Committee on Community Affairs and Representative Lacasa and others—

CS for HB 3345—A bill to be entitled An act relating to regulation of wrecker operators and persons immobilizing vehicles; amending s. 1.01, F.S.; defining the term “wrecker operator”; providing for a law enforcement officer to place a hold order on a motor vehicle in a wrecker operator’s storage facility; prescribing conditions on such acts; authorizing county and municipal wrecker operator systems; prohibiting certain acts in contravention of such systems; providing penalties; amending ss. 125.0103 and 166.043, F.S.; providing that counties must establish maximum fees which may be charged for the towing or immobilization of vehicles; amending s. 316.193, F.S.; providing for a receipt to the wrecker operator to be given at the time of release of a vehicle impounded or immobilized as a result of a charge of driving under the influence; amending s. 321.051, F.S.; revising provisions authorizing the Florida Highway Patrol to establish a wrecker operator system; prohibiting certain acts in contravention of such system; providing penalties; amending s. 322.34, F.S.; revising provisions relating to impoundment or immobilization of vehicles being operated while the operator’s license is suspended, revoked, canceled, or disqualified; providing for payment of accrued charges; amending s. 713.78, F.S.; providing that law allowing a lien for recovering, towing, or storing a vehicle does not authorize a lien for immobilizing a vehicle; providing liability for damages or theft in connection with a towed vehicle; amending s. 319.30, F.S.; conforming a cross reference; providing an effective date.

—was referred to the Committees on Transportation and Community Affairs.

By Representative Sindler and others—

HB 1139—A bill to be entitled An act relating to public records; amending s. 828.30, F.S.; providing an exemption from public records requirements for information contained in a rabies vaccination certificate; authorizing disclosure to certain public agencies and to other persons under certain conditions; providing for future review and repeal; providing a finding of public necessity; providing an effective date.

—was referred to the Committee on Regulated Industries.

By the Committee on Governmental Operations and Representative Starks and others—

CS for HB 3201—A bill to be entitled An act relating to religious freedom; creating the “Religious Freedom Restoration Act of 1998”; providing that government shall not substantially burden the exercise of religion; providing exceptions; providing definitions; providing for attorney’s fees and costs; providing applicability; providing construction; providing an effective date.

—was referred to the Committees on Judiciary; and Governmental Reform and Oversight.

By Representative Murman—

HB 3225—A bill to be entitled An act relating to economic development; providing an appropriation to the Office of Tourism, Trade, and Economic Development for the Technological Research and Development Authority; authorizing tax credits to a certain business; amending s. 212.08, F.S.; exempting certain property based in enterprise zones from the sales tax 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. 290.0065, F.S.; providing for amendment of the boundaries of an enterprise zone designated pursuant to s. 290.0065(5)(b), F.S., upon application by the county to the Office of Tourism, Trade, and Economic Development; authorizing the Office of Tourism, Trade, and Economic Development to amend the boundaries of certain enterprise zones upon request from certain counties; providing restrictions; providing for repeal; amending s. 290.0055, F.S.; providing extended date for application to amend certain boundary lines; providing an effective date.

—was referred to the Committees on Ways and Means; and Community Affairs.

By the Committee on Health Care Standards and Regulatory Reform; and Representative Safley and others—

CS for HB 3487—A bill to be entitled An act relating to dental insurance coverage; creating ss. 627.4295 and 627.65755, F.S., and amending ss. 627.6515 and 641.31, F.S.; requiring health insurance policies and health maintenance organization contracts to provide coverage for general anesthesia and hospitalization for certain persons under certain circumstances; providing application of contract terms and conditions to services; providing exceptions; providing a declaration of important state interest; providing application of the act to policies and contracts; providing an effective date.

—was referred to the Committees on Banking and Insurance; Health Care; and Ways and Means.

By the Committee on Transportation and Representative Betancourt—

CS for HB 4071—A bill to be entitled An act relating to environmental protection; amending s. 373.4137, F.S.; requiring ongoing annual submissions, to the Department of Environmental Protection and water management districts, by the Department of Transportation of its adopted work program and inventory of impacted habitats; authorizing inclusion of habitat impacts of future transportation projects; providing activities associated with development of mitigation plans; requiring water management districts to consult with entities operating mitigation banks when developing mitigation plans; providing that a water management district's preliminary approval of a mitigation plan does not constitute a decision affecting substantial interests; requiring mitigation plans to include certain information; authorizing exclusion of certain projects from the environmental impact inventory; extending certain mitigation funding through fiscal year 2004-2005; authorizing amendment of annual mitigation plans for certain purposes; providing for uses of funds not directed to implement mitigation plans; deleting obsolete language relating to a report; creating s. 373.4139, F.S.; providing legislative findings and intent; providing for mitigation for mining activities within certain areas; levying a mitigation fee; providing for collection and disposition of such mitigation fees; providing duties of the Department of Revenue; providing for adjustment of the mitigation fee; specifying uses of fee proceeds; amending s. 373.4149, F.S.; revising requirements for development of Phase II of the Lake Belt Plan; repealing s. 373.4149(10), F.S., relating to development of a comprehensive mitigation plan; amending s. 338.223, F.S.; requiring environmental

feasibility review prior to advance right-of-way purchases for a proposed turnpike project; providing exceptions for hardship and protective purchases; amending s. 86 of ch. 93-213, Laws of Florida; deleting the requirement for certain repayment of funds appropriated for the state NPDES program from the Pollution Recovery Trust Fund; providing an effective date.

—was referred to the Committees on Natural Resources; and Ways and Means.

By Representative Boyd—

HB 4155—A bill to be entitled An act relating to the tax on sales, use, and other transactions; amending s. 212.08, F.S.; providing an exemption for the sale of performance-enhancing or growth-enhancing products for cattle; providing an exemption for generators used on poultry farms; providing an effective date.

—was referred to the Committee on Ways and Means.

By Representative Stafford—

HB 4233—A bill to be entitled An act relating to criminal offenses; amending s. 782.04, F.S.; redefining the offense of capital murder in the first degree to include the act of unlawfully killing a human being while perpetrating, or attempting to perpetrate, the murder of another human being; providing penalties; providing that a person who perpetrates or attempts to perpetrate a murder commits felony murder in the second degree when a person is killed by someone other than the perpetrator; providing penalties; adding murder to the list of felony offenses which do not constitute third-degree felony murder; reenacting ss. 39.464(1)(d), 435.03(2)(b), 435.04(2)(b), 775.0823(1) and (2), 921.0022(3)(i), 943.325(1), and 947.146(3), F.S., relating to the termination of parental rights, screening standards, violent offenses against law enforcement officers and others, the Criminal Punishment Code, blood testing, and the Control Release Authority, to incorporate the amendment to 782.04, F.S., in references thereto; creating the "Jeff Mitchell Act"; amending s. 921.141, F.S., relating to further proceedings to determine sentence of death or life imprisonment for capital felonies; providing that the judgment of conviction and sentence of death imposed in a capital case are not subject to being held invalid, overturned, reduced, or otherwise affected because a codefendant in the same case accepted a plea offer in exchange for trial testimony, or an agreement to testify, and was not sentenced to death; prohibiting the Florida Supreme Court from engaging in any form of proportionality review of a death sentence; providing that criteria for review regarding aggravating or mitigating circumstances shall not be utilized except as authorized under specified provisions; providing additional aggravating circumstances to be weighed by the court; providing for an aggravating circumstance that the capital felony was committed when the victim had an injunction for protection in effect against the defendant; providing for an aggravating circumstance that the defendant inflicted multiple physical injuries upon the victim; providing for an aggravating circumstance that the defendant mutilated, dismembered, or sexually abused the victim's body, during or after commission of the capital felony; providing for an aggravating circumstance that the victim of a homicide had asked that his or her life be spared; amending ss. 782.071, 782.072, F.S.; increasing the penalties imposed for committing the offense of vehicular homicide or vessel homicide; increasing the penalties imposed for committing vehicular homicide or vessel homicide and failing to give information and render aid when the offender knew, or should have known, that the accident occurred; amending s. 921.0022, F.S., relating to the Criminal Punishment Code; conforming references to changes made by the act; amending s. 960.13, F.S.; limiting crimes compensation awards under certain circumstances; authorizing the Department of Legal Affairs to adopt certain rules; amending s. 782.071, F.S.; redefining the offense of "vehicular homicide" to include the killing of a viable fetus by any injury to the mother caused by the operation of a motor vehicle by another; providing penalties; specifying when a fetus is viable; providing a right of action for civil damages; reenacting ss. 921.0022(3)(h) and 960.03(3), F.S., relating to the offense severity ranking chart and the definition of "crime" with respect to the Florida Crimes Compensation Act, respectively, to incorporate said amendment in references; amending s. 921.0022, F.S., relating to the offense severity ranking chart, to conform terminology; amending s. 27.709, F.S.; providing that the Commission

on the Administration of Justice in Capital Cases shall conduct a study concerning the elimination of state postconviction proceedings in death penalty cases; providing that certain proviso language contained in the Conference Report On House Bill 4201 may not be modified through substantive legislation passed during the 1998 regular session of the Legislature unless certain conditions are met; providing that certain proviso language contained in the Conference Report On House Bill 4201 is reenacted if repealed or amended by substantive legislation passed during the 1998 regular session of the Legislature; providing for repeal of section on June 30, 1999; providing for severability; providing an effective date.

(Taken up out of order and passed this day.)

By Representative Wise—

HB 4491—A bill to be entitled An act relating to trust funds; creating the Florida School District Review Trust Fund, to be administered by the Office of Program Policy Analysis and Government Accountability; providing for source of funds; directing the office to use the trust fund to pay the cost of best financial management practices reviews; providing for refunds to school districts; providing for future review and termination or re-creation of the trust fund; providing for annual carryforward of funds; amending s. 230.23025, F.S.; providing for the deposit of funds from school districts; providing an effective date.

—was referred to the Committees on Rules and Calendar; and Ways and Means.

By the Committee on Health Care Standards and Regulatory Reform; and Representative Jones and others—

HB 4515—A bill to be entitled An act relating to health care practitioners; creating s. 455.557, F.S.; providing for standardized credentialing of health care practitioners; providing intent and definitions; providing for a standardized credentials verification program; providing for delegation of credentialing authority by contract; providing for availability of data collected; prohibiting collection of duplicate data; specifying conditions for reliability of data; providing for standards and registration, including a registration fee; preserving health care entities from liability and certain actions for reliance on data provided by a credentials verification entity; providing for practitioner review of data prior to release; providing for validation of credentials; providing liability insurance requirements; providing for rules; providing for reappointment of a task force and providing its purpose; providing an appropriation; providing an effective date.

—was referred to the Committees on Health Care; and Ways and Means.

By the Committee on Transportation and Representative Fuller—

HB 4765—A bill to be entitled An act relating to transportation; amending s. 20.23, F.S.; requiring the Turnpike District to relocate to Sumter County in fiscal year 2000; amending s. 206.606, F.S.; revising the distribution of certain fuel tax proceeds; renumbering and amending s. 335.166, F.S.; transferring responsibility for welcome centers' staff to the Florida Commission on Tourism; requiring a study of toll road agencies and the Turnpike District by the Florida Transportation Commission; renumbering and amending s. 334.065, F.S.; revising provisions related to the funding source and the advisory board of the Center for Urban Transportation Research; amending s. 316.003, F.S.; defining the term "neighborhood vehicle"; amending s. 316.063, F.S.; changing the term "accident" to "crash"; revising the penalty for obstructing traffic upon damaging an unattended vehicle or other property; creating s. 316.0815, F.S.; giving public transit buses the right-of-way when reentering the traffic flow; amending s. 316.091, F.S.; providing that on specified highways certain commercial vehicles may drive only in certain lanes; amending s. 316.1967, F.S.; reduces the number of outstanding parking violations which trigger the county clerk to report to the Department of Highway Safety and Motor Vehicles; amending s. 316.2055, F.S.; providing a uniform reference to the penalty for a pedestrian noncriminal traffic offense punishable under chapter 318, F.S.; amending s.

316.555, F.S.; exempting certain silvicultural and agricultural vehicles and equipment from weight restrictions on county roads; amending s. 318.15, F.S.; providing for payment of a certain service fee to tax collector; amending s. 318.18, F.S.; providing that fines for construction zone speed violations shall only be doubled under certain circumstances; amending s. 320.01, F.S.; defining the term "agricultural products"; amending s. 320.04, F.S.; providing a service charge for validation stickers issued by printer dispenser machines; amending s. 320.055, F.S.; revising registration renewal period for certain vehicles; providing for staggered fleet registration; repealing s. 320.065, F.S., relating to the registration of certain rental trailers for hire and semitrailers used to haul agricultural products; amending s. 320.0657, F.S.; defining the term "fleet"; providing registration fees; providing penalties for late or improper registration; amending s. 320.0715, F.S.; exempting certain commercial motor vehicles from the International Registration Plan; creating s. 321.045, F.S.; establishing the mission and program objectives of the Florida Highway Patrol; amending s. 20.18, F.S.; creating the Division of Factory-built Housing in the Department of Community Affairs; providing a mission statement for the department; transferring certain powers, duties, functions, personnel, property, and appropriations of the department to the division; transferring certain powers, duties, functions, personnel, property, and appropriations of the Department of Highway Safety and Motor Vehicles to the division; authorizing the Department of Community Affairs and the Department of Highway Safety and Motor Vehicles to enter into agreements to effectuate such transfers; providing for transfer of the mobile home portion of the Mobile Home and Recreational Vehicle Protection Trust Fund into the department's operating trust fund for certain purposes; transferring the portion of the Highway Safety Operating Trust Fund relating to mobile homes into the department's operating trust fund for certain purposes; amending s. 320.781, F.S., to conform; amending s. 553.36, F.S.; providing a definition; amending s. 553.38, F.S.; providing responsibility of the Division of Factory-built Housing to administer part IV of chapter 553, F.S.; creating ss. 553.431, 553.4315, 553.433, 553.434, 553.435, 553.4365, 553.437, 553.438, 553.446, 553.448, 553.449, 553.450, 553.451, 553.452, 553.453, 553.455, 553.456, 553.457, and 553.458, F.S.; recreating certain provisions under chapter 320, F.S., within part IV of chapter 553, F.S., to conform; transferring and renumbering ss. 320.823, 320.8335, and 320.840, F.S., to conform; transferring, renumbering, and amending ss. 320.77, 320.8255, 320.827, 320.8285, 320.830, 320.831, 320.8325, F.S., to conform; requiring the division to adopt rules on manufactured housing installation systems; requiring the development of certain standards for park trailers; amending s. 320.8249, F.S., to conform; limiting certain local government's ability to charge certain permit fees relating to mobile home parks; amending ss. 161.55, 319.001, 320.131, 320.27, 320.28, 320.71, 320.781, 320.822, 320.8225, 320.8231, 320.8232, 320.824, 320.8245, 320.8256, 320.8285, 320.834, 320.835, 320.861, 320.865, 325.202, 325.203, 325.213, and 627.351, F.S., to conform; repealing s. 320.771(8) and (11), F.S., relating to licensed mobile home dealers selling recreational vehicles and licensed recreational vehicle dealers setting up mobile homes; amending s. 322.1615, F.S.; revising language with respect to nighttime driving restrictions for persons with learner's driver licenses; amending s. 331.304, F.S.; revising the boundaries of spaceport territory; adding certain property located in Santa Rosa, Okaloosa, and Walton Counties to spaceport territory; amending 322.28, F.S.; revising language with respect to judicial stays on administrative suspensions of driving privileges; amending s. 332.003, F.S.; correcting a reference; amending s. 332.004, F.S.; redefining the terms "airport" and "airport or aviation discretionary capacity improvement projects"; amending s. 332.007, F.S.; directing the department to provide priority funding for commercial and dual-use space transportation projects; creating s. 332.009, F.S.; amending s. 334.044, F.S.; providing specific rule-making authority; repealing s. 334.044(15), F.S., relating to certain rulemaking authority; providing for application; amending s. 334.0445, F.S.; extending the time period for the model career service classification plan in the Department of Transportation; amending s. 335.0415, F.S.; modifying the date on which jurisdiction and responsibility for public roads is determined; repealing s. 335.165, F.S., relating to welcome stations; amending s. 337.11, F.S.; deleting a requirement for contract approval by a contractor's surety; amending s. 337.185, F.S.; revising the State Arbitration Board contract claim program; amending s. 337.19, F.S.; revising provisions relating to suits by and against the Department of Transportation and the liability of the department; amending s. 337.403, F.S.; authorizing the department to participate in the cost of clearing and grubbing necessary to perform utility improvement, relocation, or removal work under certain circumstances; amending s. 338.229, F.S.; authorizing the department to provide restrictions on the sale, transfer, lease, or other disposition or oper-

ation of any portion of the turnpike system which reduces the revenue available for the payment of bondholders; amending s. 479.01, F.S.; redefining the terms "commercial or industrial zone" and "unzoned commercial or industrial area"; amending s. 479.07, F.S.; revising provisions relating to reinstatement of expired outdoor advertising permits; amending s. 479.16, F.S.; increasing the square footage allowable on certain signs; amending chapter 96-423, Laws of Florida; authorizing the department to sell certain state property and directing the proceeds of the sale to the State Transportation Trust Fund; providing appropriations; amending s. 832.06, F.S.; providing procedures for receipt by tax collector of worthless check or draft for driver license or identification card; amending ss. 319.23, 320.08, and 320.086, F.S.; deleting reference to collectible vehicles; revising dates with respect to certain ancient or antique motor vehicles; exempting certain vehicles from the act; providing for the issuance of license plates to certain ancient or antique fire-fighting apparatus or motor vehicles; providing an appropriation; providing effective dates.

—was referred to the Committees on Transportation and Community Affairs.

By Representative Tamargo and others—

HB 3783—A bill to be entitled An act relating to the Cigarette Tax Collection Trust Fund; amending s. 210.20, F.S.; providing for a portion of the revenues from the cigarette tax to be paid monthly to the Board of Directors of the H. Lee Moffitt Cancer and Research Institute, for the purpose of financing a cancer-research facility at the University of South Florida; providing duties of the institute's board of directors; providing for uses of the transferred moneys, including the issuance of tax-exempt bonds; requiring the Board of Directors of the H. Lee Moffitt Cancer Center and Research Institute to administer funds, manage the project, provide assistance during construction, and operate the facility when complete; providing for the replacement of certain tax dollars annually; providing an effective date.

—was referred to the Committees on Health Care; and Ways and Means.

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 814, SB 1520, SB 2314, SB 2534, SB 2586, SB 2594, SB 2596, SB 2598, SB 2600, SB 2602 and SB 2734; and has passed SB 1268 and SB 2454 by the required Constitutional three-fifths vote of the membership of the House.

John B. Phelps, Clerk

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has receded from House Amendment 1 and has passed CS for SB 706, as amended; and has receded from House Amendment 1 and has passed CS for CS for SB 714, as amended.

John B. Phelps, Clerk

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has receded from House Amendment(s) and has passed CS for SB 1522, as amended.

John B. Phelps, Clerk

The bills contained in the foregoing messages were ordered enrolled.

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has receded from House Amendment(s) and has passed CS for SB 1328 and CS for SB 1330, as amended.

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 1108, CS for SB 1440 and CS for SB 2474 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 1437, HB 1747, CS for CS for HB 3265, CS for HB 3327, CS for HB 3345, CS for HB 3389, HB 3509, HB 3523, CS for HB 3619, CS for HB 3671, HB 3823, HB 3853, HB 3961, CS for HB 4047, CS for HB 4071, HB 4081, HB 4103, HB 4153, HB 4233, HB 4249, CS for HB 4283, CS for HB 4415, HB 4439 and HB 4743, as amended.

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) and passed as amended by the required Constitutional three-fifths vote of the membership of the House HB 4587, HB 4589, HB 4591, HB 4593, HB 4595, HB 4597 and HB 4599.

John B. Phelps, Clerk

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has receded from House Amendments 1 and 2 to Senate Amendment 1 and passed HB 3077, as amended.

John B. Phelps, Clerk

CORRECTION AND APPROVAL OF JOURNAL

The Journal of April 30 was corrected and approved.

CO-SPONSORS

Senators Burt—SB 2454; Clary—CS for SB 228; Harris—CS for SB 1114; Kirkpatrick—CS for SB 1114; Turner—CS for SB 1114

ADJOURNMENT

On motion by Senator Bankhead, the Senate adjourned sine die at 5:58 p.m.