



# Journal of the Senate

Number 5—Special Session A

Friday, November 7, 1997

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## CALL TO ORDER

The Senate was called to order by President Jennings at 10:00 a.m. A quorum present—36:

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

Excused: Senators Casas, Gutman and Turner

## PRAYER

The following prayer was offered by Senator Ostalkiewicz:

Father, we are thankful that we live in a free country and we are thankful that we have a chance to make a difference. Lord, I pray that you would give us all wisdom that we be circumspect, not selfish, but thinking of the greater goal. I pray that you would bless our efforts, deliver us from evil, and we pray that your hand of blessing would continue to extend over this whole state.

I pray this in the name of our Lord. Amen.

## PLEDGE

Senator Bankhead led the Senate in the pledge of allegiance to the flag of the United States of America.

## 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 as amended HB 23-A and requests the concurrence of the Senate.

*John B. Phelps, Clerk*

By Representative Tamargo and others—

**HB 23-A**—A bill to be entitled An act relating to the University of South Florida; authorizing the university to reimburse the University Health Services Support Organization, Inc., for costs incurred in the

purchase of the Tampa General Hospital-University of South Florida Psychiatry Center; providing an appropriation; requiring the revision of a related budget request; providing an appropriation to the Florida Agricultural and Mechanical University; providing a contingency; providing Legislative intent with respect to the General Revenue Fund; requiring revision of a budget request; providing an effective date.

—was referred to the Committees on Education; and Ways and Means.

On motions by Senator Grant, by two-thirds vote **HB 23-A** was withdrawn from the Committees on Education; and Ways and Means; and by unanimous consent was taken up instanter.

On motion by Senator Grant, by two-thirds vote **HB 23-A** was read the second time by title.

Senators Grant, Holzendorf and Latvala offered the following amendment which was moved by Senator Grant and adopted:

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

Section 1. *For the 1997-1998 fiscal year, the sum of \$1,600,000 is appropriated from the General Revenue Fund to the University of South Florida for the purchase of the Tampa General Hospital-University of South Florida Psychiatric Center. The state shall not be obligated to provide operating costs for the center from the General Revenue Fund in excess of the level funded by the Legislature in the 1997-1998 fiscal year.*

Section 2. *For the 1997-1998 fiscal year, the sum of \$1,500,000 is appropriated from the General Revenue Fund to the Florida Agricultural and Mechanical University for the expansion of the Science Research Facility to house a Pharmaceutical Research Center. These funds are contingent upon receipt of a like amount from the National Institutes of Health (NIH).*

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 education; providing an appropriation to the University of South Florida to purchase the Tampa General Hospital-University of South Florida Psychiatric Center; forbidding state obligation for certain future operating costs; providing an appropriation to the Florida Agricultural and Mechanical University for the expansion of certain facilities; providing a contingency; providing an effective date.

On motion by Senator Grant, by two-thirds vote **HB 23-A** 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	Holzendorf	McKay
Bankhead	Dantzler	Horne	Meadows
Bronson	Diaz-Balart	Jenne	Myers
Brown-Waite	Dudley	Jones	Ostalkiewicz
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Childers	Grant	Kurth	Sullivan
Clary	Hargrett	Latvala	Thomas
Cowin	Harris	Lee	Williams

Nays—None

## INTRODUCTION AND REFERENCE OF BILLS

### FIRST READING

By Senator Dudley—

**SB 44-A**—A bill to be entitled An act relating to the Florida Education Finance Program; amending s. 236.081, F.S.; revising the method of computing the basic amount to be included for operations and provisions relating to the caps adjustments; providing for adjustments to the calculation for certain school districts for fiscal year 1997-1998; requiring the Commissioner of Education to send technical assistance teams to specified districts and requiring those districts to amend enrollment counts; requiring the Commissioner of Education to make a report with respect to enrollments for exceptional child programs; providing an effective date.

—was referred to the Committees on Education; and Ways and Means.

On motions by Senator Dudley, by two-thirds vote **SB 44-A** was withdrawn from the Committees on Education; and Ways and Means; and by unanimous consent was taken up instanter.

On motions by Senator Dudley, by two-thirds vote **SB 44-A** was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

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

Nays—None

### MOTION

On motion by Senator Bankhead, the rules were waived and time of recess was extended until 11:30 a.m.

### SENATOR BANKHEAD PRESIDING

## CONSIDERATION OF BILLS ON THIRD READING

### THE PRESIDENT PRESIDING

**SB 36-A**—A bill to be entitled An act relating to execution; amending s. 922.10, F.S.; providing for execution by means of lethal injection if electrocution is held to be unconstitutional; providing an effective date.

—as amended November 6 was read the third time by title.

### MOTION

On motion by Senator Bankhead, the rules were waived and time of recess was extended until completion of **SB 36-A** and **SB 38-A**.

On motion by Senator Klein, **SB 36-A** as amended was passed and certified to the House. The vote on passage was:

Yeas—31

Madam President	Burt	Cowin	Dudley
Bankhead	Campbell	Crist	Dyer
Bronson	Childers	Dantzler	Forman
Brown-Waite	Clary	Diaz-Balart	Grant

Harris	Kurth	Myers	Sullivan
Horne	Latvala	Ostalkiewicz	Thomas
Jenne	Lee	Scott	Williams
Klein	McKay	Silver	

Nays—None

Vote after roll call:

Yea—Kirkpatrick

**SB 38-A**—A bill to be entitled An act relating to public records; providing exemptions from public records requirements for information identifying the person preparing or administering the lethal injection during execution of the death sentence; providing for future review and repeal; providing a finding of public necessity; amending s. 945.10, F.S., relating to confidential information and records of the Department of Corrections, to conform; providing a contingent effective date.

—as amended November 6 was read the third time by title.

On motion by Senator Klein, **SB 38-A** as amended was passed and certified to the House. The vote on passage was:

Yeas—31

Madam President	Cowin	Harris	Myers
Bankhead	Crist	Horne	Ostalkiewicz
Bronson	Dantzler	Jenne	Scott
Brown-Waite	Diaz-Balart	Klein	Silver
Burt	Dudley	Kurth	Sullivan
Campbell	Dyer	Latvala	Thomas
Childers	Forman	Lee	Williams
Clary	Grant	McKay	

Nays—None

Vote after roll call:

Yea—Kirkpatrick

## RECESS

On motion by Senator Bankhead, the Senate recessed at 11:38 a.m. to reconvene at 2:00 p.m. or upon call of the President.

## AFTERNOON SESSION

The Senate was called to order by the President at 2:10 p.m. A quorum present—35:

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

### CONFERENCE COMMITTEE REPORT ON HB 17-A

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has accepted the Conference Committee Report as an entirety and passed HB 17-A, as amended by the Conference Committee Report.

*John B. Phelps, Clerk*

The Honorable Daniel Webster  
Speaker, House of Representatives

November 7, 1997

The Honorable Toni Jennings  
President of the Senate

Dear Presiding Officers:

Your Conference Committee on the disagreeing votes of the two Houses on the Senate amendment to House Bill 17-A (see attached title) having met, and after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

1. That the Senate recede from its Amendment 1.
2. That the House of Representatives and the Senate adopt the Conference Committee amendment attached hereto, and by reference made a part of this report.

s/Ken Pruitt Chairman	s/Jim Horne Chairman
s/Josephus Eggelton	s/John Grant
s/James E. "Jim" King, Jr.	s/Betty Holzendorf
s/Al Lawson	s/Kenneth C. Jenne II
s/Joseph "Randy" Mackay	s/William G. Myers, M.D.
s/Bill Sublette	s/Donald C. Sullivan
s/Stephen R. Wise	

Managers on the part of the House of Representatives

Managers on the part of the Senate

**Conference Committee Amendment 1 (with title amendment)**—Remove from the bill: Everything after the enacting clause and insert in lieu thereof:

Section 1. *This act may be cited as the "Public School Capital Outlay Program Act" which includes SMART (Soundly Made, Accountable, Reasonable, and Thrifty) schools and the Classrooms First Program.*

Section 2. Section 235.175, Florida Statutes, is created to read:

235.175 *SMART schools; Classrooms First; legislative purpose.*—

(1) **SMART SCHOOLS.**—"SMART schools" are schools that are soundly made, accountable, reasonable, and thrifty. It is the purpose of the Legislature to provide a balanced and principle-based plan for a functional, safe, adequate, and thrifty learning environment for Florida's K-12 students through SMART schools. The plan must be balanced in serving all school districts and must also be balanced between the operating and capital sides of the budget. The principles upon which the plan is based are less government, lower taxes, increased responsibility of school districts, increased freedom through local control, and family and community empowerment.

(2) **CLASSROOMS FIRST.**—It is the purpose of the Legislature to increase substantially the state's investment in school construction in an equitable, fair, and reasonable way.

(3) **SCHOOL DISTRICT FACILITIES WORK PROGRAMS.**—It is the purpose of the Legislature to create s. 235.185, requiring each school district annually to adopt a district facilities 5-year work program. The purpose of the district facilities work program is to keep the school board and the public fully informed as to whether the district is using sound policies and practices that meet the essential needs of students and that warrant public confidence in district operations. The district facilities work program will be monitored by the SMART Schools Clearinghouse, which will also apply performance standards pursuant to s. 235.218.

(4) **SMART SCHOOLS CLEARINGHOUSE.**—It is the purpose of the Legislature to create s. 235.217, establishing the SMART Schools Clearinghouse to assist the school districts in building SMART schools utilizing functional and frugal practices. The SMART Schools Clearinghouse must review district facilities work programs and projects and identify districts qualified for incentive funding available through effort index grants and School Infrastructure Thrift Program awards; identify opportunities to maximize design and construction savings; develop school district facilities work program performance standards; and provide for review and recommendations to the Governor, the Legislature, and the State Board of Education.

(5) **EFFORT INDEX GRANTS.**—It is the purpose of the Legislature to create s. 235.186, in order to provide grants from state funds to assist school districts that have provided a specified level of local effort funding and still have a need to build new student stations and associated core facility space to meet student membership requirements in K-12 programs. Districts must utilize state funds in accordance with statutory

requirements and obligate from among all eligible sources an amount that is equivalent to the potential available for construction from PECO funds, capital outlay and debt service bond proceeds, Classrooms First funds, and the one-half cent local option school sales surtax. Effort index grants will be based upon recommendation of the SMART Schools Clearinghouse.

(6) **SCHOOL INFRASTRUCTURE THRIFT (SIT) PROGRAM AWARDS.**—It is the purpose of the Legislature to convert the SIT Program established in ss. 235.2155 and 235.216 to an incentive award program to encourage functional, frugal facilities and practices. Districts that find ways to reduce the cost of, or eliminate the need for, constructing educational facilities can receive SIT Program awards equal to 50 percent of the amount saved. In addition, districts may submit new schools to receive a SIT Program SMART school of the year recognition award. SIT Program awards will be based upon recommendation of the SMART Schools Clearinghouse and may be used for any authorized capital expenditure.

Section 3. Section 235.18, Florida Statutes, is amended to read:

235.18 Annual capital outlay budget.—Each board, including the Board of Regents, shall, each year, adopt a capital outlay budget for the ensuing year in order that the capital outlay needs of the board for the entire year may be well understood by the public and, insofar as possible, provisions be made for same. This capital outlay budget shall be a part of the annual budget and shall be based upon, and be in harmony with, the educational plant and ancillary facilities plan. This budget shall designate the proposed capital outlay expenditures by project for the year from all fund sources. ~~The board may not expend any~~ ~~No funds shall be expended~~ on any project such need not included in the budget, as amended. Each district school board must prepare its tentative district facilities work program as required by s. 235.185 before adopting the capital outlay budget.

Section 4. Section 235.185, Florida Statutes, is created to read:

235.185 *School district facilities work program; definitions; preparation, adoption, and amendment.*—

(1) **DEFINITIONS.**—As used in this section, the term:

(a) "Adopted district facilities work program" means the 5-year work program adopted by the district school board as provided in subsection (3).

(b) "Tentative district facilities work program" means the 5-year listing of capital outlay projects required:

1. To properly maintain the educational plant and ancillary facilities of the district.

2. To provide an adequate number of satisfactory student stations for the projected student enrollment of the district in K-12 programs in accordance with the goal in section 39 of this act.

(2) **PREPARATION OF TENTATIVE DISTRICT FACILITIES WORK PROGRAM.**—

(a) Annually, prior to the adoption of the district school budget, each school board shall prepare a tentative district facilities work program that includes:

1. A schedule of major repair and renovation projects necessary to maintain the educational plant and ancillary facilities of the district.

2. A schedule of capital outlay projects necessary to ensure the availability of satisfactory student stations for the projected student enrollment in K-12 programs. This schedule shall consider:

a. The locations, capacities, and planned utilization rates of current educational facilities of the district.

b. The proposed locations of planned facilities.

c. Plans for the use and location of relocatable facilities, leased facilities, and charter school facilities.

d. Plans for multitrack scheduling, grade level organization, block scheduling, or other alternatives that reduce the need for permanent student stations.

e. Information concerning average class size and utilization rate by grade level within the district that will result if the tentative district facilities work program is fully implemented. The average shall not include exceptional student education classes or prekindergarten classes.

f. The number and percentage of district students planned to be educated in relocatable facilities during each year of the tentative district facilities work program.

g. Plans for the closure of any school, including plans for disposition of the facility or usage of facility space, and anticipated revenues.

3. The projected cost for each project identified in the tentative district facilities work program. For proposed projects for new student stations, a schedule shall be prepared comparing the planned cost and square footage for each new student station, by elementary, middle, and high school levels, to the low, average, and high cost of facilities constructed throughout the state during the most recent fiscal year for which data is available from the Department of Education.

4. A schedule of estimated capital outlay revenues from each currently approved source which is estimated to be available for expenditure on the projects included in the tentative district facilities work program.

5. A schedule indicating which projects included in the tentative district facilities work program will be funded from current revenues projected in subparagraph 4.

6. A schedule of options for the generation of additional revenues by the district for expenditure on projects identified in the tentative district facilities work program which are not funded under subparagraph 5. Additional anticipated revenues may include effort index grants, SIT Program awards, and Classrooms First funds.

(b) To the extent available, the tentative district facilities work program shall be based on information produced by the demographic, revenue, and education estimating conferences pursuant to s. 216.136.

(c) Provision shall be made for public comment concerning the tentative district facilities work program.

(3) **ADOPTED DISTRICT FACILITIES WORK PROGRAM.**—Annually, the district school board shall consider and adopt the tentative district facilities work program completed pursuant to subsection (2). Upon giving proper public notice and opportunity for public comment, the district school board may amend the program to revise the priority of projects, to add or delete projects, to reflect the impact of change orders, or to reflect the approval of new revenue sources which may become available. The adopted district facilities work program shall:

(a) Be a complete, balanced capital outlay financial plan for the district.

(b) Set forth the proposed commitments and planned expenditures of the district to address the educational facilities needs of its students and to adequately provide for the maintenance of the educational plant and ancillary facilities.

(4) **EXECUTION OF ADOPTED DISTRICT FACILITIES WORK PROGRAM.**—The first year of the adopted district facilities work program shall constitute the capital outlay budget required in s. 235.18. The adopted district facilities work program shall include the information required in subparagraphs (2)(a)1., 2., and 3., based upon projects actually funded in the program.

Section 5. Section 235.186, Florida Statutes, is created to read:

235.186 *Effort index grants for school district facilities work program projects.*—

(1) **PROJECT REVIEW; ELIGIBILITY.**—Annually, the SMART Schools Clearinghouse established pursuant to s. 235.217 shall review the adopted district facilities work program of each district to ensure compliance with the provisions of s. 235.185 and to determine the district's eligibility to receive an effort index grant for local school facilities projects pursuant to this section. Projects identified in a district facilities work program which are eligible to receive an effort index grant shall be limited to those projects which provide new student stations and associated core facility space to meet student membership requirements in K-12

programs. Effort index grants shall not be provided to replace relocatable classrooms which meet standards.

(2) **COMPUTATION OF REQUIRED LOCAL EFFORT AMOUNT FOR DISTRICT EFFORT INDEX.**—Prior to a school district being eligible to receive an effort index grant pursuant to this section, the clearinghouse shall certify that the district agreed to expend, from among all eligible sources, an amount that is equivalent to the amount of funds projected to be available during the period covered by the district facilities work program from the following four sources for eligible basic capital outlay expenditures described in subsection (4):

(a) Public Education Capital Outlay and Debt Service Trust Fund moneys for construction pursuant to s. 235.42.

(b) The maximum potential bond proceeds available from the School District and Community College District Capital Outlay and Debt Service Trust Fund.

(c) Proceeds from the Classrooms First Program authorized in s. 235.187.

(d) One-half cent local option school sales surtax, pursuant to s. 212.055(7), if fully levied over the 5-year period.

(3) **ELIGIBLE REVENUE SOURCES FOR REQUIRED LOCAL EFFORT.**—Expenditures from eligible revenues which may be counted toward a district's required local effort shall be limited to:

(a) Public Education Capital Outlay and Debt Service Trust Fund distributions for construction pursuant to s. 235.42.

(b) School District and Community College District Capital Outlay and Debt Service Trust Fund distributions.

(c) Direct proceeds from the half-cent local option school sales surtax authorized in s. 212.055(7).

(d) Direct proceeds from the local government infrastructure sales surtax authorized in s. 212.055(2).

(e) Direct proceeds from the 2-mill discretionary capital outlay levy authorized in s. 236.25.

(f) Direct proceeds from district voted millage for capital outlay purposes as authorized in s. 9, Art. VII of the State Constitution.

(g) School Infrastructure Thrift (SIT) Program awards received pursuant to ss. 235.2155 and 235.216.

(h) Classrooms First Program proceeds received pursuant to s. 235.187.

(i) Private donations.

(j) Grants from local governments or not-for-profit organizations.

(4) **COMPUTATION OF BASIC DISTRICT CAPITAL OUTLAY EXPENDITURES ELIGIBLE FOR INCLUSION IN CALCULATION FOR EFFORT INDEX GRANTS.**—

(a) When reviewing a district facilities work program, the clearinghouse shall calculate the district's planned basic capital outlay expenditures that may be eligible for an effort index grant. For each district, this calculation shall consist of:

1. Expenditures for district capital outlay projects described in subsection (1).

2. Expenditures for debt service payments for outstanding capital outlay bonds sold to finance new construction, remodeling, renovation, or major repair of educational facilities.

3. Expenditures for scheduled payments on outstanding certificates of participation used to finance new construction, remodeling, renovation, or major repair of educational facilities.

Expenditures relating to the replacement of relocatable classrooms that meet standards shall not qualify as expenditures eligible for inclusion in the calculation for effort index grants.

(b) The computation of basic district capital outlay expenditures eligible for inclusion in the clearinghouse's calculation for effort index grants for projects initiated after July 1, 1997, shall be based upon the actual cost per student station or the cost per student station calculated pursuant to s. 235.435(6), whichever is less.

(5) ALLOCATION OF EFFORT INDEX GRANTS FOR DISTRICT FACILITIES.—

(a) If the calculated district obligation is equal to or greater than the calculated required effort amount for the eligible expenditures, the district shall be eligible for an effort index grant, to be determined by the clearinghouse by calculating need from the actual cost per student station or the cost per student station pursuant to s. 235.435(6), whichever is less, plus debt service payments for new construction, remodeling, renovation, or major repair of educational facilities less the calculated required effort amount.

(b) Annually by November 1, the clearinghouse shall report to the Governor and the Legislature on the amount required to fully fund effort index grants for each of the following 5 years.

(c) Districts demonstrating inability to finance eligible projects in their district facilities work programs after meeting the requirements in subsection (2) may be eligible to receive effort index grants, subject to legislative appropriations for this purpose.

(d) If legislative appropriations are insufficient to fully fund the eligible total statewide qualified effort index grants as calculated by the clearinghouse, priority consideration shall be given to providing effort index grants to those districts based upon:

1. The extent to which they have exceeded the district effort index in subsection (2); and

2. The extent to which they have maximized their revenue generating potential from the district effort index in subsection (2) through the purchase of certificates of participation, the sale of bonds, or other appropriate long-term financing.

Section 6. Section 235.187, Florida Statutes, is created to read:

235.187 Classrooms First Program; uses.—

(1) The Commissioner of Education shall allocate funds appropriated for the Classrooms First Program among the district school boards. It is the intent of the Legislature that this program be administered as nearly as practicable in the same manner as the capital outlay program authorized under s. 9(d), Art. XII of the State Constitution. Each district school board's share of the annual appropriation for the Classrooms First Program must be calculated according to the following formula, but the share of each district shall, at a minimum, be at least equal to the amount required for all payments of the district relating to bonds issued by the state on its behalf:

(a) Twenty-five percent of the appropriation shall be prorated to the districts based on each district's percentage of base capital outlay full-time equivalent membership; and 65 percent shall be based on each district's percentage of growth capital outlay full-time equivalent membership as specified for the allocation of funds from the Public Education Capital Outlay and Debt Service Trust Fund by s. 235.435(3).

(b) Ten percent of the appropriation must be allocated among district school boards according to the allocation formula in s. 235.435(1)(a).

(2) A district school board shall expend the funds received pursuant to this section only to:

(a) Construct, renovate, remodel, repair, or maintain educational facilities; or

(b) Pay debt service on bonds issued pursuant to this section, the proceeds of which must be expended for new construction, remodeling, renovation, and major repairs. Bond proceeds shall be expended first for providing permanent classroom facilities. Bond proceeds shall not be expended for any other facilities until all unmet needs for permanent classrooms and auxiliary facilities as defined in s. 235.011 have been satisfied.

However, if more than 9 percent of a district's total square feet is more than 50 years old, the district must spend at least 25 percent of its allocation on the renovation, major repair, or remodeling of existing schools, except that districts with fewer than 10,000 full-time equivalent students are exempt from this requirement.

(3) Each district school board that pledges moneys under paragraph (2)(b) shall notify the Department of Education of its election at a time set by the department; however, the initial notification shall be by February 1, 1998. The Department of Education shall review the proposal of each district school board for compliance with this section and shall forward all approved proposals to the Division of Bond Finance with a request to issue bonds on behalf of the approved school districts. The Division of Bond Finance shall pool the pledges from all school districts making the election in that year and shall issue the bonds on behalf of the districts for a period not to exceed the distributions to be received under s. 24.121(2). The bonds must be issued in accordance with s. 11(d), Art. VII of the State Constitution, and each project to be constructed with the proceeds of bonds is hereby approved as provided in s. 11(e), Art. VII of the State Constitution. The bonds shall be issued pursuant to the State Bond Act to the extent not inconsistent with this section.

(4) Bonds issued under this section must be validated as prescribed by chapter 75. The complaint for the validation must be filed in the circuit court of the county where the seat of state government is situated; the notice required to be published by s. 75.06 must be published only in the county where the complaint is filed; and the complaint and order of the circuit court must be served only on the state attorney of the circuit in which the action is pending. The state covenants with holders of bonds issued under this section that it will not take any action that will materially and adversely affect the rights of such holders so long as such bonds are outstanding.

(5) Beginning July 1, 1998, a school district may only receive a distribution for use pursuant to paragraph (2)(a) if the district school board certifies to the Commissioner of Education that the district has no unmet need for permanent classroom facilities in its 5-year capital outlay work plan. If the work plan contains such unmet needs, the district must use its distribution for the payment of bonds pursuant to paragraph (2)(b). If the district does not require its full bonded distribution to eliminate such unmet need, it may bond only that portion of its allocation necessary to meet the needs.

Section 7. Section 235.215, Florida Statutes, is amended to read:

235.215 Energy efficiency contracting.—

(1) LEGISLATIVE INTENT.—The Legislature finds that investment in energy conservation measures in educational facilities can reduce the amount of energy consumed and produce immediate and long-term savings. It is the policy of this state to encourage school districts, state community colleges, and state universities to invest in energy conservation measures that reduce energy consumption, produce a cost savings, and improve the quality of indoor air in facilities, and, when economically feasible, to build, operate, maintain, or renovate educational facilities in such a manner so as to minimize energy consumption and maximize energy savings. It is further the policy of this state to encourage school districts, state community colleges, and state universities to reinvest any energy savings resulting from energy conservation measures into additional energy conservation efforts.

(2)(4) DEFINITIONS.—For purposes of this section, the term:

(a) "Energy conservation measure" means a training program, or facility alteration, or equipment to be used in new construction, including an addition to an existing facility, that reduces energy consumption or operating costs, and includes, but is not limited to:

1. Insulation of the facility building structure and systems within the facility building.

2. Storm windows and doors, caulking or weatherstripping, multiglazed windows and doors, heat-absorbing, or heat-reflective, glazed and coated window and door systems, additional glazing, reductions in glass area, and other window and door system modifications that reduce energy consumption.

3. Automatic energy control systems.

4. Heating, ventilating, or air-conditioning system modifications or replacements.

5. Replacement or modifications of lighting fixtures to increase the energy efficiency of the lighting system *which, at a minimum, shall without increasing the overall illumination of a facility, unless an increase in illumination is necessary to conform to the applicable state or local building code for the lighting system after the proposed modifications are made.*

6. Energy recovery systems.

7. Cogeneration systems that produce steam or forms of energy such as heat, as well as electricity, for use primarily within a *facility building or complex of facilities buildings.*

8. Energy conservation measures that provide long-term operating cost reductions and significantly reduce Btu consumed.

9. *Renewable energy systems, such as solar, biomass, and wind.*

10. *Devices which reduce water consumption or sewer charges.*

(b) "Energy cost savings" means:

1. A measured reduction in fuel, ~~and energy, or operation and maintenance~~ costs created from the implementation of one or more energy conservation measures when compared with an established baseline for previous fuel, ~~and energy, or operation and maintenance costs; or~~

2. *For new construction, a projected reduction in fuel, energy, or operation and maintenance costs created from the implementation of one or more energy conservation measures when compared with the projected fuel, energy, or operation and maintenance costs for equipment if the minimum standards of the State Uniform Building Code for Public Educational Facilities Construction were implemented and signed and sealed by a registered professional engineer.*

(c) "Guaranteed Energy performance-based savings contract" means a contract for the evaluation, ~~and recommendation, and implementation~~ of energy conservation measures *which includes, at a minimum: includ-*ing

1. The design and installation of equipment to implement one or more of such measures, *and, if applicable, operation and maintenance of such measures.*

2. *The amount of any actual annual savings. This amount must meet or exceed total annual contract payments made by the school, state community college, or state university for such contract. may include repair or replacement of existing equipment in a school, state community college, or state university plant, professional fees, and*

3. *Financing charges to be incurred by the school, state community college, or state university over the life of the contract paid from the energy savings less agreed upon inflation factors, and maintenance services where applicable.*

(d) "Energy performance contractor ~~Qualified provider~~" means a person or business licensed pursuant to chapter 471, chapter 481, or chapter 489 and experienced in the *analysis, design, implementation, and installation of energy conservation measures through the implementation of guaranteed energy performance-based savings contracts.*

~~(3)(2)~~ ENERGY PERFORMANCE-BASED EFFICIENCY CONTRACT PROCEDURES.—

(a) A school district, state community college, or state university may enter into ~~an a~~ guaranteed energy performance-based savings contract with ~~an energy performance contractor a qualified provider~~ to significantly reduce energy or operating costs of ~~an educational facility~~ through ~~the implementation of one or more energy conservation measures.~~

(b) The energy performance contractor ~~qualified provider~~ shall be selected in compliance with s. 287.055; except that in a case where a school district, state community college, or state university determines that fewer than three firms are qualified to perform the required services, the requirement for agency selection of three firms, as provided in

s. 287.055(4)(b), shall not apply ~~and~~ or the bid requirements of s. 287.057 shall not apply.

(c) Before entering into a contract pursuant to this section, the district school board, state community college, or state university shall provide published notice of the meeting in which it proposes to award the contract, the names of the parties to the proposed contract, and the contract's purpose.

~~(d) Prior to the design and~~ Before installation of the energy conservation measure ~~equipment, modification, or remodeling, the school district, state community college, or state university must obtain from the energy performance contractor qualified provider shall first issue a report that discloses summarizing estimates of all costs associated with the energy conservation measure and provides an estimate of the amount of the energy cost savings. The report must be reviewed by either the Department of Education or the Department of Management Services or signed and sealed by a registered professional engineer of installation, modification, or remodeling, including costs of design, engineering, installation, maintenance, repairs, or debt service, and estimates of the amounts by which energy or operating costs will be reduced.~~

~~(e)(4) SCHOOL DISTRICT ACTION.—~~A school district, state community college, or state university may enter into ~~an a~~ guaranteed energy performance-based savings contract with ~~an energy performance contractor a qualified provider~~ if, after review of the report required by paragraph (d), it finds that the amount it would spend on the energy conservation measures recommended in the report ~~will not is not likely to exceed the amount to be saved in energy and operation costs over 20 40 years from the date of installation, based on life cycle costing calculations, if the recommendations in the report were followed and if the energy performance contractor qualified provider provides a written guarantee that the energy or operating cost savings will meet or exceed the costs of the system. The guaranteed energy savings contract may provide for payments over a period of time not to exceed 20 40 years.~~

~~(f)(5) INSTALLATION CONTRACT.—~~A school district, state community college, or state university may enter into an installment payment contract for the purchase and installation of energy conservation measures. The contract shall provide for payments of not less than ~~one-twentieth one-tenth~~ of the price to be paid within 2 years from the date of the complete installation and ~~acceptance by the school board, state community college, or state university acceptance,~~ and the remaining costs to be paid at least quarterly, not to exceed a ~~20-year 40-year~~ term based on life cycle costing calculations.

~~(g)(6) CONTRACT CONTINUANCE.—~~Guaranteed Energy performance-based savings contracts may extend beyond the fiscal year in which they become effective; however, the term of any contract shall expire at the end of each fiscal year and may be automatically renewed annually up to 20 40 years, subject to a school board, state community college, or state university making sufficient annual appropriations based upon continued realized energy cost savings. Such contracts shall stipulate that the agreement does not constitute a debt, liability, or obligation of the state or a school board, state community college, or state university, or a pledge of the faith and credit of the state or a school board, state community college, or state university.

~~(4)(3)~~ CONTRACT PROVISIONS.—

(a) ~~An A~~ guaranteed energy performance-based savings contract shall include a ~~written energy~~ guarantee by the energy performance contractor that ~~annual energy cost savings will meet or exceed the amortized cost of energy conservation measures.~~

(b) The contract shall provide that all payments, except obligations on termination of the contract before its expiration, are to be made over time, but not to exceed 20 40 years from the date of complete installation and ~~acceptance by the school board, state community college, or state university acceptance,~~ and that the annual savings are guaranteed to the extent necessary to make annual payments to satisfy the contract for the systems.

(c) The contract must require that the energy performance contractor ~~A qualified provider~~ to whom the contract is awarded shall provide a 100-percent public construction project value bond to the school district, state community college, or state university for its faithful performance, as required by s. 255.05 ~~chapter 287.~~

(d) *The contract shall require the energy performance contractor to provide to the school district, state community college, or state university an annual reconciliation of the guaranteed energy cost savings. The energy performance contractor shall be liable for any annual savings shortfall which may occur. In the event that such reconciliation reveals an excess in annual energy cost savings, such excess savings shall not be used to cover potential energy cost savings shortages in subsequent contract years.*

Section 8. Section 235.2155, Florida Statutes, as created by chapters 97-153 and 97-265, Laws of Florida, is reenacted and amended to read:

235.2155 School Infrastructure Thrift Program Act.—

(1) This section and s. 235.216 may be cited as the “School Infrastructure Thrift Program Act of 1997.”

(2) The School Infrastructure Thrift Program (SIT Program) is established within the Department of Education, and the State Board of Education may adopt rules as necessary to operate the program. To facilitate the program’s purposes, the department shall aggressively seek the elimination or revision of obsolete, excessively restrictive, or unnecessary laws, rules, and regulations for the purpose of reducing the cost of constructing educational facilities and related costs without sacrificing safety or quality of construction. Such efforts must include, but are not limited to, the elimination of duplicate or overlapping inspections; the relaxation of requirements relating to the life cycle of buildings, landscaping, operable glazing, operable windows, radon testing, fire-safety, and emergency shelter construction where lawful, safe, and cost-beneficial; and other cost savings identified as lawful, safe, and cost-beneficial. ~~The program’s purposes are to:~~

(a) ~~Facilitate cost savings by school districts relating to educational facilities construction.~~

(b) ~~Provide incentives for school districts to maximize dollars available for construction of educational facilities and related costs.~~

(c) ~~Provide a funding mechanism for utilization solely related to the construction of new educational facilities.~~

(3) *The SIT Program is designed as:*

(a) *An incentive program to reward districts for:*

1. *Savings realized through functional, frugal construction.*
2. *Savings realized through the operation of charter schools in non-school-district facilities.*

(b) *A recognition program to provide an annual SMART school of the year recognition award to the district that builds the highest quality functional, frugal school.*

(4)(3) Funds shall be appropriated to the SIT Program on an annual basis as determined by the Legislature. Notwithstanding the provisions of s. ss. 216.301 and pursuant to s. 216.351, undisbursed balances of appropriations to the SIT Program shall not revert. It is the intent of the Legislature to continue funding the SIT Program with funds available through frugal government operation and agency savings.

(5)(4) ~~School districts may participate in the SIT Program by local option of the school board. Participating school districts may seek SIT Program awards request funds in the program beginning July 1, 1997, for projects commenced after or for projects underway at that the time this act becomes a law, if the projects comply with s. 235.216.~~

(6)(5)(a) ~~Annually by December 30, beginning in 1997, Each participating school district may submit shall report to the SMART Schools Clearinghouse Commissioner of Education, with supporting data, its request, based on eligibility pursuant to compliance with s. 235.216 together with any proposal for an award of spending SIT Program dollars on new projects within the district commencing the following fiscal year.~~

(b) ~~The SMART Schools Clearinghouse commissioner shall examine the supporting data and proposals from each school district and, by February 1, shall report to the commissioner Legislature each participating district’s eligibility pursuant to compliance with s. 235.216. Based on the clearinghouse’s report and pursuant to ss. 235.217 and 235.218,~~

~~the clearinghouse shall for the prior fiscal year and make recommendations, ranked in order of priority, for SIT Program awards for the following fiscal year.~~

(c) ~~If a school district receives SIT Program funds and fails to comply with this section and s. 235.216, the district may not receive an award the following fiscal year and must return the dollars not spent or encumbered as required by this section and s. 235.216 with interest thereon at the legal rate.~~

(c)(d) ~~The commissioner’s criteria for SIT Program evaluation and recommendation for awards must be based on the school district’s eligibility pursuant to district meeting the requirements in this section and s. 235.216, the soundness of the proposal, school district need, and the balance of dollars in the SIT Program.~~

(7)(6) ~~Awards from the SIT Program shall be made by the commissioner from funds appropriated by the Legislature and may only be used for any lawful capital outlay expenditure construction of a new educational facility and related costs. SIT Program dollars that are not spent or encumbered as required by this section must be returned to the SIT Program as required by paragraph (5)(c).~~

(8)(a)(7) ~~For each award to new project of a school district pursuant to paragraph (3)(a) that is recommended by the SMART Schools Clearinghouse meets the criteria of s. 235.216, the commissioner may award up to 50 20 percent of the savings realized from the district’s frugality total project cost from SIT Program dollars.~~

(b) ~~For each award to a school district pursuant to paragraph (3)(b) that is recommended by the SMART Schools Clearinghouse, the commissioner may present a trophy or plaque and a cash award to the school.~~

Section 9. Section 235.216, Florida Statutes, as created by chapters 97-153 and 97-265, Laws of Florida, is reenacted and amended to read:

235.216 ~~SIT Program award eligibility; maximum square foot cost per student station of educational facilities; frugality frugal construction incentives; recognition awards.—~~

(1) It is the intent of the Legislature that district school boards that seek awards of SIT Program funds use due diligence and sound business practices in the design, construction, and use of educational facilities.

(2) Beginning with the 1997-1998 fiscal year, a school district may seek an award funding assistance from the SIT Program, pursuant to s. 235.2155, based on the district’s:

(a) ~~for~~ New construction of educational facilities if:

(a) ~~the maximum total cost per student station is less than:~~

1. *\$11,600 for an elementary school,*
2. *\$13,300 for a middle school, or*
3. *\$17,600 for a high school,*

~~(1997) as adjusted annually by the Consumer Price Index. The award shall be up to 50 percent of such savings, as recommended by the SMART Schools Clearinghouse.~~

(b) ~~Operation of charter schools in non-school-district facilities. SIT Program awards pursuant to this paragraph shall be as recommended by the SMART Schools Clearinghouse. After the initial award, the recommendation must be based on savings realized from proportionate district increase in such charter school enrollment in excess of original enrollment, and the award shall be up to 50 percent of such savings square foot for the elementary school, middle school, or high school does not exceed the most current 5-year statewide average square foot total cost for schools serving similar grade levels published by the Department of Education, adjusted by inflation and the most current Marshall and Swift Construction Cost Index of Florida counties. If federal funds are used, the maximum square foot total cost may be adjusted to accommodate federal requirements.~~

(b) ~~Upon completion of construction, the total project cost, including change orders, does not exceed the adjusted statewide average cost per gross square foot for schools serving similar grade levels, adjusted by the construction cost index and the 5-year statewide average inflation rate;~~

does not exceed the minimum square footage per student specified in the State Requirements for Educational Facilities, 1997; and does not exceed the adjusted statewide average cost per student station.

(3) Beginning with the 1998-1999 fiscal year, a school district may seek a SMART school of the year recognition award for building the highest quality functional, frugal school.

Section 10. Section 235.217, Florida Statutes, is created to read:

235.217 SMART (Soundly Made, Accountable, Reasonable, and Thrifty) Schools Clearinghouse.—

(1)(a) The SMART Schools Clearinghouse is established to assist school districts that seek to access School Infrastructure Thrift (SIT) Program awards pursuant to ss. 235.2155 and 235.216 or effort index grants pursuant to s. 235.186. The clearinghouse must use expedited procedures in providing such assistance.

(b) The clearinghouse shall consist of five members who are not members of the Legislature or school district officers or employees and who have substantial business experience in the private sector. Two members shall be appointed by the Governor for initial 1-year and 3-year terms, respectively. One member shall be appointed by the President of the Senate for an initial 2-year term. One member shall be appointed by the Speaker of the House of Representatives for an initial 2-year term. The Commissioner of Education or a designee shall be a member. All subsequent terms of the four appointed members shall be 3 years. The Governor's appointee for the initial 3-year term shall chair the clearinghouse, and each subsequent holder of that position shall serve as the chair.

(c) Members of the clearinghouse shall be appointed no later than November 28, 1997, and shall convene for their first meeting no later than December 1, 1997.

(d) The clearinghouse is assigned to the Department of Management Services for administrative and fiscal accountability purposes, but it shall otherwise function independently of the control and direction of the department, except as otherwise provided in chapters 110, 255, and 287 for agencies of the executive branch.

(e) The clearinghouse may adopt rules necessary to carry out its duties, including, but not limited to, rules relating to design and performance standards, the SMART Schools Design Directory, project delivery process, and prioritization of awards.

(2)(a) The clearinghouse shall develop an initial set of design and performance standards for delivering functional and frugal buildings that are space efficient and technology rich. The design and performance standards shall be based on, but not be limited to, such factors as construction costs per student station, maintenance costs, utilities costs, and network-related costs. The design and performance standards shall be continuously updated based upon actual use and performance. Using these standards, the clearinghouse shall conduct a statewide search to certify school designs that are currently available and meet the SMART schools standards. In order for certified SMART schools designs to be reused, the designs must be recertified by the clearinghouse to provide an opportunity for the designer to correct any deficiencies determined from actual use, or to modify the design to meet current standards. The selection process used for approval of a SMART schools design and inclusion of the design in the SMART Schools Design Directory shall be deemed to satisfy the legal requirements of s. 287.055 for the procurement of such services by a public agency. The Department of Management Services may establish state term contracts, including, but not limited to, contracts for design and construction services for SMART schools.

(b) The clearinghouse shall establish a "SMART Schools Design Directory" listing the certified designs that will be accessible on-line and serve as the primary means to review SMART schools design options. To maximize the use of high performance schools and foster competition, the clearinghouse shall review submissions of new school designs to add to the SMART Schools Design Directory. If the clearinghouse determines the design submitted is equal to or better than the average of those already included in the directory, the submission shall be certified and the design shall then be added to the directory and available for reuse after contracting pursuant to paragraph (a).

(c) All designs certified by the clearinghouse as SMART schools designs may utilize a project management delivery process similar to the

process used by the Department of Management Services. However, school districts may secure project management services from the Department of Management Services or a qualified private provider, or may use internal resources.

(3) The clearinghouse shall:

(a) Recommend to the Governor, the Legislature, and the State Board of Education frugal construction standards that ensure appropriate industry standards and optimal life cycles and that may include, but are not limited to, standards for optimal size of core facility space, design-build, performance contracting, energy efficiency, and life-cycle systems costing.

(b) Prioritize school district SIT Program awards and effort index grants based on a review of the district facilities work programs and proposed construction projects.

(c) Recommend to the Governor, the Legislature, and the State Board of Education standards and policies relating to the design and construction of educational facilities.

(d) Request the commissioner to consider all relevant recommendations for incorporation into the Uniform Building Code.

(e) By July 1, 1998, establish a 5-year statewide capital outlay projection for education. In developing the projection, the clearinghouse shall reasonably adhere to historical projection standards developed for school capital outlay by the Department of Education and shall incorporate the following factors into the projection:

1. A calculation of the number of student stations in each district as calculated in the Florida Inventory of School Houses based upon space to which stations are to be assigned pursuant to s. 235.014(10)(a)1.

2. The norm value of each space-per-student station range established for each educational classroom in the State Requirements for Educational Facilities, with the norm value constituting one student station in the Florida Inventory of School Houses.

3. The number of capital outlay full-time equivalent students as determined by the department for each school district.

4. A total project cost per student station, which may equal the respective maximums provided in s. 235.435(6) for elementary, middle, and high school student stations adjusted by the Consumer Price Level Index calculated 30 months from the time of the current state capital outlay projection for education.

5. Maintenance standards and guidelines as determined by the Department of Education.

6. A relocatable valuation factor, which must consider the historical lifespan of relocatable classrooms in public schools compared to that of permanent facility space, and account for the goal established in section 39 of this act for replacement of relocatables in the next 5 years.

7. A projection of available state and district revenues for the next 5 fiscal years, based upon current-year projections of state capital outlay revenues accruing to school districts and current-year levies of ss. 212.055, 236.25(2), 236.31, and 236.32 and millage voted from provisions of s. 9, Art. VII of the State Constitution, incorporating the most recent projections of the Gross Receipts, Public Educational Capital Outlay, Education, Transportation, and General Revenue Estimating Conferences; and not including any revenues accruing through impact fees, proceeds accrued from certificates of participation, or any currently unlevied portion of rate or millage authorized by s. 212.055, s. 236.25(2), s. 236.31, or s. 236.32 or s. 9, Art. VII of the State Constitution.

(4) The clearinghouse may not enter into the day-to-day operation of the Department of Management Services or the Department of Education and is specifically prohibited from taking part in any of the following activities of a school district:

(a) The awarding of contracts.

(b) The selection of a consultant or contractor or the prequalification of any individual consultant or contractor. However, the clearinghouse may recommend to the commissioner standards and policies governing



the procedure for selection and prequalification of consultants and contractors.

(c) The selection of the specific location of a facility.

(5)(a) Members of the clearinghouse are entitled to per diem and travel expenses pursuant to s. 112.061.

(b) A member of the clearinghouse shall be subject to the Code of Ethics for Public Officers and Employees, Part III of chapter 112.

(c) The clearinghouse shall appoint an executive director who shall serve under the direction, supervision, and control of the clearinghouse. The executive director may employ staff, subject to appropriations. The executive director shall serve at the pleasure of the clearinghouse.

(d) The clearinghouse shall develop a budget request pursuant to chapter 216. The budget request is not subject to change by the Department of Management Services but shall be submitted to the Governor and the Legislature along with the budget request of the department.

(e) The clearinghouse and the Department of Education shall develop an interagency cooperation, collaboration, and information-sharing agreement, as necessary to work out areas of mutual concern.

Section 11. Section 235.218, Florida Statutes, is created to read:

**235.218 School district facilities work program performance and productivity standards; development; measurement; application.—**

(1) The SMART Schools Clearinghouse shall develop and adopt measures for evaluating the performance and productivity of school district facilities work programs. The measures may be both quantitative and qualitative and must, to the maximum extent practical, assess those factors that are within the districts' control. The measures must, at a minimum, assess performance in the following areas:

- (a) Frugal production of high-quality projects.
- (b) Efficient finance and administration.
- (c) Optimal school and classroom size and utilization rate.
- (d) Safety.
- (e) Core facility space needs and cost-effective capacity improvements that consider demographic projections.
- (f) Level of district local effort.

(2) The clearinghouse shall establish annual performance objectives and standards that can be used to evaluate district performance and productivity.

(3) The clearinghouse shall conduct ongoing evaluations of district educational facilities program performance and productivity, using the measures adopted under this section. If, using these measures, the clearinghouse finds that a district failed to perform satisfactorily, the clearinghouse must recommend actions to be taken to improve the district's performance. A district that refuses to follow the recommended actions may be denied an effort index grant.

Section 12. Subsection (2) of section 24.121, Florida Statutes, is amended to read:

**24.121 Allocation of revenues and expenditure of funds for public education.—**

(2) Each fiscal year, at least 38 percent of the gross revenue from the sale of lottery tickets and other earned revenue, excluding application processing fees, shall be deposited in the Educational Enhancement Trust Fund, which is hereby created in the State Treasury to be administered by the Department of Education. The Department of the Lottery shall transfer moneys to the Educational Enhancement Trust Fund at least once each quarter. Funds in the Educational Enhancement Trust Fund shall be used to the benefit of public education in accordance with the provisions of this act. *Notwithstanding any other provision of law, a maximum of \$180 million of lottery revenues transferred to the Educational Enhancement Trust Fund in fiscal year 1997-1998 and for 30*

*years thereafter shall be reserved as needed and used to meet the requirements of the documents authorizing the bonds issued by the state pursuant to s. 235.2195 or s. 235.187 or distributed to school districts for the Classrooms First Program as provided in s. 235.187. Such lottery revenues are hereby pledged to the payment of debt service on bonds issued by the state pursuant to s. 235.2195 or s. 235.187. Debt service payable on bonds issued by the state pursuant to s. 235.2195 or s. 235.187 shall be payable from the first lottery revenues transferred to the Educational Enhancement Trust Fund in each fiscal year. Amounts distributable to school districts that request the issuance of bonds pursuant to s. 235.187(3) are hereby pledged to such bonds pursuant to s. 11(d), Art. VII of the State Constitution. The amounts distributed through the Classrooms First Program shall equal \$145 million in each fiscal year. These funds are intended to provide up to \$2.5 billion for public school facilities.*

Section 13. Section 235.2195, Florida Statutes, is created to read:

**235.2195 The 1997 School Capital Outlay Bond Program.—There is hereby established the 1997 School Capital Outlay Bond program.**

(1) The issuance of revenue bonds payable from the first lottery revenues transferred to the Educational Enhancement Trust Fund each fiscal year, as provided by s. 24.121(2), is authorized to finance or refinance the construction, acquisition, reconstruction, or renovation of educational facilities. Such bonds shall be issued pursuant to and in compliance with the provisions of s. 11(d), Art. VII of the State Constitution, the provisions of the State Bond Act, ss. 215.57-215.83, as amended, and the provisions of this section. The state does hereby covenant with the holders of such revenue bonds that it will not take any action which will materially and adversely affect the rights of such holders so long as bonds authorized by this section are outstanding.

(2) The bonds shall be issued by the Division of Bond Finance of the State Board of Administration on behalf of the Department of Education in such amount as shall be requested by resolution of the State Board of Education. However, debt service and other amounts payable with respect to the bonds issued pursuant to this section shall not exceed \$35 million in any state fiscal year.

(3) Proceeds available from bond sales shall be deposited in the Educational Enhancement Trust Fund within the Department of Education.

(4) The facilities to be financed with the proceeds of such bonds are designated as state fixed capital outlay projects for purposes of s. 11(d), Art. VII of the State Constitution and the specific facilities to be financed shall be determined by the Department of Education in accordance with state law and appropriations from the Educational Enhancement Trust Fund. Each educational facility to be financed with the proceeds of the bonds issued pursuant to this section is hereby approved as required by s. 11(e), Art. VII of the State Constitution.

(5) Bonds issued pursuant to this section shall be validated in the manner provided by chapter 75. The complaint for such validation shall be filed in the circuit court of the county where the seat of state government is situated, the notice required to be published by s. 75.06 shall be published only in the county where the complaint is filed, and the complaint and order of the circuit court shall be served only on the state attorney of the circuit in which the action is pending.

Section 14. Section 235.321, Florida Statutes, is amended to read:

**235.321 Changes in construction requirements after award of contract.—**The board may, at its option and by written policy duly adopted and entered in its official minutes, authorize the superintendent or president or other designated individual to approve change orders in the name of the board for preestablished amounts. Approvals shall be for the purpose of expediting the work in progress and shall be reported to the board and entered in its official minutes. *For accountability, the school district shall monitor and report the impact of change orders on its district facilities work program pursuant to s. 235.185.*

Section 15. Paragraph (e) is added to subsection (2) of section 235.017, Florida Statutes, to read:

**235.017 Boards to ensure that facilities comply with building codes and life safety codes.—**

(2) Boards may provide compliance as follows:

(e) Boards may submit phase III documents for review and approval to the Department of Management Services for those projects for which the board has entered into a contract with such department pursuant to s. 255.31(3).

Section 16. *Florida Frugal Schools Program.*—

(1) The Legislature recognizes the need for public accountability and public confidence in the expenditure of capital outlay funds by district school boards. The Legislature further recognizes that frugal construction of functional schools is an essential element in providing, with limited state and local resources, adequate school facilities for a growing student population.

(2) The "Florida Frugal Schools Program" is created to recognize publicly each district school board that agrees to build frugal yet functional educational facilities and that implements "best financial management practices" when planning, constructing, and operating educational facilities. The State Board of Education shall recognize a district school board as having a Florida Frugal Schools Program if the district requests recognition and satisfies two or more of the following criteria:

(a) The district receives a "Seal of Best Financial Management" as provided in section 230.2302, Florida Statutes, created by chapter 97-265, Laws of Florida, or implements best financial management practices in the area of educational facilities as evidenced by a partial review under section 230.2302, Florida Statutes.

(b) The district school board certifies that each educational facility planned and constructed by the district after the effective date of this act will comply with the cost limits established in section 235.435(6), Florida Statutes, and that evidence of such compliance will be submitted for validation on a project-by-project basis to the Department of Education.

(c) The district school board submits a plan to the Commissioner of Education certifying how the revenues generated by the levy of the capital outlay sales surtax authorized by section 212.055(7), Florida Statutes, will be spent. The plan must include at least the following assurances about the use of the proceeds of the surtax and any accrued interest:

1. The district school board will use the surtax and accrued interest only for the fixed capital outlay purposes identified by section 212.055(7)(d), Florida Statutes, which will reduce school overcrowding that has been validated by the Department of Education, or for the repayment of bonded indebtedness related to such capital outlay purposes.

2. The district school board will not spend the surtax or accrued interest to pay for operational expenses or for the construction, renovation, or remodeling of any administrative building or any other ancillary facility that is not directly related to the instruction, feeding, or transportation of students enrolled in the public schools.

3. The district school board's use of the surtax and accrued interest will be consistent with the best financial management practices identified and approved under section 230.2302, Florida Statutes.

4. The district school board will apply the educational facilities contracting and construction techniques authorized by section 235.211, Florida Statutes, or other construction management techniques to reduce the cost of educational facilities.

5. The district school board will discontinue the surtax levy when the district has provided the survey-recommended educational facilities that were determined to be necessary to relieve school overcrowding; when the district has satisfied any bonded indebtedness incurred for such educational facilities; or when the district's other sources of capital outlay funds are sufficient to provide such educational facilities, whichever occurs first.

6. The district school board will use any excess surtax collections or accrued interest to reduce the discretionary outlay millage levied under section 236.25(2), Florida Statutes.

(d) The district school board receives the equivalent of a one-half cent levy from the local infrastructure sales surtax.

Section 17. Subsection (7) of section 212.055, Florida Statutes, is amended to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

(7) SCHOOL CAPITAL OUTLAY SURTAX.—

(a) ~~Beginning July 1, 1995,~~ The school board in each county may levy, pursuant to resolution conditioned to take effect only upon approval by a majority vote of the electors of the county voting in a referendum, a discretionary sales surtax at a rate that may not exceed 0.5 percent.

(b) The resolution shall include a statement that provides a brief and general description of the school capital outlay projects to be funded by the surtax. *If applicable, the resolution must state that the district school board has been recognized by the State Board of Education as having a Florida Frugal Schools Program.* The statement shall conform to the requirements of s. 101.161 and shall be placed on the ballot by the governing body of the county. The following question shall be placed on the ballot:

.... FOR THE                      .... CENTS TAX  
.... AGAINST THE                      .... CENTS TAX

(c) Notwithstanding s. 212.054(5), the sales surtax may take effect on the first day of any month, as fixed by the resolution adopted pursuant to paragraph (a), but may not take effect until at least 60 days after the date of approval by the electors of the resolution adopted pursuant to paragraph (a).

(d) The resolution providing for the imposition of the surtax shall set forth a plan for use of the surtax proceeds for fixed capital expenditures or fixed capital costs associated with the construction, reconstruction, or improvement of school facilities and campuses which have a useful life expectancy of 5 or more years, and any land acquisition, land improvement, design, and engineering costs related thereto. Additionally, the plan shall include the costs of retrofitting and providing for technology implementation, including hardware and software, for the various sites within the school district. Surtax revenues may be used for the purpose of servicing bond indebtedness to finance projects authorized by this subsection, and any interest accrued thereto may be held in trust to finance such projects. Neither the proceeds of the surtax nor any interest accrued thereto shall be used for operational expenses. *If the district school board has been recognized by the State Board of Education as having a Florida Frugal Schools Program, the district's plan for use of the surtax proceeds must be consistent with this subsection and with uses assured under the Florida Frugal Schools Program.*

(e) Any school board imposing the surtax shall implement a freeze on noncapital local school property taxes, at the millage rate imposed in the year prior to the implementation of the surtax, for a period of at least 3 years from the date of imposition of the surtax. This provision shall not apply to existing debt service or required state taxes.

(f) Surtax revenues collected by the Department of Revenue pursuant to this subsection shall be distributed to the school board imposing the surtax in accordance with law.

Section 18. *The Florida Teachers Lead Program established.*—

(1) There is hereby appropriated from the General Revenue Fund to the Department of Education the sum of \$31.5 million for the Florida Teachers Lead Program. From the funds appropriated, the Commissioner of Education shall calculate an amount for each school district which is proportional to each district's share of the total number of full-time public school classroom teachers in this state.

(2) The Florida Teachers Lead Program funds shall be deposited into each school's internal account and made available to be expended at the discretion of each classroom teacher to assist teaching and learning in the classroom. Each teacher's allocation shall remain available for the teacher's use until the full amount is expended.

(3) This one-time appropriation shall be made available to each classroom teacher in the amount of \$250. These funds shall be provided to each teacher in addition to any other funds appropriated for public school operations. The funds expended by individual teachers shall not be subject to state or local competitive bidding requirements.

(4) For purposes of this section, the term "classroom teacher" includes certified teachers whose full-time job responsibility is the classroom instruction of students in prekindergarten through grade 12 and media specialists. Only school district personnel employed in these positions are eligible for the Florida Teachers Lead Program.

Section 19. SMART Schools Small County Assistance Program for fiscal year 1998-1999.—There is hereby established the SMART Schools Small County Assistance Program for fiscal year 1998-1999.

(1) The purpose of the program is to provide funds to school districts in small counties that have urgent need for a school facility or major school building expansions, repairs, and renovations but lack sufficient resources at present and cannot reasonably anticipate sufficient resources in the next 3 years to build a facility or finance such major renovations or repairs, and that will commit to constructing functional, frugal schools. The program is intended to supplement the Special Facility Construction Account authorized in s. 235.435(2)(a), Florida Statutes, by providing authorized school districts with funds from sources other than the Public Education Capital Outlay and Debt Service Trust Fund, and does not affect any award under that account. However, a school district may not receive an award from this program and the Special Facility Construction Account in the same fiscal year.

(2) The program shall be administered by the Department of Education and coordinated by the SMART Schools Clearinghouse in cooperation with the Commissioner of Education, and shall use the procedures established in s. 235.435(2)(a)1.-10., Florida Statutes, relating to the Special Facility Construction Account.

(3) There is hereby appropriated from the Educational Enhancement Trust Fund to the Department of Education for fiscal year 1998-1999 the sum of \$50 million to implement this program. This appropriation is contingent upon the sale of revenue bonds pursuant to s. 235.2195, Florida Statutes.

(4) In coordinating the program, the clearinghouse shall submit recommendations for legislative consideration of funding in fiscal year 1998-1999 by February 20, 1998, to the Executive Office of the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(5) For purposes of this section, "small county" means any county that has an unincarcerated population of 75,000 or less according to the most recent decennial census.

Section 20. Subsection (3) of section 228.056, Florida Statutes, is amended to read:

228.056 Charter schools.—

(3) PROPOSAL.—A proposal for a new charter school may be made by an individual, teachers, parents, a group of individuals, a municipality, or a legal entity organized under the laws of this state. The principal, teachers, parents, and/or the school advisory council at an existing public school, including a public school-within-a-school that is designated as a school by the district school board, shall submit any proposal for converting the school to a charter school. An application submitted proposing to convert an existing public school to a charter school shall demonstrate the support of at least 50 percent of the teachers employed at the school and 50 percent of the parents whose children are enrolled at the school. A private school, parochial school, or home education program shall not be eligible for charter school status.

Section 21. Section 229.513, Florida Statutes, is amended to read:

229.513 Rules and statutes relating to facilities and classrooms; periodic annual review.—

(1) The Commissioner of Education shall review rules of the State Board of Education and of the Department of Education on a periodic basis, as determined by the commissioner, ~~annually by February 1~~ and recommend revisions or repeals to eliminate obsolete, excessively restrictive, and unnecessary requirements applicable to school districts in

the construction, renovation, remodeling, leasing, or repair of facilities and related matters affecting the physical quality of classrooms for instructional purposes.

(2) The Commissioner of Education shall recommend to the Legislature on a periodic basis, as determined by the commissioner, ~~annually by February 1~~ the revision or repeal of provisions of the Florida Statutes to eliminate obsolete, excessively restrictive, and unnecessary requirements applicable to school districts in the construction, renovation, remodeling, leasing, or repair of facilities and related matters affecting the physical quality of classrooms for instructional purposes.

Section 22. Section 230.23025, Florida Statutes, is amended to read:

230.23025 Best financial management practices; standards; reviews; designation of districts.—

(1) The Office of Program Policy Analysis and Government Accountability (OPPAGA) and the Office of the Auditor General are directed to develop a system for reviewing the financial management practices of school districts. In this system, OPPAGA and the Auditor General shall jointly examine district operations to determine whether they meet "best financial management practices." The best financial management practices will be adopted by the state Commissioner of Education ~~may be updated periodically within 90 days after the effective date of this act,~~ after consultation with the Legislature, the Governor, the SMART Schools Clearinghouse, OPPAGA, and the Auditor General. The best financial management practices, at a minimum, must *instill public confidence by addressing* the following areas:

(a) Efficient use of resources, ~~including assessments of facilities construction and maintenance practices, use of state and district construction funds,~~ use of lottery proceeds, student transportation and food service operations, management structures, and personnel systems and benefits;

(b) Compliance with generally accepted accounting principles and state and federal laws relating to financial management;

(c) Performance accountability systems, including performance measurement reports to the public, internal auditing, financial auditing, and information made available to support decisionmaking;

(d) Cost control systems, including asset, risk, and financial management, purchasing, and information system controls.

(2) School districts may, by a unanimous vote of the membership of the school board, apply to OPPAGA for a complete best financial management practice review or a review of components of the best financial management practices, including management, personnel, transportation, and food and nutrition services reviews. OPPAGA shall prioritize districts for review based on their growth rates and demonstrated need for review. The director of OPPAGA may, at his or her discretion, contract with private consultants to perform part or all of the review of any district. Districts applying for a complete review shall contribute 50 percent of review costs, unless funding for the entire cost of the review is specifically provided by the Legislature ~~or the district has had a performance review pursuant to ss. 11.515 and 230.2302.~~ Districts applying for a review of a component shall contribute 75 percent of the review cost.

(3) District reviews conducted under this section ~~must shall~~ be completed within 6 months after commencement. OPPAGA shall issue a report to the district regarding its financial management practices and cost savings recommendations within 60 days after completing the reviews. If the district is found not to conform to best financial management practices, the report ~~must shall~~ contain a plan of action detailing how the district could meet the best practices within 2 years.

(4) District school boards that agree by a majority plus one vote to institute the action plan shall submit an annual report to the Legislature, the Governor, the SMART Schools Clearinghouse, OPPAGA, the Auditor General, and the Commissioner of Education on progress made towards implementing the plan and whether changes have occurred in other areas of operation which would affect compliance with the best practices. Such districts shall be reviewed annually by OPPAGA, in addition to the annual financial audit required under s. 11.45, to determine whether they have attained compliance with the best financial management practices in the areas covered by the plan. Districts that

are found to comply with the best financial management practices shall receive a "Seal of Best Financial Management" by the State Board of Education certifying that the district is adhering to the state's best financial management practices. This designation shall be effective for a ~~5-year~~ 3-year period, after which the district school board may reapply for the designation to be granted after another financial management practice review. During the designation period, the district school board shall annually notify *the SMART Schools Clearinghouse*, OPPAGA, the Auditor General, and the State Board of Education of any changes in policies or operations or any other situations that would not conform to the state's best financial management practices. The State Board of Education may revoke the designation of a district at any time if it determines that a district is no longer complying with the state's best financial management practices.

(5) *Any audit or performance review of one or more of the designated components conducted or supervised by OPPAGA or the Department of Management Services, and completed within 2 years before the date of application to OPPAGA for a best financial practices review, may serve as all or part of the audit or review required as the examination of district operations necessary for a determination of whether a district meets the "best financial management practices" designation. The cost contribution requirements of subsection (2) do not apply to any such audit or performance review.*

Section 23. Subsections (5) through (23) of section 235.011, Florida Statutes, are renumbered as subsections (6) through (24), respectively, present subsections (11) and (17) are renumbered and amended, and a new subsection (5) is added to said section, to read:

235.011 Definitions.—Notwithstanding the provisions of s. 228.041, the following terms shall be defined as follows for the purpose of this chapter:

(5) "Core facilities" means the media center, cafeteria, toilet facilities, and circulation space of an educational plant.

(12)(14) "Maintenance and repair" means the upkeep of educational and ancillary plants, including, but not limited to, roof or roofing replacement short of complete replacement of membrane or structure; repainting of interior or exterior surfaces; resurfacing of floors; repair or replacement of glass; repair of hardware, furniture, equipment, electrical fixtures, and plumbing fixtures; and repair or resurfacing of parking lots, roads, and walkways. *The term "maintenance and repair" does shall not include custodial or groundskeeping functions, or renovation except for the replacement of equipment with new equipment of equal systems meeting current code requirements, provided that the replacement item neither places increased demand upon utilities services or structural supports nor adversely affects the function of safety to life systems.*

(18)(17) "Renovation" means the rejuvenating or upgrading of existing facilities by installation or replacement of materials and equipment and includes, but is not limited to, interior or exterior reconditioning of facilities and spaces; air-conditioning, heating, or ventilating equipment; fire alarm systems; emergency lighting; electrical systems; and complete roofing or roof replacement, including replacement of membrane or structure. *As used in this subsection, the term "materials" does not include instructional materials.*

Section 24. Subsection (1) and paragraph (a) of subsection (10) of section 235.014, Florida Statutes, are amended to read:

235.014 Functions of the department.—The functions of the department shall include, but not be limited to, the following; it shall:

(1) Establish recommended minimum and maximum square footage requirements for different functions and areas and the procedures for determining the gross square footage for each educational facility to be funded in whole or in part by the state, including public broadcasting stations but excluding postsecondary special purpose laboratory space. The gross square footage determination standards may be exceeded when *the core facility space of an educational facility is constructed or renovated to accommodate the future addition of classrooms to meet projected increases in student enrollment using local operating funds.* The department shall encourage multiple use of facilities and spaces in educational plants.

(10)(a) Review and validate surveys proposed or amended by the boards and recommend to the State Board of Education, for approval, surveys that meet the requirements of this chapter.

1. The term "validate" as applied to surveys by school districts means to review inventory data as submitted to the department by district school boards; provide for review and inspection, where required, of student stations and aggregate square feet of inventory changed from satisfactory to unsatisfactory or changed from unsatisfactory to satisfactory; ~~compare the comparison of~~ new school inventory to allocation limits provided by this chapter; review of cost projections for conformity with ~~cost limits set by s. 235.435(6) state averages;~~ ~~compare comparison of~~ total capital outlay full-time equivalent enrollment projections in the survey with the department's projections; review facilities lists to verify that *student station and auxiliary facility space area* allocations do not exceed the limits provided by this chapter and related rules; review and confirm the application of uniform facility utilization factors, where provided by this chapter or related rules; utilize the documentation of programs offered per site, as submitted by the board, to analyze facility needs; confirm that need projections for vocational and adult educational programs comply with needs documented by the Division of ~~Workforce Development Applied Technology and Adult Education;~~ and confirm the assignment of full-time student stations to all space except ~~for~~ *auxiliary facilities, which, for purposes of exemption from student station assignment, include the following:*

- a. Cafeterias.;
- b. Multipurpose dining areas.;
- c. Media centers.;
- d. Auditoriums. ~~and~~
- e. Administration.

f. *Elementary, middle, and high school resource rooms, up to the number of such rooms recommended for the applicable occupant and space design capacity of the educational plant in the State Requirements for Educational Facilities, beyond which student stations must be assigned.*

g. *Elementary school skills labs, up to the number of such rooms recommended for the applicable occupant and space design capacity of the educational plant in the State Requirements for Educational Facilities, beyond which student stations must be assigned.*

h. *Elementary school art and music rooms.*

2. The term "validate" as applied to surveys by community colleges means to review and document the approval of each new site and official designation, where applicable; review the inventory database as submitted by the Division of Community Colleges, including nonvocational, vocational, and total capital outlay full-time equivalent enrollment projections per site and per college; provide for the review and inspection, where required, of student stations and aggregate square feet of space changed from satisfactory to unsatisfactory; utilize and review the documentation of programs offered per site submitted by the Division of Community Colleges as accurate for analysis of space requirements and needs; confirm that needs projected for vocational and adult educational programs comply with needs documented by the Division of ~~Workforce Development Applied Technology and Adult Education;~~ compare new facility inventory to allocations limits as provided in this chapter; review cost projections for conformity with state averages or limits designated by this chapter; compare student enrollment projections in the survey to the department's projections; review facilities lists to verify that area allocations and space factors for generating space needs do not exceed the limits as provided by this chapter and related rules; confirm the application of facility utilization factors as provided by this chapter and related rules; and review, as submitted, documentation of how survey recommendations will implement the detail of current campus master plans and integrate with local comprehensive plans and development regulations.

Section 25. Paragraph (a) of subsection (2) of section 235.056, Florida Statutes, is amended to read:

235.056 Lease and lease-purchase of educational facilities and sites.—

(2)(a) A board may rent or lease educational facilities and sites as defined in s. 235.011. Educational facilities and sites rented or leased for 1 year or less shall be funded through the operations budget or funds

derived from millage proceeds pursuant to s. 236.25(2). A lease contract for 1 year or less, when extended or renewed beyond a year, becomes a multiple-year lease. Operational funds or funds derived from millage proceeds pursuant to s. 236.25(2) may be authorized to be expended for multiple-year leases. All leased facilities and sites must be inspected prior to occupancy by the board's Uniform Building Code inspector, who shall report to the department.

1. Beginning July 1, 1995, all newly leased spaces must be inspected and brought into compliance with the state minimum building code pursuant to chapter 553, and the life safety codes pursuant to chapter 633, prior to occupancy, using the board's operations budget or funds derived from millage proceeds pursuant to s. 236.25(2). As an alternative, the board may elect to comply with the State Uniform Building Code for Public Educational Facilities Construction instead of the state minimum building code or the life safety code, or both.

2. Plans for renovation or remodeling of leased space shall conform to state minimum building and life safety codes for educational occupancies, or other occupancies as appropriate, as required in chapters 553 and 633, prior to occupancy. As an alternative, the board may elect to comply with the State Uniform Building Code for Public Educational Facilities Construction instead of the state minimum building code or the life safety code, or both.

3. All leased facilities must be inspected annually for firesafety deficiencies in accordance with the applicable code and have corrections made in accordance with s. 235.06. Operational funds or funds derived from millage proceeds pursuant to s. 236.25(2) may be used to correct deficiencies in leased space.

4. When the board declares that a public emergency exists, it may take up to 30 days to bring the leased facility into compliance with the requirements of Commissioner of Education rules.

5. *By July 1, 1998, the department shall present to the Governor, the Speaker of the House of Representatives, and the President of the Senate a report on the amount of leased space used by districts for prekindergarten programs and for instructional purposes of elementary schools, middle schools, and high schools. The report shall indicate the number of capital outlay full-time-equivalent students who are instructed in leased spaces, the number of permanent and relocatable facilities which are leased, the number of prekindergarten stations assigned in permanent facilities, the condition of leased facilities in accordance with applicable building and life safety codes, and the methods by which leased spaces are financed. The report shall make recommendations as to prescriptive changes that districts must make with regard to leased facilities, as well as recommendations regarding the assignment of student stations to such facilities.*

Section 26. Subsection (2) of section 235.06, Florida Statutes, is amended to read:

235.06 Safety and sanitation standards and inspection of property.—The Commissioner of Education shall adopt and administer rules prescribing standards for the safety and health of occupants of educational and ancillary plants as a part of the State Uniform Building Code for Public Educational Facilities Construction as provided in s. 235.26, the provisions of chapter 633 to the contrary notwithstanding. These standards must be used by all public agencies when inspecting public educational and ancillary plants. In accordance with such standards, each board shall prescribe policies and procedures establishing a comprehensive program of safety and sanitation for the protection of occupants of public educational and ancillary plants. Such policies must contain procedures for periodic inspections as prescribed herein and for withdrawal of any educational and ancillary plant, or portion thereof, from use until unsafe or unsanitary conditions are corrected or removed.

(2) INSPECTION OF EDUCATIONAL PROPERTY BY OTHER PUBLIC AGENCIES.—

(a) A safety or sanitation inspection of any educational or ancillary plant may be made at any time by the Department of Education or any other state or local agency authorized or required to conduct such inspections by either general or special law. Each agency conducting inspections shall use the standards adopted by the Commissioner of Education in lieu of, and to the exclusion of, any other inspection standards prescribed either by statute or administrative rule, the provisions of chapter

633 to the contrary notwithstanding. The agency shall submit a copy of the inspection report to the board.

(b) *In addition to school board inspections, the applicable local fire control authority shall also annually inspect educational facilities within its fire control district, using the standards adopted by the Commissioner of Education. Reports shall be filed with the school board, and a copy shall be on file with the local site administrator.*

Section 27. Section 235.061, Florida Statutes, is created to read:

235.061 Standards for relocatables used as classroom space; inspections.—

(1) *The Commissioner of Education shall adopt rules establishing standards for relocatables intended for long-term use as classroom space at a public elementary school, middle school, or high school. "Long-term use" means the use of relocatables at the same educational plant for a period of 4 years or more. These rules must be implemented by July 1, 1998, and each relocatable acquired by a district school board after the effective date of the rules and intended for long-term use must comply with the standards. The rules shall require that, by July 1, 2001, relocatables that fail to meet the standards may not be used as classrooms. The standards shall protect the health, safety, and welfare of occupants by requiring compliance with the Uniform Building Code for Public Educational Facilities or other locally adopted state minimum building codes to ensure the safety and stability of construction and onsite installation; fire and moisture protection; air quality and ventilation; appropriate wind resistance; and compliance with the requirements of the Americans with Disabilities Act of 1990. If appropriate, the standards must also require relocatables to provide access to the same technologies available to similar classrooms within the main school facility and, if appropriate, to be accessible by adequate covered walkways. A relocatable that is subject to this section and does not meet the standards shall not be reported as providing satisfactory student stations in the Florida Inventory of School Houses.*

(2) *Annual inspections for all satisfactory relocatables designed for classroom use or being occupied by students are required for: foundations; tie-downs; structural integrity; weatherproofing; HVAC; electrical; plumbing, if applicable; firesafety; and accessibility. Reports shall be filed with the district school board and posted in each respective relocatable in order to facilitate corrective action.*

Section 28. Subsection (1) of section 235.15, Florida Statutes, is amended to read:

235.15 Educational plant survey; localized need assessment; PECO project funding.—

(1) At least every 5 years, each board, including the Board of Regents, shall arrange for an educational plant survey, to aid in formulating plans for housing the educational program and student population, faculty, administrators, staff, and auxiliary and ancillary services of the district or campus, including consideration of the local comprehensive plan. The Division of Workforce Development shall document the need for additional career and adult education programs and the continuation of existing programs before facility construction or renovation related to career or adult education may be included in the educational plant survey of a school district or community college that delivers career or adult education programs. Information used by the Division of Workforce Development to establish facility needs must include, but need not be limited to, labor market data, needs analysis, and information submitted by the school district or community college.

(a) *Survey preparation and required data.*—Each survey shall be conducted by the board or an agency employed by the board. Surveys shall be reviewed and approved by the board, and a file copy shall be submitted to the commissioner. The survey report shall include at least an inventory of existing educational and ancillary plants; recommendations for existing educational and ancillary plants; recommendations for new educational or ancillary plants, including the general location of each in coordination with the land use plan; campus master plan update and detail for community colleges; the utilization of school plants based on an extended school day or year-round operation; and such other information as may be required by the rules of the State Board of Education. This report may be amended, if conditions warrant, at the request of the board or commissioner.

(b) *Required need assessment criteria for district, community college, and state university plant surveys.*—Each educational plant survey completed after ~~December 31, 1997, June 30, 1997,~~ must use uniform data sources and criteria specified in this paragraph. Each educational plant survey completed after June 30, 1995, and before ~~January 1, 1998, July 1, 1997,~~ must be revised, if necessary, to comply with this paragraph. Each revised educational plant survey and each new educational plant survey supersedes previous surveys.

1. Each school district's *educational plant survey* must reflect the capacity of existing *satisfactory* facilities as reported in the Florida Inventory of School Houses. Projections of facility space needs may not exceed the ~~norm~~ ~~minimum~~ space and occupant design criteria established by the ~~State Requirements for Educational Facilities~~ ~~rule of the State Board of Education~~. Existing and projected capital outlay full-time equivalent student enrollment must be consistent with data prepared by the department ~~and must include all enrollment used in the calculation of the distribution formula in s. 235.435(3). All satisfactory relocatable classrooms, including those owned, lease-purchased, or leased by the school district, relocatables shall be included in the school district inventory of gross capacity of facilities and must be counted~~ ~~rated at 100 percent of actual student capacity for purposes of the inventory. For future needs determination, student capacity shall not be assigned to any relocatable classroom that is scheduled for elimination or replacement with a permanent educational facility in the adopted 5-year educational plant survey and in the district facilities work program adopted under s. 235.185. Those relocatables clearly identified and scheduled for replacement in a school board adopted financially feasible 5-year district facilities work program shall be counted at zero capacity at the time the work program is adopted and approved by the school board. However, if the district facilities work program is changed or altered and the relocatables are not replaced as scheduled in the work program, they must then be re-entered into the system for counting at actual capacity. Relocatables may not be perpetually added to the work program and continually extended for purposes of circumventing the intent of this section. All remaining relocatable classrooms, including those owned, lease-purchased, or leased by the school district, relocatables shall be counted at 75 percent of actual student capacity. The educational plant survey shall identify the number of relocatable student stations scheduled for replacement during the 5-year survey period and the total dollar amount needed for that replacement. All district educational plant surveys revised after July 1, 1998, shall include information on leased space used for conducting the district's instructional program, in accordance with the recommendations of the department's report authorized in s. 235.056. A definition of satisfactory relocatable classrooms shall be established by rule of the department. However, an adjustment shall be made for deficiencies in core space because of the use of relocatables. For schools with permanent educational facilities, this adjustment shall be the product of 75 percent multiplied by a factor determined by the ratio of permanent classrooms to relocatable classrooms. Such product shall not exceed 100 percent.~~

2. Each survey of a special facility, joint-use facility, or cooperative vocational education facility must be based on capital outlay full-time equivalent student enrollment data prepared by the department for school districts, by the Division of Community Colleges for community colleges, and by the Board of Regents for state universities. A survey of space needs of a joint-use facility shall be based upon the respective space needs of the school districts, community colleges, and universities, as appropriate. Projections of a school district's facility space needs may not exceed the ~~norm~~ ~~minimum~~ space and occupant design criteria established by the ~~State Requirements for Educational Facilities~~ ~~rule of the State Board of Education~~.

3. Each community college's survey must reflect the capacity of existing facilities as specified in the inventory maintained by the Division of Community Colleges. Projections of facility space needs must comply with standards for determining space needs as specified by rule of the State Board of Education. The 5-year projection of capital outlay student enrollment must be consistent with the annual report of capital outlay full-time student enrollment prepared by the Division of Community Colleges.

4. Each state university's survey must reflect the capacity of existing facilities as specified in the inventory maintained and validated by the Board of Regents. Projections of facility space needs must be consistent with standards for determining space needs approved by the Board of Regents. The projected capital outlay full-time equivalent student en-

rollment must be consistent with the 5-year planned enrollment cycle for the State University System approved by the Board of Regents.

5. The educational plant survey of a school district, community college, or state university may include space needs that deviate from approved standards for determining space needs if the deviation is justified ~~by the district or institution and approved by, to the satisfaction of the department or the Board of Regents, as appropriate, as necessary for the delivery of an approved educational program.~~

(c) *Review and validation.*—*When required by the Constitution, the department shall review and validate the surveys of school districts and community colleges and any amendments thereto for compliance with the requirements of this chapter and shall recommend those in compliance for approval by the State Board of Education.*

Section 29. Subsection (2) of section 235.19, Florida Statutes, is amended to read:

#### 235.19 Site planning and selection.—

(2) Each new site selected must be adequate in size to meet the educational needs of the students to be served *on that site by the original educational facility or future expansions of the facility through renovation or the addition of relocatables*. The Commissioner of Education shall prescribe by rule recommended sizes for new sites according to categories of students to be housed and other appropriate factors determined by the commissioner. Less-than-recommended site sizes are allowed if the board, by a two-thirds majority, recommends such a site and finds that it can provide an appropriate and equitable educational program on the site.

Section 30. Paragraphs (a), (f), (g), and (h) of subsection (2) of section 235.26, Florida Statutes, are amended to read:

235.26 *State Uniform Building Code for Public Educational Facilities Construction.*—The Commissioner of Education shall adopt a uniform statewide building code for the planning and construction of public educational and ancillary plants by district school boards and community college district boards of trustees. The code must be entitled the State Uniform Building Code for Public Educational Facilities Construction. Included in this code must be flood plain management criteria in compliance with the rules and regulations in 44 C.F.R. parts 59 and 60, and subsequent revisions thereto which are adopted by the Federal Emergency Management Agency. Wherever the words "Uniform Building Code" appear, they mean the "State Uniform Building Code for Public Educational Facilities Construction." It is not a purpose of the Uniform Building Code to inhibit the use of new materials or innovative techniques; nor may it specify or prohibit materials by brand names. The code must be flexible enough to cover all phases of construction so as to afford reasonable protection for the public safety, health, and general welfare. The department may secure the service of other state agencies or such other assistance as it finds desirable in revising the code.

(2) **CONFORMITY TO UNIFORM BUILDING CODE STANDARDS REQUIRED FOR APPROVAL.**—A district school board or community college district board of trustees may not approve any plans for the construction, renovation, remodeling, or demolition of any educational or ancillary plants unless these plans conform to the requirements of the Uniform Building Code. Each district school board and community college district board of trustees may adopt policies for delegating to the superintendent or community college president authority for submitting documents to the department and for awarding contracts subsequent to and consistent with board approval of the scope, timeframes, funding source, and budget of a survey-recommended project. It is also the responsibility of the department to develop, as a part of the Uniform Building Code, standards relating to:

(a) *Prefabricated facilities, or factory-built facilities, or site-built facilities* that are designed to be portable, relocatable, demountable, or reconstructible; are used primarily as classrooms; and do not fall under the provisions of ss. 320.822-320.862. Such standards must permit boards to contract with the Department of Community Affairs for factory inspections by certified Uniform Building Code inspectors to certify conformance with law and with rules of the Commissioner of Education. *The standards must comply with the requirements of s. 235.061 for relocatable facilities intended for long-term use as classroom space.*

(f) The performance of life-cycle cost analyses on alternative architectural and engineering designs to evaluate their energy efficiencies.

1. The life-cycle cost analysis must consist of the sum of:
  - a. The reasonably expected fuel costs over the life of the building that are required to maintain illumination, water heating, temperature, humidity, ventilation, and all other energy-consuming equipment in a facility; and
  - b. The reasonable costs of probable maintenance, including labor and materials, and operation of the building.
2. For computation of the life-cycle costs, the department shall develop standards that must include, but need not be limited to:
  - a. The orientation and integration of the facility with respect to its physical site.
  - b. The amount and type of glass employed in the facility and the directions of exposure.
  - c. The effect of insulation incorporated into the facility design and the effect on solar utilization of the properties of external surfaces.
  - d. The variable occupancy and operating conditions of the facility and subportions of the facility.
  - e. An energy consumption analysis of the major equipment of the facility's heating, ventilating, and cooling system; lighting system; and hot water system and all other major energy-consuming equipment and systems as appropriate.

3. Such standards must be based on the best currently available methods of analysis, including such methods as those of the National Institute of Standards and Technology, the Department of Housing and Urban Development, and other federal agencies and professional societies and materials developed by the Department of Management Services and the department. Provisions must be made for an annual updating of standards as required.

4. *By July 1, 1998, the department shall establish life-cycle cost criteria in the State Requirements for Educational Facilities for use in evaluating projects.*

5. *By July 1, 1999, the department shall establish standards for construction materials and systems based on life-cycle costs that consider initial costs, maintenance costs, custodial costs, operating costs, and life expectancy. The standards may include multiple acceptable materials. It is the intent of the Legislature to require district school boards to conform with these standards when expending funds from the Public Education Capital Outlay and Debt Service Trust Fund or the School District and Community College District Capital Outlay and Debt Service Trust Fund and to prohibit district school boards from expending local capital outlay revenues for any project that includes materials or systems that do not comply with these standards unless the district school board submits evidence that alternative materials or systems meet or exceed standards developed by the department.*

~~(g) The maximum and minimum net square footage per student for new construction initiated by a district school board after June 30, 1997. The maximum net square footage per student may not exceed the minimum square footage per student specified in the State Requirements for Educational Facilities, 1997.~~

~~(h) Maximum allowable space for noninstructional elements of educational facilities in relation to design criteria for space size and occupancy not to exceed the following:~~

1. ~~The net area of the building may be increased up to 6 percent for interior enclosed space necessary for electrical, heating, ventilation, and air conditioning equipment.~~
2. ~~Space for general circulation, interior and exterior walls, roof overhangs, and open malls shall not exceed 22 percent of the net square footage of the total facility for schools housing students in prekindergarten through grade 5 or grade 6 and shall not exceed 30 percent for schools housing students in grade 6 through postsecondary, including ancillary and broadcasting stations.~~

Section 31. Subsection (1) of section 235.33, Florida Statutes, is amended to read:

235.33 Payments.—

(1) The final payment to the contractor shall not be made until the construction project has been inspected by the architect or other person designated by the board for that purpose and until he or she has issued a written certificate that the project has been constructed in accordance with the approved plans and specifications and approved change orders and until the board, acting on these recommendations, has accepted the project. After acceptance by the board, a duplicate copy of this written certificate, duly certified as having been accepted by the board, as well as other related data on *contract costs and total project costs per student station*, space inventory update, and other related building information must be filed with the department for budget and cost reporting purposes.

Section 32. For the purpose of incorporating the amendment to section 235.435, Florida Statutes, in a reference thereto, subsection (3) of section 235.41, Florida Statutes, is reenacted to read:

235.41 Legislative capital outlay budget request.—

(3) The commissioner shall submit an integrated, comprehensive budget request to the Executive Office of the Governor and to the Legislature each fiscal year by the submission date specified in s. 216.023(1). Notwithstanding the provisions of s. 216.043, the integrated, comprehensive budget request shall include:

(a) Recommendations for the priority of expenditure of funds in the state system of public education, with reasons for the recommended priorities, and other recommendations which relate to the effectiveness of the educational facilities construction program.

(b) All items in s. 235.435.

Section 33. Paragraph (a) of subsection (2), paragraph (d) of subsection (3), and subsection (6) of section 235.435, Florida Statutes, are amended to read:

235.435 Funds for comprehensive educational plant needs; *construction cost maximums for school district capital projects.*—Allocations from the Public Education Capital Outlay and Debt Service Trust Fund to the various boards for capital outlay projects shall be determined as follows:

(2)(a) The department shall establish, as a part of the Public Education Capital Outlay and Debt Service Trust Fund, a separate account, in an amount determined by the Legislature, to be known as the "Special Facility Construction Account." The Special Facility Construction Account shall be used to provide necessary construction funds to school districts which have urgent construction needs but which lack sufficient resources at present, and cannot reasonably anticipate sufficient resources within the period of the next 3 years, for these purposes from currently authorized sources of capital outlay revenue. A school district requesting funding from the Special Facility Construction Account shall submit one specific construction project, not to exceed one complete educational plant, to the Special Facility Construction Committee. No district shall receive funding for more than one approved project in any 3-year period. The first year of the 3-year period shall be the first year a district receives an appropriation. The department shall encourage a construction program that reduces the average size of schools in the district. The request must meet the following criteria to be considered by the committee:

1. The project must be deemed a critical need and must be recommended for funding by the Special Facility Construction Committee. Prior to developing plans for the proposed facility, the district school board must request a preapplication review by the Special Facility Construction Committee or a project review subcommittee convened by the committee to include two representatives of the department and two staff from school districts other than the district submitting the project. Within 60 days after receiving the preapplication review request, the committee or subcommittee must meet in the school district to review the project proposal and existing facilities. To determine whether the proposed project is a critical need, the committee or subcommittee shall consider, at a minimum, the capacity of all existing facilities within the district as determined by the Florida Inventory of School Houses; the district's pattern of student growth; the district's existing and projected

capital outlay full-time equivalent student enrollment as determined by the department; the district's existing satisfactory student stations; the use of all existing district property and facilities; grade level configurations; and any other information that may affect the need for the proposed project.

2. The construction project must be recommended in the most recent survey or surveys by the district under the rules of the State Board of Education.

3. The construction project must appear on the district's approved project priority list under the rules of the State Board of Education.

4. The district must have selected and had approved a site for the construction project in compliance with s. 235.19 and the rules of the State Board of Education.

5. The district shall have developed a school board adopted list of facilities that do not exceed the norm for facility list developed in accordance with the minimum net square feet occupancy requirements under the State Requirements for Educational Facilities, rules of the State Board of Education and using all possible programmatic combinations for multiple use of space to obtain maximum daily use of all spaces within the facility under consideration.

6. Upon construction, the total project cost per student station, including change orders, must not exceed the adjusted statewide average cost per gross square foot, adjusted by the construction cost index and the 5-year statewide average inflation rate; must not exceed the minimum square footage per student specified in the State Requirements for Educational Facilities, 1997; and must not exceed the adjusted statewide average cost per student station as provided in subsection (6).

7. There shall be an agreement signed by the district school board stating that it will advertise for bids within 30 days of receipt of its encumbrance authorization from the department.

8. The district shall, at the time of the request and for a continuing period of 3 years, levy the maximum millage against their nonexempt assessed property value as allowed in s. 236.25(2). Effective July 1, 1991, any district with a new or active project, funded under the provisions of this subsection, shall be required to budget no more than the value of 1.5 mills per year to the project to satisfy the annual participation requirement in the Special Facility Construction Account.

9. If a contract has not been signed 90 days after the advertising of bids, the funding for the specific project shall revert to the Special Facility New Construction Account to be reallocated to other projects on the list. However, an additional 90 days may be granted by the commissioner.

10. The department shall certify the inability of the district to fund the survey-recommended project over a continuous 3-year period using projected capital outlay revenue derived from s. 9(d), Art. XII of the State Constitution, as amended, paragraph (3)(a) of this section, and s. 236.25(2).

11. The district shall have on file with the department an adopted resolution acknowledging its 3-year commitment of all unencumbered and future revenue acquired from s. 9(d), Art. XII of the State Constitution, as amended, paragraph (3)(a) of this section, and s. 236.25(2).

12. Final phase III plans must be certified by the board as complete and in compliance with the building and life safety codes prior to August 1.

(3)

(d) Funds distributed to the district school boards shall only be allocated solely based on the provisions of paragraphs (1)(a) and (2)(a) and paragraph (a) of this subsection. No individual school district projects shall be funded off the top of funds allocated to district school boards.

(6)(a) Effective July 1, 1997, Each district school board must meet all educational plant instructional space needs of its elementary, middle, and high schools the respective educational sector before spending funds from the Public Education Capital Outlay and Debt Service Trust Fund or the School District and Community College District Capital Outlay and Debt Service Trust Fund for any ancillary plant or any other new

construction, renovation, or remodeling of ancillary space. Expenditures to meet such instructional space needs may include expenditures for site acquisition; new construction of educational plants; renovation, remodeling, and maintenance and repair of existing educational plants, including auxiliary facilities; and the directly related costs of such services of school district personnel directly related to renovation or remodeling. It is not the intent of the Legislature to preclude the use of capital outlay funding for the labor costs necessary to accomplish the authorized uses for the capital outlay funding. Day-labor contracts or any other educational facilities contracting and construction techniques pursuant to s. 235.211 are authorized. Additionally, if a school district has salaried maintenance staff whose duties consist solely of performing the labor necessary to accomplish the authorized uses for the capital outlay funding, such funding may be used for those salaries; however, if a school district has salaried staff whose duties consist partially of performing the labor necessary to accomplish the authorized uses for the capital outlay funding, the district shall prorate the portion of salary of each such employee that is based on labor for authorized capital outlay funding, and such funding may be used to pay that portion.

(b)1. Unless granted a waiver under s. 235.4351, a Each district school board must not use funds from the Public Education Capital Outlay and Debt Service Trust Fund or the School District and Community College District Capital Outlay and Debt Service Trust Fund for any new construction of educational plant space with a total contract cost per student station, including change orders, that equals more than:

- a. \$11,600 for an elementary school,
- b. \$13,300 for a middle school, or
- c. \$17,600 for a high school,

(1997) as adjusted annually by the Consumer Price Index 110 percent of the adjusted statewide average total construction cost per gross square foot, adjusted by the appropriate construction cost index and the 5-year average statewide inflation rate. Upon request by a district school board pursuant to s. 235.4351, the Commissioner of Education may waive for a specific project the provisions of this paragraph which limit total contract cost and the provisions of subparagraph (c)2. which limit construction cost per student station if the commissioner is satisfied that the requested waiver is justified. If the district school board does not receive a waiver from the cost limits set by this subsection, operating funds must be used to pay any part of the total construction cost, including costs resulting from change orders, which exceeds the expenditure limits of this subsection.

2. A district school board must not use funds from the Public Education Capital Outlay and Debt Service Trust Fund or the School District and Community College District Capital Outlay and Debt Service Trust Fund for any new construction of an ancillary plant that exceeds 70 percent of the average cost per square foot of new construction for all schools.

(c) Except as otherwise provided, All new construction initiated by a district school board after June 30, 1997,:

1. Must not exceed the minimum square footage per student defined by the State Requirements for Educational Facilities, 1997; and

2. must not exceed the adjusted statewide average construction cost per student station as provided in paragraph (b) for the previous calendar year.

(d) The department shall compute for each calendar year the statewide average construction costs for facilities serving each instructional level, for relocatable educational facilities, for administrative facilities, and for other ancillary and auxiliary facilities. The department shall compute the adjusted statewide average total construction costs per student station for each instructional level. The adjusted statewide average total construction cost shall not include any new construction project that exceeded the statewide average contract cost for new construction by more than 10 percent. Total construction Cost per student station includes contract costs, legal and administrative costs, fees of architects and engineers, furniture and equipment, and site improvement costs. Total construction Cost per student station does not include the cost of purchasing or leasing the site for the construction or the cost of related offsite improvements.



(e) *The restrictions of this subsection on the cost per student station of new construction do not apply to a project funded entirely from proceeds received by districts through provisions of ss. 212.055, 236.31, and 236.32 and s. 9, Art. VII of the State Constitution, if the school board approves the project by majority vote.*

Section 34. Section 235.4351, Florida Statutes, is created to read:

*235.4351 Waivers from certain requirements.—The commissioner may adopt standards, by rule, for the provision of waivers from the requirements of this chapter relating to plant surveys, need projections, and cost ceilings. Special consideration for waiver shall be given to:*

- (1) *Projects of school districts for which no state money is spent.*
- (2) *Projects of school districts that certify that all of the district's educational plant space needs for the next 5 years can be met from:*
  - (a) *Capital outlay sources that the district reasonably expects to receive during the next 5 years; or*

(b) *Alternative scheduling or construction, leasing, rezoning, or technological methodologies exhibiting sound management.*

*The commissioner shall report annually to the Legislature and the Governor, by January 1, the prior year's waivers granted under this section.*

Section 35. Paragraph (a) of subsection (2) and subsection (5) of section 236.25, Florida Statutes, are amended to read:

236.25 District school tax.—

(2) In addition to the maximum millage levy as provided in subsection (1), each school board may levy not more than 2 mills against the taxable value for school purposes to fund:

(a) New construction and remodeling projects, as set forth in s. 235.435(3)(b) and (6)(b) and included in the district's educational plant survey pursuant to s. 235.15, without regard to the prioritization in that section, sites and site improvement or expansion to new sites, existing sites, auxiliary facilities, athletic facilities, or ancillary facilities.

Violations of these expenditure provisions shall result in an equal dollar reduction in the Florida Education Finance Program (FEFP) funds for the violating district in the fiscal year following the audit citation.

(5)(a) It is the intent of the Legislature that, by July 1, 2003 2004, revenue generated by the millage levy authorized by subsection (2) should be used only for the costs of construction, renovation, remodeling, maintenance, and repair of the educational plant facilities that provide space for the instruction of students; for the purchase, lease, or lease-purchase of equipment, educational plants buildings, and construction materials directly related to the delivery of student instruction in such facilities; for the opening day collection for the library media center of a new school; and for the purchase, lease-purchase, or lease of school buses; and for servicing of payments related to certificates of participation issued for any purpose prior to the effective date of this act. Costs associated with the lease-purchase of equipment, educational plants, and school buses may include the issuance of certificates of participation on or after the effective date of this act and the servicing of payments related to certificates so issued. For purposes of this section, "maintenance and repair" is defined in s. 235.011.

(b) For purposes not delineated in paragraph (a) for which proceeds received from millage levied under subsection (2) may be legally expended, a district school board may spend no more than the following percentages of the amount the district spent for these purposes in fiscal year 1995-1996:

1. In fiscal year 1997-1998, 85 percent.
2. In fiscal year 1998-1999, 70 percent.
3. In fiscal year 1999-2000, 55 percent.
4. In fiscal year 2000-2001, 40 percent.
5. In fiscal year 2001-2002, 25 percent.
6. In fiscal year 2002-2003, 10 percent.

(a) In fiscal year 1997-1998, a district school board may spend for purposes other than the construction, renovation, remodeling, and repair of educational facilities that provide space for the instruction of students; the purchase, lease, or lease-purchase of equipment, buildings, and materials directly related to instruction in such facilities; and the purchase, lease-purchase, or lease of school buses, no more than 85 percent of the amount that was spent for those purposes in fiscal year 1995-1996, which shall be the base year, from the proceeds of the millage levied under subsection (2).

(b) In fiscal year 1998-1999, a district school board may spend for purposes other than the construction, renovation, remodeling, and repair of educational facilities that provide space for the instruction of students; the purchase, lease, or lease-purchase of equipment, buildings, and materials directly related to instruction in such facilities; and the purchase, lease-purchase, or lease of school buses, no more than 70 percent of the amount that was spent for those purposes in the base year.

(c) In fiscal year 1999-2000, a district school board may spend for purposes other than the construction, renovation, remodeling, and repair of educational facilities that provide space for the instruction of students; the purchase, lease, or lease-purchase of equipment, buildings, and materials directly related to instruction in such facilities; and the purchase, lease-purchase, or lease of school buses, no more than 55 percent of the amount that was spent for those purposes in the base year.

(d) In fiscal year 2000-2001, a district school board may spend for purposes other than the construction, renovation, remodeling, and repair of educational facilities that provide space for the instruction of students; the purchase, lease, or lease-purchase of equipment, buildings, and materials directly related to instruction in such facilities; and the purchase, lease-purchase, or lease of school buses, no more than 40 percent of the amount that was spent for those purposes in the base year.

(e) In fiscal year 2001-2002, a district school board may spend for purposes other than the construction, renovation, remodeling, and repair of educational facilities that provide space for the instruction of students; the purchase, lease, or lease-purchase of equipment, buildings, and materials directly related to instruction in such facilities; and the purchase, lease-purchase, or lease of school buses, no more than 25 percent of the amount spent for those purposes in the base year.

(f) In fiscal year 2002-2003, a district school board may spend for purposes other than the construction, renovation, remodeling, and repair of educational facilities that provide space for the instruction of students; the purchase, lease, or lease-purchase of equipment, buildings, and materials directly related to instruction in such facilities; and the purchase, lease-purchase, or lease of school buses, no more than 10 percent of the amount spent for those purposes in the base year.

(c)(g) Beginning July 1, 2003 2004, revenue generated by the millage levy authorized by subsection (2) must be used only for the purposes delineated in paragraph (a) construction, renovation, remodeling, and repair of educational facilities that provide space for the instruction of students; for the purchase, lease, or lease-purchase of equipment, buildings, and materials directly related to the delivery of student instruction in such facilities; and for the purchase, lease-purchase, or lease of school buses.

(d) Notwithstanding any other provision of this subsection, if through its adopted facilities work program a district has clearly identified the need for an ancillary plant, has provided opportunity for public input as to the relative value of the ancillary plant versus an educational plant, and has obtained public approval, the district may use revenue generated by the millage levy authorized by subsection (2) for the construction, renovation, remodeling, maintenance, or repair of an ancillary plant.

A district that violates these expenditure restrictions shall have an equal dollar reduction in funds appropriated to the district under s. 236.081 in the fiscal year following the audit citation. The expenditure restrictions do not apply to any school district that certifies to the Commissioner of Education that all of the district's instructional space needs for the next 5 years can be met from capital outlay sources that the district reasonably expects to receive during the next 5 years or from alternative scheduling or construction, leasing, rezoning, or technological methodologies that exhibit sound management.

Section 36. It is not the intent of the Legislature to require duplication of effort by the school districts in performing their duties regarding edu-

ational plant surveys and their duties regarding the district facilities 5-year work programs. The Department of Education and the SMART Schools Clearinghouse shall review ss. 235.15 and 235.185, Florida Statutes, and shall recommend to the Legislature by March 1, 1998, any changes or repeal of language necessary to effectuate the intent of this section.

Section 37. All survey-approved projects for which the design or design-build contract was executed prior to May 30, 1997, and for which notice of verification of school board action was submitted to the Department of Education shall proceed under provisions of chapter 235, Florida Statutes, and related rules in effect as of the date the design or design-build contract was executed.

Section 38. Section 12 of chapter 97-265, Laws of Florida, is repealed.

Section 39. (1)(a) It is a goal of the Legislature that all school districts shall provide a quality educational environment for their students such that, by July 1, 2003, student stations in relocatable facilities exceeding 20 years of age and in use by a district during the 1998-1999 fiscal year shall be removed and the number of all other relocatable student stations at over-capacity schools during that fiscal year shall be decreased by half. The Legislature finds, however, that necessary maintenance of existing facilities and public school enrollment growth impair the ability of some districts to achieve the goal of this section within 5 years. Therefore, the Legislature is increasing its commitment to school funding in this act, in part to help districts reduce the number of temporary, relocatable student stations at over-capacity schools. The Legislature intends that local school districts also increase their investment toward meeting this goal. Each district's progress toward meeting this goal shall be measured annually by comparing district facilities work programs for replacing relocatables with the state capital outlay projections for education prepared by the SMART Schools Clearinghouse pursuant to s. 235.217(3)(e). District facilities work programs shall be monitored by the SMART Schools Clearinghouse to measure the commitment of local school districts toward this goal.

(b) For the purposes of this section, an "over-capacity school" means a school the capital outlay FTE enrollment of which exceeds 100 percent of the space and occupant design capacity of its nonrelocatable facilities. However, if a school's initial design incorporated relocatable or modular instructional space, an "over-capacity school" shall mean a school the capital outlay FTE enrollment of which exceeds 100 percent of the space and occupant design capacity of its core facilities.

(2) In accordance with the legislative goal described in subsection (1), any relocatables purchased with money appropriated from this act shall be counted at actual student capacity for purposes of ss. 235.15 and 235.217, Florida Statutes, for the life-cycle of the relocatable.

Section 40. Any school district that plans to build three or more new public schools within a 5-year period is encouraged to build at least one of every three new schools through public-private partnerships if such partnerships are projected to result in cost savings compared to the most frugal method of public school construction currently used in the district.

Section 41. Any district with unused bonding capacity in its Capital Outlay and Debt Service Trust Fund allocation that certifies in its district facilities work program that it will not be able to meet all of its need for new student stations within existing revenues must fully bond its Capital Outlay and Debt Service Trust Fund allocation before it may participate in Classrooms First, the School Infrastructure Thrift (SIT) Program, or the Effort Index Grants Program.

Section 42. The sum of \$3 million is appropriated from the General Revenue Fund to the Department of Education for the purpose of implementing the provisions of section 10 of chapter 97-265, Laws of Florida.

Section 43. There is hereby appropriated from the General Revenue Fund to the Department of Education the sum of \$150,000 for the development of standards for construction materials and systems based on life-cycle cost.

Section 44. (1) From the funds provided in Specific Appropriation 2 in chapter 97-152, Laws of Florida, for the Educational Enhancement Trust Fund, the sum of \$180 million is hereby rescinded. The revised appropriation for grants-in-aid to school districts from discretionary lottery proceeds of the Educational Enhancement Trust Fund for fiscal year 1997-1998 is \$232,070,289.

(2) There is hereby appropriated from the General Revenue Fund to the Department of Education the sum of \$180 million for fiscal year 1997-1998 to be distributed to school districts and expended in accordance with the provisions of the first paragraph of the proviso language following Specific Appropriation 2 in chapter 97-152, Laws of Florida.

Section 45. There is hereby appropriated from the Educational Enhancement Trust Fund to the Department of Education the sum of \$35 million, for fiscal year 1997-1998, as the first year's maximum annual debt service on bonds issued pursuant to s. 235.2195, Florida Statutes, and \$145 million for fiscal year 1997-1998 for the Classrooms First Program. School districts receiving a distribution of nonbonded revenues from the Classrooms First Program shall receive a distribution in fiscal year 1997-1998 equal to a proportionate share of their total distribution calculated pursuant to s. 235.187, Florida Statutes, equal to the portion of the fiscal year remaining after the first distribution of bond proceeds in fiscal year 1997-1998 under the Classrooms First Program.

Section 46. There is hereby appropriated to the Department of Education for fiscal year 1997-1998 the sum of \$150 million from the General Revenue Fund and, contingent upon the sale of 1997 school capital outlay bonds pursuant to s. 235.2195, Florida Statutes, the sum of \$450 million from the Educational Enhancement Trust Fund. The purpose of this appropriation is to fund School Infrastructure Thrift (SIT) Program awards pursuant to the provisions of ss. 235.2155 and 235.216, Florida Statutes, and effort index grants pursuant to the provisions of s. 235.186, Florida Statutes. The maximum amount of funds authorized for effort index grant awards through June 30, 1998, is \$70 million. Effort index grants shall only be funded from the Educational Enhancement Trust Fund appropriation authorized in this section. The funds appropriated in this section shall not be subject to the provisions of s. 216.301, Florida Statutes.

Section 47. There is hereby appropriated from the General Revenue Fund to the Department of Education the sum of \$16,625,000 to be provided as a grant to fund a SMART schools demonstration middle school project.

Section 48. There is hereby appropriated from the General Revenue Fund to the Department of Management Services the sum of \$385,323, and four full-time equivalent positions are authorized, for the SMART Schools Clearinghouse established pursuant to s. 235.217, Florida Statutes.

Section 49. The Commissioner of Education shall provide for timely encumbrances of funds for duly authorized projects. Encumbrances may include proceeds to be received under a resolution approved by the State Board of Education authorizing the issuance of 1997 school capital outlay bonds pursuant to s. 11(d), Art. VII of the State Constitution, s. 235.2195, Florida Statutes, and other applicable law.

Section 50. This act shall take effect upon becoming a law.

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 public education facilities and finance; creating the "Public School Capital Outlay Program Act"; creating s. 235.175, F.S.; providing legislative purpose; amending s. 235.18, F.S.; requiring school districts to prepare facilities 5-year work programs before adopting their annual capital outlay budgets; creating s. 235.185, F.S.; requiring school district facilities 5-year work programs and providing definitions and procedures; creating s. 235.186, F.S.; providing for effort index grants for school district facilities work program projects; specifying an effort index for district eligibility to receive grants; providing for computation and allocation; creating s. 235.187, F.S.; creating the Classrooms First Program; providing for allocation of funds and calculations; providing for expenditure of funds; providing for the pledging of bonds; providing for distribution; amending s. 235.215, F.S.; revising requirements relating to energy efficiency contracting by school districts, community colleges, and universities; providing intent; revising measures that qualify as energy conservation measures; providing requirements for energy performance-based contracts rather than guaranteed energy savings contracts; specifying procedures for entering into such contracts; revising requirements relating to installment payment contracts; specifying the provisions and terms of energy performance-based contracts; providing duties and liabilities of energy performance contractors; reenacting and amending s. 235.2155, F.S.; revising the School Infrastructure Thrift (SIT) Program; reenacting and amending s. 235.216, F.S.; revising cost ceilings and provisions relating to SIT Program awards; providing for

recognition awards; creating s. 235.217, F.S.; establishing the SMART Schools Clearinghouse and providing for membership and duties; providing for rulemaking; prohibiting certain activities; authorizing per diem and travel expenses; providing for staff; subjecting members to certain requirements for public officers and employees; creating s. 235.218, F.S.; requiring school district facilities work program performance and productivity standards and evaluation; amending s. 24.121, F.S.; authorizing recurring use of specified revenues in the Educational Enhancement Trust Fund; creating s. 235.2195, F.S.; authorizing school capital outlay bonds and specifying conditions; amending s. 235.321, F.S.; requiring school districts to monitor the impact of change orders on district facilities work programs; amending s. 235.017, F.S.; authorizing boards to submit phase III construction documents for review and approval to the Department of Management Services for certain projects; creating the Florida Frugal Schools Program; providing criteria for recognizing school districts that implement the Florida Frugal Schools Program; amending s. 212.055, F.S., relating to the school capital outlay surtax; requiring the resolution which provides for imposition of the surtax to state a district's participation in the Florida Frugal Schools Program; providing requirements for use of surtax proceeds if the district is participating in the Florida Frugal Schools Program; establishing the Florida Teachers Lead Program; defining "classroom teacher"; establishing the SMART Schools Small County Assistance Program for fiscal year 1998-1999; providing purpose of the program; providing duties of the SMART Schools Clearinghouse and the Department of Education with respect thereto; providing for funding of the program; amending s. 228.056, F.S.; authorizing a municipality to submit a proposal to operate a charter school; amending s. 229.513, F.S.; revising provisions relating to the review of rules and statutes by the Commissioner of Education; amending s. 230.23025, F.S.; revising provisions relating to the "Best Financial Management Practices for School Districts"; revising provisions relating to review of a school district's best financial management practices; revising certain reporting requirements; allowing a certain audit or review to serve as a determination of "best financial management practices"; amending s. 235.011, F.S.; redefining certain terms and defining the term "core facilities"; amending s. 235.014, F.S., relating to functions of the Department of Education; revising exceptions to departmental recommendations of maximum square footage; revising provisions relating to validation of educational plant surveys, including student station assignment; amending s. 235.056, F.S.; requiring a report and recommendations with respect to the amount of leased space used by school districts; amending s. 235.06, F.S.; requiring fire control authorities to inspect educational facilities; creating s. 235.061, F.S.; requiring standards for certain relocatables and providing guidelines; requiring certain inspections; amending s. 235.15, F.S.; specifying requirements for educational plant surveys and need assessment criteria; amending s. 235.19, F.S.; revising criteria for selecting the sites of proposed educational centers or campuses; amending s. 235.26, F.S.; prescribing the requirements for standards that must be developed by the department as part of the State Uniform Building Code for Public Educational Facilities Construction; providing legislative intent; deleting requirements for certain standards; amending s. 235.33, F.S.; revising provisions relating to certain fiscal information required to be filed with the department; reenacting s. 235.41(3), F.S., relating to legislative capital outlay budget requests, to incorporate the amendment to s. 235.435, F.S., in a reference; amending s. 235.435, F.S.; revising provisions relating to funds for comprehensive educational plant needs; revising requirements for requests for funding from the Special Facility Construction Account; revising requirements relating to expenditures for space needs; revising square footage and cost-ceiling requirements; clarifying provisions relating to maintenance and repair; providing exceptions to certain cost restrictions; creating s. 235.4351, F.S.; authorizing waivers from certain requirements; amending s. 236.25, F.S., relating to the district school tax; revising requirements relating to use of the 2-mill tax for new construction and remodeling; revising provisions which revise the uses of said tax and phase out certain uses over a specified period;

authorizing expenditures for ancillary plants under specified circumstances; providing additional circumstances under which school districts may be exempted from expenditure restrictions; providing legislative intent and requiring certain review and recommendations by the Department of Education and SMART Schools Clearinghouse; providing that certain projects shall proceed under law and related rules in effect when the design or design-build contract was executed; repealing s. 12, ch. 97-265, Laws of Florida, relating to future review and repeal of school district tax for capital outlay; providing a legislative goal for reducing the number of relocatables in use; providing for counting of relocatables; encouraging the use of public-private partnerships for construction of new public schools under certain circumstances; requiring bonding under certain circumstances; providing funding for a SMART schools demonstration middle school project; providing for appropriations; requiring the Commissioner of Education to provide for timely encumbrances of certain funds; providing an effective date.

The Conference Committee Report was read and on motion by Senator Horne was adopted. **HB 17-A** passed as recommended and was certified to the House together with the Conference Committee Report. The vote on passage was:

Yeas—34

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

Nays—None

## MESSAGES FROM THE HOUSE OF REPRESENTATIVES

### RETURNING MESSAGES—FINAL ACTION

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed SB 44-A.

*John B. Phelps, Clerk*

The bill contained in the foregoing message was ordered 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 HB 7-A and HB 23-A, as amended.

*John B. Phelps, Clerk*

### CORRECTION AND APPROVAL OF JOURNAL

The Journal of November 6 was corrected and approved.

### ADJOURNMENT

On motion by Senator Bankhead, the Senate in Special Session adjourned sine die at 3:08 p.m.