Journal of the Senate

Number 23—Regular Session **Wednesday, April 28, 1999**

CONTENTS

CALL TO ORDER

The Senate was called to order by President Jennings at 9:30 a.m. A quorum present—40:

Madam President	Dawson-White	Jones	Mitchell
Bronson	Diaz-Balart	King	Myers
Brown-Waite	Dyer	Kirkpatrick	Rossin
Burt	Forman	Klein	Saunders
Campbell	Geller	Kurth	Scott
Carlton	Grant	Latvala	Sebesta
Casas	Gutman	Laurent	Silver
Childers	Hargrett	Lee	Sullivan
Clary	Holzendorf	McKay	Thomas
Cowin	Horne	Meek	Webster

Excused: Conferees periodically for the purpose of working on Transforming Florida Schools: Senator Cowin, Chairman; Senators Horne, Lee, Sullivan and Webster; Alternate, Senator McKay; Conferees periodically for the purpose of working on School Readiness: Senator Cowin, Chairman; Senators Holzendorf and Kirkpatrick; Alternate, Senator Myers

PRAYER

The following prayer was offered by Senator Skip Campbell:

O God, we are one with you. You have taught us that if we show love for our neighbors, then we show love for you. Help us to realize that there can be no understanding where there is mutual rejection.

O God, let each individual in this chamber accept each other wholeheartedly, fully and completely, even with our individual faults. Let no one anywhere despise another; let no one out of anger or resentment wish suffering on anyone at all.

You are the Father in Heaven of the Christians, the Holy One of the Jews, Allah of the Muslims, Buddha of the Buddhists, Tao of the Chinese and Brahman of the Hindus. O God, let us accept one another no matter what our background, color or creed. We are humanity even if we use labels as Democrats, Republicans, Conservative, Moderate or Liberal. Our spirit is rooted in your spirit.

Fill us then with love and let us bond together with love as we go our diverse ways, united in this one spirit which makes you present in the world and which makes you witness to the ultimate reality that love is. Let love overcome. Let love be victorious. Thanks for the rain. Amen.

PLEDGE

Senate Pages Michael Russ of Chipley and Jennifer Rigsby of DeLand, led the Senate in the pledge of allegiance to the flag of the United States of America.

ADOPTION OF RESOLUTIONS

At the request of Senator Holzendorf—

By Senator Holzendorf—

SR 2726—A resolution recognizing May 1999 as "Community Action Month," in recognition of the work done by Northeast Florida Community Action Agency, Inc.

WHEREAS, Northeast Florida Community Action Agency, Inc. (NFCAA) was created out of the Economic Opportunity Act of 1964, and

WHEREAS, NFCAA has a 34-year history of promoting self-sufficiency for those who have limited incomes, and

WHEREAS, NFCAA has made an essential contribution to individuals and families in Northeast Florida, by providing them with innovative and cost-effective programs, and

WHEREAS, NFCAA is needed as a major participant in the reform of the welfare system as we know it, and

WHEREAS, welfare reform in Northeast Florida has benefited from each county's partnership with NFCAA, and

WHEREAS, those who have limited incomes continue to need opportunities to improve their lives and their living conditions, thus ensuring that all citizens are able to live in dignity, and

WHEREAS, the State of Florida and the entire United States must continue to wage war on poverty by providing support and opportunities for everyone who is in need of assistance, NOW, THEREFORE,

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

That the Florida Senate recognizes May 1999 as "Community Action Month" in Northeast Florida, in recognition of the hard work and dedication of the members of Northeast Florida Community Action Agency, Inc.

BE IT FURTHER RESOLVED that a copy of this resolution, with the Seal of the Senate affixed, be presented to the Northeast Florida Community Action Agency, Inc., as a tangible token of the sentiments of the Florida Senate.

—**SR 2726** was introduced, read and adopted by publication.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator McKay, by two-thirds vote **HB 1017** and **HB 1423** were withdrawn from the Committee on Comprehensive Planning, Local and Military Affairs.

On motion by Senator McKay, by two-thirds vote **CS for SB 2292** was withdrawn from the Committee on Fiscal Policy.

On motion by Senator McKay, by two-thirds vote **HB 1611** was withdrawn from the Committee on Education and **HB 1103** was withdrawn

from the Committee on Comprehensive Planning, Local and Military Affairs.

MOTIONS

On motion by Senator McKay, a deadline of 6:30 p.m. this day was set for filing amendments to Bills on Third Reading and the Special Order Calendar to be considered Thursday, April 29.

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

CONFERENCE COMMITTEE REPORT

CS FOR CS FOR SB'S 366 AND 382 AND SB 708

The Honorable Toni Jennings April 27, 1999
President of the Senate

The Honorable John Thrasher
Speaker, House of Representatives

Dear President Jennings and Speaker Thrasher:

Your Conference Committee on the disagreeing votes of the two houses on school readiness, same being:

An act relating to school readiness

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

1. That the Senate adopt the Conference Committee Amendment attached hereto, and by reference made a part of this report, and pass CS for CS for SB's 366 and 382 and SB 708 as amended by said Conference Committee Amendment.
2. That the House of Representatives recede from House Amendment 1 to CS for CS for SB's 366 and 382 and SB 708, adopt the Conference Committee Amendment, and pass CS for CS for SB's 366 and 382 and SB 708 as amended by said Conference Committee Amendment.

s/Anna Cowin
Chairman
s/Betty S. Holzendorf
s/George G. Kirkpatrick
Managers on the part of the Senate

s/Tom Warner
Chairman
s/Cynthia Chestnut
s/Evelyn J. Lynn
Managers on the part of the House of Representatives

SUMMARY OF CONFERENCE COMMITTEE ACTION:

The Conference Committee Amendment for CS for CS for SB's 366 and 382 and SB 708 creates the Florida Partnership for School Readiness, which is assigned to the Executive Office of the Governor for administrative purposes. The partnership will be responsible for adopting and coordinating programmatic, administrative, and fiscal policies and standards for all school readiness programs. The members of the partnership will be the Lieutenant Governor or his designee, the Commissioner of Education, Secretary of Children and Family Services, Secretary of Health, chair of the WAGES program board of directors, chair of the Child Care Executive Partnership board, and 10 private citizens who are business, civic, and community leaders. The Governor will appoint the ten members of the public; eight of the appointments must come from lists provided by the President of the Senate and the Speaker of the House of Representatives.

By July 1, 2000, the partnership must adopt a statewide system for measuring school readiness. Children will undergo this readiness screening upon entry to kindergarten. The partnership will also adopt performance standards and outcome measures for school readiness programs. The partnership must work with the Commissioner of Education, the postsecondary Education Planning Commission, and the Education Standards Commission to assess the extent and nature of instruction available for personnel in early childhood education and child care. The Articulation Coordinating Committee will establish a career path for school readiness-related professions.

Local governance of the school readiness system will be by coalitions of 18 to 25 individuals, representing both the public and the private sectors. As local coalitions form, the partnership will approve their composition and their school readiness plans. The bill establishes incentive grants for development of local coalition plans for school readiness. If a coalition's plan would serve fewer than 400 children ages birth to 5 years, the coalition must either join with another coalition to form a multi-county coalition, enter into an agreement with a fiscal agent to serve more than one coalition, or demonstrate to the partnership its ability to implement its plan and meet all performance standards and outcome measures.

A coalition's school readiness program will have available to it state, federal, local, and lottery funds including those for the Florida First Start Program, Even Start literacy programs, prekindergarten early intervention programs, Head Start programs, migrant prekindergarten programs, Title I programs, subsidized child care programs, and teen parent programs. A coalition that is not a legally established corporate entity must enter into a contract with a fiscal agent who will provide financial and administrative services according to the contract.

The following statutes will not apply to local coalitions with approved plans: ss. 125.901(2)(a)3., 228.061(1) and (2), 230.2306, 411.204, 411.221, 411.222, and 411.232. A school readiness coalition may apply to the Governor and Cabinet for a waiver, and the Governor and Cabinet may waive, any of the provisions of ss. 230.2303, 230.2305, 230.23166, 402.3015, 411.223, and 411.232, if the waiver is necessary for implementation of the coalition's school readiness plan.

The State Coordinating Council for Early Childhood Services will be reconstituted as a 15-member advisory body to recommend to the partnership methods for coordinating programs and increasing public-private partnerships in school readiness programs. The council, which is established in s. 411.222(4), F.S., will be repealed in 2002.

Conference Committee Amendment (790680)(with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Section 411.01, Florida Statutes, is created to read:

411.01 Florida Partnership for School Readiness; school readiness coalitions.—

(1) SHORT TITLE.—This section may be cited as the "School Readiness Act."

(2) LEGISLATIVE INTENT.—

(a) The Legislature recognizes that school readiness programs increase children's chances of achieving future educational success and becoming productive members of society. It is the intent of the Legislature that such programs be developmentally appropriate, research-based, involve parents as their child's first teacher, serve as preventive measures for children at risk of future school failure, enhance the educational readiness of eligible children, and support family education. Each school readiness program shall provide the elements necessary to prepare at-risk children for school, including health screening and referral and an appropriate educational program.

(b) It is the intent of the Legislature that school readiness programs be operated on a full-day, year-round basis to the maximum extent possible to enable parents to work and become financially self-sufficient.

(c) It is the intent of the Legislature that school readiness programs not exist as isolated programs, but build upon existing services and work in cooperation with other programs for young children, and that school readiness programs be coordinated and funding integrated to achieve full effectiveness.

(d) It is the intent of the Legislature that the administrative staff at the state level for school readiness programs be kept to the minimum necessary to carry out the duties of the Florida Partnership for School Readiness, as the school readiness programs are to be locally designed, operated, and managed, with the Florida Partnership for School Readiness adopting a system for measuring school readiness; developing school readiness program performance standards, outcome measurements, and data design and review; and approving and reviewing local school readiness coalitions and plans.

(e) It is the intent of the Legislature that appropriations for combined school readiness programs shall not be less than the programs would receive in any fiscal year on an uncombined basis.

(f) It is the intent of the Legislature that the school readiness program coordinate and operate in conjunction with the district school systems. However, it is also the intent of the Legislature that the school readiness program not be construed as part of the system of free public schools but rather as a separate program for children under the age of kindergarten eligibility, funded separately from the system of free public schools, utilizing a mandatory sliding fee scale, and providing an integrated and seamless system of school readiness services for the state's birth-to-kindergarten population.

(g) It is the intent of the Legislature that the federal child care income tax credit be preserved for school readiness programs.

(3) SCHOOL READINESS PROGRAM.—The school readiness program shall be phased in on a coalition-by-coalition basis. Each coalition's school readiness program shall have available to it funding from all the coalition's early education and child care programs that are funded with state, federal, lottery, or local funds, including but not limited to Florida First Start programs, Even-Start literacy programs, prekindergarten early intervention programs, Head Start programs, programs offered by public and private providers of child care, migrant prekindergarten programs, Title I programs, subsidized child care programs, and teen parent programs, together with any additional funds appropriated or obtained for purposes of this section. These programs and their funding streams shall be components of the coalition's integrated school readiness program, with the goal of preparing children for success in school.

(4) FLORIDA PARTNERSHIP FOR SCHOOL READINESS.—

(a) There is created the Florida Partnership for School Readiness with responsibility for adopting and maintaining coordinated programmatic, administrative, and fiscal policies and standards for all school readiness programs, while allowing a wide range of programmatic flexibility and differentiation. The partnership is assigned to the Executive Office of the Governor for administrative purposes.

(b)1. The Florida Partnership for School Readiness shall include the Lieutenant Governor or his or her designee, the Commissioner of Education, the Secretary of Children and Family Services, the Secretary of Health, the chairperson of the Child Care Executive Partnership Board, and the chairperson of the WAGES Program State Board of Directors.

2. The partnership shall also include 10 members of the public who shall be business, community, and civic leaders in the state who are not elected to public office. These members and their families must not be providers in the early education and child care industry. The members must be geographically and demographically representative of the state. Each member shall be appointed by the Governor. Eight of the members shall be appointed from a list of 10 nominees, of which five must be submitted by the President of the Senate and five must be submitted by the Speaker of the House of Representatives. Members shall be appointed to 4-year terms of office. However, of the initial appointees, two shall be appointed to 1-year terms, two shall be appointed to 2-year terms, three shall be appointed to 3-year terms, and three shall be appointed to 4-year terms. The members of the partnership shall elect a chairperson annually from the nongovernmental members of the partnership. Any vacancy on the partnership shall be filled in the same manner as the original appointment.

(c) The partnership shall meet at least quarterly but may meet as often as it deems necessary to carry out its duties and responsibilities. Members of the partnership shall participate without proxy at the quarterly meetings. The partnership may take official action by a majority vote of the members present at any meeting at which a quorum is present. The partnership shall hold its first meeting by October 1, 1999.

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

(e) Members of the partnership shall serve without compensation but are entitled to reimbursement for per diem and travel expenses incurred in the performance of their duties as provided in s. 112.061, and reimbursement for other reasonable, necessary, and actual expenses.

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

(g) The partnership shall appoint an executive director to serve at its pleasure who shall perform the duties assigned to him or her by the partnership. The executive director shall be responsible for hiring, subject to the approval of the partnership, all employees and staff members, who shall serve under his or her direction and control.

(h) For purposes of administration of the Federal Child Care and Development Fund, 45 C.F.R. Parts 98 and 99, the partnership may be designated by the Governor as the Lead Agency, and if so designated shall comply with the Lead Agency responsibilities pursuant to federal law.

(i) The Florida Partnership for School Readiness is the principal organization responsible for the enhancement of school readiness for the state's children, and shall:

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

2. Provide final approval and periodic review of coalitions and plans.

3. Provide leadership for enhancement of school readiness in this state by aggressively establishing a unified approach to the state's efforts toward enhancement of school readiness. In support of this effort, the partnership may develop and implement specific strategies that address the state's school readiness programs.

4. Safeguard the effective use of federal, state, local, and private resources to achieve the highest possible level of school readiness for the state's children.

5. Provide technical assistance to coalitions.

6. Assess gaps in service.

7. Provide technical assistance to counties that form a multicounty coalition.

8.a. By July 1, 2000, adopt a system for measuring school readiness that provides objective data regarding the expectations for school readiness, and establish a method for collecting the data and guidelines for using the data. The measurement, the data collection, and the use of the data must serve the statewide school readiness goal. The criteria for determining which data to collect should be the usefulness of the data to state policymakers and local program administrators in administering programs and allocating state funds, and must include the tracking of school readiness system information back to individual school readiness programs to assist in determining program effectiveness.

b. By December 31, 2000, the partnership shall also adopt a system for evaluating the performance of students through the third grade to compare the performance of those who participated in school readiness programs with the performance of students who did not participate in school readiness programs in order to identify strategies for continued successful student performance.

9. By June 1, 2000, develop and adopt performance standards and outcome measures.

10. In consultation with the Postsecondary Education Planning Commission and the Education Standards Commission, assess the expertise of public and private Florida postsecondary institutions in the areas of infant and toddler developmental research; the related curriculum of training, career, and academic programs; and the status of articulation among those programs. Based on this assessment, the partnership shall provide recommendations to the Governor and the Legislature for postsecondary program improvements to enhance school readiness initiatives.

(j) The partnership may adopt rules necessary to administer the provisions of this section which relate to preparing and implementing the system for school readiness, collecting data, approving local school readiness coalitions and plans, providing a method whereby a coalition can serve two or more counties, awarding incentives to coalitions, and issuing waivers.

(k) The Florida Partnership for School Readiness shall have all powers necessary to carry out the purposes of this section, including, but not limited to, the power to receive and accept grants, loans, or advances of

funds from any public or private agency and to receive and accept from any source contributions of money, property, labor, or any other thing of value, to be held, used, and applied for the purposes of this section.

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

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

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

(o) By July 1, 2000, the partnership shall prepare and submit to the State Board of Education a system for measuring school readiness. The system must include a uniform screening, which shall provide objective data regarding the following expectations for school readiness which shall include, at a minimum:

1. The child's immunizations and other health requirements as necessary, including appropriate vision and hearing screening and examinations.

2. The child's physical development.

3. The child's compliance with rules, limitations, and routines.

4. The child's ability to perform tasks.

5. The child's interactions with adults.

6. The child's interactions with peers.

7. The child's ability to cope with challenges.

8. The child's self-help skills.

9. The child's ability to express his or her needs.

10. The child's verbal communication skills.

11. The child's problem-solving skills.

12. The child's following of verbal directions.

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

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

15. The child's paying attention to stories.

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

17. The child's ability to identify colors, geometric shapes, letters of the alphabet, numbers, and spatial and temporal relationships.

(p) The partnership shall prepare a plan for implementing the system for measuring school readiness in such a way that all children in this state will undergo the uniform screening established by the partnership when they enter kindergarten. Children who enter public school for the first time in first grade must undergo a uniform screening approved by the partnership for use in first grade. Because children with disabilities may not be able to meet all of the identified expectations for school readiness, the plan for measuring school readiness shall incorporate mechanisms for recognizing the potential variations in expectations for school readiness when serving children with disabilities and shall provide for communities to serve children with disabilities.

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

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

(s) By February 1, 2000, the partnership shall work with the Office of the Comptroller for electronic funds transfer.

(t) By February 1, 2000, the partnership shall present to the Legislature a plan for combining funding streams for school readiness programs into a School Readiness Trust Fund.

(u) The partnership shall establish procedures for performance-based budgeting in school readiness programs.

(v) The partnership shall submit an annual report of its activities to the Governor, the executive director of the Florida Healthy Kids Corporation, the President of the Senate, the Speaker of the House of Representatives, and the minority leaders of both houses of the Legislature. In addition, the partnership's reports and recommendations shall be made available to the State Board of Education, other appropriate state agencies and entities, district school boards, central agencies for child care, and county health departments. The annual report must provide an analysis of school readiness activities across the state, including the number of children who were served in the programs and the number of children who were ready for school.

(w) The partnership shall work with school readiness coalitions to increase parents' training for and involvement in their children's preschool education and to provide family literacy activities and programs.

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

(5) CREATION OF SCHOOL READINESS COALITIONS.—

(a) School readiness coalitions.—

1. If a coalition's plan would serve less than 400 birth-to-kindergarten age children, the coalition must either join with another county to form a multi-county coalition, enter an agreement with a fiscal agent to serve more than one coalition, or demonstrate to the partnership its ability to effectively and efficiently implement its plan as a single-county coalition and meet all required performance standards and outcome measures.

2. Each coalition shall have at least 18 but not more than 25 members and such members must include the following:

a. A Department of Children and Family Services district administrator.

b. A district superintendent of schools.

c. A regional workforce development board chair or director, where applicable.

d. A county health department director or his or her designee.

e. A children's services council or juvenile welfare board chair or executive director, if applicable.

f. A child care licensing agency head.

g. One member appointed by a Department of Children and Family Services district administrator.

h. One member appointed by a board of county commissioners.

i. One member appointed by a district school board.

j. A central child care agency administrator.

k. A Head Start director.

l. A representative of private child care providers.

m. A representative of faith-based child care providers.

More than one-third of the coalition members must be from the private sector, and neither they nor their families may earn an income from the early education and child care industry. To meet this requirement a

coalition must appoint additional members from a list of nominees presented to the coalition by a chamber of commerce or economic development council within the geographic area of the coalition.

3. No member of a coalition may appoint a designee to act in his or her place. A member may send a representative to coalition meetings, but that representative will have no voting privileges.

4. The school readiness coalition shall replace the district interagency coordinating council required under s. 230.2305.

5. Members of the coalition are subject to the ethics provisions in part III of chapter 112.

6. Multicounty coalitions shall include representation from each county.

7. The terms of all appointed members of the coalition must be staggered.

(b) Program participation.—The school readiness program shall be established for children from birth to 5 years of age or until the child enters kindergarten. The program shall be administered by the school readiness coalition. Within funding limitations, the school readiness coalition, along with all providers, shall make reasonable efforts to accommodate the needs of children for extended-day and extended-year services without compromising the quality of the program.

(c) Program expectations.—

1. The school readiness program must meet the following expectations:

a. The program must prepare preschool children to enter kindergarten ready to learn, as measured by criteria established by the Florida Partnership for School Readiness.

b. The program must provide extended-day and extended-year services to the maximum extent possible to meet the needs of parents who work.

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

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

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

f. As long as funding or eligible populations do not decrease, the program must serve at least as many children as were served prior to implementation of the program.

g. There must be a community plan to address the needs of all eligible children.

h. The program must meet all state licensing guidelines, where applicable.

2. The school readiness coalition must implement a comprehensive program of readiness services that enhance the cognitive, social, and physical development of children to achieve the performance standards and outcome measures specified by the partnership. At a minimum, these programs must contain the following elements:

a. Developmentally appropriate curriculum.

b. A character development program to develop basic values.

c. An age-appropriate assessment of each child's development.

d. A pretest administered to children when they enter a program and a posttest administered to children when they leave the program.

e. An appropriate staff-to-child ratio.

f. A healthful and safe environment.

g. A resource and referral network to assist parents in making an informed choice.

(d) Implementation.—

1. The school readiness program is to be phased in. Until the coalition implements its plan, the county shall continue to receive the services identified in subsection (3) through the various agencies that would be responsible for delivering those services under current law. Plan implementation is subject to approval of the coalition and the plan by the Florida Partnership for School Readiness.

2. Each school readiness coalition shall develop a plan for implementing the school readiness program to meet the requirements of this section and the performance standards and outcome measures established by the partnership. The plan must include a written description of the role of the program in the coalition's effort to meet the first state education goal, readiness to start school, including a description of the plan to involve the prekindergarten early intervention programs, Head Start Programs, programs offered by public or private providers of child care, preschool programs for children with disabilities, programs for migrant children, Title I programs, subsidized child care programs, and teen parent programs. The plan must also demonstrate how the program will ensure that each 3-year-old and 4-year-old child in a publicly funded school readiness program receives scheduled activities and instruction designed to prepare children to enter kindergarten ready to learn. Prior to implementation of the program, the school readiness coalition must submit the plan to the partnership for approval. The partnership may approve the plan, reject the plan, or approve the plan with conditions. The plan shall be reviewed, revised, and approved biennially.

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

a. A sliding fee scale establishing a co-payment for parents based upon their ability to pay, which is the same for all program providers, to be implemented and reflected in each program's budget.

b. A choice of settings and locations in licensed, registered, religious-exempt, or school-based programs to be provided to parents.

c. Instructional staff who have completed the training course as required in s. 402.305(2)(d)1., as well as staff who have additional training or credentials as required by the respective program provider. The plan must provide a method for assuring the qualifications of all personnel in all program settings.

d. Specific eligibility priorities for children within the coalition's county pursuant to subsection (6).

e. Performance standards and outcome measures established by the partnership or alternatively, standards and outcome measures to be used until such time as the partnership adopts such standards and outcome measures.

f. Reimbursement rates that have been developed by the coalition.

g. Systems support services, including a central agency, child care resource and referral, eligibility determinations, training of providers, and parent support and involvement.

h. Direct enhancement services to families and children. System support and direct enhancement services shall be in addition to payments for the placement of children in school readiness programs.

i. A business plan, which must include the contract with a school readiness agent if the coalition is not a legally established corporate entity. Coalitions may contract with other coalitions to achieve efficiency in multiple-county services, and such contracts may be part of the coalition's business plan.

j. Strategies to meet the needs of unique populations, such as migrant workers.

As part of the plan, the coalition may request the Governor to apply for a waiver to allow the coalition to administer the Head Start Program to accomplish the purposes of the school readiness program. If any school readiness plan can demonstrate that specific statutory goals can be achieved more effectively by using procedures that require modification of existing rules, policies, or procedures, a request for a waiver to the partnership may be made as part of the plan. Upon review, the partnership may grant the proposed modification.

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

5. The coalition may not implement its plan until it submits the plan to and receives approval from the partnership. Once the plan has been approved, the plan and the services provided under the plan shall be controlled by the coalition rather than by the state agencies or departments. The plan shall be reviewed and revised as necessary, but at least biennially.

6. The following statutes will not apply to local coalitions with approved plans: ss. 125.901(2)(a)3., 228.061(1) and (2), 230.2306, 411.204, 411.221, 411.222, and 411.232. To facilitate innovative practices and to allow local establishment of school readiness programs, a school readiness coalition may apply to the Governor and Cabinet for a waiver of, and the Governor and Cabinet may waive, any of the provisions of ss. 230.2303, 230.2305, 230.23166, 402.3015, 411.223, and 411.232, if the waiver is necessary for implementation of the coalition's school readiness plan.

7. Two or more counties may join for the purpose of planning and implementing a school readiness program.

8. A coalition may, subject to approval of the partnership as part of the coalition's plan, receive subsidized child care funds for all children eligible for any federal subsidized child care program and be the provider of the program services.

9. Coalitions are authorized to enter into multiparty contracts with multi-county service providers in order to meet the needs of unique populations such as migrant workers.

(e) Reimbursement rate.—Each coalition shall develop a reimbursement rate schedule that encompasses all programs funded by that coalition. The reimbursement rate schedule must take into consideration the relevant market rate, must include the projected number of children to be served, and must be submitted to the partnership for information. Informal childcare arrangements shall be reimbursed at not more than 50 percent of the rate developed for family childcare.

(f) Requirements relating to fiscal agents.—If the local coalition is not a legally established corporate entity, the coalition must designate a fiscal agent, which may be a public entity or a private nonprofit organization. The fiscal agent shall be required to provide financial and administrative services pursuant to a contract or agreement with the school readiness coalition. The fiscal agent may not provide direct early education or child care services, however, a fiscal agent may provide such services upon written request of the coalition to the partnership and upon the approval of such request by the partnership. The cost of the financial and administrative services shall be negotiated between the fiscal agent and the school readiness coalition. If the fiscal agent is a provider of early education and care programs, the contract must specify that the fiscal agent will act on policy direction from the coalition and will not receive policy direction from its own corporate board regarding disbursal of coalition funds. The fiscal agent shall disburse funds in accordance with the approved coalition school readiness plan and based on billing and disbursement procedures approved by the partnership. The fiscal agent must conform to all data-reporting requirements established by the partnership.

(g) Coalition initiation grants; incentive bonuses.—

1. School readiness coalitions that are approved by the Florida Partnership for School Readiness by January 1, 2000, shall be eligible for a $50,000 initiation grant to support the school readiness coalition in developing its school readiness plan.

2. School readiness coalitions that are approved by the Florida Partnership for School Readiness by March 1, 2000, shall be eligible for a $25,000 initiation grant to support the school readiness coalition in developing its school readiness plan.

3. School readiness coalitions that have their plans approved by July 1, 2000, shall receive funding from the Florida Partnership for School Readiness in fiscal year 2000-2001, and each year thereafter.

4. Upon approval by the Florida Partnership for School Readiness of any coalition's plan that clearly shows enhancement in the quality and standards of the school readiness program without diminishing the number of children served in the program, the partnership shall award the coalition an incentive bonus, subject to appropriation.

5. In fiscal year 2000-2001, and each year thereafter, any increases in funding for school readiness programs shall be administered through school readiness coalitions.

6. In fiscal year 2001-2002, the Florida Partnership for School Readiness shall request proposals from government agencies and nonprofit corporations for the development and operation of a school readiness coalition in each county that does not have an approved coalition by March 1, 2001.

(h) Evaluation and annual report.—Each school readiness coalition shall conduct an evaluation of the effectiveness of the school readiness program, including performance standards and outcome measures, and shall provide an annual report and fiscal statement to the Florida Partnership for School Readiness. This report must conform to the content and format specifications set by the Florida Partnership for School Readiness. The partnership must include an analysis of the coalition reports in its annual report.

(6) PROGRAM ELIGIBILITY.—The school readiness program shall be established for children under the age of kindergarten eligibility. Priority for participation in the school readiness program shall be given to children who meet one or more of the following criteria:

(a) Children under the age of kindergarten eligibility who are:

1. Children determined to be at risk of abuse, neglect, or exploitation and who are currently clients of the Children and Family Services Program Office of the Department of Children and Family Services.

2. Children at risk of welfare dependency, including economically disadvantaged children, children of participants in the WAGES program, children of migrant farmworkers, and children of teen parents.

3. Children of working families whose family income does not exceed 150 percent of the federal poverty level.

(b) Three-year-old children and 4-year-old children who may not be economically disadvantaged but who have disabilities, have been served in a specific part-time or combination of part-time exceptional education programs with required special services, aids, or equipment, and were previously reported for funding part time with the Florida Education Finance Program as exceptional students.

(c) Economically disadvantaged children, children with disabilities, and children at risk of future school failure, from birth to 4 years of age, who are served at home through home visitor programs and intensive parent education programs such as the Florida First Start Program.

(d) Children who meet federal and state requirements for eligibility for the migrant preschool program but who do not meet the criteria of economically disadvantaged.

An "economically disadvantaged" child means a child whose family income is below 150 percent of the federal poverty level. Notwithstanding any change in a family's economic status, but subject to additional family contributions in accordance with the sliding fee scale, a child who meets the eligibility requirements upon initial registration for the program shall be considered eligible until the child reaches kindergarten age.

(7) PARENTAL CHOICE.—

(a) The school readiness program shall provide parental choice pursuant to a purchase service order that ensures, to the maximum extent possible, flexibility in school readiness programs and payment arrangements. According to federal regulations requiring parental choice, a parent may choose an informal child-care arrangement. The purchase order must bear the name of the beneficiary and the program provider and, when redeemed, must bear the signature of both the beneficiary and an authorized representative of the provider.

(b) If it is determined that a provider has provided any cash to the beneficiary in return for receiving the purchase order, the coalition or its fiscal agent shall refer the matter to the Division of Public Assistance Fraud for investigation.

(c) The Office of the Comptroller shall establish an electronic transfer system for the disbursement of funds in accordance with this subsection. School readiness coalitions shall fully implement the electronic funds transfer system within 2 years after plan approval unless a waiver is obtained from the partnership.

(8) STANDARDS; OUTCOME MEASURES.—All publicly funded school readiness programs shall be required to meet the performance standards and outcome measures developed and approved by the partnership. The Office of Program Policy Analysis and Government Accountability shall provide consultation to the partnership in the development of the measures and standards. These performance standards and outcome measures shall be adopted by June 1, 2000, and shall be applicable on a state-wide basis.

(9) FUNDING; SCHOOL READINESS PROGRAM.—

(a) It is the intent of this section to establish an integrated and quality seamless service delivery system for all publicly funded early education and child care programs operating in this state.

(b) All state funds budgeted for a county for the programs specified in subsection (3), along with the pro rata share of the state administrative costs of those programs in the amount as determined by the partnership, all federal funds and required local matching funds for a county for programs specified in subsection (3), and any additional funds appropriated or obtained for purposes of this section, shall be transferred for the benefit of the coalition for implementation of its plan, including the hiring of staff to effectively operate the coalition's school readiness program. As part of plan approval and periodic plan review, the partnership shall require that administrative costs be kept to the minimum necessary for efficient and effective administration of the plan, but total administrative expenditures shall not exceed 5 percent unless specifically waived by the partnership. The partnership shall annually report to the Legislature any problems relating to administrative costs.

(c) By February 15, 2000, the partnership shall present to the Legislature recommendations for combining funding streams for school readiness programs into a School Readiness Trust Fund. These recommendations must include recommendations for the inclusion or noninclusion of prekindergarten disabilities programs and funding.

(d) The partnership shall annually distribute all eligible funds as block grants to assist coalitions in integrating services and funding to develop a quality service delivery system. Subject to appropriation, the partnership may also provide financial awards to coalitions demonstrating success in merging and integrating funding streams to serve children and school readiness programs.

(e) State funds appropriated for the school readiness program may not be used for the construction of new facilities or the purchase of buses. By February 15, 2000, the partnership shall present to the Legislature recommendations for providing necessary transportation services for school readiness programs.

(f) All cost savings and all revenues received through a mandatory sliding fee scale shall be used to help fund the local school readiness program.

(10) REPORTS.—The Office of Program Policy Analysis and Government Accountability shall assess the implementation, efficiency, and outcomes of the school readiness program and report its findings to the President of the Senate and the Speaker of the House of Representatives by January 1, 2002. Subsequent reviews shall be conducted at the direction of the Joint Legislative Auditing Committee.

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

Section 2. Section 229.567, Florida Statutes, is created to read:

229.567 School readiness uniform screening.—The Department of Education shall adopt the school readiness uniform screening developed by the Florida Partnership for School Readiness, and shall require that all school districts administer the kindergarten uniform screening to each kindergarten student in the district school system upon the student's entry into kindergarten. Children who enter public school for the first time in first grade must undergo a uniform screening approved by the partnership for use in first grade.

Section 3. Subsection (11) is added to section 216.136, Florida Statutes, 1998 Supplement, to read:

216.136 Consensus estimating conferences; duties and principals.—

(11) SCHOOL READINESS PROGRAM ESTIMATING CONFERENCE.—

(a) Duties.—

1. The School Readiness Program Estimating Conference shall develop such estimates and forecasts of the number of individuals eligible for school readiness programs in accordance with the standards of eligibility established by state or federal statute or administrative rule as the conference determines are needed to support the state planning, budgeting, and appropriations processes.

2. In addition, the School Readiness Program Estimating Conference shall estimate the unduplicated count of children who are eligible for services under the school readiness program.

3. The Florida Partnership for School Readiness shall provide information on needs and waiting lists for school readiness program services requested by the School Readiness Program Estimating Conference or individual conference principals in a timely manner.

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

Section 4. Subsection (2) of section 414.026, Florida Statutes, 1998 Supplement, is amended to read:

414.026 WAGES Program State Board of Directors.—

(2)(a) The board of directors shall be composed of the following members:

1. The Commissioner of Education, or the commissioner's designee.

2. The Secretary of Children and Family Services.

3. The Secretary of Health.

4. The Secretary of Labor and Employment Security.

5. The Secretary of Community Affairs.

6. The Secretary of Transportation, or the secretary's designee.

7. The director of the Office of Tourism, Trade, and Economic Development.

8. The chairperson of the Florida Partnership for School Readiness.

9.~~8.~~ The president of the Enterprise Florida workforce development board, established under s. 288.9620.

10.~~9.~~ The chief executive officer of the Florida Tourism Industry Marketing Corporation, established under s. 288.1226.

11.~~10.~~ Nine members appointed by the Governor, as follows:

a. Six members shall be appointed from a list of ten nominees, of which five must be submitted by the President of the Senate and five must be submitted by the Speaker of the House of Representatives. The list of five nominees submitted by the President of the Senate and the Speaker of the House of Representatives must each contain at least three individuals employed in the private sector, two of whom must have management experience. One of the five nominees submitted by the President of the Senate and one of the five nominees submitted by the Speaker of the House of Representatives must be an elected local government official who shall serve as an ex officio nonvoting member.

b. Three members shall be at-large members appointed by the Governor.

c. Of the nine members appointed by the Governor, at least six must be employed in the private sector and of these, at least five must have management experience.

The members appointed by the Governor shall be appointed to 4-year, staggered terms. Within 60 days after a vacancy occurs on the board, the Governor shall fill the vacancy of a member appointed from the nominees submitted by the President of the Senate and the Speaker of the House of Representatives for the remainder of the unexpired term from one nominee submitted by the President of the Senate and one nominee submitted by the Speaker of the House of Representatives. Within 60 days after a vacancy of a member appointed at-large by the Governor occurs on the board, the Governor shall fill the vacancy for the remainder of the unexpired term. The composition of the board must generally reflect the racial, gender, and ethnic diversity of the state as a whole.

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

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

Section 5. Paragraph (a) of subsection (2) of section 624.91, Florida Statutes, 1998 Supplement, is amended to read:

624.91 The Florida Healthy Kids Corporation Act.—

(2) LEGISLATIVE INTENT.—

(a) The Legislature finds that increased access to health care services could improve children's health and reduce the incidence and costs of childhood illness and disabilities among children in this state. Many children do not have comprehensive, affordable health care services available. It is the intent of the Legislature that the Florida Healthy Kids Corporation provide comprehensive health insurance coverage to such children. The corporation is encouraged to cooperate with any existing health service programs funded by the public or the private sector *and to work cooperatively with the Florida Partnership for School Readiness*.

Section 6. Subsection (4) of section 411.222, Florida Statutes, is amended to read:

411.222 Intraagency and interagency coordination; creation of offices; responsibilities; memorandum of agreement; creation of coordinating council; responsibilities.—

(Substantial rewording of subsection. See s. 411.222(4), F.S., for present text.)

(4) STATE COORDINATING COUNCIL FOR SCHOOL READINESS PROGRAMS.—

(a) Creation; intent.—The State Coordinating Council for School Readiness Programs is established to ensure coordination among the programs that serve preschool children in order to support the first state education goal, readiness to start school; to facilitate communication, cooperation, and the maximum use of resources; and to promote high standards for all programs that serve preschool children in this state. It is the intent of the Legislature that the coordinating council be an independent nonpartisan body and not be identified or affiliated with any one agency, program, or group.

(b) Membership.—The council shall be composed of the following 15 members:

1. The seven current members of the 1998-1999 State Coordinating Council Executive Committee.

2. Eight additional members, appointed by the executive committee, including a representative of each of the following: subsidized child care programs; prekindergarten early intervention programs; Head Start programs; health care programs; private providers; faith-based providers; programs for children with disabilities; and parents of preschool children.

(c) Term.—The State Coordinating Council for School Readiness Programs shall terminate on July 1, 2002.

(d) Organization.—

1. The council shall adopt internal organizational procedures or bylaws necessary for the efficient operation of the council. The council may establish committees that are responsible for conducting specific council programs and activities.

2. The council shall have a budget and be financed through an annual appropriation made for this purpose in the General Appropriations Act. Council members are entitled to reimbursement for per diem and travel expenses as provided in s. 112.061 while carrying out official business of the council. When appropriate, parent representatives shall receive a stipend for child care costs incurred while attending council meetings. For administrative purposes only, the council is assigned to the Florida Partnership for School Readiness.

3. The coordinating council shall hold quarterly meetings that are open to the public, and the public shall be given the opportunity to comment at each such meeting. The coordinating council shall notify persons of the date, time, and place of each quarterly meeting upon request.

(e) Duties.—The coordinating council shall recommend to the Florida Partnership for School Readiness methods for coordinating public and private school readiness programs and procedures to facilitate communication, cooperation, and the maximum use of resources to achieve the first state education goal, readiness to start school. In addition, the council shall:

1. Advise the Florida Partnership for School Readiness concerning criteria for grant proposal guidelines, the review of plans and proposals, and eligibility for services of school readiness programs.

2. Recommend to the Florida Partnership for School Readiness methods to increase the involvement of public and private partnerships in school readiness programs in order to maximize the availability of federal funds and to effectively use available resources through cooperative funding and coordinated services.

(f) Reporting requirements.—The coordinating council shall submit its final report to the Florida Partnership for School Readiness by July 1, 2002.

Section 7. *Effective July 1, 2002, subsection (4) of section 411.222, Florida Statutes, is repealed.*

Section 8. Paragraph (e) is added to subsection (1) of section 240.115, Florida Statutes, 1998 Supplement, to read:

240.115 Articulation agreement; acceleration mechanisms.—

(1)

(e) The Commissioner of Education, in conjunction with the Florida Partnership for School Readiness, the Postsecondary Education Planning Commission, and the Education Standards Commission, shall conduct a statewide assessment to determine the extent and nature of instruction for those who work or are training to work in the fields of child care and early childhood education, as well as an assessment of the market demand for individuals trained at various levels. Based on this assessment, the Articulation Coordinating Committee shall establish an articulated career path for school readiness-related professions, which shall lead from entry-level employment in child care and early childhood education to a baccalaureate degree. The career path shall provide for the articulation of:

1. Vocational credit to college credit for associate in science degrees;

2. Credit earned in associate in science or associate in arts degree programs to credit in baccalaureate degree programs;

3. Credit awarded by public and private institutions; and

4. Credit for experiential learning associated with minimum training requirements for employment. The Articulation Coordinating Committee

shall ensure that the articulation of such credit does not jeopardize the receiving institution's accreditation status.

Before the printing of the catalog for the fall semester 2002, the articulation agreement must guarantee the statewide articulation of appropriate coursework as established in the career path.

Section 9. *In accordance with the provisions of chapter 216, Florida Statutes, the Governor is authorized to transfer funds from the relevant state departments or agencies to the Florida Partnership for School Readiness to fund local school readiness coalitions during the phase-in period.*

Section 10. *The Florida Partnership for School Readiness shall recommend to the Legislature by February 15, 2000, whether the current appropriations and positions for Department of Children and Family Services contract managers and Department of Education Prekindergarten Early Intervention and School Readiness personnel should be phased out, or transferred in whole or in part to the partnership to provide for school readiness program staffing. If, before such time as its own staff is in place, the Florida Partnership for School Readiness needs staff assistance in reviewing and approving local coalition plans, the Department of Children and Family Services and the Department of Education shall provide such staff assistance.*

Section 11. *Subject to appropriation by the Legislature, the Inter-University Consortium on Child and Family Studies is authorized to design and develop the concept for a child care and development center, which may be used as a model for demonstrating best practices in children's readiness for school.*

Section 12. *This act is not intended to impede or curtail the state's ability to receive federal funds.*

Section 13. *The recurring sum of $330,000 is appropriated from the General Revenue Fund to the Executive Office of the Governor for the purpose of implementing this act in fiscal year 1999-2000.*

Section 14. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to school readiness; creating s. 411.01, F.S.; establishing the Florida Partnership for School Readiness for purposes of administering the School Readiness Program; providing legislative intent; providing for the program to be phased in; providing responsibilities and duties of the partnership; providing membership and meeting requirements; providing that members are subject to certain ethics requirements; authorizing partnership members to be reimbursed for per diem and travel expenses; providing for hiring certain employees; requiring that the partnership prepare a system for measuring school readiness; specifying objectives to be measured by such system; requiring that the partnership adopt performance standards and measures; requiring the partnership to make recommendations to the Governor and the State Board of Education; requiring reports to the Legislature; authorizing the partnership to adopt rules; requiring the establishment of school readiness coalitions; specifying services to be provided by the coalitions; requiring coalitions to develop reimbursement schedules; providing for designation and approval of a fiscal agent; providing for grants to be provided to coalitions to develop school readiness plans; providing requirements for school readiness plans; providing for incentive bonuses to be awarded; requiring evaluations and an annual report; providing eligibility criteria; providing for parental choice with respect to child care arrangements and payments; providing for evaluation and performance measures; providing requirements for funding school readiness programs; requiring the Office of Program Policy Analysis and Government Accountability to make certain reports; providing responsibility for implementation; creating s. 229.567, F.S.; requiring the Department of Education to adopt the school readiness uniform screening developed by the Florida Partnership for School Readiness and to require their use by the school districts; amending s. 216.136, F.S.; creating the School Readiness Program Estimating Conference; requiring the conference to develop estimates and forecasts of students eligible for school readiness programs; specifying the principals of the conference; amending s. 414.026, F.S.; requiring the chairperson of the Florida Partnership for School Readiness to serve on the WAGES Program State Board of Directors; amending s. 624.91, F.S.; providing legislative intent that the Florida Healthy Kids Corporation work cooperatively with the School Readiness Program; amending s. 411.222, F.S.; abolishing the State Coordinating Council for Early Childhood Services; establishing the State Coordinating Council for School Readiness Programs; requiring the State Coordinating Council for Early Childhood Services to submit a final report; repealing s. 411.222(4), F.S., relating to the State Coordinating Council for Early Childhood Services; amending s. 240.115, F.S.; requiring that the Commissioner of Education establish a career path for school-readiness-related professions; authorizing the Governor to transfer funds; requiring that the Florida Partnership for School Readiness recommend appropriations and positions; authorizing the Inter-University Consortium of Child and Family Studies to develop a model to demonstrate best practices; providing that the act does not impede the state's ability to receive federal funds; providing an appropriation; providing effective dates.

WHEREAS, the voters of the State of Florida, in the November 1998 General Election, amended Section 1 of Article IX of the State Constitution to state that it is "a paramount duty of the state to make adequate provision for the education of all children residing within its borders," and

WHEREAS, the Legislature recognizes the primacy of parents as their children's first teachers and the importance of children entering the education system ready to learn, and

WHEREAS, the Legislature seeks to assist parents by providing opportunities for the state's at-risk birth-to-kindergarten population to enhance their chances for educational success by participating in quality school readiness programs that can better prepare them for school, NOW, THEREFORE,

On motion by Senator Cowin, the Conference Committee Report was adopted and **CS for CS for SB's 366 and 382 and SB 708** passed as recommended and was certified to the House together with the Conference Committee Report. The vote on passage was:

Yeas—40

Madam President	Dawson-White	Jones	Mitchell
Bronson	Diaz-Balart	King	Myers
Brown-Waite	Dyer	Kirkpatrick	Rossin
Burt	Forman	Klein	Saunders
Campbell	Geller	Kurth	Scott
Carlton	Grant	Latvala	Sebesta
Casas	Gutman	Laurent	Silver
Childers	Hargrett	Lee	Sullivan
Clary	Holzendorf	McKay	Thomas
Cowin	Horne	Meek	Webster

Nays—None

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

SPECIAL ORDER CALENDAR

Consideration of **CS for CS for SB 972** was deferred.

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

CS for SB 1314—A bill to be entitled An act relating to the Department of Transportation; amending ss. 20.23, 206.46, 288.9607, 337.29, 337.407, 338.22, 338.221, 338.223, 338.225, 338.227, 338.228, 338.229, 338.231, 338.232, 338.239, 339.08, 339.175, 339.241, 341.3333, 348.0005, 348.0009, 348.248, 348.948, 349.05, 479.01, F.S.; conforming cross-references; creating s. 215.616, F.S.; authorizing bonding of federal aid; repealing s. 234.112, F.S., relating to school bus stops; repealing s. 335.165, F.S., relating to welcome stations; repealing section 137 of chapter 96-320, Laws of Florida, relating to certain uncollectible debts owned by a local government for utility relocation cost reimbursements; repealing s. 339.091, F.S., relating to a declaration of legislative intent; repealing s. 339.145, F.S., relating to certain expenditures in the Working Capital Trust Fund; repealing s. 339.147, F.S., relating to certain audits by the Auditor General; amending ss. 311.09, 331.303, 331.305, 331.308, 331.331, 334.03, 335.074, 335.182, 335.188, 336.044, 337.015,

337.139, 339.2405, 341.051, 341.352, 343.64, 343.74, 378.411, 427.012, 427.013, 951.05, F.S.; deleting obsolete provisions, and, where appropriate, clarifying provisions; reenacting ss. 336.01, 338.222, 339.135(7)(e), 341.321(1), F.S., relating to designation of county road system, acquisition or construction or operation of turnpike projects, amendment of the adopted work program, and legislative findings and intent regarding development of high-speed rail transportation system; providing an effective date.

—which was previously considered April 22. Pending **Amendment 1** by Senator Hargrett was withdrawn.

Pending further consideration of **CS for SB 1314**, on motion by Senator Webster, by two-thirds vote **HB 591** was withdrawn from the Committee on Transportation.

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

HB 591—A bill to be entitled An act relating to the Department of Transportation; amending s. 20.23, F.S.; providing reference to seaport programs; providing for an organizational unit to administer said programs; deleting reference to the Office of Construction and including reference to the Office of Highway Operations within the Department of Transportation; amending s. 206.46, F.S.; increasing a percentage amount of revenues in the State Transportation Trust Fund to be transferred to the Right-of-Way Acquistion and Bridge Construction Trust Fund annually; increasing the dollar amount which may be so transferred; creating s. 215.615, F.S.; providing for state bonds for federal-aid highways construction; creating s. 215.616, F.S.; providing for the issuance of certain revenue bonds for fixed-guideway transportation systems; providing for an audit of the Florida Seaport Development Program; creating s. 316.0815, F.S.; providing for a duty to yield for public transit vehicles; providing penalties; amending s. 316.302, F.S.; revising obsolete dates and statutory references with respect to commercial motor vehicles; amending s. 316.3025, F.S.; correcting a cross reference; amending s. 316.545, F.S.; providing a maximum penalty for operating a commercial motor vehicle when the registration or license plate has not been expired for more than 90 days; prohibiting the department from seizing certain vehicles; amending s. 316.555, F.S.; providing for an exemption from locally imposed weight limits under certain circumstances; amending s. 320.0715, F.S.; providing an exemption from the International Registration Plan; amending s. 334.035, F.S.; revising language with respect to the purpose of the Florida Transportation Code; amending s. 334.0445, F.S.; continuing the operation of the model career service classification and compensation plan within the Department of Transportation for a certain time period; amending s. 334.046, F.S.; revising Department of Transportation program objectives; creating s. 334.071, F.S.; providing for the legislative designation of transportation facilities; amending s. 334.351, F.S.; deleting language with respect to the total amount of youth work experience program contracts; amending s. 335.0415, F.S.; revising a date with respect to public road jurisdiction; amending s. 335.093, F.S.; authorizing the department to designate public roads as scenic highways; amending s. 337.025, F.S.; increasing the annual cap on transportation project contracts that use innovative construction and financing techniques; amending s. 337.11, F.S.; providing for contracts without advertising and competitive bids; repealing authority for owner controlled insurance plans in the Department of Transportation; amending s. 337.16, F.S.; revising language with respect to contractors who are delinquent with respect to contracts with the department; amending s. 337.162, F.S.; revising language with respect to professional services; amending s. 337.18, F.S.; revising language with respect to certain surety bonds; providing for bonds payable to the department rather than to the Governor; amending s. 337.185, F.S.; increasing claim limits with respect to certain contractual claims governed by the State Arbitration Board; revising language with respect to hearings on certain disputes; increasing certain fees; amending s. 337.19, F.S.; revising language with respect to suits at law and in equity brought by or against the department with respect to breach of an express provision or an implied covenant of a written agreement or a written directive issued by the department pursuant to the written agreement; providing for rights and obligations; prohibiting liability under certain circumstances; providing exceptions with respect to liability; providing for applicability; amending s. 337.25, F.S.; authorizing the department to purchase, lease, exchange, or otherwise acquire property interests; amending s. 337.251, F.S.; authorizing a fixed-guideway transportation system operating within the department's right-of-way to operate at any safe speed; amending s. 337.403, F.S.; authorizing the department to participate in the cost of certain clearing and grubbing with respect to utility improvement relocation; amending s. 338.223, F.S.; revising language with respect to proposed turnpike projects to provide that certain requirements do not apply to hardship and protective purchases by the department of advance right-of-way; providing definitions; amending s. 338.229, F.S.; providing additional rights of the department with respect to certain bondholders; amending s. 339.135, F.S.; providing for allocation of certain new highway funds; amending s. 339.155, F.S.; revising language with respect to transportation planning; amending s. 339.175, F.S.; revising language with respect to metropolitan planning organizations; amending s. 341.031, F.S.; correcting cross references to conform to the act; amending s. 341.041, F.S.; directing the department to create and maintain a common self-retention insurance fund to support fixed-guideway projects throughout the state; amending s. 341.051, F.S.; deleting provisions which require the department to develop a specified investment policy; amending s. 341.053, F.S.; providing for development of an intermodal development plan; amending s. 341.302, F.S.; revising language with respect to the responsibilities of the department concerning the rail program; amending ss. 348.9401, 348.941, 348.942, and 348.943, F.S.; renaming the St. Lucie County Expressway Authority as the St. Lucie County Expressway and Bridge Authority and including the Indian River Lagoon Bridge as part of the expressway and bridge system; revising power of the authority to borrow money to conform to new provisions authorizing the issuance of certain bonds; amending s. 348.944, F.S.; authorizing the authority to issue its own bonds and providing requirements therefor; creating s. 348.9495, F.S.; providing exemption from taxation; amending s. 338.251, F.S.; providing that funds repaid by the authority to the Toll Facilities Revolving Trust Fund are to be loaned back to the authority for specified purposes; amending s. 373.4137, F.S.; revising language with respect to mitigation requirements; amending s. 479.01, F.S.; revising definitions; amending s. 479.07, F.S.; revising language with respect to sign permits; amending s. 479.16, F.S.; revising language with respect to signs for which permits are not required; repealing ss. 341.3201-341.386, F.S.; eliminating the Florida High-Speed Rail Transportation Act; amending s. 348.0004, F.S.; authorizing certain boards of county commissioners to alter expressway tolls; providing additional membership for Metropolitan Planning Organizations; amending s. 212.055, F.S.; revising the application of the charter county transit system surtax; amending ss. 20.23, 206.46, 288.9607, 337.29, 337.407, 338.22, 338.221, 338.223, 338.225, 338.227, 338.228, 338.229, 338.231, 338.232, 338.239, 339.08, 339.175, 339.241, 341.3333, 348.0005, 348.0009, 348.248, 348.948, 349.05, and 479.01, F.S.; correcting cross references; repealing s. 234.112, F.S., relating to school bus stops; repealing s. 335.165, F.S., relating to welcome stations; repealing section 137 of chapter 96-320, Laws of Florida, relating to certain uncollectible debts owned by a local government for utility relocation cost reimbursements; repealing s. 339.091, F.S., relating to a declaration of legislative intent; repealing s. 339.145, F.S., relating to certain expenditures in the Working Capital Trust Fund; repealing s. 339.147, F.S., relating to certain audits by the Auditor General; amending ss. 311.09, 331.303, 331.305, 331.308, 331.331, 334.03, 335.074, 335.182, 335.188, 336.044, 337.015, 337.139, 339.2405, 341.051, 341.352, 343.64, 343.74, 378.411, 427.012, 427.013, and 951.05, F.S.; deleting obsolete language, and, where appropriate, replacing such language with updated text; reenacting ss. 336.01, 338.222, 339.135(7)(e), and 341.321(1), F.S., relating to designation of county road system, acquisition or construction or operation of turnpike projects, amendment of the adopted work program, and legislative findings and intent regarding development of high-speed rail transportation system; amending s. 73.015, F.S.; requiring presuit negotiation before an action in eminent domain may be initiated under ch. 73 or ch. 74, F.S.; providing requirements for the condemning authority; requiring the condemning authority to give specified notices; requiring a written offer of purchase and appraisal and specifying the time period during which the owner may respond to the offer before a condemnation lawsuit may be filed; providing procedures; allowing a business owner to claim business damage within a specified time period; providing circumstances under which the court must strike a business-damage defense; providing procedures for business-damage claims; providing for nonbinding mediation; requiring the condemning authority to pay reasonable costs and attorney's fees of a property owner; allowing the property owner to file a complaint in circuit court to recover attorney's fees and costs, if the parties cannot agree on the amount; providing that certain evidence is inadmissible in specified proceedings; amending s. 73.071, F.S.; modifying eligibility requirements for business owners to claim business damages; providing for future repeal; amending s. 73.091, F.S.; providing that no prejudgment interest shall be paid on costs or attorney's fees in eminent domain; amending s. 73.092, F.S.; revising provisions relating to attorney's fees for business-damage claims; amending ss. 127.01 and

166.401, F.S.; restricting the exercise by counties and municipalities of specified eminent domain powers granted to the Department of Transportation; repealing ss. 337.27(2), 337.271, 348.0008(2), 348.759(2), 348.957(2), F.S., relating to limiting the acquisition cost of lands and property acquired through eminent domain proceedings by the Department of Transportation, the Orlando-Orange County Expressway Authority, or the Seminole County Expressway Authority, or under the Florida Expressway Authority Act, and relating to the notice that the Department of Transportation must give to a fee owner at the inception of negotiations to acquire land; amending s. 479.15, F.S.; prescribing duties and responsibilities of the Department of Transportation and local governments with respect to relocation of certain signs pursuant to acquisition of land; providing for application; providing effective dates.

—a companion measure, was substituted for **CS for SB 1314** and by two-thirds vote read the second time by title.

Senators Webster and Casas offered the following amendment which was moved by Senator Webster:

Amendment 1 (322842)(with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Paragraph (d) of subsection (3) of section 20.23, Florida Statutes, 1998 Supplement, is amended to read:

20.23 Department of Transportation.—There is created a Department of Transportation which shall be a decentralized agency.

(3)

(d)1. Policy, program, or operations offices shall be established within the central office for the purposes of:

a. Developing policy and procedures and monitoring performance to ensure compliance with these policies and procedures;

b. Performing statewide activities which it is more cost-effective to perform in a central location;

c. Assessing and ensuring the accuracy of information within the department's financial management information systems; and

d. Performing other activities of a statewide nature.

2. The following offices are established and shall be headed by a manager, each of whom shall be appointed by and serve at the pleasure of the secretary. The positions shall be classified at a level equal to a division director:

a. The Office of Administration;

b. The Office of Policy Planning;

c. The Office of Design;

d. The Office of Construction;

e. The Office of Right-of-Way;

f. The Office of Toll Operations; and

g. The Office of Information Systems.

3. Other offices may be established in accordance with s. 20.04*(7)*~~(6)~~. The heads of such offices are exempt from part II of chapter 110. No office or organization shall be created at a level equal to or higher than a division without specific legislative authority.

Section 2. Subsection (4) of section 206.46, Florida Statutes, is amended to read:

206.46 State Transportation Trust Fund.—

(4) The department may authorize the investment of the earnings accrued and collected upon the investment of the minimum balance of funds required to be maintained in the State Transportation Trust Fund pursuant to s. 339.135*(6)(b)*~~(7)(b)~~. Such investment shall be limited as provided in s. 288.9607(7).

Section 3. Section 215.616, Florida Statutes, is created to read:

215.616 State bonds for federal aid highway construction.—

(1) Upon the request of the Department of Transportation, the Division of Bond Finance is authorized pursuant to s. 11, Art. VII of the State Constitution and the State Bond Act to issue revenue bonds, for and on behalf of the Department of Transportation, for the purpose of financing or refinancing the construction, reconstruction, and improvement of projects that are eligible to receive federal-aid highway funds.

(2) Any bonds issued pursuant to this section shall be payable primarily from a prior and superior claim on all federal highway aid reimbursements received each year with respect to federal-aid projects undertaken in accordance with the provisions of Title 23 of the United States Code.

(3) The term of the bonds shall not exceed a term of 12 years. Prior to the issuance of bonds, the Department of Transportation shall determine that annual debt service on all bonds issued pursuant to this section does not exceed 10 percent of annual apportionments to the department for federal highway aid in accordance with the provisions of Title 23 of the United States Code.

(4) The bonds issued under this section shall not constitute a debt or general obligation of the state or a pledge of the full faith and credit or taxing power of the state. The bonds shall be secured by and are payable from the revenues pledged in accordance with this section and the resolution authorizing their issuance.

(5) The state does covenant with the holders of bonds issued under this section that it will not repeal, impair, or amend this section in any manner which will materially and adversely affect the rights of bondholders as long as the bonds authorized by this section are outstanding.

(6) Any complaint for such validation of bonds issued pursuant to this section 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 4. *Section 234.112, Florida Statutes, is repealed.*

Section 5. Paragraph (a) of subsection (7) of section 288.9607, Florida Statutes, is amended to read:

288.9607 Guaranty of bond issues.—

(7)(a) The corporation is authorized to enter into an investment agreement with the Department of Transportation and the State Board of Administration concerning the investment of the earnings accrued and collected upon the investment of the minimum balance of funds required to be maintained in the State Transportation Trust Fund pursuant to s. 339.135*(6)(b)*~~(7)(b)~~. Such investment shall be limited as follows:

1. Not more than $4 million of the investment earnings earned on the investment of the minimum balance of the State Transportation Trust Fund in a fiscal year shall be at risk at any time on one or more bonds or series of bonds issued by the corporation.

2. The investment earnings shall not be used to guarantee any bonds issued after June 30, 1998, and in no event shall the investment earnings be used to guarantee any bond issued for a maturity longer than 15 years.

3. The corporation shall pay a reasonable fee, set by the State Board of Administration, in return for the investment of such funds. The fee shall not be less than the comparable rate for similar investments in terms of size and risk.

4. The proceeds of bonds, or portions thereof, issued by the corporation for which a guaranty has been or will be issued pursuant to s. 288.9606, s. 288.9608, or this section used to make loans to any one person, including any related interests, as defined in s. 658.48, of such person, shall not exceed 20 percent of the principal of all such outstanding bonds of the corporation issued prior to the first composite bond issue of the corporation, or December 31, 1995, whichever comes first, and

shall not exceed 15 percent of the principal of all such outstanding bonds of the corporation issued thereafter, in each case determined as of the date of issuance of the bonds for which such determination is being made and taking into account the principal amount of such bonds to be issued. The provisions of this subparagraph shall not apply when the total amount of all such outstanding bonds issued by the corporation is less than $10 million. For the purpose of calculating the limits imposed by the provisions of this subparagraph, the first $10 million of bonds issued by the corporation shall be taken into account.

5. The corporation shall establish a debt service reserve account which contains not less than 6 months' debt service reserves from the proceeds of the sale of any bonds, or portions thereof, guaranteed by the corporation.

6. The corporation shall establish an account known as the Revenue Bond Guaranty Reserve Account, the Guaranty Fund. The corporation shall deposit a sum of money or other cash equivalents into this fund and maintain a balance of money or cash equivalents in this fund, from sources other than the investment of earnings accrued and collected upon the investment of the minimum balance of funds required to be maintained in the State Transportation Trust Fund, not less than a sum equal to 1 year of maximum debt service on all outstanding bonds, or portions thereof, of the corporation for which a guaranty has been issued pursuant to ss. 288.9606, 288.9607, and 288.9608. In the event the corporation fails to maintain the balance required pursuant to this subparagraph for any reason other than a default on a bond issue of the corporation guaranteed pursuant to this section or because of the use by the corporation of any such funds to pay insurance, maintenance, or other costs which may be required for the preservation of any project or other collateral security for any bond issued by the corporation, or to otherwise protect the Revenue Bond Guaranty Reserve Account from loss while the applicant is in default on amortization payments, or to minimize losses to the reserve account in each case in such manner as may be deemed necessary or advisable by the corporation, the corporation shall immediately notify the Department of Transportation of such deficiency. Any supplemental funding authorized by an investment agreement entered into with the Department of Transportation and the State Board of Administration concerning the use of investment earnings of the minimum balance of funds is void unless such deficiency of funds is cured by the corporation within 90 days after the corporation has notified the Department of Transportation of such deficiency.

Section 6. Subsection (3) of section 311.09, Florida Statutes, is amended to read:

311.09 Florida Seaport Transportation and Economic Development Council.—

(3) The council shall prepare a 5-year Florida Seaport Mission Plan defining the goals and objectives of the council concerning the development of port facilities and an intermodal transportation system consistent with the goals of the Florida Transportation Plan developed pursuant to s. 339.155. The Florida Seaport Mission Plan shall include specific recommendations for the construction of transportation facilities connecting any port to another transportation mode and for the efficient, cost-effective development of transportation facilities or port facilities for the purpose of enhancing international trade, promoting cargo flow, increasing cruise passenger movements, increasing port revenues, and providing economic benefits to the state. The council shall update the 5-year Florida Seaport Mission Plan annually and shall submit the plan no later than February 1 of each year to the President of the Senate; the Speaker of the House of Representatives; the Office of Tourism, Trade, and Economic Development; the Department of Transportation; and the Department of Community Affairs. The council shall develop programs, based on an examination of existing programs in Florida and other states, for the training of minorities and secondary school students in job skills associated with employment opportunities in the maritime industry, and report on progress and recommendations for further action to the President of the Senate and the Speaker of the House of Representatives annually~~, beginning no later than February 1, 1991~~.

Section 7. Subsection (16) of section 331.303, Florida Statutes, is amended to read:

331.303 Definitions.—

(16) "Project" means any development, improvement, property, launch, utility, facility, system, works, road, sidewalk, enterprise, service, or convenience, which may include coordination with *Enterprise Florida, Inc.* ~~the Florida High Technology and Industry Council~~, the Board of Regents, and the Space Research Foundation; any rocket, capsule, module, launch facility, assembly facility, operations or control facility, tracking facility, administrative facility, or any other type of space-related transportation vehicle, station, or facility; any type of equipment or instrument to be used or useful in connection with any of the foregoing; any type of intellectual property and intellectual property protection in connection with any of the foregoing including, without limitation, any patent, copyright, trademark, and service mark for, among other things, computer software; any water, wastewater, gas, or electric utility system, plant, or distribution or collection system; any small business incubator initiative, including any startup aerospace company, research and development company, research and development facility, storage facility, and consulting service; or any tourism initiative, including any space experience attraction, space-launch-related activity, and space museum sponsored or promoted by the authority.

Section 8. Subsections (1), (4), and (21) of section 331.305, Florida Statutes, are amended to read:

331.305 Powers of the authority.—The authority shall have the power to:

(1) Exercise all powers granted to corporations under the Florida *Business* ~~General~~ Corporation Act, chapter 607.

(4) Review and make recommendations with respect to a strategy to guide and facilitate the future of space-related educational and commercial development. The authority shall in coordination with the Federal Government, private industry, and Florida universities develop a business plan which shall address the expansion of Spaceport Florida locations, space launch capacity, spaceport projects, and complementary activities, which shall include, but not be limited to, a detailed analysis of:

(a) The authority and the commercial space industry.

(b) Products, services description—potential, technologies, skills.

(c) Market research and evaluation—customers, competition, economics.

(d) Marketing plan and strategy.

(e) Design and development plan—tasks, difficulties, costs.

(f) Manufacturing locations, facilities, and operations plan.

(g) Management organization—roles and responsibilities.

(h) Overall schedule (monthly).

(i) Important risks, assumptions, and problems.

(j) Community impact—economic, human development, community development.

(k) Financial plan (monthly for first year; quarterly for next 3 years).

(l) Proposed authority offering—financing, capitalization, use of funds.

~~A final report containing the recommendations and business plan of the authority shall be completed and submitted prior to the 1990 Regular Session of the Legislature, along with any proposed statutory changes and related legislative budget requests required to implement the business plan, to the Governor, the President of the Senate, the Speaker of the House of Representatives, the minority leader of the Senate, and the minority leader of the House of Representatives.~~

(21) Issue revenue bonds, assessment bonds, or any other bonds or obligations authorized by the provisions of this act or any other law, or any combination of the foregoing, and pay all or part of the cost of the acquisition, construction, reconstruction, extension, repair, improvement, or maintenance of any project or combination of projects, including payloads and space flight hardware, and equipment for research, development, and educational activities, to provide for any facility, service, or other activity of the authority, and provide for the retirement or refunding of any bonds or obligations of the authority, or for any combination

of the foregoing purposes. ~~Until December 31, 1994, bonds, other than conduit bonds, issued under the authority contained in this act shall not exceed a total of $500 million and must first be approved by a majority of the members of the Governor and Cabinet.~~ The authority must provide 14 days' notice to the presiding officers and appropriations chairs of both houses of the Legislature prior to presenting a bond proposal to the Governor and Cabinet. If either presiding officer or appropriations chair objects to the bonding proposal within the 14-day-notice period, the bond issuance may be approved only by a vote of two-thirds of the members of the Governor and Cabinet.

Section 9. Subsection (2) of section 331.308, Florida Statutes, is amended to read:

331.308 Board of supervisors.—

(2) Initially, the Governor shall appoint four regular members for terms of 3 years or until successors are appointed and qualified and three regular members for terms of 4 years or until successors are appointed and qualified. Thereafter, each such member shall serve a term of 4 years or until a successor is appointed and qualified. The term of each such member shall be construed to commence on the date of appointment and to terminate on June 30 of the year of the end of the term. ~~The terms for such members initially appointed shall be construed to include the time between initial appointment and June 30, 1992, for those appointed for 3-year terms, and June 30, 1993, for those appointed for 4-year terms. No such member shall be allowed to serve an initial 3-year term or fill any vacancy for the remainder of a term for less than 4 years.~~ Appointment to the board shall not preclude any such member from holding any other private or public position.

Section 10. Subsection (1) of section 331.331, Florida Statutes, is amended to read:

331.331 Revenue bonds.—

(1) Revenue bonds issued by the authority shall not be deemed revenue bonds issued by the state or its agencies for purposes of s. 11, Art. VII of the State Constitution and ss. 215.57-215.83. ~~However, until December 31, 1994, the power of the authority to issue revenue bonds shall be limited as provided in s. 331.305.~~ The authority shall include in its annual report to the Governor and Legislature, as provided in s. 331.310, a summary of the status of existing and proposed bonding projects.

Section 11. Paragraph (d) of subsection (25) of section 334.03, Florida Statutes, is amended to read:

334.03 Definitions.—When used in the Florida Transportation Code, the term:

(25) "State Highway System" means the following, which shall be facilities to which access is regulated:

(d) The urban minor arterial mileage on the existing State Highway System as of July 1, 1987, plus additional mileage to comply with the 2-percent requirement as described below. ~~These urban minor arterial routes shall be selected in accordance with s. 335.04(1)(a) and (b).~~

However, not less than 2 percent of the public road mileage of each urbanized area on record as of June 30, 1986, shall be included as minor arterials in the State Highway System. Urbanized areas not meeting the foregoing minimum requirement shall have transferred to the State Highway System additional minor arterials of the highest significance in which case the total minor arterials in the State Highway System from any urbanized area shall not exceed 2.5 percent of that area's total public urban road mileage.

Section 12. Subsection (5) of section 335.074, Florida Statutes, is amended to read:

335.074 Safety inspection of bridges.—

~~(5) The department shall prepare a report of its findings with respect to each such bridge or other structure whereon significant structural deficiencies were discovered and transmit a summary of the findings as part of the report required in s. 334.046(3).~~

Section 13. *Section 335.165, Florida Statutes, is repealed.*

Section 14. Subsection (2) of section 335.182, Florida Statutes, is amended to read:

335.182 Regulation of connections to roads on State Highway System; definitions.—

(2) The department shall~~, no later than July 1, 1989,~~ adopt, by rule, administrative procedures for its issuance and modification of access permits, closing of unpermitted connections, and revocation of permits in accordance with this act.

Section 15. Paragraphs (a) and (e) of subsection (3) of section 335.188, Florida Statutes, are amended to read:

335.188 Access management standards; access control classification system; criteria.—

(3) The control classification system shall be developed consistent with the following:

(a) The department shall~~, no later than July 1, 1990,~~ adopt rules setting forth procedures governing the implementation of the access control classification system required by this act. The rule shall provide for input from the entities described in paragraph (b) as well as for public meetings to discuss the access control classification system. Nothing in this act affects the validity of the department's existing or subsequently adopted rules concerning access to the State Highway System. Such rules shall remain in effect until repealed or replaced by the rules required by this act.

(e) An access control category shall be assigned to each segment of the State Highway System ~~by July 1, 1993~~.

Section 16. Section 336.01, Florida Statutes, is reenacted to read:

336.01 Designation of county road system.—The county road system shall be as defined in s. 334.03(8).

Section 17. Subsection (2) of section 336.044, Florida Statutes, is amended to read:

336.044 Use of recyclable materials in construction.—

(2) The Legislature declares it to be in the public interest to find alternative ways to use certain recyclable materials that currently are part of the solid waste stream and that contribute to problems of declining space in landfills. To determine the feasibility of using certain recyclable materials for paving materials, the department *may* ~~shall before January 1, 1990,~~ undertake~~, as part of its currently scheduled projects,~~ demonstration projects using the following materials in road construction:

(a) Ground rubber from automobile tires in road resurfacing or subbase materials for roads;

(b) Ash residue from coal combustion byproducts for concrete and ash residue from waste incineration facilities and oil combustion byproducts for subbase material;

(c) Recycled mixed-plastic material for guardrail posts or right-of-way fence posts;

(d) Construction steel, including reinforcing rods and I-beams, manufactured from scrap metals disposed of in the state; and

(e) Glass, and glass aggregates.

~~Within 1 year after the conclusion of the demonstration projects the department shall report to the Governor and the Legislature on the maximum percentage of each recyclable material that can be effectively utilized in road construction projects. Concurrent with the submission of the report the department shall review and modify its standard road and bridge construction specifications to allow and encourage the use of recyclable materials consistent with the findings of the demonstration projects.~~

Section 18. Subsection (7) of section 337.015, Florida Statutes, is amended to read:

337.015 Administration of public contracts.—Recognizing that the inefficient and ineffective administration of public contracts inconve-

niences the traveling public, increases costs to taxpayers, and interferes with commerce, the Legislature hereby determines and declares that:

~~(7) The department in its annual report required in s. 334.22(2) shall report how the department complied with this section for the preceding fiscal year.~~

Section 19. Section 337.139, Florida Statutes, is amended to read:

337.139 Efforts to encourage awarding contracts to disadvantaged business enterprises.—In implementing chapter 90-136, Laws of Florida, the Department of Transportation shall institute procedures to encourage the awarding of contracts for professional services and construction to disadvantaged business enterprises. For the purposes of this section, the term "disadvantaged business enterprise" means a small business concern certified by the Department of Transportation to be owned and controlled by socially and economically disadvantaged individuals as defined by the Surface Transportation and Uniform Relocation Act of 1987. The Department of Transportation shall develop and implement activities to encourage the participation of disadvantaged business enterprises in the contracting process ~~and shall report to the Legislature prior to January 1, 1991, on its efforts to increase disadvantaged business participation~~. Such efforts may include:

(1) Presolicitation or prebid meetings for the purpose of informing disadvantaged business enterprises of contracting opportunities.

(2) Written notice to disadvantaged business enterprises of contract opportunities for commodities or contractual and construction services which the disadvantaged business provides.

(3) Provision of adequate information to disadvantaged business enterprises about the plans, specifications, and requirements of contracts or the availability of jobs.

(4) Breaking large contracts into several single-purpose contracts of a size which may be obtained by certified disadvantaged business enterprises.

Section 20. Subsection (3) of section 337.29, Florida Statutes, is amended to read:

337.29 Vesting of title to roads; liability for torts.—

(3) Title to all roads transferred in accordance with the provisions of s. *335.0415* ~~335.04~~ shall be in the governmental entity to which such roads have been transferred, upon the recording of a right-of-way map by the appropriate governmental entity in the public land records of the county or counties in which such rights-of-way are located. To the extent that sovereign immunity has been waived, liability for torts shall be in the governmental entity having operation and maintenance responsibility as provided in s. *335.0415* ~~335.04(2)~~. Except as otherwise provided by law, a municipality shall have the same governmental, corporate, and proprietary powers with relation to any public road or right-of-way within the municipality which has been transferred to another governmental entity pursuant to s. *335.0415* ~~335.04~~ that the municipality has with relation to other public roads and rights-of-way within the municipality.

Section 21. *Section 137 of chapter 96-320, Laws of Florida, is repealed.*

Section 22. Subsection (2) of section 337.407, Florida Statutes, is amended to read:

337.407 Regulation of signs and lights within rights-of-way.—

(2) The department has the authority to direct removal of any sign erected in violation of *subsection (1)* ~~paragraph (a)~~, in accordance with the provisions of chapter 479.

Section 23. Section 338.22, Florida Statutes, is amended to read:

338.22 Florida Turnpike Law; short title.—Sections *338.22-338.241* ~~338.22-338.244~~ may be cited as the "Florida Turnpike Law."

Section 24. Section 338.221, Florida Statutes, is amended to read:

338.221 Definitions of terms used in ss. *338.22-338.241* ~~338.22-338.244~~.—As used in ss. *338.22-338.241* ~~338.22-338.244~~, the following words and terms have the following meanings, unless the context indicates another or different meaning or intent:

(1) "Bonds" or "revenue bonds" means notes, bonds, refunding bonds or other evidences of indebtedness or obligations, in either temporary or definitive form, issued by the Division of Bond Finance on behalf of the department and authorized under the provisions of ss. *338.22-338.241* ~~338.22-338.244~~ and the State Bond Act.

(2) "Cost," as applied to a turnpike project, includes the cost of acquisition of all land, rights-of-way, property, easements, and interests acquired by the department for turnpike project construction; the cost of such construction; the cost of all machinery and equipment, financing charges, fees, and expenses related to the financing; establishment of reserves to secure bonds; interest prior to and during construction and for such period after completion of construction as shall be determined by the department; the cost of traffic estimates and of engineering and legal expenses, plans, specifications, surveys, estimates of cost and revenues; other expenses necessary or incident to determining the feasibility or practicability of acquiring or constructing any such turnpike project; administrative expenses; and such other expenses as may be necessary or incident to the acquisition or construction of a turnpike project, the financing of such acquisition or construction, and the placing of the turnpike project in operation.

(3) "Feeder road" means any road no more than 5 miles in length, connecting to the turnpike system which the department determines is necessary to create or facilitate access to a turnpike project.

(4) "Owner" includes any person or any governmental entity that has title to, or an interest in, any property, right, easement, or interest authorized to be acquired pursuant to ss. *338.22-338.241* ~~338.22-338.244~~.

(5) "Revenues" means all tolls, charges, rentals, gifts, grants, moneys, and other funds coming into the possession, or under the control, of the department by virtue of the provisions hereof, except the proceeds from the sale of bonds issued under ss. *338.22-338.241* ~~338.22-338.244~~.

(6) "Turnpike system" means those limited access toll highways and associated feeder roads and other structures, appurtenances, or rights previously designated, acquired, or constructed pursuant to the Florida Turnpike Law and such other additional turnpike projects as may be acquired or constructed as approved by the Legislature.

(7) "Turnpike improvement" means any betterment necessary or desirable for the operation of the turnpike system, including, but not limited to, widenings, the addition of interchanges to the existing turnpike system, resurfacings, toll plazas, machinery, and equipment.

(8) "Economically feasible" means:

(a) For a proposed turnpike project, that, as determined by the department before the issuance of revenue bonds for the project, the estimated net revenues of the proposed turnpike project, excluding feeder roads and turnpike improvements, will be sufficient to pay at least 50 percent of the debt service on the bonds by the end of the 5th year of operation and to pay at least 100 percent of the debt service on the bonds by the end of the 15th year of operation. In implementing this paragraph, up to 50 percent of the adopted work program costs of the project may be funded from turnpike revenues.

(b) For turnpike projects, except for feeder roads and turnpike improvements, financed from revenues of the turnpike system, such project, or such group of projects, originally financed from revenues of the turnpike system, that the project is expected to generate sufficient revenues to amortize project costs within 15 years of opening to traffic.

This subsection does not prohibit the pledging of revenues from the entire turnpike system to bonds issued to finance or refinance a turnpike project or group of turnpike projects.

(9) "Turnpike project" means any extension to or expansion of the existing turnpike system and new limited access toll highways and associated feeder roads and other structures, interchanges, appurtenances, or rights as may be approved in accordance with the Florida Turnpike Law.

(10) "Statement of environmental feasibility" means a statement by the Department of Environmental Protection of the project's significant environmental impacts.

Section 25. Section 338.222, Florida Statutes, is reenacted to read:

338.222 Department of Transportation sole governmental entity to acquire, construct, or operate turnpike projects; exception.—

(1) No governmental entity other than the department may acquire, construct, maintain, or operate the turnpike system subsequent to the enactment of this law, except upon specific authorization of the Legislature.

(2) The department may contract with any local governmental entity as defined in s. 334.03(14) for the design, right-of-way acquisition, or construction of any turnpike project which the Legislature has approved. Local governmental entities may negotiate with the department for the design, right-of-way acquisition, and construction of any section of the turnpike project within areas of their respective jurisdictions or within counties with which they have interlocal agreements.

Section 26. Section 338.223, Florida Statutes, is reenacted and amended to read:

338.223 Proposed turnpike projects.—

(1)(a) Any proposed project to be constructed or acquired as part of the turnpike system and any turnpike improvement shall be included in the tentative work program. No proposed project or group of proposed projects shall be added to the turnpike system unless such project or projects are determined to be economically feasible and a statement of environmental feasibility has been completed for such project or projects and such projects are determined to be consistent, to the maximum extent feasible, with approved local government comprehensive plans of the local governments in which such projects are located. The department may authorize engineering studies, traffic studies, environmental studies, and other expert studies of the location, costs, economic feasibility, and practicality of proposed turnpike projects throughout the state and may proceed with the design phase of such projects. The department shall not request legislative approval of a proposed turnpike project until the design phase of that project is at least 60 percent complete. If a proposed project or group of proposed projects is found to be economically feasible, consistent, to the maximum extent feasible, with approved local government comprehensive plans of the local governments in which such projects are located, and a favorable statement of environmental feasibility has been completed, the department, with the approval of the Legislature, shall, after the receipt of all necessary permits, construct, maintain, and operate such turnpike projects.

(b) Any proposed turnpike project or improvement shall be developed in accordance with the Florida Transportation Plan and the work program pursuant to s. 339.135. Turnpike projects that add capacity, alter access, affect feeder roads, or affect the operation of the local transportation system shall be included in the transportation improvement plan of the affected metropolitan planning organization. If such turnpike project does not fall within the jurisdiction of a metropolitan planning organization, the department shall notify the affected county and provide for public hearings in accordance with s. 339.155(6)(c).

(c) Prior to requesting legislative approval of a proposed turnpike project, the environmental feasibility of the proposed project shall be reviewed by the Department of Environmental Protection. The department shall submit its Project Development and Environmental Report to the Department of Environmental Protection, along with a draft copy of a public notice. Within 14 days of receipt of the draft public notice, the Department of Environmental Protection shall return the draft public notice to the Department of Transportation with an approval of the language or modifications to the language. Upon receipt of the approved or modified draft, or if no comments are provided within 14 days, the Department of Transportation shall publish the notice in a newspaper to provide a 30-day public comment period. The headline of the required notice shall be in a type no smaller than 18 point. The notice shall be placed in that portion of the newspaper where legal notices appear. The notice shall be published in a newspaper of general circulation in the county or counties of general interest and readership in the community as provided in s. 50.031, not one of limited subject matter. Whenever possible, the notice shall appear in a newspaper that is published at least 5 days a week. The notice shall include, but is not limited to, the following information:

1. The purpose of the notice is to provide for a 30-day period for written public comments on the environmental impacts of a proposed turnpike project.

2. The name and description of the project, along with a geographic location map clearly indicating the area where the proposed project will be located.

3. The address where such comments must be sent and the date such comments are due.

After a review of the department's report and any public comments, the Department of Environmental Protection shall submit a statement of environmental feasibility to the department within 30 days after the date on which public comments are due. The notice and the statement of environmental feasibility shall not give rise to any rights to a hearing or other rights or remedies provided pursuant to chapter 120 or chapter 403, and shall not bind the Department of Environmental Protection in any subsequent environmental permit review.

(2)(a) Subject to the provisions of s. 338.228, the department is authorized to expend, out of any funds available for the purpose, such moneys as may be necessary for studies, preliminary engineering, construction, right-of-way acquisition, and construction engineering inspection of any turnpike project and is authorized to use its engineering and other resources for such purposes.

(b) In accordance with the legislative intent expressed in s. 337.273, the department may acquire lands and property before making a final determination of the economic feasibility of a project. The cost of advance acquisition of right-of-way may be paid from bonds issued under s. 337.276 or from turnpike revenues.

(3) All obligations and expenses incurred by the department under this section shall be paid by the department and charged to the appropriate turnpike project. The department shall keep proper records and accounts showing each amount that is so charged. All obligations and expenses so incurred shall be treated as part of the cost of such project and shall be reimbursed to the department out of turnpike revenues or out of the bonds authorized under ss. *338.22-338.241* ~~338.22-338.244~~ except when such reimbursement is prohibited by state or federal law.

(4) The department is authorized, with the approval of the Legislature, to use federal and state transportation funds to lend or pay a portion of the operating, maintenance, and capital costs of turnpike projects. Federal and state transportation funds included in an adopted work program, or the General Appropriations Act, for a turnpike project do not have to be reimbursed to the State Transportation Trust Fund, or used in determining the economic feasibility of the proposed project. For operating and maintenance loans, the maximum net loan amount in any fiscal year shall not exceed 0.5 percent of state transportation tax revenues for that fiscal year.

Section 27. Section 338.225, Florida Statutes, is amended to read:

338.225 Taking of public road for feeder road.—Before taking over any existing public road for maintenance and operation as a feeder road, the department shall obtain the consent of the governmental entity then exercising jurisdiction over the road, which governmental entity is authorized to give such consent by resolution. Each feeder road or portion of a feeder road acquired, constructed, or taken over under this section for maintenance and operation shall, for all purposes of ss. *338.22-338.241* ~~338.22-338.244~~, be deemed to constitute a part of the turnpike system, except that no toll shall be charged for transit between points on such feeder road.

Section 28. Subsection (2) of section 338.227, Florida Statutes, is amended to read:

338.227 Turnpike revenue bonds.—

(2) The proceeds of the bonds of each issue shall be used solely for the payment of the cost of the turnpike projects for which such bonds shall have been issued, except as provided in the State Bond Act. Such proceeds shall be disbursed and used as provided by ss. *338.22-338.241* ~~338.22-338.244~~ and in such manner and under such restrictions, if any, as the Division of Bond Finance may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. All revenues and bond proceeds from the turnpike system received by the department pursuant to ss. *338.22-338.241* ~~338.22-338.244~~, the Florida Turnpike Law, shall be used only for the cost of turnpike projects and turnpike improvements and for the administration, operation, maintenance, and financing of the turnpike

system. No revenues or bond proceeds from the turnpike system shall be spent for the operation, maintenance, construction, or financing of any project which is not part of the turnpike system.

Section 29. Section 338.228, Florida Statutes, is amended to read:

338.228 Bonds not debts or pledges of credit of state.—Turnpike revenue bonds issued under the provisions of ss. *338.22-338.241* ~~338.22-338.244~~ are not debts of the state or pledges of the faith and credit of the state. Such bonds are payable exclusively from revenues pledged for their payment. All such bonds shall contain a statement on their face that the state is not obligated to pay the same or the interest thereon, except from the revenues pledged for their payment, and that the faith and credit of the state is not pledged to the payment of the principal or interest of such bonds. The issuance of turnpike revenue bonds under the provisions of ss. *338.22-338.241* ~~338.22-338.244~~ does not directly, indirectly, or contingently obligate the state to levy or to pledge any form of taxation whatsoever, or to make any appropriation for their payment. Except as provided in ss. 338.001, 338.223, and 338.2275, no state funds shall be used on any turnpike project or to pay the principal or interest of any bonds issued to finance or refinance any portion of the turnpike system, and all such bonds shall contain a statement on their face to this effect.

Section 30. Section 338.229, Florida Statutes, is amended to read:

338.229 Pledge to bondholders not to restrict certain rights of department.—The state does pledge to, and agree with, the holders of the bonds issued pursuant to ss. *338.22-338.241* ~~338.22-338.244~~ that the state will not limit or restrict the rights vested in the department to construct, reconstruct, maintain, and operate any turnpike project as defined in ss. *338.22-338.241* ~~338.22-338.244~~ or to establish and collect such tolls or other charges as may be convenient or necessary to produce sufficient revenues to meet the expenses of maintenance and operation of the turnpike system and to fulfill the terms of any agreements made with the holders of bonds authorized by this act and that the state will not in any way impair the rights or remedies of the holders of such bonds until the bonds, together with interest on the bonds, are fully paid and discharged.

Section 31. Subsections (6) and (7) of section 338.231, Florida Statutes, are amended to read:

338.231 Turnpike tolls, fixing; pledge of tolls and other revenues.—The department shall at all times fix, adjust, charge, and collect such tolls for the use of the turnpike system as are required in order to provide a fund sufficient with other revenues of the turnpike system to pay the cost of maintaining, improving, repairing, and operating such turnpike system; to pay the principal of and interest on all bonds issued to finance or refinance any portion of the turnpike system as the same become due and payable; and to create reserves for all such purposes.

(6) In each fiscal year while any of the bonds of the Broward County Expressway Authority series 1984 and series 1986-A remain outstanding, the department is authorized to pledge revenues from the turnpike system to the payment of principal and interest of such series of bonds, the repayment of Broward County gasoline tax funds as provided in s. 338.2275*(3)*~~(4)~~, and the operation and maintenance expenses of the Sawgrass Expressway, to the extent gross toll revenues of the Sawgrass Expressway are insufficient to make such payments. The terms of an agreement relative to the pledge of turnpike system revenue will be negotiated with the parties of the 1984 and 1986 Broward County Expressway Authority lease-purchase agreements, and subject to the covenants of those agreements. The agreement shall establish that the Sawgrass Expressway shall be subject to the planning, management, and operating control of the department limited only by the terms of the lease-purchase agreements. The department shall provide for the payment of operation and maintenance expenses of the Sawgrass Expressway until such agreement is in effect. This pledge of turnpike system revenues shall be subordinate to the debt service requirements of any future issue of turnpike bonds, the payment of turnpike system operation and maintenance expenses, and subject to provisions of any subsequent resolution or trust indenture relating to the issuance of such turnpike bonds.

(7) The use and disposition of revenues pledged to bonds are subject to the provisions of ss. *338.22-338.241* ~~338.22-338.244~~ and such regulations as the resolution authorizing the issuance of such bonds or such trust agreement may provide.

Section 32. Section 338.232, Florida Statutes, is amended to read:

338.232 Continuation of tolls upon provision for payment of bondholders and assumption of maintenance by department.—When all revenue bonds issued under the provisions of ss. *338.22-338.241* ~~338.22-338.244~~ in connection with the turnpike system and the interest on the bonds have been paid, or an amount sufficient to provide for the payment of all such bonds and the interest on the bonds to the maturity of the bonds, or such earlier date on which the bonds may be called, has been set aside in trust for the benefit of the bondholders, the department may assume the maintenance of the turnpike system as part of the State Highway System, except that the turnpike system shall remain subject to sufficient tolls to pay the cost of the maintenance, repair, improvement, and operation of the system and the construction of turnpike projects.

Section 33. Section 338.239, Florida Statutes, is amended to read:

338.239 Traffic control on the turnpike system.—

(1) The department is authorized to adopt rules with respect to the use of the turnpike system, which rules must relate to vehicular speeds, loads and dimensions, safety devices, rules of the road, and other matters necessary to carry out the purposes of ss. *338.22-338.241* ~~338.22-338.244~~. Insofar as these rules may be inconsistent with the provisions of chapter 316, the rules control. A violation of these rules must be punished pursuant to chapters 316 and 318.

(2) Members of the Florida Highway Patrol are vested with the power, and charged with the duty, to enforce the rules of the department. Expenses incurred by the Florida Highway Patrol in carrying out its powers and duties under ss. *338.22-338.241* ~~338.22-338.244~~ may be treated as a part of the cost of the operation of the turnpike system, and the Department of Highway Safety and Motor Vehicles shall be reimbursed by the Department of Transportation for such expenses incurred on the turnpike mainline, which is that part of the turnpike system extending from the southern terminus in Florida City to the northern terminus in Wildwood including all contiguous sections.

Section 34. Subsection (4) of section 339.08, Florida Statutes, is amended to read:

339.08 Use of moneys in State Transportation Trust Fund.—

(4) The department may authorize the investment of the earnings accrued and collected upon the investment of the minimum balance of funds required to be maintained in the State Transportation Trust Fund pursuant to s. 339.135*(6)(b)* ~~(7)(b)~~. Such investment shall be limited as provided in s. 288.9607(7).

Section 35. *Section 339.091, Florida Statutes, is repealed.*

Section 36. Paragraph (e) of subsection (7) of section 339.135, Florida Statutes, is reenacted to read:

339.135 Work program; legislative budget request; definitions; preparation, adoption, execution, and amendment.—

(7) AMENDMENT OF THE ADOPTED WORK PROGRAM.—

(e) Notwithstanding the requirements in paragraph (d) and ss. 216.177(2) and 216.351, the secretary may request the Executive Office of the Governor to amend the adopted work program when an emergency exists, as defined in s. 252.34(3), and the emergency relates to the repair or rehabilitation of any state transportation facility. The Executive Office of the Governor may approve the amendment to the adopted work program and amend that portion of the department's approved budget in the event that the delay incident to the notification requirements in paragraph (d) would be detrimental to the interests of the state. However, the department shall immediately notify the parties specified in paragraph (d) and shall provide such parties written justification for the emergency action within 7 days of the approval by the Executive Office of the Governor of the amendment to the adopted work program and the department's budget. In no event may the adopted work program be amended under the provisions of this subsection without the certification by the comptroller of the department that there are sufficient funds available pursuant to the 36-month cash forecast and applicable statutes.

Section 37. *Sections 339.145 and 339.147, Florida Statutes, are repealed.*

Section 38. Paragraph (a) of subsection (10) of section 339.175, Florida Statutes, 1998 Supplement, is amended to read:

339.175 Metropolitan planning organization.—It is the intent of the Legislature to encourage and promote the development of transportation systems embracing various modes of transportation in a manner that will maximize the mobility of people and goods within and through urbanized areas of this state and minimize, to the maximum extent feasible, and together with applicable regulatory government agencies, transportation-related fuel consumption and air pollution. To accomplish these objectives, metropolitan planning organizations, referred to in this section as M.P.O.'s, shall develop, in cooperation with the state, transportation plans and programs for metropolitan areas. Such plans and programs must provide for the development of transportation facilities that will function as an intermodal transportation system for the metropolitan area. The process for developing such plans and programs shall be continuing, cooperative, and comprehensive, to the degree appropriate, based on the complexity of the transportation problems.

(10) METROPOLITAN PLANNING ORGANIZATION ADVISORY COUNCIL.—

(a) A Metropolitan Planning Organization Advisory Council is created to augment, and not supplant, the role of the individual M.P.O.'s in the cooperative transportation planning process described in *this section* ~~s. 339.155(5)~~.

Section 39. Paragraph (a) of subsection (7) of section 339.2405, Florida Statutes, is amended to read:

339.2405 Florida Highway Beautification Council.—

(7)(a) The duties of the council shall be to:

1. Provide information to local governments and local highway beautification councils regarding the state highway beautification grants program.

2. Accept grant requests from local governments.

3. Review grant requests for compliance with council rules.

4. Establish rules for evaluating and prioritizing the grant requests. The rules must include, but are not limited to, an examination of each grant's aesthetic value, cost-effectiveness, level of local support, feasibility of installation and maintenance, and compliance with state and federal regulations. Rules adopted by the council which it uses to evaluate grant applications must take into consideration the contributions made by the highway beautification project in preventing litter.

5. Maintain a prioritized list of approved grant requests. The list must include recommended funding levels for each request and, if staged implementation is appropriate, funding requirements for each stage shall be provided.

6. Assess the feasibility of planting and maintaining indigenous wildflowers and plants, instead of sod groundcovers, along the rights-of-way of state roads and highways. In making such assessment, the council shall utilize data from other states which include indigenous wildflower and plant species in their highway vegetative management systems. ~~The council shall complete its assessment and present a report to the head of the department by July 1, 1988.~~

Section 40. Paragraph (g) of subsection (2) of section 339.241, Florida Statutes, is amended to read:

339.241 Florida Junkyard Control Law.—

(2) DEFINITIONS.—Wherever used or referred to in this section, unless a different meaning clearly appears from the context, the term:

(g) "Junk," "junkyard," and "scrap metal processing facility" mean the same as *defined in 23 U.S.C. s. 136* ~~described in s. 205.371(1)(a), (b), and (c)~~.

Section 41. Section 341.051, Florida Statutes, is amended to read:

341.051 Administration and financing of public transit programs and projects.—

(1) FEDERAL AID.—

(a) The department is authorized to receive federal grants or apportionments for public transit projects in this state.

(b) Local governmental entities are authorized to receive federal grants or apportionments for public transit and commuter assistance projects. In addition, the provisions of s. 337.403 notwithstanding, if the relocation of utility facilities is necessitated by the construction of a fixed-guideway public transit project and the utilities relocation is approved as a part of the project by a participating federal agency (if eligible for federal matching reimbursement), then any county chartered under s. 6(e), Art. VIII of the State Constitution shall pay at least 50 percent of the nonfederal share of the cost attributable to such relocation after deducting therefrom any increase in the value of the new facility and any salvage value derived from the old facility. The balance of the nonfederal share shall be paid by the utility.

(2) PUBLIC TRANSIT PLAN.—

(a) The department shall prepare a public transit plan which shall be included in the tentative work program of the department prepared pursuant to s. 339.135(4). The provisions of s. 339.135 apply to public transit projects in the same manner that they apply to other transportation facility construction projects. Any planned department participation shall be in accordance with subsection (5).

(b) The public transit plan shall be consistent with the local plans developed in accordance with the comprehensive transportation planning process. Projects that involve funds administered by the department, and that will be undertaken and implemented by another public agency, shall be included in the public transit plan upon the request of that public agency, providing such project is eligible under the requirements established herein and subject to estimated availability of funds. Projects so included in the plan shall not be altered or removed from priority status without notice to the public agency or local governmental entities involved.

(3) APPROPRIATION REQUESTS.—

(a) Public transit funds shall be requested on the basis of the funding required for the public transit plan. Appropriation requests shall identify each public transit project calling for a state expenditure of $500,000 or more.

(b) Public transit service development projects and transit corridor projects shall be individually identified in the appropriation request by the department. Such request shall show a breakdown of funds showing capital and operating expense.

(c) Unless otherwise authorized by the Legislature, the department is prohibited from entering into any agreement or contract for a public transit project which would result in the ultimate expenditure or commitment of state funds in excess of $5 million.

(4) PROJECT ELIGIBILITY.—

(a) Any project that is necessary to meet the program objectives enumerated in s. 341.041, that conforms to the provisions of this section, and that is contained in the local transportation improvement program and the adopted work program of the department is eligible for the expenditure of state funds for transit purposes.

1. The project shall be a project for service or transportation facilities provided by the department under the provisions of this act, a public transit capital project, a commuter assistance project, a public transit service development project, or a transit corridor project.

2. The project must be approved by the department as being consistent with the criteria established pursuant to the provisions of this act.

(b) Such expenditures shall be in accordance with the fund participation rates and the criteria established in this section for project development and implementation, and are subject to approval by the depart-

ment as being consistent with the Florida Transportation Plan and regional transportation goals and objectives.

(c) Unless otherwise authorized by the Legislature, the department is prohibited from entering into any agreement or contract for a public transit project which would result in the ultimate expenditure or commitment of state funds in excess of $5 million.

(5) FUND PARTICIPATION; CAPITAL ASSISTANCE.—

(a) The department may fund up to 50 percent of the nonfederal share of the costs, not to exceed the local share, of any eligible public transit capital project or commuter assistance project that is local in scope; except, however, that departmental participation in the final design, right-of-way acquisition, and construction phases of an individual fixed-guideway project which is not approved for federal funding shall not exceed an amount equal to 12.5 percent of the total cost of each phase.

(b) The Department of Transportation shall develop a major capital investment policy which shall include policy criteria and guidelines for the expenditure or commitment of state funds for public transit capital projects. The policy shall include the following:

1. Methods to be used to determine consistency of a transit project with the approved local government comprehensive plans of the units of local government in which the project is located.

2. Methods for evaluating the level of local commitment to a transit project, which is to be demonstrated through system planning and the development of a feasible plan to fund operating cost through fares, value capture techniques such as joint development and special districts, or other local funding mechanisms.

3. Methods for evaluating alternative transit systems including an analysis of technology and alternative methods for providing transit services in the corridor.

~~The department shall present such investment policy to both the Senate Transportation Committee and the House Public Transportation Committee along with recommended legislation by March 1, 1991.~~

(c) The department is authorized to fund up to 100 percent of the cost of any eligible transit capital project or commuter assistance project that is statewide in scope or involves more than one county where no other governmental entity or appropriate jurisdiction exists.

(d) The department is authorized to advance up to 80 percent of the capital cost of any eligible project that will assist Florida's transit systems in becoming fiscally self-sufficient. Such advances shall be reimbursed to the department on an appropriate schedule not to exceed 5 years after the date of provision of the advances.

(e) The department is authorized to fund up to 100 percent of the capital and net operating costs of statewide transit service development projects or transit corridor projects. All transit service development projects shall be specifically identified by way of a departmental appropriation request, and transit corridor projects shall be identified as part of the planned improvements on each transportation corridor designated by the department. The project objectives, the assigned operational and financial responsibilities, the timeframe required to develop the required service, and the criteria by which the success of the project will be judged shall be documented by the department for each such transit service development project or transit corridor project.

(f) The department is authorized to fund up to 50 percent of the capital and net operating costs of transit service development projects that are local in scope and that will improve system efficiencies, ridership, or revenues. All such projects shall be identified in the appropriation request of the department through a specific program of projects, as provided for in s. 341.041, that is selectively applied in the following functional areas and is subject to the specified times of duration:

1. Improving system operations, including, but not limited to, realigning route structures, increasing system average speed, decreasing deadhead mileage, expanding area coverage, and improving schedule adherence, for a period of up to 3 years;

2. Improving system maintenance procedures, including, but not limited to, effective preventive maintenance programs, improved mechanics training programs, decreasing service repair calls, decreasing parts inventory requirements, and decreasing equipment downtime, for a period of up to 3 years;

3. Improving marketing and consumer information programs, including, but not limited to, automated information services, organized advertising and promotion programs, and signing of designated stops, for a period of up to 2 years; and

4. Improving technology involved in overall operations, including, but not limited to, transit equipment, fare collection techniques, electronic data processing applications, and bus locators, for a period of up to 2 years.

For purposes of this section, the term "net operating costs" means all operating costs of a project less any federal funds, fares, or other sources of income to the project.

Section 42. Subsection (1) of section 341.321, Florida Statutes, is reenacted to read:

341.321 Development of high-speed rail transportation system; legislative findings, policy, purpose, and intent.—

(1) The intent of ss. 341.3201-341.386 is to further and advance the goals and purposes of the 1984 High Speed Rail Transportation Commission Act; to ensure a harmonious relationship between that act and the various growth management laws enacted by the Legislature including the Local Government Comprehensive Planning and Land Development Regulation Act, ss. 163.3161-163.3215, the Florida State Comprehensive Planning Act of 1972, as amended, ss. 186.001-186.031, the Florida Regional Planning Council Act, ss. 186.501-186.513, and the State Comprehensive Plan, chapter 187; to promote the implementation of these acts in an effective manner; and to encourage and enhance the establishment of a high-speed rail transportation system connecting the major urban areas of the state as expeditiously as is economically feasible. Furthermore, it is the intent of the Legislature that any high-speed rail line and transit station be consistent to the maximum extent feasible with local comprehensive plans, and that any other development associated with the rail line and transit station shall ultimately be consistent with comprehensive plans. The Legislature therefore reaffirms these enactments and further finds:

(a) That the implementation of a high-speed rail transportation system in the state will result in overall social and environmental benefits, improvements in ambient air quality, better protection of water quality, greater preservation of wildlife habitat, less use of open space, and enhanced conservation of natural resources and energy.

(b) That a high-speed rail transportation system, when used in conjunction with sound land use planning, becomes a vigorous force in achieving growth management goals and in encouraging the use of public transportation to augment and implement land use and growth management goals and objectives.

(c) That urban and social benefits include revitalization of blighted or economically depressed areas, the redirection of growth in a carefully and comprehensively planned manner, and the creation of numerous employment opportunities within inner-city areas.

(d) That transportation benefits include improved travel times and more reliable travel, hence increased productivity. High-speed rail is far safer than other modes of transportation and, therefore, travel-related deaths and injuries can be reduced, and millions of dollars can be saved from avoided accidents.

Section 43. Subsection (2) of section 341.3333, Florida Statutes, is amended to read:

341.3333 Application for franchise; confidentiality of application and trade secrets.—

(2) Each applicant, in response to the request for proposals, shall file its application with the department at the location and within the time and date limitations specified in the request for proposals. Applications filed before the deadline shall be kept sealed by the department until the time and date specified for opening. Such sealed applications shall be confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution until such time as the department provides notice of a decision or intended decision pursuant to s. 120.57(3)(a)

or until 10 days after application opening, whichever is earlier. Thereafter, the applications are public. However, the applicant may segregate the trade secret portions of the application and request that the department maintain those portions as confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Upon award of a franchise, the franchisee may segregate portions of materials required to be submitted by the department and request that the department maintain those portions as confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Such portions designated by an applicant or by the franchisee shall remain confidential and exempt from the provisions of s. 119.07(1) only if the department finds that the information satisfies the criteria established in s. *119.15(4)(b)3.* ~~119.14(4)(b)3.~~

Section 44. Paragraphs (a) and (c) of subsection (2) of section 341.352, Florida Statutes, are amended to read:

341.352 Certification hearing.—

(2)(a) The parties to the certification proceeding are:

1. The franchisee.

~~2. The Department of Commerce.~~

2.~~3.~~ The Department of Environmental Protection.

3.~~4.~~ The Department of Transportation.

4.~~5.~~ The Department of Community Affairs.

5.~~6.~~ The Game and Fresh Water Fish Commission.

6.~~7.~~ Each water management district.

7.~~8.~~ Each local government.

8.~~9.~~ Each regional planning council.

9.~~10.~~ Each metropolitan planning organization.

(c) Notwithstanding the provisions of chapter 120 to the contrary, after the filing with the administrative law judge of a notice of intent to be a party by an agency or corporation or association described in subparagraph 1. or subparagraph 2., or a petition for intervention by a person described in subparagraph 3., no later than 30 days prior to the date set for the certification hearing, any of the following entities also shall be a party to the proceeding:

1. Any state agency not listed in paragraph (a), as to matters within its jurisdiction.

2. Any domestic nonprofit corporation or association that is formed, in whole or in part, to promote conservation of natural beauty; to protect the environment, personal health, or other biological values; to preserve historical sites; to promote consumer interests; to represent labor, commercial, or industrial groups; *to promote economic development;* or to promote the orderly development, or maintain the residential integrity, of the area in which the proposed high-speed rail transportation system is to be located.

3. Any person whose substantial interests are affected and being determined by the proceeding.

Section 45. Subsection (3) of section 343.64, Florida Statutes, 1998 Supplement, is amended to read:

343.64 Powers and duties.—

(3) The authority shall~~, by February 1, 1993,~~ develop and adopt a plan for the development of the Central Florida Commuter Rail. Such plan shall address the authority's plan for the development of public and private revenue sources, funding of capital and operating costs, the service to be provided, and the extent to which counties within the area of operation of the authority are to be served. The plan shall be reviewed and updated annually. The plan shall be consistent, to the maximum extent feasible, with the approved local government comprehensive plans of the units of local government served by the authority.

Section 46. Subsection (3) of section 343.74, Florida Statutes, is amended to read:

343.74 Powers and duties.—

(3) The authority shall~~, by February 1, 1992,~~ develop and adopt a plan for the development of the Tampa Bay Commuter Rail or Commuter Ferry Service. Such plan shall address the authority's plan for the development of public and private revenue sources, funding of operating and capital costs, the service to be provided and the extent to which counties within the authority are to be served. The plan shall be reviewed and updated annually. Such plan shall be consistent, to the maximum extent feasible, with the approved local government comprehensive plan of the units of local government served by the authority.

Section 47. Paragraph (c) of subsection (2) of section 348.0005, Florida Statutes, is amended to read:

348.0005 Bonds.—

(2)

(c) Said bonds shall be sold by the authority at public sale by competitive bid. However, if the authority, after receipt of a written recommendation from a financial adviser, shall determine by official action after public hearing by a two-thirds vote of all voting members of the authority that a negotiated sale of the bonds is in the best interest of the authority, the authority may negotiate for sale of the bonds with the underwriter or underwriters designated by the authority and the county in which the authority exists. The authority shall provide specific findings in a resolution as to the reasons requiring the negotiated sale, which resolution shall incorporate and have attached thereto the written recommendation of the financial adviser required by this subsection ~~(4)~~.

Section 48. Section 348.0009, Florida Statutes, is amended to read:

348.0009 Cooperation with other units, boards, agencies, and individuals.—Express authority and power is given and granted to any county, municipality, drainage district, road and bridge district, school district, or other political subdivision, board, commission, or individual in or of this state to enter into contracts, leases, conveyances, or other agreements within the provisions and purposes of the Florida Expressway Authority Act with an authority. An authority may enter into contracts, leases, conveyances, and other agreements, to the extent consistent with chapters 334, 335, 338, *and* 339~~, and 340,~~ and other provisions of the laws of the state and with 23 U.S.C. ss. 101 et seq., with any political subdivision, agency, or instrumentality of the state and any and all federal agencies, corporations, and individuals, for the purpose of carrying out the provisions of the Florida Expressway Authority Act.

Section 49. Section 348.248, Florida Statutes, is amended to read:

348.248 Cooperation with other units, boards, agencies, and individuals.—Express authority and power is given and granted to any county, municipality, drainage district, road and bridge district, school district, or other political subdivision, board, commission, or individual in or of this state to make and enter into contracts, leases, conveyances, or other agreements within the provisions and purposes of this part with the authority. The authority is expressly authorized to make and enter into contracts, leases, conveyances, and other agreements, to the extent consistent with chapters 334, 335, 338, *and* 339~~, and 340~~ and other provisions of the laws of this state and with 23 U.S.C. ss. 101 et seq., with any political subdivision, agency, or instrumentality of this state and any and all federal agencies, corporations, and individuals, for the purpose of carrying out the provisions of this part.

Section 50. Section 348.948, Florida Statutes, is amended to read:

348.948 Cooperation with other units, boards, agencies, and individuals.—Express authority and power is given and granted to any county, municipality, drainage district, road and bridge district, school district, or other political subdivision, board, commission, or individual in or of this state to make and enter into contracts, leases, conveyances, or other agreements within the provisions and purposes of this part with the authority. The authority is expressly authorized to make and enter into contracts, leases, conveyances, and other agreements, to the extent consistent with chapters 334, 335, 338, *and* 339~~, and 340~~ and other provisions of the laws of this state and with 23 U.S.C. ss. 101 et seq., with any political subdivision, agency, or instrumentality of this state and

any and all federal agencies, corporations, and individuals, for the purpose of carrying out the provisions of this part.

Section 51. Subsection (3) of section 349.05, Florida Statutes, is amended to read:

349.05 Bonds of the authority.—

(3) The authority may employ fiscal agents as provided by this chapter or the State Board of Administration may, upon request by the authority, act as fiscal agent for the authority in the issuance of any bonds that may be issued pursuant to this *chapter* ~~part~~, and the State Board of Administration may, upon request by the authority, take over the management, control, administration, custody, and payment of any or all debt services or funds or assets now or hereafter available for any bonds issued pursuant to this *chapter* ~~part~~. The authority may enter into deeds of trust, indentures, or other agreements with its fiscal agent, or with any bank or trust company within or without the state, as security for such bonds, and may, under such agreements, assign and pledge all or any of the revenues, rates, fees, rentals, or other charges or receipts of the authority, including all or any portion of the Duval County gasoline tax funds received by the authority pursuant to the terms of any lease-purchase agreement between the authority and the department, thereunder. Such deed of trust, indenture, or other agreement, may contain such provisions as is customary in such instruments or, as the authority may authorize, including, but without limitation, provisions as to:

(a) The completion, improvement, operation, extension, maintenance, repair, and lease of, or lease-purchase agreement relating to, the Jacksonville Expressway System, and the duties of the authority and others, including the department, with reference thereto;

(b) The application of funds and the safeguarding of funds on hand or on deposit;

(c) The rights and remedies of the trustee and the holders of the bonds; and

(d) The terms and provisions of the bonds or the resolutions authorizing the issuance of the same.

Section 52. Section 378.411, Florida Statutes, is amended to read:

378.411 Certification to receive notices of intent to mine, to review and to inspect for compliance.—

(1) By petition to the secretary, a local government ~~or the Department of Transportation~~ may request certification to receive notices of intent to mine, to review, and to conduct compliance inspections.

(2) In deciding whether to grant certification to a local government, the secretary shall determine whether the following criteria are being met:

(a) The petitioning local government has adopted and effectively implemented a local government comprehensive plan.

(b) The local government has adequate review procedures and the financial and staffing resources necessary to assume responsibility for adequate review and inspection.

(c) The local government has a record of effectively reviewing, inspecting, and enforcing compliance with local ordinances and state laws.

~~(3) In deciding whether to grant certification to the Department of Transportation, the secretary shall request all information necessary to determine the capability of the Department of Transportation to meet the requirements of this part.~~

(3)~~(4)~~ In making his or her determination, the secretary shall consult with the Department of Community Affairs, the appropriate regional planning council, and the appropriate water management district.

(4)~~(5)~~ The secretary shall evaluate the performance of a local government ~~or the Department of Transportation~~ on a regular basis to ensure compliance with this section. All or part of the certification may be rescinded if the secretary determines that the certification is not being carried out pursuant to the requirements of this part.

(5)~~(6)~~ The department shall establish the certification procedure by rule.

Section 53. Paragraph (b) of subsection (1) of section 427.012, Florida Statutes, is amended to read:

427.012 The Commission for the Transportation Disadvantaged.—There is created the Commission for the Transportation Disadvantaged in the Department of Transportation.

(1) The commission shall consist of the following members:

(b) The secretary of the Department of *Children and Family* ~~Health and Rehabilitative~~ Services or the secretary's designee.

Section 54. Subsection (16) of section 427.013, Florida Statutes, 1998 Supplement, is amended to read:

427.013 The Commission for the Transportation Disadvantaged; purpose and responsibilities.—The purpose of the commission is to accomplish the coordination of transportation services provided to the transportation disadvantaged. The goal of this coordination shall be to assure the cost-effective provision of transportation by qualified community transportation coordinators or transportation operators for the transportation disadvantaged without any bias or presumption in favor of multioperator systems or not-for-profit transportation operators over single operator systems or for-profit transportation operators. In carrying out this purpose, the commission shall:

(16) Review and approve memorandums of agreement for the *provision* ~~provisions~~ of coordinated transportation services.

Section 55. Subsection (23) of section 479.01, Florida Statutes, is amended, and subsection (24) of that section is reenacted, to read:

479.01 Definitions.—As used in this chapter, the term:

(23) "Unzoned commercial or industrial area" means an area within 660 feet of the nearest edge of the right-of-way of the interstate or federal-aid primary system where the land use is not covered by a future land use map or zoning regulation pursuant to subsection *(3)* ~~(2)~~, in which there are located three or more separate and distinct industrial or commercial uses located within a 1,600-foot radius of each other and generally recognized as commercial or industrial by zoning authorities in this state. Certain activities, including, but not limited to, the following, may not be so recognized:

(a) Signs.

(b) Agricultural, forestry, ranching, grazing, farming, and related activities, including, but not limited to, wayside fresh produce stands.

(c) Transient or temporary activities.

(d) Activities not visible from the main-traveled way.

(e) Activities conducted more than 660 feet from the nearest edge of the right-of-way.

(f) Activities conducted in a building principally used as a residence.

(g) Railroad tracks and minor sidings.

(24) "Urban area" has the same meaning as defined in s. 334.03(32).

Section 56. Section 951.05, Florida Statutes, is amended to read:

951.05 Working county prisoners on roads and bridges or other public works of the county; hiring out to another county.—The board of county commissioners of the several counties may require all county prisoners under sentence confined in the jail of their respective counties for any offense to labor upon the public roads, bridges, farms, or other public works owned and operated by the county, or on other projects for which the governing body of the county could otherwise lawfully expend public funds and which it determines to be necessary for the health, safety, and welfare of the county, or in the event the county commissioners of any county deem it to the best interest of their county, they may hire out their prisoners to any other county in the state to be worked upon the public roads, bridges, or other public works of that county, or on other projects for which the governing body of that county could

otherwise lawfully expend public funds and which it determines to be necessary for the health, safety, and welfare of that county, or they may, upon such terms as may be agreed upon between themselves and ~~the Division of Road Operations of~~ the Department of Transportation, lease or let said prisoners to the *department* ~~division~~ instead of keeping them in the county jail where they are sentenced. The money derived from the hire of such prisoners shall be paid to the county hiring out such prisoners and placed to the credit of the fine and forfeiture fund of the county.

Section 57. This act shall take effect July 1, 1999.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to the Department of Transportation; amending ss. 20.23, 206.46, 288.9607, 337.29, 337.407, 338.22, 338.221, 338.223, 338.225, 338.227, 338.228, 338.229, 338.231, 338.232, 338.239, 339.08, 339.175, 339.241, 341.3333, 348.0005, 348.0009, 348.248, 348.948, 349.05, 479.01, F.S.; conforming cross-references; creating s. 215.616, F.S.; authorizing bonding of federal aid; repealing s. 234.112, F.S., relating to school bus stops; repealing s. 335.165, F.S., relating to welcome stations; repealing section 137 of chapter 96-320, Laws of Florida, relating to certain uncollectible debts owned by a local government for utility relocation cost reimbursements; repealing s. 339.091, F.S., relating to a declaration of legislative intent; repealing s. 339.145, F.S., relating to certain expenditures in the Working Capital Trust Fund; repealing s. 339.147, F.S., relating to certain audits by the Auditor General; amending ss. 311.09, 331.303, 331.305, 331.308, 331.331, 334.03, 335.074, 335.182, 335.188, 336.044, 337.015, 337.139, 339.2405, 341.051, 341.352, 343.64, 343.74, 378.411, 427.012, 427.013, 951.05, F.S.; deleting obsolete provisions, and, where appropriate, clarifying provisions; reenacting ss. 336.01, 338.222, 339.135(7)(e), 341.321(1), F.S., relating to designation of county road system, acquisition or construction or operation of turnpike projects, amendment of the adopted work program, and legislative findings and intent regarding development of high-speed rail transportation system; providing an effective date.

Senators Webster and Casas offered the following amendment to **Amendment 1** which was moved by Senator Webster and adopted:

Amendment 1A (953812)(with title amendment)—On page 1, between lines 16 and 17, insert:

Section 1. Paragraph (b) of subsection (2) and paragraphs (a) and (d) of subsection (3) of section 20.23, Florida Statutes, 1998 Supplement, is amended to read:

20.23 Department of Transportation.—There is created a Department of Transportation which shall be a decentralized agency.

(2)

(b) The commission shall have the primary functions to:

1. Recommend major transportation policies for the Governor's approval, and assure that approved policies and any revisions thereto are properly executed.

2. Periodically review the status of the state transportation system *including highway, transit, rail, seaport, intermodal development, and aviation components of the system* and recommend improvements therein to the Governor and the Legislature.

3. Perform an in-depth evaluation of the annual department budget request, the Florida Transportation Plan, and the tentative work program for compliance with all applicable laws and established departmental policies. Except as specifically provided in s. 339.135(4)(c)2., (d), and (f), the commission may not consider individual construction projects, but shall consider methods of accomplishing the goals of the department in the most effective, efficient, and businesslike manner.

4. Monitor the financial status of the department on a regular basis to assure that the department is managing revenue and bond proceeds responsibly and in accordance with law and established policy.

5. Monitor on at least a quarterly basis, the efficiency, productivity, and management of the department, using performance and production standards developed by the commission pursuant to s. 334.045.

6. Perform an in-depth evaluation of the factors causing disruption of project schedules in the adopted work program and recommend to the Legislature and the Governor methods to eliminate or reduce the disruptive effects of these factors.

(3)(a) The central office shall establish departmental policies, rules, procedures, and standards and shall monitor the implementation of such policies, rules, procedures, and standards in order to ensure uniform compliance and quality performance by the districts and central office units that implement transportation programs. *Major transportation policy initiatives or revisions shall be submitted to the commission for review.* The central office monitoring function shall be based on a plan that clearly specifies what areas will be monitored, activities and criteria used to measure compliance, and a feedback process that assures monitoring findings are reported and deficiencies corrected. The secretary is responsible for ensuring that *a* ~~the~~ central office monitoring function is implemented ~~by October 1, 1990~~, and that it functions properly ~~thereafter~~. In conjunction with its monitoring function, the central office shall provide such training and administrative support to the districts as the department determines to be necessary to ensure that the department's programs are carried out in the most efficient and effective manner.

(d)1. Policy, program, or operations offices shall be established within the central office for the purposes of:

a. Developing policy and procedures and monitoring performance to ensure compliance with these policies and procedures;

b. Performing statewide activities which it is more cost-effective to perform in a central location;

c. Assessing and ensuring the accuracy of information within the department's financial management information systems; and

d. Performing other activities of a statewide nature.

2. The following offices are established and shall be headed by a manager, each of whom shall be appointed by and serve at the pleasure of the secretary. The positions shall be classified at a level equal to a division director:

a. The Office of Administration;

b. The Office of Policy Planning;

c. The Office of Design;

d. The Office of *Highway Operations* ~~Construction~~;

e. The Office of Right-of-Way;

f. The Office of Toll Operations; and

g. The Office of Information Systems.

3. Other offices may be established in accordance with s. 20.04(6). The heads of such offices are exempt from part II of chapter 110. No office or organization shall be created at a level equal to or higher than a division without specific legislative authority.

4. During the construction of a major transportation improvement project or as determined by the district secretary, the department may provide assistance to a business entity significantly impacted by the project if the entity is a for-profit entity that has been in business for 3 years prior to the beginning of construction and has direct or shared access to the transportation project being constructed. The assistance program shall be in the form of additional guarantees to assist the impacted business entity in receiving loans pursuant to Title 13 C.F.R. part 120. However, in no instance shall the combined guarantees be greater than 90 percent of the loan. The department shall adopt rules to implement this subparagraph.

Section 2. Subsections (2) and (3) of section 206.46, Florida Statutes, are amended to read:

206.46 State Transportation Trust Fund.—

(2) Notwithstanding any other provisions of law, from the revenues deposited into the State Transportation Trust Fund a maximum of *7* ~~6~~ percent in each fiscal year shall be transferred into the Right-of-Way

Acquisition and Bridge Construction Trust Fund created in s. 215.605, as needed to meet the requirements of the documents authorizing the bonds issued or proposed to be issued under ss. 215.605 and 337.276 or at a minimum amount sufficient to pay for the debt service coverage requirements of outstanding bonds. Notwithstanding the *7* ~~6~~ percent annual transfer authorized in this subsection, the annual amount transferred under this subsection shall not exceed *an amount necessary to provide the required debt service coverage levels for a maximum debt service not to exceed $135* ~~$115~~ million. Such transfer shall be payable *primarily* from the motor and diesel fuel taxes transferred to the State Transportation Trust Fund from the Fuel Tax Collection Trust Fund.

(3) Through fiscal year 1999-2000, a minimum of 14.3 percent of all state revenues deposited into the State Transportation Trust Fund shall be committed annually by the department for public transportation projects in accordance with chapter 311, ss. 332.003-332.007, ~~and~~ chapter 341, *and chapter 343*. Beginning in fiscal year 2000-2001, and each year thereafter, a minimum of 15 percent of all state revenues deposited into the State Transportation Trust Fund shall be committed annually by the department for public transportation projects in accordance with chapter 311, ss. 332.002-332.007, ~~and~~ chapter 341, *and chapter 343*.

Section 3. *The Department of Community Affairs and the Department of Transportation must jointly review and submit proposed legislative language based upon and implementing the recommendations of the Transportation and Land Use Study Committee, created by the 1998 Legislature, and 1999 Senate Bill 2306, to the Legislature on or before December 1, 1999. Such proposed legislative language must be fiscally feasible within current and projected funding.*

Section 4. Section 215.615, Florida Statutes, is created to read:

215.615 Fixed-guideway transportation systems funding.—

(1) The issuance of revenue bonds by the Division of Bond Finance, on behalf of the Department of Transportation, pursuant to s. 11, Art. VII of the State Constitution, is authorized, pursuant to the State Bond Act, to finance or refinance fixed capital expenditures for fixed-guideway transportation systems, as defined in s. 341.031, including facilities appurtenant thereto, costs of issuance, and other amounts relating to such financing or refinancing. Such revenue bonds shall be matched on a 50-50 basis with funds from sources other than revenues of the Department of Transportation, in a manner acceptable to the Department of Transportation.

(a) The department and any participating commuter rail authority or regional transportation authority established under chapter 343, local governments, or local governments collectively by interlocal agreement having jurisdiction of a fixed-guideway transportation system may enter into an interlocal agreement to promote the efficient and cost-effective financing or refinancing of fixed-guideway transportation system projects by revenue bonds issued pursuant to this subsection. The terms of such interlocal agreements shall include provisions for the Department of Transportation to request the issuance of the bonds on behalf of the parties; shall provide that each party to the agreement is contractually liable for an equal share of funding an amount equal to the debt service requirements of such bonds; and shall include any other terms, provisions or covenants necessary to the making of and full performance under such interlocal agreement. Repayments made to the department under any interlocal agreement are not pledged to the repayment of bonds issued hereunder, and failure of the local governmental authority to make such payment shall not affect the obligation of the department to pay debt service on the bonds.

(b) Revenue bonds issued pursuant to this subsection shall not constitute a general obligation of, or a pledge of the full faith and credit of, the State of Florida. Bonds issued pursuant to this section shall be payable from funds available pursuant to s. 206.46(3), subject to annual appropriation. The amount of revenues available for debt service shall never exceed a maximum of 2 percent of all state revenues deposited into the State Transportation Trust Fund.

(c) The projects to be financed or refinanced with the proceeds of the revenue bonds issued hereunder are designated as state fixed capital outlay projects for purposes of s. 11(d), Art. VII of the State Constitution, and the specific projects to be financed or refinanced shall be determined by the Department of Transportation in accordance with state law and appropriations from the State Transportation Trust Fund. Each project to be financed with the proceeds of the bonds issued pursuant to this subsection must first be approved by the Legislature by an act of general law.

(d) Any complaint for validation of bonds issued pursuant to this section 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.

(e) The state does hereby covenant with holders of such revenue bonds or other instruments of indebtedness issued hereunder, that it will not repeal or impair or amend these provisions in any manner that will materially and adversely affect the rights of such holders as long as bonds authorized by this subsection are outstanding.

(f) This subsection supersedes any inconsistent provisions in existing law.

Notwithstanding this subsection, the lien of revenue bonds issued pursuant to this subsection on moneys deposited into the State Transportation Trust Fund shall be subordinate to the lien on such moneys of bonds issued under ss. 215.605, 320.20, and 215.616, and any pledge of such moneys to pay operating and maintenance expenses under subsection (5) and chapter 348, as may be amended.

(2) To be eligible for participation, fixed-guideway transportation system projects must comply with the major capital investment policy guidelines and criteria established by the Department of Transportation under chapter 341; must be found to be consistent, to the maximum extent feasible, with approved local government comprehensive plans of the local governments in which such projects are located; and must be included in the work program of the Department of Transportation pursuant to the provisions under s. 339.135. The department shall certify that the expected useful life of the transportation improvements will equal or exceed the maturity date of the debt to be issued.

Section 5. Subsection (2) of section 316.003, Florida Statutes, is amended to read:

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

(2) BICYCLE.—Every vehicle propelled solely by human power, and every motorized bicycle propelled by a combination of human power and an electric helper motor ~~rated at~~ not ~~more than 200 watts and~~ capable of propelling the vehicle at a speed of not more than *20* ~~10~~ miles per hour on level ground upon which any person may ride, having two tandem wheels, and including any device generally recognized as a bicycle though equipped with two front or two rear wheels. The term does not include such a vehicle with a seat height of no more than 25 inches from the ground when the seat is adjusted to its highest position or a scooter or similar device. *No person under the age of 16 may operate or ride upon a motorized bicycle.*

Section 6. Subsection (1) of section 320.08, Florida Statutes, is amended to read:

320.08 License taxes.—Except as otherwise provided herein, there are hereby levied and imposed annual license taxes for the operation of motor vehicles, mopeds, motorized bicycles as defined in s. 316.003(2), and mobile homes, as defined in s. 320.01, which shall be paid to and collected by the department or its agent upon the registration or renewal of registration of the following:

(1) MOTORCYCLES*, and* MOPEDS, ~~MOTORIZED BICYCLES~~.—

(a) Any motorcycle: $10 flat.

(b) Any moped: $5 flat.

~~(c) Any motorized bicycle as defined in s. 316.003(2): $5 flat; however, annual renewal is not required.~~

(c)~~(d)~~ Upon registration of any motorcycle, motor-driven cycle, or moped there shall be paid in addition to the license taxes specified in this subsection a nonrefundable motorcycle safety education fee in the amount of $2.50. The proceeds of such additional fee shall be deposited in the Highway Safety Operating Trust Fund and be used exclusively to

fund a motorcycle driver improvement program implemented pursuant to s. 322.025 or the Florida Motorcycle Safety Education Program established in s. 322.0255.

(d)~~(e)~~ An ancient, antique, or collectible motorcycle: $10 flat.

Section 7. Section 320.0803, Florida Statutes, is amended to read:

320.0803 Moped ~~and motorized bicycle~~ license plates.—

(1) Any other provision of law to the contrary notwithstanding, registration and payment of license taxes in accordance with these requirements and for the purposes stated herein shall in no way be construed as placing any requirements upon mopeds~~, and motorized bicycles as defined in s. 316.003(2),~~ other than the requirements of registration and payment of license taxes.

(2) Each request for a license plate for a moped ~~or a motorized bicycle~~ shall be submitted to the department or its agent on an application form supplied by the department, accompanied by the license tax required in s. 320.08.

(3) The license plate for a moped ~~or motorized bicycle~~ shall be 4 inches wide by 7 inches long.

(4) A license plate for a moped ~~or motorized bicycle~~ shall be of the same material as license plates issued pursuant to s. 320.06; however, the word "Florida" shall be stamped across the top of the plate in small letters.

Section 8. Section 320.08035, Florida Statutes, is amended to read:

320.08035 Persons who have disabilities; reduced dimension license plate.—The owner or lessee of a motorcycle, moped, ~~motorized bicycle,~~ or motorized disability access vehicle who resides in this state and qualifies for a parking permit for a person who has a disability under s. 320.0848, upon application and payment of the appropriate license tax and fees under s. 320.08(1), must be issued a license plate that has reduced dimensions as provided under s. 320.06(3)(a). The plate must be stamped with the international symbol of accessibility after the numeric and alpha serial number of the license plate. The plate entitles the person to all privileges afforded by a disabled parking permit issued under s. 320.0848.

Section 9. Section 316.0815, Florida Statutes, is created to read:

316.0815 Duty to yield to public transit vehicles.—

(1) The driver of a vehicle shall yield the right-of-way to a publicly owned transit bus traveling in the same direction which has signalled and is reentering the traffic flow from a specifically designated pullout bay.

(2) This section does not relieve the driver of a public transit bus from the duty to drive with due regard for the safety of all persons using the roadway.

Section 10. Present subsections (2), (3), (4), (5), (6), (7), (8), and (9) of section 316.1895, Florida Statutes, are redesignated as subsections (3), (4), (5), (6), (7), (8), (9), and (10), respectively, and a new subsection (2) is added to that section to read:

316.1895 Establishment of school speed zones, enforcement; designation.—

(2) Upon request from the appropriate local government, the Department of Transportation shall install and maintain such traffic and pedestrian control devices on state-maintained roads as prescribed in this section for all prekindergarten early-intervention schools that receive federal funding through the Headstart program.

Section 11. Paragraph (b) of subsection (1), paragraphs (e) and (f) of subsection (2) of section 316.302, Florida Statutes, 1998 Supplement, are amended to read:

316.302 Commercial motor vehicles; safety regulations; transporters and shippers of hazardous materials; enforcement.—

(1)

(b) Except as otherwise provided in this section, all owners or drivers of commercial motor vehicles that are engaged in intrastate commerce are subject to the rules and regulations contained in 49 C.F.R. parts 382, 385, and 390-397, with the exception of 49 C.F.R. s. 390.5 as it relates to the definition of bus, as such rules and regulations existed on March 1, *1999* ~~1997~~.

(2)

(e) A person who operates a commercial motor vehicle solely in intrastate commerce is exempt from subsection (1) while transporting agricultural products, including horticultural or forestry products, from farm or harvest place to the first place of processing or storage, or from farm or harvest place directly to market. However, such person must comply with 49 C.F.R. ~~part 391, subpart H and~~ parts 382, 392, *and* 393, and *with* 49 C.F.R. *ss. 396.3(a)(1) and* ~~s.~~ 396.9.

(f) A person who operates a commercial motor vehicle having a declared gross vehicle weight of less than 26,000 pounds solely in intrastate commerce and who is not transporting hazardous materials, or who is transporting petroleum products as defined in *s. 376.301* ~~s. 376.301(29),~~ is exempt from subsection (1). However, such person must comply with 49 C.F.R. parts 382, 392, *and* 393, and *with* 49 C.F.R. *ss. 396.3(a)(1) and* ~~s.~~ 396.9.

Section 12. Paragraph (c) of subsection (3) of section 316.3025, Florida Statutes, is amended to read:

316.3025 Penalties.—

(3)

(c) A civil penalty of $250 may be assessed for:

1. A violation of the placarding requirements of 49 C.F.R. parts 171-179;

2. A violation of the shipping paper requirements of 49 C.F.R. parts 171-179;

3. A violation of 49 C.F.R. s. 392.10;

4. A violation of 49 C.F.R. *s. 397.5* ~~s. 395.5~~;

5. A violation of 49 C.F.R. s. 397.7;

6. A violation of 49 C.F.R. s. 397.13; or

7. A violation of 49 C.F.R. s. 397.15.

Section 13. Paragraph (b) of subsection (2) of section 316.545, Florida Statutes, is amended to read:

316.545 Weight and load unlawful; special fuel and motor fuel tax enforcement; inspection; penalty; review.—

(2)

(b) The officer shall inspect the license plate or registration certificate of the commercial vehicle, as defined in s. 316.003(66), to determine if its gross weight is in compliance with the declared gross vehicle weight. If its gross weight exceeds the declared weight, the penalty shall be 5 cents per pound on the difference between such weights. In those cases when the commercial vehicle, as defined in s. 316.003(66), is being operated over the highways of the state with an expired registration or with no registration from this or any other jurisdiction or is not registered under the applicable provisions of chapter 320, the penalty herein shall apply on the basis of 5 cents per pound on that scaled weight which exceeds 35,000 pounds on laden truck tractor-semitrailer combinations or tandem trailer truck combinations, 10,000 pounds on laden straight trucks or straight truck-trailer combinations, or 10,000 pounds on any unladen commercial motor vehicle. *If the license plate or registration has not been expired for more than 90 days, the penalty imposed under this paragraph may not exceed $1,000.* In the case of special mobile equipment as defined in s. 316.003(48), which qualifies for the license tax provided for in s. 320.08(5)(b), being operated on the highways of the state with an expired registration or otherwise not properly registered under the applicable provisions of chapter 320, a penalty of $75 shall apply in addition to any other penalty which may apply in accordance with this chapter. A vehicle found in violation of this section may be

detained until the owner or operator produces evidence that the vehicle has been properly registered. Any costs incurred by the retention of the vehicle shall be the sole responsibility of the owner. A person who has been assessed a penalty pursuant to this paragraph for failure to have a valid vehicle registration certificate pursuant to the provisions of chapter 320 is not subject to the delinquent fee authorized in s. 320.07 if such person obtains a valid registration certificate within 10 working days after such penalty was assessed.

Section 14. Subsection (4) of section 320.20, Florida Statutes, is amended to read:

320.20 Disposition of license tax moneys.—The revenue derived from the registration of motor vehicles, including any delinquent fees and excluding those revenues collected and distributed under the provisions of s. 320.081, must be distributed monthly, as collected, as follows:

(4) Notwithstanding any other provision of law except subsections (1), (2), and (3), on July 1, *1999* ~~2001~~ and annually thereafter, $10 million shall be deposited in the State Transportation Trust Fund solely for the purposes of funding the Florida Seaport Transportation and Economic Development Program as provided in chapter 311 and for funding seaport intermodal access projects of statewide significance as provided in s. 341.053. Such revenues shall be distributed to any port listed in s. 311.09(1), to be used for funding projects as follows:

(a) For any seaport intermodal access projects that are identified in the 1997-1998 Tentative Work Program of the Department of Transportation, up to the amounts needed to offset the funding requirements of this section; and

(b) For seaport intermodal access projects as described in s. 341.053(5) that are identified in the 5-year Florida Seaport Mission Plan as provided in s. 311.09(3). Funding for such projects shall be on a matching basis as mutually determined by the Florida Seaport Transportation and Economic Development Council and the Department of Transportation, provided a minimum of 25 percent of total project funds shall come from any port funds, local funds, private funds, or specifically earmarked federal funds; or

(c) On a 50-50 matching basis for projects as described in s. 311.07(3)(b).

Such revenues may be assigned, pledged, or set aside as a trust for the payment of principal or interest on bonds, tax anticipation certificates, or any other form of indebtedness issued by an individual port or appropriate local government having jurisdiction thereof, or collectively by interlocal agreement among any of the ports, or used to purchase credit support to permit such borrowings. However, such debt shall not constitute a general obligation of the state. This state does hereby covenant with holders of such revenue bonds or other instruments of indebtedness issued hereunder that it will not repeal or impair or amend this subsection in any manner which will materially and adversely affect the rights of holders so long as bonds authorized by this subsection are outstanding. Any revenues that are not pledged to the repayment of bonds as authorized by this section may be utilized for purposes authorized under the Florida Seaport Transportation and Economic Development Program. This revenue source is in addition to any amounts provided for and appropriated in accordance with s. 311.07 and subsection (3). The Florida Seaport Transportation and Economic Development Council shall approve distribution of funds to ports for projects that have been approved pursuant to s. 311.09(5)-(9), or for seaport intermodal access projects identified in the 5-year Florida Seaport Mission Plan as provided in s. 311.09(3) and mutually agreed upon by the FSTED Council and the Department of Transportation. All contracts for actual construction of projects authorized by this subsection must include a provision encouraging employment of WAGES participants. The goal for employment of WAGES participants is 25 percent of all new employees employed specifically for the project, unless the Department of Transportation and the Florida Seaport Transportation and Economic Development Council can demonstrate to the satisfaction of the Secretary of Labor and Employment Security that such a requirement would severely hamper the successful completion of the project. In such an instance, the Secretary of Labor and Employment Security shall establish an appropriate percentage of employees that must be WAGES participants. The council and the Department of Transportation are authorized to perform such acts as are required to facilitate and implement the provisions of this subsection. To better enable the ports to cooperate to their mutual advantage, the governing body of each port may exercise powers provided to municipalities or counties in s. 163.01(7)(d) subject to the provisions of chapter 311 and special acts, if any, pertaining to a port. The use of funds provided pursuant to this subsection is limited to eligible projects listed in this subsection. The provisions of s. 311.07(4) do not apply to any funds received pursuant to this subsection.

Section 15. *Prior to the 2000 legislative session, the Auditor General, in cooperation with the Office of Program Policy Analysis and Government Accountability and the Department of Banking and Finance, shall conduct a financial and performance audit of the Florida Seaport Development Program established pursuant to chapter 311 and s. 320.20, Florida Statutes.*

Section 16. Subsection (1) of section 335.0415, Florida Statutes, is amended to read:

335.0415 Public road jurisdiction and transfer process.—

(1) The jurisdiction of public roads and the responsibility for operation and maintenance within the right-of-way of any road within the state, county, and municipal road system shall be that which *existed on June 10, 1995* ~~exists on July 1, 1995~~.

Section 17. Subsection (1) of section 335.093, Florida Statutes, is amended to read:

335.093 Scenic highway designation.—

(1) The Department of Transportation may, after consultation with other state agencies and local governments, designate *public roads as* scenic highways ~~on the state highway system~~. *Public roads* ~~Highways~~ designated as scenic highways are intended to preserve, maintain, and protect a part of Florida's cultural, historical, and scenic routes ~~on the State Highway System~~ for vehicular, bicycle, and pedestrian travel.

Section 18. Paragraph (c) is added to subsection (6) of section 337.11, Florida Statutes, and subsection (16) of that section is amended to read:

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

(6)

(c) When the department determines that it is in the best interest of the public for reasons of public concern, economy, improved operations or safety, and only when circumstances dictate rapid completion of the work, the department may, up to the threshold amount provided in s. 287.017 for CATEGORY FOUR, enter into contracts for construction and maintenance without advertising and receiving competitive bids. However, if legislation is enacted by the Legislature which changes the category thresholds, the threshold amount shall remain at $60,000. The department may enter into such contracts only upon a determination that the work is necessary for one of the following reasons:

1. To ensure timely completion of projects or avoidance of undue delay for other projects;

2. To accomplish minor repairs or construction and maintenance activities for which time is of the essence and for which significant cost savings would occur; or

3. To accomplish nonemergency work necessary to ensure avoidance of adverse conditions that affect the safe and efficient flow of traffic.

The department shall make a good-faith effort to obtain two or more quotes, if available, from qualified contractors before entering into any contract. The department shall give consideration to disadvantaged business enterprise participation. However, when the work exists within the limits of an existing contract, the department shall make a good-faith effort to negotiate and enter into a contract with the prime contractor on the existing contract.

~~(16) The department is authorized to undertake and contract to provide an owner controlled insurance plan (OCIP) on any construction project or group of related construction projects if the head of the department determines that an OCIP will be both cost-effective for the department and otherwise in its best interests. Such OCIP may provide insurance coverage for the department and for worker's compensation and~~

~~employers liability and general liability and builders risk for contractors and subcontractors, for and in conjunction with any or all work performed on such projects. The department may directly purchase such coverage in the manner provided for the purchase of commodities pursuant to s. 287.057, or self-insure, or use a combination thereof, any other statutory provisions or limitations on self-insurance or purchase of insurance notwithstanding. The department's authority hereunder includes the purchase of risk management, risk and loss control, safety management, investigative and claims adjustment services, advancement of funds for payment of claims, and other services reasonably necessary to process and pay claims under and administer the OCIP. In addition to any prequalification required under s. 337.14, no contractor shall be prequalified to bid on an OCIP project unless the contractor's casualty and loss experience and safety record meets the minimum requirements for OCIP coverage issuance on the project, were the contractor to be awarded the project. Exercise of the department's authority under this subsection shall not be deemed a waiver of sovereign immunity.~~

Section 19. Paragraph (a) of subsection (1) of section 337.16, Florida Statutes, is amended to read:

337.16 Disqualification of delinquent contractors from bidding; determination of contractor nonresponsibility; denial, suspension, and revocation of certificates of qualification; grounds; hearing.—

(1) A contractor shall not be qualified to bid when an investigation by the department discloses that such contractor is delinquent on a previously awarded contract, and in such case the contractor's certificate of qualification shall be suspended or revoked. Any contractor whose certificate of qualification is suspended or revoked for delinquency shall also be disapproved as a subcontractor during the period of suspension or revocation, except when a prime contractor's bid has used prices of a subcontractor who becomes disqualified after the bid and before the request for authorization to sublet is presented.

(a) A contractor is delinquent when ~~unsatisfactory progress is being made on a construction project or when~~ the allowed contract time has expired and the contract work is not complete. ~~Unsatisfactory progress shall be determined in accordance with the contract provisions.~~

Section 20. Subsection (2) of section 337.162, Florida Statutes, 1998 Supplement, is amended to read:

337.162 Professional services.—Professional services provided to the department that fall below acceptable professional standards may result in transportation project delays, overruns, and reduced facility life. To minimize these effects and ensure that quality services are received, the Legislature hereby declares that licensed professionals shall be held accountable for the quality of the services they provide to the department.

(2) Any person who is employed by the department and who is licensed by the Department of Business and Professional Regulation and who, through the course of his or her employment, has knowledge or reason to believe that any person has violated the provisions of state professional licensing laws or rules shall submit a complaint about the violations to the Department of Business and Professional Regulation. Failure to submit a complaint about the violations may be grounds for disciplinary action pursuant to part I of chapter 455 and the state licensing law applicable to that licensee. *However, licensees under part II of chapter 475 are exempt from the provisions of s. 455.227(1)(i).* The complaint submitted to the Department of Business and Professional Regulation and maintained by the department is confidential and exempt from s. 119.07(1).

Section 21. Subsections (1) and (2) of section 337.18, Florida Statutes, 1998 Supplement, are amended to read:

337.18 Surety bonds; requirement with respect to contract award; defaults; damage assessments.—

(1) A surety bond shall be required of the successful bidder in an amount equal to the awarded contract price. For a project for which the contract price is $150,000 or less, the department may waive the requirement for all or a portion of a surety bond if it determines the project is of a noncritical nature and nonperformance will not endanger public health, safety, or property. The department may require alternate means of security if a surety bond is waived. The surety on such bond shall be a surety company authorized to do business in the state. All bonds shall be payable to the *department* ~~Governor and his or her successors in office~~ and conditioned for the prompt, faithful, and efficient performance of the contract according to plans and specifications and within the time period specified, and for the prompt payment of all persons furnishing labor, material, equipment, and supplies therefor; however, whenever an improvement, demolition, or removal contract price is $25,000 or less, the security may, in the discretion of the bidder, be in the form of a cashier's check, bank money order of any state or national bank, certified check, or postal money order.

(2) The department shall provide in its contracts for the determination of default on the part of any contractor for cause attributable to such contractor. The department shall have no liability for anticipated profits for unfinished work on a contract which has been determined to be in default. Every contract let by the department for the performance of work shall contain a provision for payment to the department by the contractor of liquidated damages due to failure of the contractor to complete the contract work within the time stipulated in the contract or within such additional time as may have been granted by the department. The contractual provision shall include a reasonable estimate of the damages that would be incurred by the department as a result of such failure. The department shall establish a schedule of daily liquidated damage charges, *based on original contract amounts,* for construction contracts entered into by the department, which schedule shall be incorporated by reference into the contract. The department shall update the schedule of liquidated damages at least once every 2 years, but no more often than once a year. The schedule shall, at a minimum, be based on the average construction, engineering, and inspection costs experienced by the department on contracts over the 2 preceding fiscal years. The schedule shall also include anticipated costs of project-related delays and inconveniences to the department and traveling public. Anticipated costs may include, but are not limited to, road user costs, a portion of the projected revenues that will be lost due to failure to timely open a project to revenue-producing traffic, costs resulting from retaining detours for an extended time, and other similar costs. ~~The schedule shall be divided into the following categories, based on the original contract amounts:~~

~~(a) $50,000 and under;~~

~~(b) Over $50,000 but less than $250,000;~~

~~(c) $250,000 or more but less than $500,000;~~

~~(d) $500,000 or more but less than $2.5 million;~~

~~(e) $2.5 million or more but less than $5 million;~~

~~(f) $5 million or more but less than $10 million;~~

~~(g) $10 million or more but less than $15 million;~~

~~(h) $15 million or more but less than $20 million; and~~

~~(i) $20 million and over.~~

Any such liquidated damages paid to the department shall be deposited to the credit of the fund from which payment for the work contracted was authorized.

Section 22. Subsections (1), (2), (3), (7), and (8) of section 337.185, Florida Statutes, are amended to read:

337.185 State Arbitration Board.—

(1) To facilitate the prompt settlement of claims for additional compensation arising out of construction contracts between the department and the various contractors with whom it transacts business, the Legislature does hereby establish the State Arbitration Board, referred to in this section as the "board." For the purpose of this section, "claim" shall mean the aggregate of all outstanding claims by a party arising out of a construction contract. Every contractual claim in an amount up to *$250,000* ~~$100,000~~ per contract or, at the claimant's option, up to *$500,000* ~~$250,000~~ per contract *or, upon agreement of the parties, up to $1 million per contract* that cannot be resolved by negotiation between the department and the contractor shall be arbitrated by the board after acceptance of the project by the department. As an exception, either party to the dispute may request that the claim be submitted to binding private arbitration. A court of law may not consider the settlement of

such a claim until the process established by this section has been exhausted.

(2) The board shall be composed of three members. One member shall be appointed by the head of the department, and one member shall be elected by those construction companies who are under contract with the department. The third member shall be chosen by agreement of the other two members. Whenever the third member has a conflict of interest regarding affiliation with one of the parties, the other two members shall select an alternate member for that hearing. *The head of the department may select an alternative or substitute to serve as the department member for any hearing or term.* Each member shall serve a 2-year term. The board shall elect a chair, each term, who shall be the administrator of the board and custodian of its records.

(3) A hearing may be requested by the department or by a contractor who has a dispute with the department which, under the rules of the board, may be the subject of arbitration. The board shall conduct the hearing within 45 days of the request. The party requesting the board's consideration shall give notice of the hearing to each member. If the board finds that a third party is necessary to resolve the dispute, the board may vote to dismiss the claim, which may thereafter be pursued *in accordance with the laws of the state* ~~in a court of law~~.

(7) The *members* ~~member~~ of the board ~~elected by construction companies and the third member of the board~~ may receive compensation for the performance of their duties hereunder, from administrative fees received by the board, *except that no employee of the department may receive compensation from the board*. The compensation amount shall be determined by the board, but shall not exceed *$125 per hour, up to a maximum of $1,000* ~~$750~~ per day for each member authorized to receive compensation. Nothing in this section shall prevent the member elected by construction companies from being an employee of an association affiliated with the industry, even if the sole responsibility of that member is service on the board. Travel expenses for the industry member may be paid by an industry association, if necessary. The board may allocate funds annually for clerical and other administrative services.

(8) The party requesting arbitration shall pay a fee to the board in accordance with a schedule established by it, not to exceed $500 per claim which is $25,000 or less, not to exceed $1,000 per claim which is in excess of $25,000 but not exceeding $50,000, not to exceed $1,500 per claim which is in excess of $50,000 but not exceeding $100,000, not to exceed $2,000 per claim which is in excess of $100,000 but not exceeding $200,000, ~~and~~ not to exceed *$3,000* ~~$2,500~~ per claim which is in excess of $200,000 but not exceeding *$300,000* ~~$250,000~~, *not to exceed $4,000 per claim which is in excess of $300,000 but not exceeding $400,000, and not to exceed $5,000 per claim which is in excess of $400,000,* to cover the cost of administration and compensation of the board.

Section 23. Paragraph (a) of subsection (1) and paragraph (i) of subsection (4) of section 337.25, Florida Statutes, are amended to read:

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

(1)(a) The department may purchase, lease, exchange, or otherwise acquire any land, *property interests,* or buildings or other improvements, including personal property within such buildings or on such lands, necessary to secure or utilize transportation rights-of-way for existing, proposed, or anticipated transportation facilities on the State Highway System, on the State Park Road System, in a rail corridor, or in a transportation corridor designated by the department. Such property shall be held in the name of the state.

(4) The department may sell, in the name of the state, any land, building, or other property, real or personal, which was acquired under the provisions of subsection (1) and which the department has determined is not needed for the construction, operation, and maintenance of a transportation facility. With the exception of any parcel governed by paragraph (c), paragraph (d), paragraph (f), paragraph (g), or paragraph (i), the department shall afford first right of refusal to the local government in the jurisdiction of which the parcel is situated. When such a determination has been made, property may be disposed of in the following manner:

(i) If property was originally acquired specifically to provide replacement housing for persons displaced by ~~federally assisted~~ transportation projects, the department may negotiate for the sale of such property as replacement housing. As compensation, the state shall receive no less than its investment in such properties or fair market value, whichever is lower. It is expressly intended that this benefit be extended only to those persons actually displaced by such project. Dispositions to any other persons must be for fair market value.

Section 24. Subsection (9) is added to section 337.251, Florida Statutes, to read:

337.251 Lease of property for joint public-private development and areas above or below department property.—

(9) Notwithstanding s. 341.327, a fixed-guideway transportation system authorized by the department to be wholly or partially within the department's right-of-way pursuant to a lease granted under this section may operate at any safe speed.

Section 25. Subsection (1) of section 337.403, Florida Statutes, is amended to read:

337.403 Relocation of utility; expenses.—

(1) Any utility heretofore or hereafter placed upon, under, over, or along any public road or publicly owned rail corridor that is found by the authority to be unreasonably interfering in any way with the convenient, safe, or continuous use, or the maintenance, improvement, extension, or expansion, of such public road or publicly owned rail corridor shall, upon 30 days' written notice to the utility or its agent by the authority, be removed or relocated by such utility at its own expense except as provided in paragraphs (a), ~~and~~ (b)*, and (c)*.

(a) If the relocation of utility facilities, as referred to in s. 111 of the Federal-Aid Highway Act of 1956, Pub. L. No. 627 of the 84th Congress, is necessitated by the construction of a project on the federal-aid interstate system, including extensions thereof within urban areas, and the cost of such project is eligible and approved for reimbursement by the Federal Government to the extent of 90 percent or more under the Federal Aid Highway Act, or any amendment thereof, then in that event the utility owning or operating such facilities shall relocate such facilities upon order of the department, and the state shall pay the entire expense properly attributable to such relocation after deducting therefrom any increase in the value of the new facility and any salvage value derived from the old facility.

(b) When a joint agreement between the department and the utility is executed for utility improvement, relocation, or removal work to be accomplished as part of a contract for construction of a transportation facility, the department may participate in those utility improvement, relocation, or removal costs that exceed the department's official estimate of the cost of such work by more than 10 percent. The amount of such participation shall be limited to the difference between the official estimate of all the work in the joint agreement plus 10 percent and the amount awarded for this work in the construction contract for such work. The department may not participate in any utility improvement, relocation, or removal costs that occur as a result of changes or additions during the course of the contract.

(c) When an agreement between the department and utility is executed for utility improvement, relocation, or removal work to be accomplished in advance of a contract for construction of a transportation facility, the department may participate in the cost of clearing and grubbing necessary to perform such work.

Section 26. Subsection (18) is added to section 373.414, Florida Statutes, to read:

373.414 Additional criteria for activities in surface waters and wetlands.—

(18) MITIGATION STUDIES.—

(a) For impacts resulting from activities regulated under part IV of chapter 373, the Legislature finds that successful mitigation performed by the public and private sectors has helped to preserve the state's natural resources.

(b) The Office of Program Policy Analysis and Government Accountability shall study the mitigation options as defined by s. 373.414(1)(b), implemented from 1994 to the present, and issue a report by January 31,

2000. The study shall consider the effectiveness and costs of the current mitigation options in offsetting adverse effects to wetlands and wetland functions, including the application of cumulative impact considerations, and identify, as appropriate, recommendations for statutory or rule changes to increase the effectiveness of mitigation strategies.

Section 27. Paragraph (b) of subsection (2) of section 338.223, Florida Statutes, is amended to read:

338.223 Proposed turnpike projects.—

(2)

(b) In accordance with the legislative intent expressed in s. 337.273, *and after the requirements of paragraph (1)(c) have been met,* the department may acquire lands and property before making a final determination of the economic feasibility of a project. *The requirements of paragraph (1)(c) do not apply to hardship and protective purchases of advance right-of-way by the department.* The cost of advance acquisition of right-of-way may be paid from bonds issued under s. 337.276 or from turnpike revenues. *For purposes of this paragraph, the term "hardship purchase" means purchase from a property owner of a residential dwelling of not more than four units who is at a disadvantage due to health impairment, job loss, or significant loss of rental income. For purposes of this paragraph, the term "protective purchase" means that a purchase to limit development, building, or other intensification of land uses within the area right-of-way is needed for transportation facilities. The department shall give written notice to the Department of Environmental Protection 30 days before final agency acceptance as set forth in s. 119.07(3)(n), which notice shall allow the Department of Environmental Protection to comment. Hardship and protective purchases of right-of-way shall not influence the environmental feasibility of a project, including the decision relative to the need to construct the project or the selection of a specific location. Costs to acquire and dispose of property acquired as hardship and protective purchases are considered costs of doing business for the department and are not to be considered in the determination of environmental feasibility for the project.*

Section 28. Section 338.229, Florida Statutes, is amended to read:

338.229 Pledge to bondholders not to restrict certain rights of department.—The state does pledge to, and agree with, the holders of the bonds issued pursuant to *ss. 338.22-338.241* ~~ss. 338.22-338.244~~ that the state will not limit or restrict the rights vested in the department to construct, reconstruct, maintain, and operate any turnpike project as defined in *ss. 338.22-338.241* ~~ss. 338.22-338.244~~ or to establish and collect such tolls or other charges as may be convenient or necessary to produce sufficient revenues to meet the expenses of maintenance and operation of the turnpike system and to fulfill the terms of any agreements made with the holders of bonds authorized by this act and that the state will not in any way impair the rights or remedies of the holders of such bonds until the bonds, together with interest on the bonds, are fully paid and discharged. *In implementing this section, the department is specifically authorized to provide for further restrictions on the sale, transfer, lease, or other disposition or operation of any portion of the turnpike system which reduces the revenue available for payment to bondholders.*

Section 29. Subsection (10) of section 338.251, Florida Statutes, 1998 Supplement, is amended to read:

338.251 Toll Facilities Revolving Trust Fund.—The Toll Facilities Revolving Trust Fund is hereby created for the purpose of encouraging the development and enhancing the financial feasibility of revenue-producing road projects undertaken by local governmental entities in a county or combination of contiguous counties.

(10) Any repayment of prior or future advances made from the State Transportation Trust Fund which were used to fund any project phase of a toll facility, shall be deposited in the Toll Facilities Revolving Trust Fund. However, when funds advanced to the Seminole County Expressway Authority pursuant to this section are repaid to the Toll Facilities Revolving Trust Fund by or on behalf of the Seminole County Expressway Authority, those funds shall thereupon and forthwith be appropriated for and advanced to the Seminole County Expressway Authority for funding the design of and the advanced right-of-way acquisition for that segment of the Seminole County Expressway extending from U.S. Highway 17/92 to Interstate Highway 4. Notwithstanding subsection (6), when funds previously advanced to the Orlando-Orange County Expressway Authority are repaid to the Toll Facilities Revolving Trust Fund by or on behalf of the Orlando-Orange County Expressway Authority, those funds may thereupon and forthwith be appropriated for and advanced to the Seminole County Expressway Authority for funding that segment of the Seminole County Expressway extending from U.S. Highway 17/92 to Interstate Highway 4. *Any funds advanced to the Tampa-Hillsborough County Expressway Authority pursuant to this section which have been or will be repaid on or after July 1, 1998, to the Toll Facilities Revolving Trust Fund on behalf of the Tampa-Hillsborough County Expressway Authority shall thereupon and forthwith be appropriated for and advanced to the Tampa-Hillsborough County Expressway Authority for funding the design of and the advanced right-of-way acquisition for the Brandon area feeder roads, capital improvements to increase capacity to the expressway system, and Lee Roy Selmon Crosstown Expressway System Widening as authorized under s. 348.565.*

Section 30. Section 339.2816, Florida Statutes, is created to read:

339.2816 Small County Road Assistance Program; definitions; program funding; funding eligibility; project contract administration.—

(1) There is created within the Department of Transportation the Small County Road Assistance Program. The purpose of this program is to assist small county governments in resurfacing or reconstructing county roads.

(3) For the purposes of this section the term "small county" means any county that has a population of 75,000 or less according to 1990 federal census data.

(4) Beginning with fiscal year 1999-2000 until fiscal year 2009-2010 up to $25 million annually from the State Transportation Trust Fund may be used for the purposes of funding the Small County Road Assistance Program as described in this section.

(5)(a) Small counties shall be eligible to compete for funds that have been designated for the Small County Road Assistance Program for resurfacing or reconstruction projects on county roads that were part of the county road system on June 10, 1995. Capacity improvements on county roads shall not be eligible for funding under the program.

(b) In determining a county's eligibility for assistance under this program, the department may consider whether the county has attempted to keep county roads in satisfactory condition, including the amount of local option fuel tax and ad valorem millage rate imposed by the county. The department may also consider the extent to which the county has offered to provide a match of local funds with state funds provided under the program. At a minimum, small counties shall be eligible only if:

1. The county has enacted the maximum rate of the local option fuel tax authorized by s. 336.025(1)(a), and has imposed an ad valorem millage rate of at least 8 mills, or

2. The county has imposed an ad valorem millage rate of 10 mills.

(c) The following criteria shall be used to prioritize road projects for funding under the program:

1. The primary criterion is the physical condition of the road as measured by the department.

2. As secondary criteria the department may consider:

a. Whether a road is used as an evacuation route.

b. Whether a road has high levels of agricultural travel.

c. Whether a road is considered a major arterial route.

d. Whether a road is considered a feeder road.

e. Other criteria related to the impact of a project on the public road system or on the state or local economy as determined by the department.

(6) The department is authorized to administer contracts on behalf of a county selected to receive funding for a project under this section. All projects funded under this section shall be included in the department's work program developed pursuant to s. 339.135.

Section 31. Present paragraph (i) of subsection (2) of section 339.08, Florida Statutes, is redesignated as paragraph (j) and a new paragraph (i) is added to that subsection to read:

339.08 Use of moneys in State Transportation Trust Fund.—

(2) These rules must restrict the use of such moneys to the following purposes:

(i) To pay the cost of county road projects selected in accordance with the Small County Road Assistance Program created in s. 339.2816.

Section 32. Section 339.155, Florida Statutes, is amended to read:

339.155 Transportation planning.—

(1) THE FLORIDA TRANSPORTATION PLAN.—The department shall develop and annually update a statewide transportation plan, to be known as the Florida Transportation Plan. The plan shall be designed so as to be easily read and understood by the general public.

~~(1) PURPOSE.—~~The purpose of the Florida Transportation Plan is to establish *and define* the *state's* long-range *transportation* goals *and objectives* ~~of the department~~ to be accomplished over a period of at least 20 years within the context of the State Comprehensive Plan and any other statutory mandates and authorizations. *The Florida Transportation Plan shall consider the needs of the entire state transportation system and examine the use of all modes of transportation to effectively and efficiently meet such needs* ~~given to the department. The plan shall define the relationship between the long-range goals and the short-range objectives, and specify those objectives against which the department's achievement of such goals will be measured. The plan shall provide a policy framework within which the department's legislative budget request, the strategic information resource management plan, and the work program are developed.~~

(2) *SCOPE OF PLANNING PROCESS* ~~DEVELOPMENT CRITERIA.—~~

(a) The ~~Florida Transportation Plan shall consider the needs of the entire state transportation system, examine the use of all modes of transportation to effectively and efficiently meet such needs, and provide for the interconnection of all types of modes in a comprehensive intermodal transportation system. In developing the Florida Transportation Plan, the~~ department shall *carry out a transportation planning process that provides for consideration of projects and strategies that will* ~~consider the following~~:

1. Support the economic vitality of the United States, Florida, and the metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;

2. Increase the safety and security of the transportation system for motorized and nonmotorized users;

3. Increase the accessibility and mobility options available to people and for freight;

4. Protect and enhance the environment, promote energy conservation, and improve quality of life;

5. Enhance the integration and connectivity of the transportation system, across and between modes throughout Florida, for people and freight;

6. Promote efficient system management and operation; and

7. Emphasize the preservation of the existing transportation system.

(b) Additionally, the department shall consider:

1. With respect to nonmetropolitan areas, the concerns of local elected officials representing units of general purpose local government;

2. The concerns of Indian tribal governments and federal land management agencies that have jurisdiction over land within the boundaries of Florida; and

3. Coordination of transportation plans, programs, and planning activities with related planning activities being carried out outside of metropolitan planning areas.

(c)~~(a)~~ The results of the management systems required pursuant to federal laws and regulations.

(d)~~(b)~~ Any federal, state, or local energy use goals, objectives, programs, or requirements.

(e)~~(c)~~ Strategies for incorporating bicycle transportation facilities and pedestrian walkways in projects where appropriate throughout the state.

(f)~~(d)~~ International border crossings and access to ports, airports, intermodal transportation facilities, major freight distribution routes, national parks, recreation and scenic areas, monuments and historic sites, and military installations.

(g)~~(e)~~ The transportation needs of nonmetropolitan areas through a process that includes consultation with local elected officials with jurisdiction over transportation.

(h)~~(f)~~ Consistency of the plan, to the maximum extent feasible, with strategic regional policy plans, metropolitan planning organization plans, and approved local government comprehensive plans so as to contribute to the management of orderly and coordinated community development.

(i)~~(g)~~ Connectivity between metropolitan areas within the state and with metropolitan areas in other states.

(j)~~(h)~~ Recreational travel and tourism.

(k)~~(i)~~ Any state plan developed pursuant to the Federal Water Pollution Control Act.

(l)~~(j)~~ Transportation system management and investment strategies designed to make the most efficient use of existing transportation facilities.

(m)~~(k)~~ The total social, economic, energy, and environmental effects of transportation decisions on the community and region.

(n)~~(l)~~ Methods to manage traffic congestion and to prevent traffic congestion from developing in areas where it does not yet occur, including methods which reduce motor vehicle travel, particularly single-occupant vehicle travel.

(o)~~(m)~~ Methods to expand and enhance transit services and to increase the use of such services.

(p)~~(n)~~ The effect of transportation decisions on land use and land development, including the need for consistency between transportation decisionmaking and the provisions of all applicable short-range and long-range land use and development plans.

(q)~~(o)~~ Where appropriate, the use of innovative mechanisms for financing projects, including value capture pricing, tolls, and congestion pricing.

(r)~~(p)~~ Preservation and management of rights-of-way for construction of future transportation projects, including identification of unused rights-of-way which may be needed for future transportation corridors, and identification of those corridors for which action is most needed to prevent destruction or loss.

(s)~~(q)~~ Future, as well as existing, needs of the state transportation system.

(t)~~(r)~~ Methods to enhance the efficient movement of commercial motor vehicles.

(u)~~(s)~~ The use of life-cycle costs in the design and engineering of bridges, tunnels, or pavement.

(v)~~(t)~~ Investment strategies to improve adjoining state and local roads that support rural economic growth and tourism development, federal agency renewable resources management, and multipurpose land management practices, including recreation development.

(w)~~(u)~~ The concerns of Indian tribal governments having jurisdiction over lands within the boundaries of the state.

(x)~~(v)~~ A seaport or airport master plan, which has been incorporated into an approved local government comprehensive plan, and the linkage of transportation modes described in such plan which are needed to provide for the movement of goods and passengers between the seaport or airport and the other transportation facilities.

(y)~~(w)~~ The joint use of transportation corridors and major transportation facilities for alternate transportation and community uses.

(z)~~(x)~~ The integration of any proposed system into all other types of transportation facilities in the community.

(3) FORMAT, SCHEDULE, AND REVIEW.—The Florida Transportation Plan shall be a unified, concise planning document that clearly defines the state's long-range transportation goals and objectives and documents the department's short-range objectives developed to further such goals and objectives. The plan shall include a glossary that clearly and succinctly defines any and all phrases, words, or terms of art included in the plan, with which the general public may be unfamiliar and shall consist of, at a minimum, the following components:

(a) A long-range component documenting the goals and long-term objectives necessary to implement the results of the department's findings from its examination of the criteria listed in subsection (2). The long-range component must be *developed in cooperation with the metropolitan planning organizations and* reconciled, to the maximum extent feasible, with the long-range plans developed by metropolitan planning organizations pursuant to s. 339.175. *The plan must also be developed in consultation with affected local officials in nonmetropolitan areas and with any affected Indian tribal governments.* The plan must provide an examination of transportation issues likely to arise during at least a 20-year period. The long-range component shall be updated at least once every 5 years, or more often as necessary, to reflect substantive changes to federal or state law.

(b) A short-range component documenting the short-term objectives and strategies necessary to implement the *goals and* long-term objectives contained in the long-range component. *The short-range component must define the relationship between the long-range goals and the short-range objectives, specify those objectives against which the department's achievement of such goals will be measured, and identify transportation strategies necessary to efficiently achieve the goals and objectives in the plan. It must provide a policy framework within which the department's legislative budget request, the strategic information resource management plan, and the work program are developed.* The short-range component shall serve as the department's annual agency strategic plan pursuant to s. 186.021. The short-range component shall be developed consistent with the requirements of s. 186.022 and consistent with available and forecasted state and federal funds. In addition to those entities listed in s. 186.022, the short-range component shall also be submitted to the Florida Transportation Commission.

(4) ANNUAL PERFORMANCE REPORT.—The department shall develop an annual performance report evaluating the operation of the department for the preceding fiscal year. The report, which shall meet the requirements of s. 186.022, shall also include a summary of the financial operations of the department and shall annually evaluate how well the adopted work program meets the short-term objectives contained in the short-range component of the Florida Transportation Plan. In addition to the entities listed in s. 186.022, this performance report shall also be submitted to the Florida Transportation Commission and the legislative appropriations and transportation committees.

(5) ADDITIONAL TRANSPORTATION PLANS.—

(a) Upon request by local governmental entities, the department may in its discretion develop and design transportation corridors, arterial and collector streets, vehicular parking areas, and other support facilities which are consistent with the plans of the department for major transportation facilities. The department may render to local governmental entities or their planning agencies such technical assistance and services as are necessary so that local plans and facilities are coordinated with the plans and facilities of the department.

(b) Each regional planning council, as provided for in s. 186.504, or any successor agency thereto, shall develop, as an element of its strategic regional policy plan, transportation goals and policies. The transportation goals and policies shall be consistent, to the maximum extent feasible, with the goals and policies of the metropolitan planning organization and the Florida Transportation Plan. The transportation goals and policies of the regional planning council will be advisory only and shall be submitted to the department and any affected metropolitan planning organization for their consideration and comments. Metropolitan planning organization plans and other local transportation plans shall be developed consistent, to the maximum extent feasible, with the regional transportation goals and policies. The regional planning council shall review urbanized area transportation plans and any other planning products stipulated in s. 339.175 and provide the department and respective metropolitan planning organizations with written recommendations which the department and the metropolitan planning organizations shall take under advisement. Further, the regional planning councils shall directly assist local governments which are not part of a metropolitan area transportation planning process in the development of the transportation element of their comprehensive plans as required by s. 163.3177.

(6) PROCEDURES FOR PUBLIC PARTICIPATION IN TRANSPORTATION PLANNING.—

(a) During the development of the long-range component of the Florida Transportation Plan *and prior to substantive revisions*, ~~and prior to adoption of all subsequent amendments,~~ the department shall provide citizens, affected public agencies, representatives of transportation agency employees, other affected employee representatives, private providers of transportation, and other known interested parties with an opportunity to comment on the proposed plan or *revisions* ~~amendments~~. *These opportunities* ~~This hearing shall include presentation and discussion of the factors listed in subsection (2) and~~ shall include, at a minimum, publishing a notice in the Florida Administrative Weekly and within a newspaper of general circulation within the area of each department district office. ~~These notices shall be published twice prior to the day of the hearing, with the first notice appearing at least 14 days prior to the hearing.~~

(b) During development of major transportation improvements, such as those increasing the capacity of a facility through the addition of new lanes or providing new access to a limited or controlled access facility or construction of a facility in a new location, the department shall hold one or more hearings prior to the selection of the facility to be provided; prior to the selection of the site or corridor of the proposed facility; and prior to the selection of and commitment to a specific design proposal for the proposed facility. Such public hearings shall be conducted so as to provide an opportunity for effective participation by interested persons in the process of transportation planning and site and route selection and in the specific location and design of transportation facilities. The various factors involved in the decision or decisions and any alternative proposals shall be clearly presented so that the persons attending the hearing may present their views relating to the decision or decisions which will be made.

(c) Opportunity for design hearings:

1. The department, prior to holding a design hearing, shall duly notice all affected property owners of record, as recorded in the property appraiser's office, by mail at least 20 days prior to the date set for the hearing. The affected property owners shall be:

a. Those whose property lies in whole or in part within 300 feet on either side of the centerline of the proposed facility.

b. Those who the department determines will be substantially affected environmentally, economically, socially, or safetywise.

2. For each subsequent hearing, the department shall daily publish notice at least 14 days immediately prior to the hearing date in a newspaper of general circulation for the area affected.

3. A copy of the notice of opportunity for the hearing shall be furnished to the United States Department of Transportation and to the appropriate departments of the state government at the time of publication.

4. The opportunity for another hearing shall be afforded in any case when proposed locations or designs are so changed from those presented in the notices specified above or at a hearing as to have a substantially different social, economic, or environmental effect.

5. The opportunity for a hearing shall be afforded in each case in which the department is in doubt as to whether a hearing is required.

Section 33. Section 339.175, Florida Statutes, is amended to read:

339.175 Metropolitan planning organization.—It is the intent of the Legislature to encourage and promote the *safe and efficient management, operation, and* development of *surface* transportation systems ~~embracing various modes of transportation in a manner~~ that will *serve* ~~maximize~~ the mobility *needs* of people and *freight* ~~goods~~ within and through urbanized areas of this state *while minimizing* ~~and minimize, to the maximum extent feasible, and together with applicable regulatory government agencies,~~ transportation-related fuel consumption and air pollution. To accomplish these objectives, metropolitan planning organizations, referred to in this section as M.P.O.'s, shall develop, in cooperation with the state *and public transit operators,* transportation plans and programs for metropolitan areas. *The plans and programs for each metropolitan area must provide for the development and integrated management and operation of transportation systems and facilities, including pedestrian walkways and bicycle transportation facilities that will function as an intermodal transportation system for the metropolitan area* ~~Such plans and programs must provide for the development of transportation facilities that will function as an intermodal transportation system for the metropolitan area~~. The process for developing such plans and programs shall *provide for consideration of all modes of transportation and shall* be continuing, cooperative, and comprehensive, to the degree appropriate, based on the complexity of the transportation problems *to be addressed*.

(1) DESIGNATION.—

(a)1. An M.P.O. shall be designated for each urbanized area of the state. Such designation shall be accomplished by agreement between the Governor and units of general-purpose local government representing at least 75 percent of the population of the urbanized area; however, the unit of general-purpose local government that represents the central city or cities within the M.P.O. jurisdiction, as defined by the United States Bureau of the Census, must be a party to such agreement.

2. More than one M.P.O. may be designated within an *existing metropolitan planning area* ~~urbanized area~~ only if the Governor *and the existing M.P.O. determine* ~~determines~~ that the size and complexity of the *existing metropolitan planning* area *makes* ~~justifies~~ the designation of *more than one M.P.O. for the area appropriate* ~~multiple M.P.O.'s~~.

(b) Each M.P.O. shall be created and operated under the provisions of this section pursuant to an interlocal agreement entered into pursuant to s. 163.01. The signatories to the interlocal agreement shall be the department and the governmental entities designated by the Governor for membership on the M.P.O. If there is a conflict between this section and s. 163.01, this section prevails.

(c) The jurisdictional boundaries of an M.P.O. shall be determined by agreement between the Governor and the applicable M.P.O. The boundaries must include *at least the metropolitan planning area, which is the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period,* ~~at a minimum, the metropolitan area~~ and may *encompass* ~~include~~ the entire metropolitan statistical area or the consolidated metropolitan statistical area.

(d) *In the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act 42 U.S.C. s. 7401 et seq., the boundaries of the metropolitan planning area in existence as of the date of enactment of this paragraph shall be retained, except that the boundaries may be adjusted by agreement of the Governor and affected metropolitan planning organizations in the manner described in this section.* If more than one M.P.O. has authority within a metropolitan area or an area that is designated as a nonattainment area, each M.P.O. shall consult with other M.P.O.'s designated for such area and with the state in the coordination of plans and programs required by this section.

Each M.P.O. required under this section must be fully operative no later than 6 months following its designation.

(2) VOTING MEMBERSHIP.—

(a) The voting membership of an M.P.O. shall consist of not fewer than 5 or more than 19 apportioned members, the exact number to be determined on an equitable geographic-population ratio basis by the Governor, based on an agreement among the affected units of general-purpose local government as required by federal rules and regulations. The Governor, in accordance with 23 U.S.C. s. 134, ~~as amended by the Intermodal Surface Transportation Efficiency Act of 1991,~~ may also provide for M.P.O. members who represent municipalities to alternate with representatives from other municipalities within the *metropolitan planning* ~~designated urban~~ area that do not have members on the M.P.O. County commission members shall compose not less than one-third of the M.P.O. membership, except for an M.P.O. with more than 15 members located in a county with a five-member county commission or an M.P.O. with 19 members located in a county with no more than 6 county commissioners, in which case county commission members may compose less than one-third percent of the M.P.O. membership, but all county commissioners must be members. All voting members shall be elected officials of general-purpose governments, except that an M.P.O. may include, as part of its apportioned voting members, a member of a statutorily authorized planning board or an official of an agency that operates or administers a major mode of transportation. ~~In metropolitan areas in which authorities or other agencies have been, or may be, created by law to perform transportation functions that are not under the jurisdiction of a general-purpose local government represented on the M.P.O., they shall be provided voting membership on the M.P.O.~~ The county commission shall compose not less than 20 percent of the M.P.O. membership if an official of an agency that operates or administers a major mode of transportation has been appointed to an M.P.O.

(b) In metropolitan areas in which authorities or other agencies have been or may be created by law to perform transportation functions that are not under the jurisdiction of a general purpose local government represented on the M.P.O., they shall be provided voting membership on the M.P.O. In all other M.P.O.'s where transportation authorities or agencies are to be represented by elected officials from general purpose local governments, the M.P.O. shall establish a process by which the collective interests of such authorities or other agencies are expressed and conveyed.

(c) Any other provision of this section to the contrary notwithstanding, a chartered county with over 1 million population may elect to reapportion the membership of an M.P.O. whose jurisdiction is wholly within the county. The charter county may exercise the provisions of this paragraph if:

1. The M.P.O. approves the reapportionment plan by a 3/4 vote of its membership;

2. The M.P.O. and the charter county determine that the reapportionment plan is needed to fulfill specific goals and policies applicable to that metropolitan planning area; and

3. The charter county determines the reapportionment plan otherwise complies with all federal requirements pertaining to M.P.O. membership.

Any charter county that elects to exercise the provisions of this paragraph shall notify the Governor in writing.

(d)~~(b)~~ Any other provision of this section to the contrary notwithstanding, any county chartered under s. 6(e), Art. VIII of the State Constitution may elect to have its county commission serve as the M.P.O., if the M.P.O. jurisdiction is wholly contained within the county. Any charter county that elects to exercise the provisions of this paragraph shall so notify the Governor in writing. Upon receipt of such notification, the Governor must designate the county commission as the M.P.O. The Governor must appoint four additional voting members to the M.P.O., one of whom must be an elected official representing a municipality within the county, one of whom must be an expressway authority member, one of whom must be a person who does not hold elected public office and who resides in the unincorporated portion of the county, and one of whom must be a school board member.

(3) APPORTIONMENT.—

(a) The Governor shall, with the agreement of the affected units of general-purpose local government as required by federal rules and regulations, apportion the membership on the applicable M.P.O. among the various governmental entities within the area and shall prescribe a method for appointing alternate members who may vote at any M.P.O. meeting that an alternate member attends in place of a regular member. An appointed alternate member must be an elected official serving the same governmental entity or a general-purpose local government with jurisdiction within all or part of the area that the regular member

serves. The governmental entity so designated shall appoint the appropriate number of members to the M.P.O. from eligible officials. Representatives of the department shall serve as nonvoting members of the M.P.O. Nonvoting advisers may be appointed by the M.P.O. as deemed necessary. The Governor shall review the composition of the M.P.O. membership *in conjunction with the decennial census as prepared by the United States Department of Commerce, Bureau of Census* ~~at least every 5 years~~ and reapportion it as necessary to comply with subsection (2).

(b) Except for members who represent municipalities on the basis of alternating with representatives from other municipalities that do not have members on the M.P.O. as provided in paragraph (2)(a), the members of an M.P.O. shall serve 4-year terms. Members who represent municipalities on the basis of alternating with representatives from other municipalities that do not have members on the M.P.O. as provided in paragraph (2)(a) may serve terms of up to 4 years as further provided in the interlocal agreement described in paragraph (1)(b). The membership of a member who is a public official automatically terminates upon the member's leaving his or her elective or appointive office for any reason, or may be terminated by a majority vote of the total membership of a county or city governing entity represented by the member. A vacancy shall be filled by the original appointing entity. A member may be reappointed for one or more additional 4-year terms.

(c) If a governmental entity fails to fill an assigned appointment to an M.P.O. within 60 days after notification by the Governor of its duty to appoint, that appointment shall be made by the Governor from the eligible representatives of that governmental entity.

(4) AUTHORITY AND RESPONSIBILITY.—The authority and responsibility of an M.P.O. is to manage a continuing, cooperative, and comprehensive transportation planning process that results in the development of plans and programs which are consistent, to the maximum extent feasible, with the approved local government comprehensive plans of the units of local government the boundaries of which are within the metropolitan area of the M.P.O. An M.P.O. shall be the forum for cooperative decisionmaking by officials of the affected governmental entities in the development of the plans and programs required by subsections (5), (6), (7), and (8).

(5) POWERS, DUTIES, AND RESPONSIBILITIES.—The powers, privileges, and authority of an M.P.O. are those specified in this section or incorporated in an interlocal agreement authorized under s. 163.01. Each M.P.O. shall perform all acts required by federal or state laws or rules, now and subsequently applicable, which are necessary to qualify for federal aid. It is the intent of this section that each M.P.O. shall be involved in the planning and programming of transportation facilities, including, but not limited to, airports, intercity and high-speed rail lines, seaports, and intermodal facilities, to the extent permitted by state or federal law.

(a) Each M.P.O. shall, in cooperation with the department, develop:

1. A long-range transportation plan pursuant to the requirements of subsection (6);

2. An annually updated transportation improvement program pursuant to the requirements of subsection (7); and

3. An annual unified planning work program pursuant to the requirements of subsection (8).

(b) In developing the long-range transportation plan and the transportation improvement program required under paragraph (a), each M.P.O. *shall provide for consideration of projects and strategies that will* ~~must, at a minimum, consider~~:

1. Support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency;

2. Increase the safety and security of the transportation system for motorized and nonmotorized users;

3. Increase the accessibility and mobility options available to people and for freight;

4. Protect and enhance the environment, promote energy conservation, and improve quality of life;

5. Enhance the integration and connectivity of the transportation system, across and between modes, for people and freight;

6. Promote efficient system management and operation; and

7. Emphasize the preservation of the existing transportation system.

~~1. The preservation of existing transportation facilities and, where practical, ways to meet transportation needs by using existing facilities more efficiently;~~

~~2. The consistency of transportation planning with applicable federal, state, and local energy conservation programs, goals, and objectives;~~

~~3. The need to relieve congestion and prevent congestion from occurring where it does not yet occur;~~

~~4. The likely effect of transportation policy decisions on land use and development and the consistency of transportation plans and programs with all applicable short-term and long-term land use and development plans;~~

~~5. The programming of transportation enhancement activities as required by federal law;~~

~~6. The effect of all transportation projects to be undertaken in the metropolitan area, without regard to whether such projects are publicly funded;~~

~~7. The provision of access to seaports, airports, intermodal transportation facilities, major freight distribution routes, national and state parks, recreation areas, monuments and historic sites, and military installations;~~

~~8. The need for roads within the metropolitan area to efficiently connect with roads outside the metropolitan area;~~

~~9. The transportation needs identified through the use of transportation management systems required by federal or state law;~~

~~10. The preservation of rights-of-way for construction of future transportation projects, including the identification of unused rights-of-way that may be needed for future transportation corridors and the identification of corridors for which action is most needed to prevent destruction or loss;~~

~~11. Any available methods to enhance the efficient movement of freight;~~

~~12. The use of life-cycle costs in the design and engineering of bridges, tunnels, or pavement;~~

~~13. The overall social, economic, energy, and environmental effects of transportation decisions;~~

~~14. Any available methods to expand or enhance transit services and increase the use of such services; and~~

~~15. The possible allocation of capital investments to increase security for transit systems.~~

(c) In order to provide recommendations to the department and local governmental entities regarding transportation plans and programs, each M.P.O. shall:

1. Prepare a congestion management system for the metropolitan area and cooperate with the department in the development of all other transportation management systems required by state or federal law;

2. Assist the department in mapping transportation planning boundaries required by state or federal law;

3. Assist the department in performing its duties relating to access management, functional classification of roads, and data collection;

4. Execute all agreements or certifications necessary to comply with applicable state or federal law;

5. Represent all the jurisdictional areas within the metropolitan area in the formulation of transportation plans and programs required by this section; and

6. Perform all other duties required by state or federal law.

(d) Each M.P.O. shall appoint a technical advisory committee that includes planners; engineers; representatives of local aviation authorities, port authorities, and public transit authorities or representatives of aviation departments, seaport departments, and public transit departments of municipal or county governments, as applicable; the school superintendent of each county within the jurisdiction of the M.P.O. or the superintendent's designee; and other appropriate representatives of affected local governments. In addition to any other duties assigned to it by the M.P.O. or by state or federal law, the technical advisory committee is responsible for identifying projects contained in the long-range *transportation* plan or transportation improvement program which deserve to be classified as a school safety concern. Upon receipt of the recommendation from the technical advisory committee that a project should be so classified, the M.P.O. must vote on whether to classify a particular project as a school safety concern. If the M.P.O. votes that a project should be classified as a school safety concern, the local governmental entity responsible for the project must consider at least two alternatives before making a decision about project location or alignment.

(e)1. Each M.P.O. shall appoint a citizens' advisory committee, the members of which serve at the pleasure of the M.P.O. The membership on the citizens' advisory committee must reflect a broad cross section of local residents with an interest in the development of an efficient, safe, and cost-effective transportation system. Minorities, the elderly, and the handicapped must be adequately represented.

2. Notwithstanding the provisions of subparagraph 1., an M.P.O. may, with the approval of the department and the applicable federal governmental agency, adopt an alternative program or mechanism to ensure citizen involvement in the transportation planning process.

(f) The department shall allocate to each M.P.O., for the purpose of accomplishing its transportation planning and programming duties, an appropriate amount of federal transportation planning funds.

(g) Each M.P.O. may employ personnel or may enter into contracts with local or state agencies, private planning firms, or private engineering firms to accomplish its transportation planning and programming duties required by state or federal law.

(6) LONG-RANGE *TRANSPORTATION* PLAN.—Each M.P.O. must develop a long-range transportation plan that addresses at least a 20-year planning horizon. The plan must include both long-range and short-range strategies and must comply with all other state and federal requirements. The long-range *transportation* plan must be consistent, to the maximum extent feasible, with future land use elements and the goals, objectives, and policies of the approved local government comprehensive plans of the units of local government located within the jurisdiction of the M.P.O. The approved long-range *transportation* plan must be considered by local governments in the development of the transportation elements in local government comprehensive plans and any amendments thereto. The long-range *transportation* plan must, at a minimum:

(a) Identify transportation facilities, including, but not limited to, major roadways, airports, seaports, commuter rail systems, transit systems, and intermodal or multimodal terminals that will function as an integrated metropolitan transportation system. The long-range *transportation* plan must give emphasis to those transportation facilities that serve national, statewide, or regional functions, and must consider the goals and objectives identified in the Florida Transportation Plan as provided in s. 339.155. *If a project is located within the boundaries of more than one M.P.O., the M.P.O.'s must coordinate plans regarding the project in the long-range transportation plan.*

(b) Include a financial plan that demonstrates how the plan can be implemented, indicating resources from public and private sources which are reasonably expected to be available to carry out the plan, and recommends *any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted long-range transportation plan if reasonable additional resources beyond those identified in the financial plan were available. For the purpose of developing the long-range transportation plan, the M.P.O. and the department shall cooperatively develop estimates of funds that will be available to support the plan implementation.* Innovative financing techniques ~~that~~ may be used to fund needed projects and programs. Such techniques may include the assessment of tolls, the use of value capture financing, or the use of *value* ~~congestion~~ pricing.

(c) Assess capital investment and other measures necessary to:

1. Ensure the preservation of the existing metropolitan transportation system including requirements for the operation, resurfacing, restoration, and rehabilitation of major roadways and requirements for the operation, maintenance, modernization, and rehabilitation of public transportation facilities; and

2. Make the most efficient use of existing transportation facilities to relieve vehicular congestion and maximize the mobility of people and goods.

(d) Indicate, as appropriate, proposed transportation enhancement activities, including, but not limited to, pedestrian and bicycle facilities, scenic easements, landscaping, historic preservation, mitigation of water pollution due to highway runoff, and control of outdoor advertising.

(e) In addition to the requirements of paragraphs (a)-(d), in metropolitan areas that are classified as nonattainment areas for ozone or carbon monoxide, the M.P.O. must coordinate the development of the long-range *transportation* plan with the State Implementation Plan developed pursuant to the requirements of the federal Clean Air Act.

In the development of its long-range *transportation* plan, each M.P.O. must provide *the public,* affected public agencies, representatives of transportation agency employees, *freight shippers, providers of freight transportation services,* private providers of transportation, *representatives of users of public transit, and* other interested parties~~, and members of the general public~~ with a reasonable opportunity to comment on the long-range *transportation* plan. The long-range *transportation* plan must be approved by the M.P.O.

(7) TRANSPORTATION IMPROVEMENT PROGRAM.—Each M.P.O. shall, in cooperation with the state and affected public transportation operators, develop a transportation improvement program for the area within the jurisdiction of the M.P.O. In the development of the transportation improvement program, each M.P.O. must provide *the public,* affected public ~~transit~~ agencies, representatives of transportation agency employees, *freight shippers, providers of freight transportation services,* private providers of transportation, *representatives of users of public transit, and* other interested parties~~, and members of the general public~~ with a reasonable opportunity to comment on the *proposed* transportation improvement program.

(a) Each M.P.O. is responsible for developing, annually, a list of project priorities and a transportation improvement program. The transportation improvement program will be used to initiate federally aided transportation facilities and improvements as well as other transportation facilities and improvements including transit, rail, aviation, and port facilities to be funded from the State Transportation Trust Fund within its metropolitan area in accordance with existing and subsequent federal and state laws and rules and regulations related thereto. The transportation improvement program shall be consistent, to the maximum extent feasible, with the approved local government comprehensive plans of the units of local government whose boundaries are within the metropolitan area of the M.P.O.

(b) Each M.P.O. annually shall prepare a list of project priorities and shall submit the list to the appropriate district of the department by October 1 of each year; however, the department and a metropolitan planning organization may, in writing, agree to vary this submittal date. The list of project priorities must be formally reviewed by the technical and citizens' advisory committees, and approved by the M.P.O., before it is transmitted to the district. The approved list of project priorities must be used by the district in developing the district work program and must be used by the M.P.O. in developing its transportation improvement program. The annual list of project priorities must be based upon project selection criteria that, at a minimum, consider the following:

1. The approved M.P.O. long-range *transportation* plan;

2. The results of the transportation management systems; and

3. The M.P.O.'s public-involvement procedures.

(c) The transportation improvement program must, at a minimum:

1. Include projects and project phases to be funded with state or federal funds within the time period of the transportation improvement program and which are recommended for advancement during the next fiscal year and 4 subsequent fiscal years. Such projects and project phases must be consistent, to the maximum extent feasible, with the approved local government comprehensive plans of the units of local government located within the jurisdiction of the M.P.O. For informational purposes, the transportation improvement program shall also include a list of projects to be funded from local or private revenues.

2. Include projects within the metropolitan area which are proposed for funding under 23 U.S.C. s. 134 of the Federal Transit Act and which are consistent with the long-range *transportation* plan developed under subsection (6).

3. Provide a financial plan that demonstrates how the transportation improvement program can be implemented; indicates the resources, both public and private, that are reasonably expected to be available to accomplish the program; *identifies* ~~and recommends~~ any innovative financing techniques that may be used to fund needed projects and programs*; and may include, for illustrative purposes, additional projects that would be included in the approved transportation improvement program if reasonable additional resources beyond those identified in the financial plan were available. Innovative financing*. ~~Such~~ techniques may include the assessment of tolls, the use of value capture financing, or the use of *value* ~~congestion~~ pricing. The transportation improvement program may include a project or project phase only if full funding can reasonably be anticipated to be available for the project or project phase within the time period contemplated for completion of the project or project phase.

4. Group projects and project phases of similar urgency and anticipated staging into appropriate staging periods.

5. Indicate how the transportation improvement program relates to the long-range *transportation* plan developed under subsection (6), including providing examples of specific projects or project phases that further the goals and policies of the long-range *transportation* plan.

6. Indicate whether any project or project phase is inconsistent with an approved comprehensive plan of a unit of local government located within the jurisdiction of the M.P.O. If a project is inconsistent with an affected comprehensive plan, the M.P.O. must provide justification for including the project in the transportation improvement program.

7. Indicate how the improvements are consistent, to the maximum extent feasible, with affected seaport and airport master plans and with public transit development plans of the units of local government located within the jurisdiction of the M.P.O. *If a project is located within the boundaries of more than one M.P.O., the M.P.O.'s must coordinate plans regarding the project in the transportation improvement program.*

(d) Projects included in the transportation improvement program and that have advanced to the design stage of preliminary engineering may be removed from or rescheduled in a subsequent transportation improvement program only by the joint action of the M.P.O. and the department. Except when recommended in writing by the district secretary for good cause, any project removed from or rescheduled in a subsequent transportation improvement program shall not be rescheduled by the M.P.O. in that subsequent program earlier than the 5th year of such program.

(e) During the development of the transportation improvement program, the M.P.O. shall, in cooperation with the department and any affected public transit operation, provide citizens, affected public agencies, representatives of transportation agency employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transit, and other interested parties with reasonable notice of and an opportunity to comment on the proposed program.

(f)~~(e)~~ The *adopted* annual transportation improvement program for M.P.O.'s in nonattainment or maintenance areas must be submitted to the district secretary and the Department of Community Affairs at least 90 days before the submission of the state transportation improvement program by the department to the appropriate federal agencies. The annual transportation improvement program for M.P.O.'s in attainment areas must be submitted to the district secretary and the Department of Community Affairs at least 45 days before the department submits the state transportation improvement program to the appropriate federal agencies; however, the department, the Department of Community Affairs, and a metropolitan planning organization may, in writing, agree to vary this submittal date. The Governor or the Governor's designee shall review and approve each transportation improvement program and any amendments thereto.

(g)~~(f)~~ The Department of Community Affairs shall review the annual transportation improvement program of each M.P.O. for consistency with the approved local government comprehensive plans of the units of local government whose boundaries are within the metropolitan area of each M.P.O. and shall identify those projects that are inconsistent with such comprehensive plans. The Department of Community Affairs shall notify an M.P.O. of any transportation projects contained in its transportation improvement program which are inconsistent with the approved local government comprehensive plans of the units of local government whose boundaries are within the metropolitan area of the M.P.O.

(h) The M.P.O. shall annually publish or otherwise make available for public review the annual listing of projects for which federal funds have been obligated in the preceding year. Project monitoring systems must be maintained by those agencies responsible for obligating federal funds and made accessible to the M.P.O.'s.

(8) UNIFIED PLANNING WORK PROGRAM.—Each M.P.O. shall develop, in cooperation with the department and public transportation providers, a unified planning work program that lists all planning tasks to be undertaken during the program year. The unified planning work program must provide a complete description of each planning task and an estimated budget therefor and must comply with applicable state and federal law.

(9) AGREEMENTS.—

(a) Each M.P.O. shall execute the following written agreements, which shall be reviewed, and updated as necessary, every 5 years:

1. An agreement with the department clearly establishing the cooperative relationship essential to accomplish the transportation planning requirements of state and federal law.

2. An agreement with the metropolitan and regional intergovernmental coordination and review agencies serving the metropolitan areas, specifying the means by which activities will be coordinated and how transportation planning and programming will be part of the comprehensive planned development of the area.

3. An agreement with operators of public transportation systems, including transit systems, commuter rail systems, airports, and seaports, describing the means by which activities will be coordinated and specifying how public transit, commuter rail, aviation, and seaport planning and programming will be part of the comprehensive planned development of the metropolitan area.

(b) An M.P.O. may execute other agreements required by state or federal law or as necessary to properly accomplish its functions.

(10) METROPOLITAN PLANNING ORGANIZATION ADVISORY COUNCIL.—

(a) A Metropolitan Planning Organization Advisory Council is created to augment, and not supplant, the role of the individual M.P.O.'s in the cooperative transportation planning process described in s. 339.155(5).

(b) The council shall consist of one representative from each M.P.O. and shall elect a chairperson annually from its number. Each M.P.O. shall also elect an alternate representative from each M.P.O. to vote in the absence of the representative. Members of the council do not receive any compensation for their services, but may be reimbursed from funds made available to council members for travel and per diem expenses incurred in the performance of their council duties as provided in s. 112.061.

(c) The powers and duties of the Metropolitan Planning Organization Advisory Council are to:

1. Enter into contracts with individuals, private corporations, and public agencies.

2. Acquire, own, operate, maintain, sell, or lease personal property essential for the conduct of business.

3. Accept funds, grants, assistance, gifts, or bequests from private, local, state, or federal sources.

4. Establish bylaws and adopt rules pursuant to ss. 120.536(1) and 120.54 to implement provisions of law conferring powers or duties upon it.

5. Assist M.P.O.'s in carrying out the urbanized area transportation planning process by serving as the principal forum for collective policy discussion pursuant to law.

6. Serve as a clearinghouse for review and comment by M.P.O.'s on the Florida Transportation Plan and on other issues required to comply with federal or state law in carrying out the urbanized area transportation and systematic planning processes instituted pursuant to s. 339.155.

7. Employ an executive director and such other staff as necessary to perform adequately the functions of the council, within budgetary limitations. The executive director and staff are exempt from part II of chapter 110 and serve at the direction and control of the council. The council is assigned to the Office of the Secretary of the Department of Transportation ~~or~~ for fiscal and accountability purposes, but it shall otherwise function independently of the control and direction of the department.

8. Adopt an agency strategic plan that provides the priority directions the agency will take to carry out its mission within the context of the state comprehensive plan and any other statutory mandates and directions given to the agency.

(11) APPLICATION OF FEDERAL LAW.—Upon notification by an agency of the Federal Government that any provision of this section conflicts with federal laws or regulations, such federal laws or regulations will take precedence to the extent of the conflict until such conflict is resolved. The department or an M.P.O. may take any necessary action to comply with such federal laws and regulations or to continue to remain eligible to receive federal funds.

Section 34. Subsection (14) is added to section 341.041, Florida Statutes, 1998 Supplement, to read:

341.041 Transit responsibilities of the department.—The department shall, within the resources provided pursuant to chapter 216:

(14) Create and maintain a common self-retention insurance fund to support fixed-guideway projects throughout the state when there is a contractual obligation to have the fund in existence in order to provide fixed-guideway services. The maximum limit of the fund is as required by any contractual obligation.

Section 35. Subsections (6) and (8) of section 341.302, Florida Statutes, are amended to read:

341.302 Rail program, duties and responsibilities of the department.—The department, in conjunction with other governmental units and the private sector, shall develop and implement a rail program of statewide application designed to ensure the proper maintenance, safety, revitalization, and expansion of the rail system to assure its continued and increased availability to respond to statewide mobility needs. Within the resources provided pursuant to chapter 216, and as authorized under Title 49 C.F.R. part 212, the department shall:

(6) Secure and administer federal grants, *loans,* and apportionments for rail projects within this state when necessary to further the statewide program.

(8) Conduct, at a minimum, inspections of track and rolling stock, train signals and related equipment, hazardous materials transportation, *including the loading, unloading, and labeling of hazardous materials at shippers', receivers', and transfer points,* and train operating practices to determine adherence to state and federal standards. Department personnel may enforce any safety regulation issued under the Federal Government's preemptive authority over interstate commerce.

Section 36. Paragraph (a) of subsection (2) and subsections (3), (4), (5), (6), (9), and (10) of section 373.4137, Florida Statutes, are amended to read:

373.4137 Mitigation requirements.—

(2) Environmental impact inventories for transportation projects proposed by the Department of Transportation shall be developed as follows:

(a) *By May 1 of each year* ~~Beginning July 1996~~, the Department of Transportation shall submit ~~annually~~ to the Department of Environmental Protection and the water management districts a copy of its adopted work program and an inventory of habitats addressed in the rules *tentatively,* ~~adopted~~ pursuant to this part and s. 404 of the Clean Water Act, 33 U.S.C. s. 1344, which may be impacted by its plan of construction for transportation projects in the *next* ~~first~~ 3 years of the tentative work program. *The Department of Transportation may also include in its inventory the habitat impacts of any future transportation project identified in the tentative work program.* ~~For the July 1996 submittal, the inventory may exclude those projects which have received permits pursuant to this part and s. 404 of the Clean Water Act, 33 U.S.C. s. 1344, projects for which mitigation planning or design has commenced, or projects for which mitigation has been implemented in anticipation of future permitting needs.~~

(3) To fund the mitigation plan for the projected impacts identified in the inventory described in subsection (2), ~~beginning July 1, 1997,~~ the Department of Transportation shall identify funds quarterly in an escrow account within the State Transportation Trust Fund *for the environmental mitigation phase of projects budgeted by the Department of Transportation for the current fiscal year. The escrow account will be maintained* ~~established~~ by the Department of Transportation for the benefit of the Department of Environmental Protection *and the water management districts.* Any interest earnings from the escrow account shall *remain with* ~~be returned to~~ the Department of Transportation. The Department of Environmental Protection *or water management districts may* ~~shall~~ request a transfer of funds from the escrow account ~~to the Ecosystem Management and Restoration Trust Fund~~ no sooner than 30 days prior to the date the funds are needed to pay for activities *associated with development or implementation of the approved mitigation plan described in subsection (4) for the current fiscal year, including, but not limited to, design, engineering, production, and staff support. Actual conceptual plan preparation costs incurred before plan approval may be submitted to the Department of Transportation and the Department of Environmental Protection by November 1 of each year with the plan. The conceptual plan preparation costs of each water management district will be paid based on the amount approved on the mitigation plan and allocated to the current fiscal year projects identified by the water management district* ~~contained in the mitigation programs~~. The amount transferred *to the escrow account* each year by the Department of Transportation shall correspond to a cost per acre of $75,000 multiplied by the projected acres of impact identified in the inventory described in subsection (2) ~~within the water management district for that year. The water management district may draw from the trust fund no sooner than 30 days prior to the date funds are needed to pay for activities associated with development or implementation of the mitigation plan described in subsection (4)~~. Each July 1, ~~beginning in 1998,~~ the cost per acre shall be adjusted by the percentage change in the average of the Consumer Price Index issued by the United States Department of Labor for the most recent 12-month period ending September 30, compared to the base year average, which is the average for the 12-month period ending September 30, 1996. At the end of each year, the projected acreage of impact shall be reconciled with the acreage of impact of projects as permitted, *including permit modifications,* pursuant to this part and s. 404 of the Clean Water Act, 33 U.S.C. s. 1344. *The subject,* ~~and the following~~ year's transfer of funds shall be adjusted accordingly to reflect the overtransfer or undertransfer of funds from the preceding year. The Department of *Transportation* ~~Environmental Protection~~ is authorized to transfer such funds from the *escrow account to the Department of Environmental Protection and* ~~Ecosystem Management and Restoration Trust Fund to~~ the water management districts to carry out the mitigation programs.

(4) Prior to December *1 of each year* ~~31, 1996~~, each water management district, in consultation with the Department of Environmental Protection, the United States Army Corps of Engineers, *the Department of Transportation,* and other appropriate federal, state, and local governments, *and other interested parties, including entities operating mitigation banks,* shall develop a plan for the primary purpose of complying

with the mitigation requirements adopted pursuant to this part and 33 U.S.C. s. 1344. This plan shall also address significant *invasive* ~~aquatic and exotic~~ plant problems within wetlands and other surface waters. In developing such plans, the districts shall utilize sound ecosystem management practices to address significant water resource needs *and shall focus on activities of the Department of Environmental Protection and the water management districts, such as surface water improvement and management (SWIM) waterbodies and lands identified for potential acquisition for preservation, restoration, and enhancement, to the extent that such activities comply with the mitigation requirements adopted under this part and 33 U.S.C. s. 1344*. In determining the activities to be included in such plans, the districts shall also consider the purchase of credits from public or private mitigation banks permitted *under s. 373.4136 and associated federal authorization* ~~under this part~~ and shall include such purchase as a part of the mitigation plan when such purchase would offset the impact of the transportation project, provide equal benefits to the water resources than other mitigation options being considered, and provide the most cost-effective mitigation option. The mitigation plan shall be preliminarily approved by the water management district governing board and shall be submitted to the secretary of the Department of Environmental Protection for review and final approval. *The preliminary approval by the water management district governing board does not constitute a decision that affects substantial interests as provided by s. 120.569.* At least 30 days prior to preliminary approval, the water management district shall provide a copy of the draft mitigation plan to any person who has requested a copy.

(a) *For each transportation project with a funding request for the next fiscal year, the mitigation plan must include a brief explanation of why a mitigation bank was or was not chosen as a mitigation option, including an estimation of identifiable costs of the mitigation bank and nonbank options to the extent practicable.* ~~If the Department of Environmental Protection and water management districts are unable to identify mitigation that would offset the impacts of a project included in the inventory, either due to the nature of the impact or the amount of funds available, that project shall not be addressed in the mitigation plan and the project shall not be subject to the provisions of this section.~~

(b) Specific projects may be excluded from the mitigation plan and shall not be subject to this section upon the agreement of the Department of Transportation, the Department of Environmental Protection, and the appropriate water management district that the inclusion of such projects would hamper the efficiency or timeliness of the mitigation planning and permitting process, *or the Department of Environmental Protection and the water management district are unable to identify mitigation that would offset the impacts of the project.*

(c) *Surface water improvement and management or invasive plant control projects undertaken using the $12 million advance transferred from the Department of Transportation to the Department of Environmental Protection in fiscal year 1996-1997 which meet the requirements for mitigation under this part and 33 U.S.C. s. 1344 shall remain available for mitigation until the $12 million is fully credited up to and including fiscal year 2004-2005. When these projects are used as mitigation, the $12 million advance shall be reduced by $75,000 per acre of impact mitigated. For any fiscal year through and including fiscal year 2004-2005, to the extent the cost of developing and implementing the mitigation plans is less than the amount transferred pursuant to subsection (3), the difference shall be credited towards the $12 million advance. Except as provided in this paragraph, any funds not directed to implement the mitigation plan should, to the greatest extent possible, be directed to fund invasive plant control within wetlands and other surface waters.* ~~Those transportation projects that are proposed to commence in fiscal year 1996-1997 shall not be addressed in the mitigation plan, and the provisions of subsection (7) shall not apply to these projects. The Department of Transportation may enter into interagency agreements with the Department of Environmental Protection or any water management district to perform mitigation planning and implementation for these projects.~~

~~(d) On July 1, 1996, the Department of Transportation shall transfer to the Department of Environmental Protection $12 million from the State Transportation Trust Fund for the purposes of the surface water improvement management program and to address statewide aquatic and exotic plant problems within wetlands and other surface waters. Such funds shall be considered an advance upon funds that the Department of Transportation would provide for statewide mitigation during the 1997-1998, 1998-1999, and 1999-2000 fiscal years. This use of mitigation funds for surface water improvement management projects or aquatic and exotic plant control may be utilized as mitigation for transportation projects to the extent that it complies with the mitigation requirements adopted pursuant to this part and 33 U.S.C. s. 1344. To the extent that such activities result in mitigation credit for projects permitted in fiscal year 1996-1997, all or part of the $12 million funding for surface water improvement management projects or aquatic and exotic plant control in fiscal year 1996-1997 shall be drawn from Department of Transportation mitigation funding for fiscal year 1996-1997 rather than from mitigation funding for fiscal years 1997-1998, 1998-1999, and 1999-2000, in an amount equal to the cost per acre of impact described in subsection (3), times the acreage of impact that is mitigated by such plant control activities. Any part of the $12 million that does not result in mitigation credit for projects permitted in fiscal year 1996-1997 shall remain available for mitigation credit during fiscal years 1997-1998, 1998-1999, or 1999-2000.~~

(5) The water management district shall be responsible for ensuring that mitigation requirements pursuant to 33 U.S.C. s. 1344 are met for the impacts identified in the inventory described in subsection (2), by implementation of the approved plan described in subsection (4) *to the extent funding is provided* ~~as funded~~ by the Department of Transportation. During the federal permitting process, the water management district may deviate from the approved mitigation plan in order to comply with federal permitting requirements.

(6) The mitigation plan shall be updated annually to reflect the most current Department of Transportation work program *and may be amended throughout the year to anticipate schedule changes or additional projects which may arise*. Each update *and amendment* of the mitigation plan shall be submitted to the secretary of the Department of Environmental Protection for approval ~~as described in subsection (4)~~. However, such approval shall not be applicable to a deviation as described in subsection (5).

~~(9) The recommended mitigation plan shall be annually submitted to the Executive Office of the Governor and the Legislature through the legislative budget request of the Department of Environmental Protection in accordance with chapter 216. Any funds not directed to implement the mitigation plan should, to the greatest extent possible, be directed to fund aquatic and exotic plant problems within the wetlands and other surface waters.~~

~~(10) By December 1, 1997, the Department of Environmental Protection, in consultation with the water management districts, shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives describing the implementation of this section, including the use of public and private mitigation banks and other types of mitigation approved in the mitigation plan. The report shall also recommend any amendments to this section necessary to improve the process for developing and implementing mitigation plans for the Department of Transportation. The report shall also include a specific section on how private and public mitigation banks are utilized within the mitigation plans.~~

Section 37. Subsections (3) and (23) of section 479.01, Florida Statutes, are amended to read:

479.01 Definitions.—As used in this chapter, the term:

(3) "Commercial or industrial zone" means *a parcel of land* ~~an area within 660 feet of the nearest edge of the right-of-way of the interstate or federal-aid primary system~~ designated ~~predominately~~ for commercial or industrial use under *both* the future land use map of the comprehensive plan *and the land use development regulations* adopted pursuant to chapter 163. *If a parcel is located in an area designated for multiple uses on the future land use map of a comprehensive plan and the land development regulations do not clearly designate that parcel for a specific use, the area will be considered an unzoned commercial or industrial area if it meets the criteria of subsection (23).* ~~Where a local governmental entity has not enacted a comprehensive plan by local ordinance but has zoning regulations governing the area, the zoning of an area shall determine whether the area is designated predominately for commercial or industrial uses.~~

(23) "Unzoned commercial or industrial area" means *a parcel of land designated by the* ~~an area within 660 feet of the nearest edge of the right-of-way of the interstate or federal-aid primary system where the land use is not covered by a~~ future land use map *of the comprehensive plan for multiple uses that include commercial or industrial uses but are not*

specifically designated for commercial or industrial uses under the land development regulations ~~or zoning regulation pursuant to subsection (2)~~, in which ~~there are located~~ three or more separate and distinct *conforming* industrial or commercial *activities are located*.

(a) These activities must satisfy the following criteria:

1. At least one of the commercial or industrial activities must be located on the same side of the highway and within 800 feet of the sign location;

2. The commercial or industrial activities must be within 660 feet from the nearest edge of the right-of-way; and

3. The commercial industrial activities must be within 1,600 feet of each other.

Distances specified in this paragraph must be measured from the nearest outer edge of the primary building or primary building complex when the individual units of the complex are connected by covered walkways. ~~uses located within a 1,600-foot radius of each other and generally recognized as commercial or industrial by zoning authorities in this state.~~

(b) Certain activities, including, but not limited to, the following, may not be so recognized *as commercial or industrial activities*:

1.~~(a)~~ Signs.

2.~~(b)~~ Agricultural, forestry, ranching, grazing, farming, and related activities, including, but not limited to, wayside fresh produce stands.

3.~~(c)~~ Transient or temporary activities.

4.~~(d)~~ Activities not visible from the main-traveled way.

5.~~(e)~~ Activities conducted more than 660 feet from the nearest edge of the right-of-way.

6.~~(f)~~ Activities conducted in a building principally used as a residence.

7.~~(g)~~ Railroad tracks and minor sidings.

8. Communication towers.

Section 38. Paragraphs (b) and (c) of subsection (8) of section 479.07, Florida Statutes, are amended to read:

479.07 Sign permits.—

(8)

(b) If a permittee has not submitted his or her fee payment by the expiration date of the licenses or permits, the department shall send a notice of violation to the permittee within 45 days after the expiration date, requiring the payment of the permit fee within 30 days after the date of the notice and payment of a delinquency fee equal to 10 percent of the original amount due or, in the alternative to these payments, requiring the filing of a request for an administrative hearing to show cause why his or her sign should not be subject to immediate removal due to expiration of his or her license or permit. If the permittee submits payment as required by the violation notice, his or her license or permit will be automatically reinstated and such reinstatement will be retroactive to the original expiration date. If the permittee does not respond to the notice of violation within the 30-day period, the department shall, within 30 days, issue a final notice of sign removal and may, following 90 days after the date of the department's final notice of sign removal, remove the sign without incurring any liability as a result of such removal. However, if *at any time before removal of the sign* ~~within 90 days after the date of the department's final notice of sign removal~~, the permittee demonstrates that a *good-faith* ~~good faith~~ error on the part of the permittee resulted in cancellation or nonrenewal of the permit, the department may reinstate the permit if:

~~1. The sign has not yet been disassembled by the permittee;~~

~~2. Conflicting applications have not been filed by other persons;~~

1.~~3.~~ The permit reinstatement fee of *up to* $300 *based on the size of the sign* is paid;

2.~~4.~~ All other permit renewal and delinquent permit fees due as of the reinstatement date are paid; and

3.~~5.~~ The permittee reimburses the department for all actual costs resulting from the permit cancellation or nonrenewal ~~and sign removal~~.

(c) Conflicting applications filed by other persons for the same or competing sites covered by a permit subject to paragraph (b) may not be approved until after the sign subject to the expired permit has been removed.

(d)~~(c)~~ The cost for removing a sign, whether by the department or an independent contractor, shall be assessed by the department against the permittee.

Section 39. Subsection (15) of section 479.16, Florida Statutes, is amended to read:

479.16 Signs for which permits are not required.—The following signs are exempt from the requirement that a permit for a sign be obtained under the provisions of this chapter but are required to comply with the provisions of s. 479.11(4)-(8):

(15) Signs not in excess of 16 square feet placed at a road junction with the State Highway System denoting only the distance or direction of a residence or farm operation, or, in a rural area where a hardship is created because a small business is not visible from the road junction with the State Highway System, one sign not in excess of *16* ~~8~~ square feet, denoting only the name of the business and the distance and direction to the business. The small-business-sign provision of this subsection does not apply to charter counties and may not be implemented if the Federal Government notifies the department that implementation will adversely affect the allocation of federal funds to the department.

Section 40. Subsection (5) is added to section 320.0715, Florida Statutes, to read:

320.0715 International Registration Plan; motor carrier services; permits; retention of records.—

(5) The provisions of this section do not apply to any commercial motor vehicle domiciled in a foreign state that enters this state solely for the purpose of bringing a commercial vehicle in for repairs, or picking up a newly purchased commercial vehicle, so long as the commercial motor vehicle is operated by its owner and is not hauling a load.

Section 41. Section 334.035, Florida Statutes, is amended to read:

334.035 Purpose of transportation code.—The purpose of the Florida Transportation Code is to establish the responsibilities of the state, the counties, and the municipalities in the planning and development of the transportation systems serving the people of the state and to assure the development of an integrated, balanced statewide transportation system *which enhances economic development through promotion of international trade and interstate and intrastate commerce.* This code is necessary for the protection of the public safety and general welfare and for the preservation of all transportation facilities in the state. The chapters in the code shall be considered components of the total code, and the provisions therein, unless expressly limited in scope, shall apply to all chapters.

Section 42. Subsection (1) of section 334.0445, Florida Statutes, 1998 Supplement, is amended to read:

334.0445 Model career service classification and compensation plan.—

(1) Effective July 1, 1994, the Legislature grants to the Department of Transportation in consultation with the Department of Management Services, the Executive Office of the Governor, legislative appropriations committees, legislative personnel committees, and the affected certified bargaining unions, the authority on a pilot basis to develop and implement a model career service classification and compensation system. Such system shall be developed for use by all state agencies. Authorization for this program will be *through June 30, 2002* ~~for 3 fiscal years beginning July 1, 1994, and ending June 30, 1997~~; however, the department may elect or be directed by the Legislature to return to the current system at anytime during this period if the model system does not meet the stated goals and objectives.

Section 43. Section 334.046, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 334.046, F.S., for present text.)

334.046 Department mission, goals, and objectives.—

(1) The mission of the Department of Transportation shall be to provide a safe, interconnected statewide transportation system for Florida's citizens and visitors that ensures the mobility of people and freight, while enhancing economic prosperity and sustaining the quality of our environment.

(2) The department shall document in the Florida Transportation Plan pursuant to s. 339.155 the goals and objectives which provide statewide policy guidance for accomplishing the department's mission.

(3) At a minimum, the department's goals shall address the following:

(a) Providing a safe transportation system for residents, visitors, and commerce.

(b) Preservation of the transportation system.

(c) Providing an interconnected transportation system to support Florida's economy.

(d) Providing travel choices to support Florida's communities.

Section 44. Section 334.071, Florida Statutes, is created to read:

334.071 Legislative designation of transportation facilities.—

(1) Designation of a transportation facility contained in an act of the Legislature is for honorary or memorial purposes or to distinguish a particular facility, and unless specifically provided for, shall not be construed to require any action by a local government or private party regarding the changing of any street signs, mailing address, or 911 emergency telephone number system listing.

(2) The effect of such designations shall only be construed to require the placement of markers by the department at the termini or intersections specified for each highway segment or bridge designated, and as authority for the department to place other markers as appropriate for the transportation facility being designated.

Section 45. Section 337.025, Florida Statutes, is amended to read:

337.025 Innovative highway projects; department to establish program.—The department is authorized to establish a program for highway projects demonstrating innovative techniques of highway construction and finance which have the intended effect of controlling time and cost increases on construction projects. Such techniques may include, but are not limited to, state-of-the-art technology for pavement, safety, and other aspects of highway construction; innovative bidding and financing techniques; accelerated construction procedures; and those techniques that have the potential to reduce project life cycle costs. To the maximum extent practical, the department must use the existing process to award and administer construction contracts. When specific innovative techniques are to be used, the department is not required to adhere to those provisions of law that would prevent, preclude, or in any way prohibit the department from using the innovative technique. However, prior to using an innovative technique that is inconsistent with another provision of law, the department must document in writing the need for the exception and identify what benefits the traveling public and the affected community are anticipated to receive. The department may enter into no more than *$120* ~~$60~~ million in contracts annually for the purposes authorized by this section.

Section 46. Paragraph (a) of subsection (4) of section 339.135, Florida Statutes, is amended to read:

339.135 Work program; legislative budget request; definitions; preparation, adoption, execution, and amendment.—

(4) FUNDING AND DEVELOPING A TENTATIVE WORK PROGRAM.—

(a)*1.* To assure that no district or county is penalized for local efforts to improve the State Highway System, the department shall, for the purpose of developing a tentative work program, allocate funds for new construction to the districts, except for the turnpike district, based on equal parts of population and motor fuel tax collections. Funds for resurfacing, bridge repair and rehabilitation, bridge fender system construction or repair, public transit projects except public transit block grants as provided in s. 341.052, and other programs with quantitative needs assessments shall be allocated based on the results of these assessments. The department may not transfer any funds allocated to a district under this paragraph to any other district except as provided in subsection (7). Funds for public transit block grants shall be allocated to the districts pursuant to s. 341.052.

2. Notwithstanding the provisions of subparagraph 1., the department shall allocate at least 50 percent of any new discretionary highway capacity funds to the Florida Intrastate Highway System established pursuant to s. 338.001. Any remaining new discretionary highway capacity funds shall be allocated to the districts for new construction as provided in subparagraph 1. For the purposes of this subparagraph, the term "new discretionary highway capacity funds" means any funds available to the department above the prior year funding level for capacity improvements, which the department has the discretion to allocate to highway projects.

Section 47. Subsections (2) through (5) of section 341.053, Florida Statutes, are renumbered as subsections (3) through (6), respectively, and a new subsection (2) is added to that section to read:

341.053 Intermodal Development Program; administration; eligible projects; limitations.—

(2) In recognition of the department's role in the economic development of this state, the department shall develop a proposed intermodal development plan to connect Florida's airports, deepwater seaports, rail systems serving both passenger and freight, and major intermodal connectors to the Florida Intrastate Highway System facilities as the primary system for the movement of people and freight in this state in order to make the intermodal development plan a fully integrated and interconnected system. The intermodal development plan must:

(a) Define and assess the state's freight intermodal network, including airports, seaports, rail lines and terminals, and connecting highways.

(b) Prioritize statewide infrastructure investments, including the acceleration of current projects, which are found by the Freight Stakeholders Task Force to be priority projects for the efficient movement of people and freight.

(c) Be developed in a manner that will assure maximum use of existing facilities and optimum integration and coordination of the various modes of transportation, including both government-owned and privately owned resources, in the most cost-effective manner possible.

Section 48. Section 348.9401, Florida Statutes, is amended to read:

348.9401 Short title.—This part shall be known and may be cited as the "St. Lucie County Expressway *and Bridge* Authority Law."

Section 49. Subsections (2) and (11) of section 348.941, Florida Statutes, are amended to read:

348.941 Definitions.—As used in this part, unless the context clearly indicates otherwise, the term:

(2) "Authority" means the St. Lucie County Expressway *and Bridge* Authority.

(11) "St. Lucie County Expressway *and Bridge* System" means*:*

(a) any and all expressways in St. Lucie County and appurtenant facilities thereto, including, but not limited to, all approaches, roads, bridges, and avenues of access for such expressway or expressways*; and*

(b) The Indian River Lagoon Bridge.

Section 50. The catchline and subsections (1) and (2) of section 348.942, Florida Statutes, are amended to read:

348.942 St. Lucie County *and Bridge* Expressway Authority.—

(1) There is created and established a body politic and corporate, an agency of the state, to be known as the "St. Lucie County Expressway *and Bridge* Authority," hereinafter referred to as the "authority."

(2) The authority shall have the exclusive right to exercise all those powers herein set forth; and no other entity, body, or authority, whether within or without St. Lucie County, may either directly or indirectly exercise any jurisdiction, control, authority, or power in any manner relating to any expressway *and bridge* system within St. Lucie County without either the express consent of the authority or as otherwise provided herein.

Section 51. Paragraph (a) of subsection (1) and paragraph (g) of subsection (2) of section 348.943, Florida Statutes, are amended to read:

348.943 Purposes and powers.—

(1)(a) The authority created and established by the provisions of this part is granted and shall have the right to acquire, hold, construct, improve, maintain, operate, own, and lease the St. Lucie County Expressway *and Bridge* System, hereinafter referred to as the "system."

(2) The authority is granted, and shall have and may exercise, all powers necessary, appurtenant, convenient, or incidental to the carrying out of the aforesaid purposes, including, but not limited to, the following rights and powers:

(g)1. To borrow money as provided by the State Bond Act *or, in the alternative, pursuant to the provisions of s. 348.944(3), and in either case for any purpose of the authority authorized, including the financing or refinancing of the cost of all or any part of the system.*

2. The authority shall reimburse St. Lucie County for any sums expended, together with interest at the highest rate applicable to the bonds of the authority for which the sums were required, from the St. Lucie County gasoline tax funds for payment of the bonds.

Section 52. Section 348.944, Florida Statutes, is amended to read:

348.944 Bonds.—

(1) Bonds may be issued on behalf of the authority as provided by the State Bond Act.

(2) As an alternative to subsection (1), the authority may issue its own bonds pursuant to subsection (3) in such principal amounts as, in the opinion of the authority, are necessary to provide sufficient moneys for achieving its corporate purposes, so long as such bonds do not pledge the full faith and credit of the state, St. Lucie County, or any municipality in St. Lucie County.

(3) The bonds of the authority issued pursuant to this subsection, whether on original issuance or on refunding, shall be authorized by resolution of the members thereof and may be either term or serial bonds, shall bear such date or dates, mature at such time or times, not exceeding 40 years from their respective dates, bear interest at such rate or rates (not exceeding the maximum lawful rate), fixed or variable, be in such denominations, be in such form, carry such registration, exchangeability, and interchangeability privileges, be payable in such medium of payment and at such place or places, be subject to such terms of redemption, with or without premium, and have such rank and be entitled to such priorities on the revenues, tolls, fees, rentals, or other charges, receipts, or moneys of the authority, including any moneys received pursuant to the terms of any lease-purchase agreement between the authority and the department, as such resolution or any resolution subsequent thereto may provide. The bonds shall be executed either by manual or facsimile signature by such officers as the authority shall determine. The term "bonds" shall include all forms of indebtedness, including notes. The proceeds of any bonds shall be used for such purposes and shall be disbursed in such manner and under such restrictions, if any, as the authority may provide pursuant to resolution. The bonds may also be issued pursuant to an indenture of trust or other agreement with such trustee or fiscal agent as may be selected by the authority. The resolution, indenture of trust, or other agreement may contain such provisions securing the bonds as the authority deems appropriate. The principal of and the interest on the bonds shall be payable from such revenues, tolls, fees, rentals, or other charges, receipts, or moneys as determined by the authority pursuant to resolution. The authority may grant a lien upon and pledge such revenues, tolls, fees, rentals, or other charges, receipts, or moneys in favor of the holders of each series of bonds in the manner and to the extent provided by the authority by resolution. Such revenues, tolls, fees, rentals, or other charges, receipts, or moneys shall immediately be subject to such lien without any physical delivery thereof, and such lien shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the authority.

(4) Bonds issued by or on behalf of the authority shall be sold at public sale in the manner provided by the State Bond Act. However, if the authority shall determine by resolution that a negotiated sale of the bonds is in the best interest of the authority, the authority may negotiate for sale of the bonds with the underwriter or underwriters designated by the division in the case of bonds issued pursuant to subsection (1) or the authority in the case of bonds issued pursuant to subsection (3). The authority shall provide a specific finding by resolution as to the reason requiring the negotiated sale. Pending the preparation of definitive bonds, interim certificates may be issued to the purchaser or purchasers of such bonds and may contain such terms and conditions as the authority may determine.

Section 53. Section 348.9495, Florida Statutes, is created to read:

348.9495 Exemption from taxation.—The effectuation of the authorized purposes of the authority created under this part is, shall, and will be in all respects for the benefit of the people of the state, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions, and, since such authority will be performing essential governmental functions in effectuating such purposes, such authority shall not be required to pay any taxes or assessments of any kind or nature whatsoever upon any property acquired or used by it for such purposes or upon any tolls, fees, rentals, receipts, moneys, or charges at any time received by it, and the bonds issued by the authority, their transfer, and the income therefrom, including any profits made on the sale thereof, shall at all times be free from taxation of any kind by the state or by any political subdivision, taxing agency, or instrumentality thereof. The exemption granted by this section shall not be applicable to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations.

Section 54. Paragraph (d) of subsection (1) of section 212.055, Florida Statutes, 1998 Supplement, 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.

(1) CHARTER COUNTY TRANSIT SYSTEM SURTAX.—

(d) Proceeds from the surtax shall be *applied to as many or as few of the uses enumerated below in whatever combination the county commission deems appropriate*:

1. Deposited by the county in the trust fund and shall be used ~~only~~ for the purposes of development, construction, equipment, maintenance, operation, supportive services, including a countywide bus system, and related costs of a fixed guideway rapid transit system;

2. Remitted by the governing body of the county to an expressway or transportation authority created by law to be used, at the discretion of such authority, for the development, construction, operation, or maintenance of roads or bridges in the county, for the operation and maintenance of a bus system, ~~or~~ for the payment of principal and interest on existing bonds issued for the construction of such roads or bridges, and, upon approval by the county commission, such proceeds may be pledged for bonds issued to refinance existing bonds or new bonds issued for the construction of such roads or bridges; *and* ~~or~~

3. For each county, as defined in s. 125.011(1), used for the development, construction, operation, *and* ~~or~~ maintenance of roads and bridges in the county; for the expansion, operation, and maintenance of ~~an existing~~ bus *and fixed guideway systems* ~~system~~; *and* ~~or~~ for the payment of

principal and interest on ~~existing~~ bonds issued for the construction of fixed guideway rapid transit systems, *bus systems,* roads, or bridges; and such proceeds may be pledged by the governing body of the county for bonds issued to refinance existing bonds or new bonds issued for the construction of such fixed guideway rapid transit systems, *bus systems,* roads, or bridges *and no more than 25 percent used for nontransit uses.*

Section 55. Paragraph (f) of subsection (2) of section 348.0004, Florida Statutes, is amended to read:

348.0004 Purposes and powers.—

(2) Each authority may exercise all powers necessary, appurtenant, convenient, or incidental to the carrying out of its purposes, including, but not limited to, the following rights and powers:

(f) To fix, alter, charge, establish, and collect tolls, rates, fees, rentals, and other charges for the services and facilities system, which tolls, rates, fees, rentals, and other charges must always be sufficient to comply with any covenants made with the holders of any bonds issued pursuant to the Florida Expressway Authority Act. However, such right and power may be assigned or delegated by the authority to the department. Notwithstanding s. 338.165 or any other provision of law to the contrary, in any county as defined in s. 125.011(1), to the extent surplus revenues exist, they may be used for purposes enumerated in subsection (7), provided the expenditures are consistent with the metropolitan planning organization's adopted long-range plan. *Notwithstanding any other provision of law to the contrary, but subject to any contractual requirements contained in documents securing any outstanding indebtedness payable from tolls, in any county as defined in s. 125.011(1), the board of county commissioners may, by ordinance, alter or abolish existing tolls and currently approved increases thereto if the board provides a local source of funding to the county expressway system for transportation in an amount sufficient to replace revenues necessary to meet bond obligations secured by such tolls and increases.*

Section 56. *In addition to the voting membership established by s. 339.175(2), Florida Statutes, 1998 Supplement, and notwithstanding any other provision of law to the contrary, the voting membership of any Metropolitan Planning Organization whose geographical boundaries include any county as defined in s. 125.011(1), Florida Statutes, must include an additional voting member appointed by that city's governing body for each city with a population of 50,000 or more residents.*

Section 57. Effective January 1, 2000, section 73.015, Florida Statutes, is created to read:

73.015 Presuit negotiation.—

(1) Effective July 1, 2000, before an eminent domain proceeding is brought under this chapter or chapter 74, the condemning authority must attempt to negotiate in good faith with the fee owner of the parcel to be acquired, must provide the fee owner with a written offer and, if requested, a copy of the appraisal upon which the offer is based, and must attempt to reach an agreement regarding the amount of compensation to be paid for the parcel.

(a) At the inception of negotiation for acquisition, the condemning authority must notify the fee owner of the following:

1. That all or a portion of his or her property is necessary for a project.

2. The nature of the project for which the parcel is considered necessary, and the parcel designation of the property to be acquired.

3. That, within 15 business days after receipt of a request by the fee owner, the condemning authority will provide a copy of the appraisal report upon which the offer to the fee owner is based; copies, to the extent prepared, of the right-of-way maps or other documents that depict the proposed taking; and copies, to the extent prepared, of the construction plans that depict project improvements to be constructed on the property taken and improvements to be constructed adjacent to the remaining property, including, but not limited to, plan, profile, cross-section, drainage, and pavement marking sheets, and driveway connection detail. The condemning authority shall provide any additional plan sheets within 15 days of request.

4. The fee owner's statutory rights under ss. 73.091 and 73.092.

5. The fee owner's rights and responsibilities under paragraphs (b) and (c) and subsection (4).

(b) The condemning authority must provide a written offer of compensation to the fee owner as to the value of the property sought to be appropriated and, where less than the entire property is sought to be appropriated, any damages to the remainder caused by the taking. The owner must be given at least 30 days after either receipt of the notice or the date the notice is returned as undeliverable by the postal authorities to respond to the offer, before the condemning authority files a condemnation proceeding for the parcel identified in the offer.

(c) The notice and written offer must be sent by certified mail, return receipt requested, to the fee owner's last known address listed on the county ad valorem tax roll. Alternatively, the notice and written offer may be personally delivered to the fee owner of the property. If there is more than one owner of a property, notice to one owner constitutes notice to all owners of the property. The return of the notice as undeliverable by the postal authorities constitutes compliance with this provision. The condemning authority is not required to give notice or a written offer to a person who acquires title to the property after the notice required by this section has been given.

(d) Notwithstanding this subsection, with respect to lands acquired under s. 259.041, the condemning authority is not required to give the fee owner the current appraisal before executing an option contract.

(2) Effective July 1, 2000, before an eminent domain proceeding is brought under this chapter or chapter 74 by the Department of Transportation or by a county, municipality, board, district, or other public body for the condemnation of right-of-way, the condemning authority must make a good-faith effort to notify the business owners, including lessees, who operate a business located on the property to be acquired.

(a) The condemning authority must notify the business owner of the following:

1. That all or a portion of his or her property is necessary for a project.

2. The nature of the project for which the parcel is considered necessary, and the parcel designation of the property to be acquired.

3. That, within 15 business days after receipt of a request by the business owner, the condemning authority will provide a copy of the appraisal report upon which the offer to the fee owner is based; copies, to the extent prepared, of the right-of-way maps or other documents that depict the proposed taking; and copies, to the extent prepared, of the construction plans that depict project improvements to be constructed on the property taken and improvements to be constructed adjacent to the remaining property, including, but not limited to, plan, profile, cross-section, drainage, pavement marking sheets, and driveway connection detail. The condemning authority shall provide any additional plan sheets within 15 days of request.

4. The business owner's statutory rights under ss. 73.071, 73.091, and 73.092.

5. The business owner's rights and responsibilities under paragraphs (b) and (c) and subsection (4).

(b) The notice must be made subsequent to or concurrent with the condemning authority's making the written offer of compensation to the fee owner pursuant to subsection (1). The notice must be sent by certified mail, return receipt requested, to the address of the registered agent for the business located on the property to be acquired, or if no agent is registered, by certified mail or personal delivery to the address of the business located on the property to be acquired. Notice to one owner of a multiple ownership business constitutes notice to all business owners of that business. The return of the notice as undeliverable by the postal authorities constitutes compliance with these provisions. The condemning authority is not required to give notice to a person who acquires an interest in the business after the notice required by this section has been given. Once notice has been made to business owners under this subsection, the condemning authority may file a condemnation proceeding pursuant to chapter 73 or chapter 74 for the property identified in the notice.

(c) If the business qualifies for business damages pursuant to s. 73.071(3)(b) and the business intends to claim business damages, the business owner must, within 180 days after either receipt of the notice or

the date the notice is returned as undeliverable by the postal authorities, or at a later time mutually agreed to by the condemning authority and the business owner, submit to the condemning authority a good-faith written offer to settle any claims of business damage. The written offer must be sent to the condemning authority by certified mail, return receipt requested. Absent a showing of a good-faith justification for the failure to submit a business-damage offer within 180 days, the court must strike the business owner's claim for business damages in any condemnation proceeding. If the court finds that the business owner has made a showing of a good-faith justification for the failure to timely submit a business damage offer, the court shall grant the business owner up to 180 days within which to submit a business-damage offer, which the condemning authority must respond to within 120 days.

1. The business-damage offer must include an explanation of the nature, extent, and monetary amount of such damage and must be prepared by the owner, a certified public accountant, or a business damage expert familiar with the nature of the operations of the owner's business. The business owner shall also provide to the condemning authority copies of the owner's business records that substantiate the good-faith offer to settle the business damage claim. If additional information is needed beyond data that may be obtained from business records existing at the time of the offer, the business owner and condemning authority may agree on a schedule for the submission of such information.

2. As used in this paragraph, the term "business records" includes, but is not limited to, copies of federal income tax returns, federal income tax withholding statements, federal miscellaneous income tax statements, state sales tax returns, balance sheets, profit and loss statements, and state corporate income tax returns for the 5 years preceding notification which are attributable to the business operation on the property to be acquired, and other records relied upon by the business owner that substantiate the business-damage claim.

(d) Within 120 days after receipt of the good-faith business-damage offer and accompanying business records, the condemning authority must, by certified mail, accept or reject the business owner's offer or make a counteroffer. Failure of the condemning authority to respond to the business damage offer, or rejection thereof pursuant to this section, must be deemed to be a counteroffer of zero dollars for purposes of subsequent application of s. 73.092(1).

(3) At any time in the presuit negotiation process, the parties may agree to submit the compensation or business-damage claims to nonbinding mediation. The parties shall agree upon a mediator certified under s. 44.102. In the event that there is a settlement reached as a result of mediation or other mutually acceptable dispute resolution procedure, the agreement reached shall be in writing. The written agreement provided for in this section shall incorporate by reference the right-of-way maps, construction plans, or other documents related to the taking upon which the settlement is based. In the event of a settlement, both parties shall have the same legal rights that would have been available under law if the matter had been resolved through eminent domain proceedings in circuit court with the maps, plans, or other documents having been made a part of the record.

(4) If a settlement is reached between the condemning authority and a property or business owner prior to a lawsuit being filed, the property or business owner who settles compensation claims in lieu of condemnation shall be entitled to recover costs in the same manner as provided in s. 73.091 and attorney's fees in the same manner as provided in s. 73.092, more specifically as follows:

(a) Attorney's fees for presuit negotiations under this section regarding the amount of compensation to be paid for the land, severance damages, and improvements must be calculated in the same manner as provided in s. 73.092(1) unless the parties otherwise agree.

(b) If business damages are recovered by the business owner based on the condemning authority accepting the business owner's initial offer or the business owner accepting the condemning authority's initial counteroffer, attorney's fees must be calculated in accordance with s. 73.092(2), (3), (4), and (5) for the attorney's time incurred in presentation of the business owner's good-faith offer under paragraph (2)(c). Otherwise, attorney's fees for the award of business damages must be calculated as provided in s. 73.092(1), based on the difference between the final judgment or settlement of business damages and the counteroffer to the business owner's offer by the condemning authority.

(c) Presuit costs must be presented, calculated, and awarded in the same manner as provided in s. 73.091, after submission by the business or property owner to the condemning authority of all appraisal reports, business damage reports, or other work-products for which recovery is sought, and upon transfer of title of the real property by closing, upon payment of any amounts due for business damages, or upon final judgment.

(d) If the parties cannot agree on the amount of costs and attorney's fees to be paid by the condemning authority, the business or property owner may file a complaint in the circuit court in the county in which the property is located to recover attorney's fees and costs.

This shall only apply when the action is by the Department of Transportation, county, municipality, board, district, or other public body for the condemnation of a road right-of-way.

(5) Evidence of negotiations or of any written or oral statements used in mediation or negotiations between the parties under this section is inadmissible in any condemnation proceeding, except in a proceeding to determine reasonable costs and attorney's fees.

Section 58. Effective January 1, 2000, subsection (3) of section 73.071, Florida Statutes, is amended to read:

73.071 Jury trial; compensation; severance damages*; business damages*.—

(3) The jury shall determine solely the amount of compensation to be paid, which compensation shall include:

(a) The value of the property sought to be appropriated;

(b) Where less than the entire property is sought to be appropriated, any damages to the remainder caused by the taking, including, when the action is by the Department of Transportation, county, municipality, board, district or other public body for the condemnation of a right-of-way, and the effect of the taking of the property involved may damage or destroy an established business of more than *4* ~~5~~ years' standing, owned by the party whose lands are being so taken, located upon adjoining lands owned or held by such party, the probable damages to such business which the denial of the use of the property so taken may reasonably cause; any person claiming the right to recover such special damages shall set forth in his or her written defenses the nature and extent of such damages; and

(c) Where the appropriation is of property upon which a mobile home, other than a travel trailer as defined in s. 320.01, is located, whether or not the owner of the mobile home is an owner or lessee of the property involved, and the effect of the taking of the property involved requires the relocation of such mobile home, the reasonable removal or relocation expenses incurred by such mobile home owner, not to exceed the replacement value of such mobile home. The compensation paid to a mobile home owner under this paragraph shall preclude an award to a mobile home park owner for such expenses of removal or relocation. Any mobile home owner claiming the right to such removal or relocation expenses shall set forth in his or her written defenses the nature and extent of such expenses. This paragraph shall not apply to any governmental authority exercising its power of eminent domain when reasonable removal or relocation expenses must be paid to mobile home owners under other provisions of law or agency rule applicable to such exercise of power.

Section 59. *Effective January 1, 2000, the amendments to subsection (3) of section 73.071, Florida Statutes, as contained in this act shall stand repealed effective January 1, 2003.*

Section 60. Effective January 1, 2000, subsection (1) of section 73.091, Florida Statutes, is amended to read:

73.091 Costs of the proceedings.—

(1) The petitioner shall pay attorney's fees as provided in s. 73.092 as well as all reasonable costs incurred in the defense of the proceedings in the circuit court, including, but not limited to, reasonable appraisal fees and, when business damages are compensable, a reasonable accountant's fee, to be assessed by that court. *No prejudgment interest shall be paid on costs or attorney's fees.*

Section 61. Effective January 1, 2000, subsection (1) of section 73.092, Florida Statutes, is amended to read:

73.092 Attorney's fees.—

(1) Except as otherwise provided in this section *and s. 73.015*, the court, in eminent domain proceedings, shall award attorney's fees based solely on the benefits achieved for the client.

(a) As used in this section, the term "benefits" means the difference, exclusive of interest, between the final judgment or settlement and the last written offer made by the condemning authority before the defendant hires an attorney. If no written offer is made by the condemning authority before the defendant hires an attorney, benefits must be measured from the first written offer after the attorney is hired.

1. In determining attorney's fees, if business records as defined in s. 73.015(2)(c)2. and kept by the owner in the ordinary course of business were provided to the condemning authority to substantiate the business damage offer in s. 73.015(2)(c), benefits for amounts awarded for business damages must be based on the difference between the final judgment or settlement and the written counteroffer made by the condemning authority provided in s. 73.015(2)(d).

2. In determining attorney's fees, if existing business records as defined in s. 73.015(2)(c)2. and kept by the owner in the ordinary course of business were not provided to the condemning authority to substantiate the business damage offer in s. 73.015(2)(c) and those records which were not provided are later deemed material to the determination of business damages, benefits for amounts awarded for business damages must be based upon the difference between the final judgment or settlement and the first written counteroffer made by the condemning authority within 90 days from the condemning authority's receipt of the business records previously not provided.

~~1. In determining attorney's fees in prelitigation negotiations, benefits do not include amounts awarded for business damages unless the business owner provided to the condemning authority, upon written request, prior to litigation, those financial and business records kept by the owner in the ordinary course of business.~~

~~2. In determining attorney's fees subsequent to the filing of litigation, if financial and business records kept by the owner in the ordinary course of business were not provided to the condemning authority prior to litigation, benefits for amounts awarded for business damages must be based on the first written offer made by the condemning authority within 120 days after the filing of the eminent domain action. In the event the petitioner makes a discovery request for a defendant's financial and business records kept in the ordinary course of business within 45 days after the filing of that defendant's answer, then the 120-day period shall be extended to 60 days after receipt by petitioner of those records. If the condemning authority makes no written offer to the defendant for business damages within the time period provided in this section, benefits for amounts awarded for business damages must be based on the difference between the final judgment or settlement and the last written offer made by the condemning authority before the defendant hired an attorney.~~

(b) The court may also consider nonmonetary benefits obtained for the client through the efforts of the attorney, to the extent such nonmonetary benefits are specifically identified by the court and can, within a reasonable degree of certainty, be quantified.

(c) Attorney's fees based on benefits achieved shall be awarded in accordance with the following schedule:

1. Thirty-three percent of any benefit up to $250,000; plus

2. Twenty-five percent of any portion of the benefit between $250,000 and $1 million; plus

3. Twenty percent of any portion of the benefit exceeding $1 million.

Section 62. Effective January 1, 2000, subsection (1) of section 127.01, Florida Statutes, is amended to read:

127.01 Counties delegated power of eminent domain; recreational purposes, issue of necessity of taking.—

(1)(a) Each county of the state is delegated authority to exercise the right and power of eminent domain; that is, the right to appropriate property, except state or federal, for any county purpose. The absolute fee simple title to all property so taken and acquired shall vest in such county unless the county seeks to condemn a particular right or estate in such property.

(b) Each county is further authorized to exercise the eminent domain *power* ~~powers~~ granted to the Department of Transportation by s. 337.27(1) ~~and (2)~~, the transportation corridor protection provisions of s. 337.273, and the right of entry onto property pursuant to s. 337.274.

Section 63. Effective January 1, 2000, subsection (2) of section 166.401, Florida Statutes, is amended to read:

166.401 Right of eminent domain.—

(2) Each municipality is further authorized to exercise the eminent domain *power* ~~powers~~ granted to the Department of Transportation in s. 337.27(1) ~~and (2)~~ and the transportation corridor protection provisions of s. 337.273.

Section 64. *Effective January 1, 2000, subsection (2) of section 337.27, section 337.271, subsection (2) of section 348.0008, subsection (2) of section 348.759, and subsection (2) of section 348.957, Florida Statutes, are repealed.*

Section 65. Subsections (3), (4), (5), and (6) are added to section 479.15, Florida Statutes, to read:

479.15 Harmony of regulations.—

(3) It is the express intent of the Legislature to limit the state right-of-way acquisition costs on state and federal roads in eminent domain proceedings, the provisions of ss. 479.07 and 479.155 notwithstanding. Subject to approval by the Federal Highway Administration, whenever public acquisition of land upon which is situated a lawful nonconforming sign occurs, as provided in this chapter, the sign may, at the election of its owner and the department, be relocated or reconstructed adjacent to the new right-of-way along the roadway within 100 feet of the current location, provided the nonconforming sign is not relocated on a parcel zoned residential, and provided further that such relocation shall be subject to applicable setback requirements. The sign owner shall pay all costs associated with relocating or reconstructing any sign under this subsection, and neither the state nor any local government shall reimburse the sign owner for such costs, unless part of such relocation costs are required by federal law. If no adjacent property is available for the relocation, the department shall be responsible for paying the owner of the sign just compensation for its removal.

(4) Such relocation shall be adjacent to the current site and the face of the sign shall not be increased in size or height or structurally modified at the point of relocation in a manner inconsistent with the current building codes of the jurisdiction in which the sign is located.

(5) In the event that relocation can be accomplished but is inconsistent with the ordinances of the municipality or county within whose jurisdiction the sign is located, the ordinances of the local government shall prevail, provided that the local government shall assume the responsibility to provide the owner of the sign just compensation for its removal, but in no event shall compensation paid by the local government exceed the compensation required under state or federal law. Further, the provisions of this section shall not impair any agreement or future agreements between a municipality or county and the owner of a sign or signs within the jurisdiction of the municipality or county. Nothing in this section shall be deemed to cause a nonconforming sign to become conforming solely as a result of the relocation allowed in this section.

(6) The provisions of subsections (3), (4), and (5) of this section shall not apply within the jurisdiction of any municipality which is engaged in any litigation concerning its sign ordinance on April 23, 1999, nor shall such provisions apply to any municipality whose boundaries are identical to the county within which said municipality is located.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 51, line 3, after the semicolon (;) insert: amending s. 20.23, F.S.; expanding the role of the transportation commission; providing

loan guarantees for certain businesses; amending s. 206.46, F.S.; increasing the amount that may be transferred into the Right-of-Way Acquisition and Bridge Construction Trust Fund; requiring Department of Transportation and Department of Community Affairs to jointly review and submit legislation implementing the recommendations of the Transportation and Land Use Committee; creating s. 215.615, F.S.; authorizing the department and local governments to enter into an interlocal agreement to provide financing for fixed guideway projects; amending s. 316.003, F.S.; revising the definition of a motorized bicycle; amending ss. 320.08, 320.083, 320.08035, F.S.; deleting references to motorized bicycles; creating s. 316.0815, F.S.; providing the duty to yield to public transit vehicles reentering the flow of traffic; amending s. 316.1895, F.S.; authorizing local governments to request the Department of Transportation to install and maintain speed zones for federally funded Headstart programs located on roads maintained by the department; amending s. 316.302, F.S.; updating references to the current federal safety regulations; amending s. 316.3025, F.S.; updating references to the current federal safety regulations; amending s. 316.545, F.S.; providing a maximum penalty for operating a commercial motor vehicle when the registration or license plate has not been expired for more than 180 days; amending s. 320.20, F.S., relating to the disposition of motor vehicle license tax moneys; providing for an audit of the ports; amending s. 335.0415, F.S.; clarifying the jurisdiction and responsibility for operation and maintenance of roads; amending s. 335.093, F.S.; authorizing the department to designate public roads as scenic highways; amending s. 337.11, F.S.; authorizing the department to enter into contracts for construction or maintenance of roadway and bridge elements without competitive bidding under certain circumstances; deleting the provision for the owner-controlled insurance plan; amending s. 337.16, F.S.; eliminating intermediate delinquency as grounds for suspension or revocation of a contractor's certificate of qualification to bid on construction contracts in excess of a specified amount; amending s. 337.162, F.S.; providing that department appraisers are not obligated to report violations of state professional licensing laws to the Department of Business and Professional Regulation; amending s. 337.18, F.S.; deleting the schedule of contract amount categories utilized to calculate liquidated damages to be paid by a contractor; allowing the department to adjust the categories; requiring that surety bonds posted by successful bidders on department construction contracts be payable to the department; amending s. 337.185, F.S.; raising the limit for binding arbitration contract disputes; authorizing the secretary of the department to select an alternate or substitute to serve as the department member of the board for any hearing; amending the fee schedule for arbitration to cover the cost of administration and compensation of the board; authorizing the department to acquire and negotiate for the sale of replacement housing; amending s. 337.25, F.S.; authorizing the department to purchase options to purchase land for transportation facilities; amending s. 337.251, F.S.; authorizing a fixed guideway transportation system operating within the department's right-of-way to operate at any safe speed; amending s. 337.403, F.S.; authorizing the department to contract directly with utility companies for clearing and grubbing; amending s. 373.414, F.S.; requiring OPPAGA to conduct a study regarding wetland mitigation; amending s. 338.223, F.S.; defining the terms "hardship purchase" and "protective purchase"; amending s. 338.229, F.S.; restricting the sale, transfer, lease, or other disposition of operations on any portion of the turnpike system; amending s. 339.2816, F.S.; providing for the small county road assistance program; amending 339.08, F.S.; conforming to bill; amending s. 338.251, F.S.; providing that funds repaid by the Tampa-Hillsborough County Expressway Authority to the Toll Facilities Revolving Trust Fund are to be loaned back to the authority for specified purposes; amending s. 339.155, F.S.; providing planning factors; clarifying the roles of the long-range and short-range components of the Florida Transportation Plan; amending s. 339.175, F.S.; providing planning factors; requiring a recommendation for redesignation; clarifying geographic boundaries of metropolitan planning organizations; providing that metropolitan planning organization plans must provide for the development and operation of intermodal transportation systems and facilities; providing for reapportionment amending s. 341.041, F.S.; authorizing the creation and maintenance of a common self-retention insurance fund to support public transit projects; amending s. 341.302, F.S.; relating to Department of Transportation rail program; amending s. 373.4137, F.S.; providing for the mitigation of impacts to wetlands and other sensitive habitats; amending s. 479.01, F.S.; defining the terms "commercial or industrial zone" and "unzoned commercial or industrial area"; providing that communication towers are not commercial or industrial activities; amending s. 479.07, F.S.; modifying the process for reinstatement of an outdoor advertising sign permit; amending s. 479.16, F.S.; clarifying that certain signs not in excess of 16 square feet are exempt from the permitting process; amending s. 320.0715, F.S.; providing an exemption from the International Registration Plan; amending s. 334.035, F.S.; revising language with respect to the purpose of the Florida Transportation Code; amending s. 334.0445, F.S.; extending the current authorization for the department's model classification plan; amending s. 334.046, F.S.; revising Department of Transportation program objectives; creating s. 334.071, F.S.; providing for the legislative designation of transportation facilities; amending s. 337.025, F.S.; increasing the funds Department of Transportation may spend on innovative projects; amending s. 339.135, F.S.; providing for allocation of certain new highway funds; amending s. 341.053, F.S.; providing for development of an intermodal development plan; amending ss. 348.9401, 348.941, 348.942, and 348.943, F.S.; renaming the St. Lucie County Expressway Authority as the St. Lucie County Expressway and Bridge Authority and including the Indian River Lagoon Bridge as part of the expressway and bridge system; revising power of the authority to borrow money to conform to new provisions authorizing the issuance of certain bonds; amending s. 348.944, F.S.; authorizing the authority to issue its own bonds and providing requirements therefor; creating s. 348.9495, F.S.; providing exemption from taxation; amending s. 212.055, F.S.; providing flexibility in the charter county transit system surtax; amending s. 348.0004, F.S.; authorizing specified counties to abolish tolls if an offsetting source of local revenue is secured; authorizing MPO reapportionment for specified counties; amending s. 73.015, F.S.; requiring presuit negotiation before an action in eminent domain may be initiated under ch. 73 or ch. 74, F.S.; providing requirements for the condemning authority; requiring the condemning authority to give specified notices; requiring a written offer of purchase and appraisal and specifying the time period during which the owner may respond to the offer before a condemnation lawsuit may be filed; providing procedures; allowing a business owner to claim business damage within a specified time period; providing circumstances under which the court must strike a business-damage defense; providing procedures for business-damage claims; providing for nonbinding mediation; requiring the condemning authority to pay reasonable costs and attorney's fees of a property owner; allowing the property owner to file a complaint in circuit court to recover attorney's fees and costs, if the parties cannot agree on the amount; providing that certain evidence is inadmissible in specified proceedings; amending s. 73.071, F.S.; modifying eligibility requirements for business owners to claim business damages; providing for future repeal; amending s. 73.091, F.S.; providing that no prejudgment interest shall be paid on costs or attorney's fees in eminent domain; amending s. 73.092, F.S.; revising provisions relating to attorney's fees for business-damage claims; amending ss. 127.01 and 166.401, F.S.; restricting the exercise by counties and municipalities of specified eminent domain powers granted to the Department of Transportation; repealing ss. 337.27(2), 337.271, 348.0008(2), 348.759(2), 348.957(2), F.S., relating to limiting the acquisition cost of lands and property acquired through eminent domain proceedings by the Department of Transportation, the Orlando-Orange County Expressway Authority, or the Seminole County Expressway Authority, or under the Florida Expressway Authority Act, and relating to the notice that the Department of Transportation must give to a fee owner at the inception of negotiations to acquire land; amending s. 479.15, F.S.; prescribing duties and responsibilities of the Department of Transportation and local governments with respect to relocation of certain signs pursuant to acquisition of land; providing for application;

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

Amendment 1B (191642)(with title amendment)—On page 50, between lines 23 and 24, insert:

Section 57. Section 2 of Senate Bill 182, enacted in the 1999 Regular Session of the Legislature, is amended to read:

Section 2. This act shall take effect *July 1, 1999* ~~on the effective date of Senate Bill 178, relating to wireless emergency 911 telephone service, but it shall not take effect unless it is enacted by at least a three-fifths vote of the membership of each house of the Legislature~~.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 52, line 4, after the semicolon (;) insert: providing an effective date for Senate Bill 182, which creates the Wireless Emergency Telephone System Fund;

Amendment 1 as amended was adopted.

Pursuant to Rule 4.19, **HB 591** as amended was placed on the calendar of Bills on Third Reading.

Consideration of **CS for SB 2220** was deferred.

The Senate resumed consideration of—

CS for SB 228—A bill to be entitled An act relating to state finances; amending s. 186.022, F.S.; requiring each state agency annual performance report to include an assessment of performance measures approved by the Legislature and established in the General Appropriations Act or implementing legislation for the General Appropriations Act for the previous fiscal year and a summary of all moneys that were expended or encumbered by the agency, or for which the agency is otherwise responsible, during the preceding fiscal year and an estimate of such moneys for the current fiscal year; providing requirements for the reporting of such information; providing for a reduction in funding for failure to submit the required state agency annual performance report; amending s. 216.0235, F.S.; requiring instructions with respect to such information to be included in the performance-based legislative program budget instructions; requiring the Florida Financial Management Information System Coordinating Council to submit to the Governor and Legislature a report, with recommendations, relating to the reporting of such information; providing an effective date.

—which was previously considered and amended April 27. Pending **Amendment 2** by Senator Webster was withdrawn.

On motion by Senator Webster, further consideration of **CS for SB 228** as amended was deferred.

Consideration of **CS for SB 2296**, **CS for SB 2438**, **CS for SB 264** and **CS for SB 1564** was deferred.

On motion by Senator Lee—

CS for SB 1746—A bill to be entitled An act relating to sentencing; creating the "Three-Strike Violent Felony Offender Act"; amending s. 775.082, F.S.; redefining the term "prison releasee reoffender"; revising legislative intent; amending s. 775.084, F.S., relating to sentencing of habitual felony offenders, habitual violent felony offenders, and violent career criminals; redefining the terms "habitual felony offender" and "habitual violent felony offender"; revising the alternative time periods within which the habitual felony offender or habitual violent felony offender could have committed the felony to be sentenced; providing that the felony to be sentenced could have been committed either while the defendant was serving a prison sentence or other sentence, or within 5 years of the defendant's release from a prison sentence, probation, community control, or other sentence, under specified circumstances when the sentence was imposed as a result of a prior conviction for a felony, enumerated felony, or other qualified offense; removing certain references to "commitment" and otherwise conforming terminology; revising criteria for a prior conviction or a prior felony for purposes of sentencing as a habitual felony offender, habitual violent offender, or violent career criminal; providing that the placing of a person on probation without an adjudication of guilt shall be treated as a prior conviction regardless of when the subsequent offense was committed; removing certain requirements that, in order to be counted as a prior felony, the felony must have resulted in prior conviction sentenced separately from any other felony conviction counted as a prior felony; defining "three-time violent felony offender"; providing a category of enumerated felony offenses within the definition, including arson, sexual battery, robbery, kidnapping, aggravated child abuse, aggravated abuse of an elderly person or disabled adult, aggravated assault, murder, manslaughter, aggravated manslaughter of an elderly person or disabled adult, aggravated manslaughter of a child, unlawful throwing, placing, or discharging of a destructive device or bomb, armed burglary, aggravated battery, aggravated stalking, or certain qualified offenses; requiring the court to sentence a defendant as a three-time violent felony offender and impose certain mandatory minimum terms of imprisonment under specified circumstances when the defendant is to be sentenced for committing, or conspiring or attempting to commit, any of the enumerated felony offenses and the defendant has previously been convicted of committing, or conspiring or attempting to commit, any two of the enumerated felony offenses; providing penalties; providing procedures and criteria for court determination if the defendant is a three-time violent felony offender; providing for sentencing as a three-time violent felony offender; providing mandatory term of imprisonment for life when the three-time violent felony offense for which the defendant is to be sentenced is a felony punishable by life; providing mandatory prison term of 30 years when the three-time violent felony offense is a first-degree felony; providing mandatory prison term of 15 years when the three-time violent felony offense is a second-degree felony; providing mandatory prison term of 5 years when the three-time violent felony offense is a third-degree felony; providing for construction; deleting provisions relating to application of the Criminal Punishment Code; requiring a three-time violent felony offender to serve 100 percent of the court-imposed sentence; providing for ineligibility of a three-time violent felony offender for parole, control release, or early release; amending ss. 784.07 and 784.08, F.S.; providing minimum terms of imprisonment for persons convicted of aggravated assault or aggravated battery of a law enforcement officer or a person 65 years of age or older; amending s. 790.235, F.S., relating to prohibitions against, and penalties for, unlawful possession or other unlawful acts involving a firearm, an electric weapon or device, or a concealed weapon by a violent career criminal; conforming cross-references to changes made by the act; creating s. 794.0115, F.S.; defining "repeat sexual batterer"; providing within the definition a category of enumerated felony offenses in violation of s. 794.011, F.S., relating to sexual battery; requiring the court to sentence a defendant as a repeat sexual batterer and impose a 10-year mandatory minimum term of imprisonment under specified circumstances when the defendant is to be sentenced for committing, or conspiring or attempting to commit, any of the enumerated felony violations of s. 794.011, F.S., and the defendant has previously been convicted of committing, or conspiring or attempting to commit, any one of certain enumerated felony offenses involving sexual battery; providing penalties; providing procedures and criteria for court determination if the defendant is a repeat sexual batterer; providing for sentencing as a repeat sexual batterer; providing for construction; amending s. 794.011, F.S., to conform references to changes made by the act; amending s. 893.135, F.S.; redefining the offense of trafficking in cannabis; defining the term "cannabis plant"; providing mandatory minimum prison terms and mandatory fine amounts for trafficking in cannabis, cocaine, illegal drugs, phencyclidine, methaqualone, amphetamine, or flunitrazepam; providing for sentencing pursuant to the Criminal Punishment Code of offenders convicted of trafficking in specified quantities of cannabis; removing weight caps for various trafficking offenses; providing that an offender who is sentenced to a mandatory minimum term upon conviction of trafficking in specified quantities of cannabis, cocaine, illegal drugs, phencyclidine, methaqualone, amphetamine, or flunitrazepam is not eligible for gain time or certain discretionary early-release mechanisms prior to serving the mandatory minimum sentence; providing exceptions; providing penalties; reenacting s. 397.451(7), F.S., relating to the prohibition against dissemination of state funds to service providers convicted of certain offenses, s. 782.04(4)(a), F.S., relating to murder, s. 893.1351(1), F.S., relating to lease or rent for the purpose of trafficking in a controlled substance, s. 903.133, F.S., relating to the prohibition against bail on appeal for certain felony convictions, s. 907.041(4)(b), F.S., relating to pretrial detention and release, s. 921.0022(3)(g), (h), and (i), F.S., relating to the Criminal Punishment Code offense severity ranking chart, s. 921.0024(1)(b), F.S., relating to the Criminal Punishment Code worksheet computations and scoresheets, s. 921.142(2), F.S., relating to sentencing for capital drug trafficking felonies, s. 943.0585, F.S., relating to court-ordered expunction of criminal history records, and s. 943.059, F.S., relating to court-ordered sealing of criminal history records, to incorporate said amendment in references; amending s. 943.0535, F.S., relating to aliens and criminal records; requiring clerks of the courts to furnish criminal records to United States immigration officers; requiring state attorneys to assist clerks of the courts in determining which defendants are aliens; requiring the Governor to place public service announcements explaining the provisions of this act; providing an effective date.

—was read the second time by title.

An amendment was considered and failed and amendments were considered and adopted to conform **CS for SB 1746** to **CS for HB 121**.

Pending further consideration of **CS for SB 1746** as amended, on motion by Senator Lee, by two-thirds vote **CS for HB 121** was withdrawn from the Committees on Criminal Justice and Fiscal Policy.

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

CS for HB 121—A bill to be entitled An act relating to sentencing; creating the "Three-Strike Violent Felony Offender Act"; amending s. 775.082, F.S.; redefining the term "prison releasee reoffender"; revising legislative intent; amending s. 775.084, F.S., relating to sentencing of habitual felony offenders, habitual violent felony offenders, and violent career criminals; redefining the terms "habitual felony offender" and "habitual violent felony offender"; revising the alternative time periods within which the habitual felony offender or habitual violent felony offender could have committed the felony to be sentenced; providing that the felony to be sentenced could have been committed either while the defendant was serving a prison sentence or other sentence, or within 5 years of the defendant's release from a prison sentence, probation, community control, or other sentence, under specified circumstances when the sentence was imposed as a result of a prior conviction for a felony, enumerated felony, or other qualified offense; removing certain references to "commitment" and otherwise conforming terminology; providing that the placing of a person on probation without an adjudication of guilt shall be treated as a prior conviction regardless of when the subsequent offense was committed; removing certain requirements that, in order to be counted as a prior qualifying felony, for purposes of designation as an habitual felony offender, the felony must have resulted in a prior conviction sentenced separately from any other felony conviction counted as a prior felony; defining "three-time violent felony offender"; requiring conviction as an adult of a felony in at least 2 separate and distinct incidents and sentencing events; providing a category of enumerated felony offenses within the definition; requiring the court to sentence a defendant as a three-time violent felony offender and impose certain mandatory minimum terms of imprisonment under specified circumstances when the defendant is to be sentenced for committing or attempting to commit, any of the enumerated felony offenses and the defendant has previously been convicted of committing or attempting to commit, any two of the enumerated felony offenses; providing penalties; providing procedures and criteria for court determination if the defendant is a three-time violent felony offender; providing for sentencing as a three-time violent felony offender; providing mandatory term of imprisonment for life when the three-time violent felony offense for which the defendant is to be sentenced is a felony punishable by life; providing mandatory prison term of 30 years when the three-time violent felony offense is a first degree felony; providing mandatory prison term of 15 years when the three-time violent felony offense is a second degree felony; providing mandatory prison term of 5 years when the three-time violent felony offense is a third degree felony; providing for construction; providing that certain sentences imposed before July 1, 1999, are not subject to s. 921.002, F.S., relating to the Criminal Punishment Code; providing for ineligibility of a three-time violent felony offender for parole, control release, or early release; amending ss. 784.07 and 784.08, F.S.; providing minimum terms of imprisonment for persons convicted of aggravated assault or aggravated battery of a law enforcement officer or a person 65 years of age or older; amending s. 790.235, F.S., relating to prohibitions against, and penalties for, unlawful possession or other unlawful acts involving firearm, electric weapon or device, or concealed weapon by a violent career criminal; conforming cross references to changes made by the act; creating s. 794.0115, F.S.; defining "repeat sexual batterer"; providing within the definition a category of enumerated felony offenses in violation of s. 794.011, F.S., relating to sexual battery; requiring the court to sentence a defendant as a repeat sexual batterer and impose a 10-year mandatory minimum term of imprisonment under specified circumstances when the defendant is to be sentenced for committing or attempting to commit, any of the enumerated felony violations of s. 794.011, F.S., and the defendant has previously been convicted of committing or attempting to commit, any one of certain enumerated felony offenses involving sexual battery; providing penalties; providing procedures and criteria for court determination if the defendant is a repeat sexual batterer; providing for sentencing as a repeat sexual batterer; providing for construction; amending s. 794.011, F.S., to conform references to changes made by the act; amending s. 893.135, F.S.; redefining the offense of trafficking in cannabis to include unlawful sale, purchase, manufacture, delivery, bringing into the state, or possession of cannabis in excess of 25 pounds or 300 cannabis plants; providing mandatory minimum prison terms and mandatory fine amounts for trafficking in specified quantities of cannabis, cocaine, or illegal drugs; providing for sentencing pursuant to the Criminal Punishment Code of offenders convicted of trafficking in specified quantities of cannabis; providing penalties; reenacting s. 397.451(7), F.S., relating to the prohibition against dissemination of state funds to service providers convicted of certain offenses, s. 782.04(4)(a), F.S., relating to murder, s. 893.1351(1), F.S., relating to lease or rent for the purpose of trafficking in a controlled substance, s. 903.133, F.S., relating to the prohibition against bail on appeal for certain felony convictions, s. 907.041(4)(b), F.S., relating to pretrial detention and release, s. 921.0022(3)(g), (h), and (i), F.S., relating to the Criminal Punishment Code offense severity ranking chart, s. 921.0024(1)(b), F.S., relating to the Criminal Punishment Code worksheet computations and scoresheets, s. 921.142(2), F.S., relating to sentencing for capital drug trafficking felonies, s. 943.0585, F.S., relating to court-ordered expunction of criminal history records, and s. 943.059, F.S., relating to court-ordered sealing of criminal history records, to incorporate said amendment in references; amending s. 943.0535, F.S., relating to aliens and criminal records; requiring clerk of the courts to furnish criminal records to United States immigration officers; requiring state attorney to assist clerk of the courts in determining which defendants are aliens; requiring the Governor to place public service announcements explaining the provisions of this act; providing an effective date.

—a companion measure, was substituted for **CS for SB 1746** as amended and by two-thirds vote read the second time by title.

Senator Lee moved the following amendment:

Amendment 1 (592218)(with title amendment)—Delete everything after the enacting clause and insert:

Section 1. *This act may be cited as the "Three-Strike Violent Felony Offender Act."*

Section 2. Paragraphs (a) and (d) of subsection (9) of section 775.082, Florida Statutes, 1998 Supplement, are amended to read.

775.082 Penalties; applicability of sentencing structures; mandatory minimum sentences for certain reoffenders previously released from prison.—

(9)(a)1. "Prison releasee reoffender" means any defendant who commits, or attempts to commit:

a. Treason;

b. Murder;

c. Manslaughter;

d. Sexual battery;

e. Carjacking;

f. Home-invasion robbery;

g. Robbery;

h. Arson;

i. Kidnapping;

j. Aggravated assault *with a deadly weapon*;

k. Aggravated battery;

l. Aggravated stalking;

m. Aircraft piracy;

n. Unlawful throwing, placing, or discharging of a destructive device or bomb;

o. Any felony that involves the use or threat of physical force or violence against an individual;

p. Armed burglary;

q. Burglary of an occupied structure or dwelling; or

r. Any felony violation of s. 790.07, s. 800.04, s. 827.03, or s. 827.071;

within 3 years of being released from a state correctional facility operated by the Department of Corrections or a private vendor.

2. "Prison releasee reoffender" also means any defendant who commits or attempts to commit any offense listed in subparagraph (a)1.a.-r. while the defendant was serving a prison sentence or on escape status from a state correctional facility operated by the Department of Corrections or a private vendor.

3.~~2.~~ If the state attorney determines that a defendant is a prison releasee reoffender as defined in subparagraph 1., the state attorney may seek to have the court sentence the defendant as a prison releasee reoffender. Upon proof from the state attorney that establishes by a preponderance of the evidence that a defendant is a prison releasee reoffender as defined in this section, such defendant is not eligible for sentencing under the sentencing guidelines and must be sentenced as follows:

a. For a felony punishable by life, by a term of imprisonment for life;

b. For a felony of the first degree, by a term of imprisonment of 30 years;

c. For a felony of the second degree, by a term of imprisonment of 15 years; and

d. For a felony of the third degree, by a term of imprisonment of 5 years.

(d)1. It is the intent of the Legislature that offenders previously released from prison who meet the criteria in paragraph (a) be punished to the fullest extent of the law and as provided in this subsection, unless *the state attorney determines that* ~~any of the following circumstances exist:~~

~~a. The prosecuting attorney does not have sufficient evidence to prove the highest charge available;~~

~~b. The testimony of a material witness cannot be obtained;~~

~~c. The victim does not want the offender to receive the mandatory prison sentence and provides a written statement to that effect; or~~

~~d. other~~ extenuating circumstances exist which preclude the just prosecution of the offender, *including whether the victim recommends that the offender be sentenced as provided in this subsection.*

2. For every case in which the offender meets the criteria in paragraph (a) and does not receive the mandatory minimum prison sentence, the state attorney must explain the sentencing deviation in writing and place such explanation in the case file maintained by the state attorney. On a quarterly basis, each state attorney shall submit copies of deviation memoranda regarding offenses committed on or after the effective date of this subsection, to the president of the Florida Prosecuting Attorneys Association, Inc. The association must maintain such information, and make such information available to the public upon request, for at least a 10-year period.

Section 3. Section 775.084, Florida Statutes, 1998 Supplement, is amended to read:

775.084 Violent career criminals; habitual felony offenders and habitual violent felony offenders; *three-time violent felony offenders;* definitions; procedure; enhanced penalties *or mandatory minimum prison terms.*—

(1) As used in this act:

(a) "Habitual felony offender" means a defendant for whom the court may impose an extended term of imprisonment, as provided in paragraph (4)(a), if it finds that:

1. The defendant has previously been convicted of any combination of two or more felonies in this state or other qualified offenses.

2. The felony for which the defendant is to be sentenced was committed:

a. While the defendant was serving a prison sentence or other *sentence, or court-ordered or lawfully imposed supervision that is* ~~commitment~~ imposed as a result of a prior conviction for a felony or other qualified offense; or

b. Within 5 years of the date of the conviction of the defendant's last prior felony or other qualified offense, or within 5 years of the defendant's release from a prison sentence, *probation, community control, control release, conditional release, parole or court-ordered or lawfully imposed supervision* or other *sentence that is* ~~commitment~~ imposed as a result of a prior conviction for a felony or other qualified offense, whichever is later.

3. The felony for which the defendant is to be sentenced, and one of the two prior felony convictions, is not a violation of s. 893.13 relating to the purchase or the possession of a controlled substance.

4. The defendant has not received a pardon for any felony or other qualified offense that is necessary for the operation of this paragraph.

5. A conviction of a felony or other qualified offense necessary to the operation of this paragraph has not been set aside in any postconviction proceeding.

(b) "Habitual violent felony offender" means a defendant for whom the court may impose an extended term of imprisonment, as provided in paragraph (4)(b), if it finds that:

1. The defendant has previously been convicted of a felony or an attempt or conspiracy to commit a felony and one or more of such convictions was for:

a. Arson;

b. Sexual battery;

c. Robbery;

d. Kidnapping;

e. Aggravated child abuse;

f. Aggravated abuse of an elderly person or disabled adult;

g. Aggravated assault *with a deadly weapon*;

h. Murder;

i. Manslaughter;

j. Aggravated manslaughter of an elderly person or disabled adult;

k. Aggravated manslaughter of a child;

l. Unlawful throwing, placing, or discharging of a destructive device or bomb;

m. Armed burglary;

n. Aggravated battery; or

o. Aggravated stalking.

2. The felony for which the defendant is to be sentenced was committed:

a. While the defendant was serving a prison sentence or other *sentence, or court-ordered or lawfully imposed supervision that is* ~~commitment~~ imposed as a result of a prior conviction for an enumerated felony; or

b. Within 5 years of the date of the conviction of the last prior enumerated felony, or within 5 years of the defendant's release from a prison sentence, *probation, community control, control release, conditional release, parole, or court-ordered or lawfully imposed supervision* or other *sentence that is* ~~commitment~~ imposed as a result of a prior conviction for an enumerated felony, whichever is later.

3. The defendant has not received a pardon on the ground of innocence for any crime that is necessary for the operation of this paragraph.

4. A conviction of a crime necessary to the operation of this paragraph has not been set aside in any postconviction proceeding.

(c) "Three-time violent felony offender" means a defendant for whom the court must impose a mandatory minimum term of imprisonment, as provided in paragraph (4)(c), if it finds that:

1. The defendant has previously been convicted as an adult two or more times of a felony, or an attempt to commit a felony, and two or more of such convictions were for committing, or attempting to commit, any of the following offenses or combination therof:

a. Arson;

b. Sexual battery;

c. Robbery;

d. Kidnapping;

e. Aggravated child abuse;

f. Aggravated abuse of an elderly person or disabled adult;

g. Aggravated assault with a deadly weapon;

h. Murder;

i. Manslaughter;

j. Aggravated manslaughter of an elderly person or disabled adult;

k. Aggravated manslaughter of a child;

l. Unlawful throwing, placing, or discharging of a destructive device or bomb;

m. Armed burglary;

n. Aggravated battery;

o. Aggravated stalking;

p. Home invasion/robbery;

q. Carjacking; or

r. An offense which is in violation of a law of any other jurisdiction if the elements of the offense are substantially similar to the elements of any felony offense enumerated in sub-subparagraphs a.-q., or an attempt to commit any such felony offense.

2. The felony for which the defendant is to be sentenced is one of the felonies enumerated in sub-subparagraphs 1.a.-q. and was committed:

a. While the defendant was serving a prison sentence or other sentence imposed as a result of a prior conviction for any offense enumerated in sub-subparagraphs 1.a.-r.; or

b. Within 5 years after the date of the conviction of the last prior offense enumerated in sub-subparagraphs 1.a.-r., or within 5 years after the defendant's release from a prison sentence, probation, community control, or other sentence imposed as a result of a prior conviction for any offense enumerated in sub-subparagraphs 1.a.-r., whichever is later.

3. The defendant has not received a pardon on the ground of innocence for any crime that is necessary for the operation of this paragraph.

4. A conviction of a crime necessary to the operation of this paragraph has not been set aside in any postconviction proceeding.

(d)~~(c)~~ "Violent career criminal" means a defendant for whom the court must impose imprisonment pursuant to paragraph (4)*(d)*~~(c)~~, if it finds that:

1. The defendant has previously been convicted as an adult three or more times for an offense in this state or other qualified offense that is:

a. Any forcible felony, as described in s. 776.08;

b. Aggravated stalking, as described in s. 784.048(3) and (4);

c. Aggravated child abuse, as described in s. 827.03(2);

d. Aggravated abuse of an elderly person or disabled adult, as described in s. 825.102(2);

e. Lewd, lascivious, or indecent conduct, as described in s. 800.04;

f. Escape, as described in s. 944.40; or

g. A felony violation of chapter 790 involving the use or possession of a firearm.

2. The defendant has been incarcerated in a state prison or a federal prison.

3. The primary felony offense for which the defendant is to be sentenced is a felony enumerated in subparagraph 1. and was committed on or after October 1, 1995, and:

a. While the defendant was serving a prison sentence or other *sentence, or court-ordered or lawfully imposed supervision that is* ~~commitment~~ imposed as a result of a prior conviction for an enumerated felony; or

b. Within 5 years after the conviction of the last prior enumerated felony, or within 5 years after the defendant's release from a prison sentence, *probation, community control, control release, conditional release, parole, or court-ordered or lawfully imposed supervision* or other *sentence that is* ~~commitment~~ imposed as a result of a prior conviction for an enumerated felony, whichever is later.

4. The defendant has not received a pardon for any felony or other qualified offense that is necessary for the operation of this paragraph.

5. A conviction of a felony or other qualified offense necessary to the operation of this paragraph has not been set aside in any postconviction proceeding.

(e)~~(d)~~ "Qualified offense" means any offense, substantially similar in elements and penalties to an offense in this state, which is in violation of a law of any other jurisdiction, whether that of another state, the District of Columbia, the United States or any possession or territory thereof, or any foreign jurisdiction, that was punishable under the law of such jurisdiction at the time of its commission by the defendant by death or imprisonment exceeding 1 year.

(2) For the purposes of this section, the placing of a person on probation or community control without an adjudication of guilt shall be treated as a prior conviction ~~if the subsequent offense for which the person is to be sentenced was committed during such period of probation or community control~~.

(3)(a) In a separate proceeding, the court shall determine if the defendant is a habitual felony offender or a habitual violent felony offender. The procedure shall be as follows:

1. The court shall obtain and consider a presentence investigation prior to the imposition of a sentence as a habitual felony offender or a habitual violent felony offender.

2. Written notice shall be served on the defendant and the defendant's attorney a sufficient time prior to the entry of a plea or prior to the imposition of sentence in order to allow the preparation of a submission on behalf of the defendant.

3. Except as provided in subparagraph 1., all evidence presented shall be presented in open court with full rights of confrontation, cross-examination, and representation by counsel.

4. Each of the findings required as the basis for such sentence shall be found to exist by a preponderance of the evidence and shall be appealable to the extent normally applicable to similar findings.

5. For the purpose of identification of a habitual felony offender or a habitual violent felony offender, the court shall fingerprint the defendant pursuant to s. 921.241.

6. For an offense committed on or after October 1, 1995, if the state attorney pursues a habitual felony offender sanction or a habitual violent felony offender sanction against the defendant and the court, in a separate proceeding pursuant to this paragraph, determines that the defendant meets the criteria under subsection (1) for imposing such sanction, the court must sentence the defendant as a habitual felony offender or a habitual violent felony offender, subject to imprisonment pursuant to this section unless the court finds that such sentence is not necessary for the protection of the public. If the court finds that it is not necessary for the protection of the public to sentence the defendant as a habitual felony offender or a habitual violent felony offender, the court shall provide written reasons; a written transcript of orally stated reasons is permissible, if filed by the court within 7 days after the date of sentencing. Each month, the court shall submit to the Office of Economic and Demographic Research of the Legislature the written reasons or transcripts in each case in which the court determines not to sentence a defendant as a habitual felony offender or a habitual violent felony offender as provided in this subparagraph.

(b) In a separate proceeding, the court shall determine if the defendant is a three-time violent felony offender. The procedure shall be as follows:

1. The court shall obtain and consider a presentence investigation prior to the imposition of a sentence as a three-time violent felony offender.

2. Written notice shall be served on the defendant and the defendant's attorney a sufficient time prior to the entry of a plea or prior to the imposition of sentence in order to allow the preparation of a submission on behalf of the defendant.

3. Except as provided in subparagraph 1., all evidence presented shall be presented in open court with full rights of confrontation, cross-examination, and representation by counsel.

4. Each of the findings required as the basis for such sentence shall be found to exist by a preponderance of the evidence and shall be appealable to the extent normally applicable to similar findings.

5. For the purpose of identification of a three-time violent felony offender, the court shall fingerprint the defendant pursuant to s. 921.241.

6. For an offense committed on or after the effective date of this act, if the state attorney pursues a three-time violent felony offender sanction against the defendant and the court, in a separate proceeding pursuant to this paragraph, determines that the defendant meets the criteria under subsection (1) for imposing such sanction, the court must sentence the defendant as a three-time violent felony offender, subject to imprisonment pursuant to this section as provided in paragraph (4)(c).

(c)~~(b)~~ In a separate proceeding, the court shall determine whether the defendant is a violent career criminal with respect to a primary offense committed on or after October 1, 1995. The procedure shall be as follows:

1. Written notice shall be served on the defendant and the defendant's attorney a sufficient time prior to the entry of a plea or prior to the imposition of sentence in order to allow the preparation of a submission on behalf of the defendant.

2. All evidence presented shall be presented in open court with full rights of confrontation, cross-examination, and representation by counsel.

3. Each of the findings required as the basis for such sentence shall be found to exist by a preponderance of the evidence and shall be appealable only as provided in paragraph *(d)*~~(c)~~.

4. For the purpose of identification, the court shall fingerprint the defendant pursuant to s. 921.241.

5. For an offense committed on or after October 1, 1995, if the state attorney pursues a violent career criminal sanction against the defendant and the court, in a separate proceeding pursuant to this paragraph, determines that the defendant meets the criteria under subsection (1) for imposing such sanction, the court must sentence the defendant as a violent career criminal, subject to imprisonment pursuant to this section unless the court finds that such sentence is not necessary for the protection of the public. If the court finds that it is not necessary for the protection of the public to sentence the defendant as a violent career criminal, the court shall provide written reasons; a written transcript of orally stated reasons is permissible, if filed by the court within 7 days after the date of sentencing. Each month, the court shall submit to the Office of Economic and Demographic Research of the Legislature the written reasons or transcripts in each case in which the court determines not to sentence a defendant as a violent career criminal as provided in this subparagraph.

(d)~~(c)~~1. A person sentenced under paragraph (4)*(d)*~~(c)~~ as a violent career criminal has the right of direct appeal, and either the state or the defendant may petition the trial court to vacate an illegal sentence at any time. However, the determination of the trial court to impose or not to impose a violent career criminal sentence is presumed appropriate and no petition or motion for collateral or other postconviction relief may be considered based on an allegation either by the state or the defendant that such sentence is inappropriate, inadequate, or excessive.

2. It is the intent of the Legislature that, with respect to both direct appeal and collateral review of violent career criminal sentences, all claims of error or illegality be raised at the first opportunity and that no claim should be filed more than 2 years after the judgment and sentence became final, unless it is established that the basis for the claim could not have been ascertained at the time by the exercise of due diligence. Technical violations and mistakes at trials and sentencing proceedings involving violent career criminals that do not affect due process or fundamental fairness are not appealable by either the state or the defendant.

3. It is the intent of the Legislature that no funds, resources, or employees of the state or its political subdivisions be used, directly or indirectly, in appellate or collateral proceedings based on violent career criminal sentencing, except when such use is constitutionally or statutorily mandated.

(4)(a) The court, in conformity with the procedure established in paragraph (3)(a), may sentence the habitual felony offender as follows:

1. In the case of a life felony or a felony of the first degree, for life.

2. In the case of a felony of the second degree, for a term of years not exceeding 30.

3. In the case of a felony of the third degree, for a term of years not exceeding 10.

(b) The court, in conformity with the procedure established in paragraph (3)(a), may sentence the habitual violent felony offender as follows:

1. In the case of a life felony or a felony of the first degree, for life, and such offender shall not be eligible for release for 15 years.

2. In the case of a felony of the second degree, for a term of years not exceeding 30, and such offender shall not be eligible for release for 10 years.

3. In the case of a felony of the third degree, for a term of years not exceeding 10, and such offender shall not be eligible for release for 5 years.

(c)1. The court, in conformity with the procedure established in paragraph (3)(c), must sentence the three-time violent felony offender to a mandatory minimum term of imprisonment, as follows:

a. In the case of a felony punishable by life, to a term of imprisonment for life;

b. In the case of a felony of the first degree, to a term of imprisonment of 30 years;

c. In the case of a felony of the second degree, to a term of imprisonment of 15 years; or

d. In the case of a felony of the third degree, to a term of imprisonment of 5 years.

2. Nothing in this subsection shall prevent a court from imposing a greater sentence of incarceration as authorized by law.

(d)~~(c)~~ The court, in conformity with the procedure established in paragraph (3)*(c)*~~(b)~~, shall sentence the violent career criminal as follows:

1. In the case of a life felony or a felony of the first degree, for life.

2. In the case of a felony of the second degree, for a term of years not exceeding 40, with a mandatory minimum term of 30 years' imprisonment.

3. In the case of a felony of the third degree, for a term of years not exceeding 15, with a mandatory minimum term of 10 years' imprisonment.

(e)~~(d)~~ If the court finds, pursuant to paragraph (3)(a) or paragraph (3)*(c)*~~(b)~~, that it is not necessary for the protection of the public to sentence a defendant who meets the criteria for sentencing as a habitual felony offender, a habitual violent felony offender, or a violent career criminal, with respect to an offense committed on or after October 1, 1995, sentence shall be imposed without regard to this section.

(f)~~(e)~~ At any time when it appears to the court that the defendant is eligible for sentencing under this section, the court shall make that determination as provided in paragraph (3)(a), ~~or~~ paragraph (3)(b), *or paragraph (3)(c)*.

(g)~~(f)~~ A sentence imposed under this section shall not be increased after such imposition.

(h)~~(g)~~ A sentence imposed under this section is not subject to s. 921.002.

(i)~~(h)~~ The provisions of this section do not apply to capital felonies, and a sentence authorized under this section does not preclude the imposition of the death penalty for a capital felony.

(j)~~(i)~~ The provisions of s. 947.1405 shall apply to persons sentenced as habitual felony offenders and persons sentenced as habitual violent felony offenders.

(k)~~(j)~~1. A defendant sentenced under this section as a habitual felony offender, a habitual violent felony offender, or a violent career criminal is eligible for gain-time granted by the Department of Corrections as provided in s. 944.275(4)(b).

2. For an offense committed on or after October 1, 1995, a defendant sentenced under this section as a violent career criminal is not eligible for any form of discretionary early release, other than pardon or executive clemency, or conditional medical release granted pursuant to s. 947.149.

3. For an offense committed on or after July 1, 1999, a defendant sentenced under this section as a three-time violent felony offender shall be released only be expiration of sentence and shall not be eligible for parole, control release, or any form of early release. Any person sentenced as a three-time violent felony offender must serve 100 percent of the court-imposed sentence.

(5) In order to be counted as a prior felony for purposes of sentencing under this section, the felony must have resulted in a conviction sentenced separately prior to the current offense and sentenced separately from any other felony conviction that is to be counted as a prior felony.

(6) The purpose of this section is to provide uniform punishment for those crimes made punishable under this section, and to this end, a reference to this section constitutes a general reference under the doctrine of incorporation by reference.

Section 4. Paragraphs (c) and (d) of subsection (2) of section 784.07, Florida Statutes, 1998 Supplement, are amended to read:

784.07 Assault or battery of law enforcement officers, firefighters, emergency medical care providers, public transit employees or agents, or other specified officers; reclassification of offenses; minimum sentences.—

(2) Whenever any person is charged with knowingly committing an assault or battery upon a law enforcement officer, a firefighter, an emergency medical care provider, a traffic accident investigation officer as described in s. 316.640, a traffic infraction enforcement officer as described in s. 318.141, a parking enforcement specialist as defined in s. 316.640, or a security officer employed by the board of trustees of a community college, while the officer, firefighter, emergency medical care provider, intake officer, traffic accident investigation officer, traffic infraction enforcement officer, parking enforcement specialist, public transit employee or agent, or security officer is engaged in the lawful performance of his or her duties, the offense for which the person is charged shall be reclassified as follows:

(c) In the case of aggravated assault, from a felony of the third degree to a felony of the second degree. *Notwithstanding any other provision of law, any person convicted of aggravated assault upon a law enforcement officer shall be sentenced to a minimum term of imprisonment of 3 years.*

(d) In the case of aggravated battery, from a felony of the second degree to a felony of the first degree. *Notwithstanding any other provision of law, any person convicted of aggravated battery of a law enforcement officer shall be sentenced to a minimum term of imprisonment of 5 years.*

Section 5. Subsection (1) of section 784.08, Florida Statutes, is amended to read:

784.08 Assault or battery on persons 65 years of age or older; reclassification of offenses; minimum sentence.—

(1) A person who is convicted of an aggravated assault or aggravated battery upon a person 65 years of age or older shall be sentenced *to a minimum term of imprisonment of 3 years* ~~pursuant to the Criminal Punishment Code~~ and fined not more than $10,000 and shall also be ordered by the sentencing judge to make restitution to the victim of such offense and to perform up to 500 hours of community service work. Restitution and community service work shall be in addition to any fine or sentence which may be imposed and shall not be in lieu thereof.

Section 6. Section 790.235, Florida Statutes, is amended to read:

790.235 Possession of firearm by violent career criminal unlawful; penalty.—

(1) Any person who meets the violent career criminal criteria under s. 775.084(1)*(d)*~~(c)~~, regardless of whether such person is or has previously been sentenced as a violent career criminal, who owns or has in his or her care, custody, possession, or control any firearm or electric weapon or device, or carries a concealed weapon, including a tear gas gun or chemical weapon or device, commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A person convicted of a violation of this section shall be sentenced to a mandatory minimum of 15 years' imprisonment; however, if the person would be sentenced to a longer term of imprisonment under s. 775.084(4)*(d)*~~(c)~~, the person must be sentenced under that provision. A person convicted of a violation of this section is not eligible for any form of discretionary early release, other than pardon, executive clemency, or conditional medical release under s. 947.149.

(2) For purposes of this section, the previous felony convictions necessary to meet the violent career criminal criteria under s. 775.084(1)*(d)*~~(c)~~ may be convictions for felonies committed as an adult or adjudications of delinquency for felonies committed as a juvenile. In order to be counted as a prior felony for purposes of this section, the felony must have resulted in a conviction sentenced separately, or an adjudication of delinquency entered separately, prior to the current offense, and sentenced or adjudicated separately from any other felony that is to be counted as a prior felony.

(3) This section shall not apply to a person whose civil rights and firearm authority have been restored.

Section 7. Section 794.0115, Florida Statutes, is created to read:

794.0115 Repeat sexual batterers; definition; procedure; enhanced penalties.—

(1) As used in this act, "repeat sexual batterer" means a defendant for whom the court must impose a mandatory minimum term of imprisonment, as provided in subsection (3), if it finds that:

(a) The defendant has previously been convicted of a felony or an attempt or conspiracy to commit a felony and one or more of such convictions was for:

1. Any felony offense in violation of s. 794.011(2)(b), (3), (4), or (5), or an attempt or conspiracy to commit the felony offense.

2. A qualified offense as defined in s. 775.084(1)(e), if the elements of the qualified offense are substantially similar to the elements of a felony offense in violation of s. 794.011(2)(b), (3), (4), or (5), or an attempt or conspiracy to commit the felony offense.

(b) The felony for which the defendant is to be sentenced is one of the felonies enumerated in subparagraph (a)1. or 2. and was committed:

1. While the defendant was serving a prison sentence or other sentence imposed as a result of a prior conviction for any offense enumerated in subparagraph (a)1. or 2.; or

2. Within 10 years after the date of the conviction of the last prior offense enumerated in subparagraph (a)1. or 2., or within 10 years after the defendant's release from a prison sentence, probation, community control, or other sentence imposed as a result of a prior conviction for any offense enumerated in subparagraph (a)1. or 2., whichever is later.

(c) The defendant has not received a pardon on the ground of innocence for any crime that is necessary for the operation of this subsection.

(d) A conviction of a crime necessary to the operation of this subsection has not been set aside in any postconviction proceeding.

(2) In a separate proceeding, the court shall determine if the defendant is a repeat sexual batterer. The procedure shall be as follows:

(a) The court shall obtain and consider a presentence investigation prior to the imposition of a sentence as a repeat sexual batterer.

(b) Written notice shall be served on the defendant and the defendant's attorney a sufficient time prior to the entry of a plea or prior to the imposition of sentence in order to allow the preparation of a submission on behalf of the defendant.

(c) Except as provided in paragraph (a), all evidence presented shall be presented in open court with full rights of confrontation, cross-examination, and representation by counsel.

(d) Each of the findings required as the basis for such sentence shall be found to exist by a preponderance of the evidence and shall be appealable to the extent normally applicable to similar findings.

(e) For the purpose of identification of a repeat sexual batterer, the court shall fingerprint the defendant pursuant to s. 921.241.

(f) For an offense committed on or after the effective date of this act, if the state attorney pursues a repeat sexual batterer sanction against the defendant and the court, in a separate proceeding pursuant to this subsection, determines that the defendant meets the criteria under subsection (1) for imposing such sanction, the court must sentence the defendant as a repeat sexual batterer, subject to imprisonment pursuant to this section as provided in subsection (3).

(3)(a) The court, in conformity with the procedure established in subsection (2), must sentence the repeat sexual batterer to a mandatory minimum term of 10 years' imprisonment.

(b) Nothing in this subsection shall prevent a court from imposing a greater sentence of incarceration as authorized by law.

Section 8. Section 794.011, Florida Statutes, is amended to read:

794.011 Sexual battery.—

(1) As used in this chapter:

(a) "Consent" means intelligent, knowing, and voluntary consent and does not include coerced submission. "Consent" shall not be deemed or construed to mean the failure by the alleged victim to offer physical resistance to the offender.

(b) "Mentally defective" means a mental disease or defect which renders a person temporarily or permanently incapable of appraising the nature of his or her conduct.

(c) "Mentally incapacitated" means temporarily incapable of appraising or controlling a person's own conduct due to the influence of a narcotic, anesthetic, or intoxicating substance administered without his or her consent or due to any other act committed upon that person without his or her consent.

(d) "Offender" means a person accused of a sexual offense in violation of a provision of this chapter.

(e) "Physically helpless" means unconscious, asleep, or for any other reason physically unable to communicate unwillingness to an act.

(f) "Retaliation" includes, but is not limited to, threats of future physical punishment, kidnapping, false imprisonment or forcible confinement, or extortion.

(g) "Serious personal injury" means great bodily harm or pain, permanent disability, or permanent disfigurement.

(h) "Sexual battery" means oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, sexual battery does not include an act done for a bona fide medical purpose.

(i) "Victim" means a person who has been the object of a sexual offense.

(j) "Physically incapacitated" means bodily impaired or handicapped and substantially limited in ability to resist or flee.

(2)(a) A person 18 years of age or older who commits sexual battery upon, or in an attempt to commit sexual battery injures the sexual organs of, a person less than 12 years of age commits a capital felony, punishable as provided in ss. 775.082 and 921.141.

(b) A person less than 18 years of age who commits sexual battery upon, or in an attempt to commit sexual battery injures the sexual organs of, a person less than 12 years of age commits a life felony, punishable as provided in s. 775.082, s. 775.083, ~~or~~ s. 775.084, *or s. 794.0115*.

(3) A person who commits sexual battery upon a person 12 years of age or older, without that person's consent, and in the process thereof uses or threatens to use a deadly weapon or uses actual physical force likely to cause serious personal injury commits a life felony, punishable as provided in s. 775.082, s. 775.083, ~~or~~ s. 775.084, *or s. 794.0115*.

(4) A person who commits sexual battery upon a person 12 years of age or older without that person's consent, under any of the following circumstances, commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, ~~or~~ s. 775.084, *or s. 794.0115*:

(a) When the victim is physically helpless to resist.

(b) When the offender coerces the victim to submit by threatening to use force or violence likely to cause serious personal injury on the victim, and the victim reasonably believes that the offender has the present ability to execute the threat.

(c) When the offender coerces the victim to submit by threatening to retaliate against the victim, or any other person, and the victim reasonably believes that the offender has the ability to execute the threat in the future.

(d) When the offender, without the prior knowledge or consent of the victim, administers or has knowledge of someone else administering to the victim any narcotic, anesthetic, or other intoxicating substance which mentally or physically incapacitates the victim.

(e) When the victim is mentally defective and the offender has reason to believe this or has actual knowledge of this fact.

(f) When the victim is physically incapacitated.

(g) When the offender is a law enforcement officer, correctional officer, or correctional probation officer as defined by s. 943.10(1), (2), (3), (6), (7), (8), or (9), who is certified under the provisions of s. 943.1395 or is an elected official exempt from such certification by virtue of s. 943.253, or any other person in a position of control or authority in a probation, community control, controlled release, detention, custodial, or similar setting, and such officer, official, or person is acting in such a manner as to lead the victim to reasonably believe that the offender

is in a position of control or authority as an agent or employee of government.

(5) A person who commits sexual battery upon a person 12 years of age or older, without that person's consent, and in the process thereof does not use physical force and violence likely to cause serious personal injury commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, ~~or~~ s. 775.084*, or s. 794.0115*.

(6) The offense described in subsection (5) is included in any sexual battery offense charged under subsection (3) or subsection (4).

(7) A person who is convicted of committing a sexual battery on or after October 1, 1992, is not eligible for basic gain-time under s. 944.275. This subsection may be cited as the "Junny Rios-Martinez, Jr. Act of 1992."

(8) Without regard to the willingness or consent of the victim, which is not a defense to prosecution under this subsection, a person who is in a position of familial or custodial authority to a person less than 18 years of age and who:

(a) Solicits that person to engage in any act which would constitute sexual battery under paragraph (1)(h) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Engages in any act with that person while the person is 12 years of age or older but less than 18 years of age which constitutes sexual battery under paragraph (1)(h) commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Engages in any act with that person while the person is less than 12 years of age which constitutes sexual battery under paragraph (1)(h), or in an attempt to commit sexual battery injures the sexual organs of such person commits a capital or life felony, punishable pursuant to subsection (2).

(9) For prosecution under paragraph (4)(g), acquiescence to a person reasonably believed by the victim to be in a position of authority or control does not constitute consent, and it is not a defense that the perpetrator was not actually in a position of control or authority if the circumstances were such as to lead the victim to reasonably believe that the person was in such a position.

(10) Any person who falsely accuses any person listed in paragraph (4)(g) or other person in a position of control or authority as an agent or employee of government of violating paragraph (4)(g) is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 9. Section 893.135, Florida Statutes, as amended by section 23 of chapter 97-194, Laws of Florida, is amended to read:

893.135 Trafficking; mandatory sentences; suspension or reduction of sentences; conspiracy to engage in trafficking.—

(1) Except as authorized in this chapter or in chapter 499 and notwithstanding the provisions of s. 893.13:

(a) Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, in excess of *25* ~~50~~ pounds of cannabis, *or 300 or more cannabis plants,* commits a felony of the first degree, which felony shall be known as "trafficking in cannabis." If the quantity of cannabis involved:

1. Is in excess of *25* ~~50~~ pounds, but less than 2,000 pounds, *or is 300 or more cannabis plants, but not more than 2,000 cannabis plants,* such person shall be sentenced pursuant to the Criminal Punishment Code and *such sentence shall include a mandatory minimum term of imprisonment of 3 years, and the defendant shall be ordered to* pay a fine of $25,000.

2. Is 2,000 pounds or more, but less than 10,000 pounds, *or is 2,000 or more cannabis plants, but not more than 10,000 cannabis plants,* such person shall be sentenced pursuant to the Criminal Punishment Code and *such sentence shall include a mandatory minimum term of imprisonment of 7 years, and the defendant shall be ordered to* pay a fine of $50,000.

3. Is 10,000 pounds or more, *or is 10,000 or more cannabis plants,* such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of $200,000.

For the purpose of this paragraph, a plant, including, but not limited to, a seedling or cutting, is a "cannabis plant" if it has some readily observable evidence of root formation, such as root hairs. To determine if a piece or part of a cannabis plant severed from the cannabis plant is itself a cannabis plant, the severed piece or part must have some readily observable evidence of root formation, such as root hairs. Callous tissue is not readily observable evidence of root formation. The viability and sex of a plant and the fact that the plant may or may not be a dead harvested plant are not relevant in determining if the plant is a "cannabis plant" or in the charging of an offense under this paragraph. Upon conviction, the court shall impose the longest term of imprisonment provided for in this paragraph.

(b)1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 28 grams or more of cocaine, as described in s. 893.03(2)(a)4., or of any mixture containing cocaine, but less than 150 kilograms of cocaine or any such mixture, commits a felony of the first degree, which felony shall be known as "trafficking in cocaine." If the quantity involved:

a. Is 28 grams or more, but less than 200 grams, such person shall be sentenced pursuant to the Criminal Punishment Code *and such sentence shall include a mandatory minimum term of imprisonment of 3 years,* and *the defendant shall be ordered to* pay a fine of $50,000.

b. Is 200 grams or more, but less than 400 grams, such person shall be sentenced pursuant to the Criminal Punishment Code and *such sentence shall include a mandatory minimum term of imprisonment of 7 years, and the defendant shall be ordered to* pay a fine of $100,000.

c. Is 400 grams or more, but less than 150 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of $250,000.

2. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 150 kilograms or more~~, but less than 300 kilograms,~~ of cocaine, as described in s. 893.03(2)(a)4., commits the first degree felony of trafficking in cocaine. A person who has been convicted of the first degree felony of trafficking in cocaine under this subparagraph shall be punished by life imprisonment and is *not eligible for any form of gain time under s. 944.275 or* ~~ineligible for~~ any form of discretionary early release except pardon or executive clemency or conditional medical release under s. 947.149. However, if the court determines that, in addition to committing any act specified in this paragraph:

a. The person intentionally killed an individual or counseled, commanded, induced, procured, or caused the intentional killing of an individual and such killing was the result; or

b. The person's conduct in committing that act led to a natural, though not inevitable, lethal result,

such person commits the capital felony of trafficking in cocaine, punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

3. Any person who knowingly brings into this state 300 kilograms or more of cocaine, as described in s. 893.03(2)(a)4., and who knows that the probable result of such importation would be the death of any person, commits capital importation of cocaine, a capital felony punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

(c)1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 4 grams or more of any morphine, opium, oxycodone, hydrocodone, hydromorphone, or any salt, derivative, isomer, or salt of an isomer thereof, including heroin, as described in s. 893.03(1)(b) or (2)(a), or 4 grams or more of any mixture containing any such substance, but less than 30 kilograms of such substance or mixture, commits a felony of the first degree, which felony shall be known as "trafficking in illegal drugs." If the quantity involved:

a. Is 4 grams or more, but less than 14 grams, such person shall be sentenced pursuant to the Criminal Punishment Code *and such sentence*

shall include a mandatory minimum term of imprisonment of 3 years, and *the defendant shall be ordered to* pay a fine of $50,000.

b. Is 14 grams or more, but less than 28 grams, such person shall be sentenced pursuant to the Criminal Punishment Code *and such sentence shall include a mandatory minimum term of imprisonment of 15 years,* and *the defendant shall be ordered to* pay a fine of $100,000.

c. Is 28 grams or more, but less than 30 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 25 calendar years and pay a fine of $500,000.

2. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 30 kilograms or more~~, but less than 60 kilograms,~~ of any morphine, opium, oxycodone, hydrocodone, hydromorphone, or any salt, derivative, isomer, or salt of an isomer thereof, including heroin, as described in s. 893.03(1)(b) or (2)(a), or 30 kilograms or more~~, but less than 60 kilograms,~~ of any mixture containing any such substance, commits the first degree felony of trafficking in illegal drugs. A person who has been convicted of the first degree felony of trafficking in illegal drugs under this subparagraph shall be punished by life imprisonment and is *not eligible for any form of gain time under s. 944.275 or* ~~ineligible for~~ any form of discretionary early release except pardon or executive clemency or conditional medical release under s. 947.149. However, if the court determines that, in addition to committing any act specified in this paragraph:

a. The person intentionally killed an individual or counseled, commanded, induced, procured, or caused the intentional killing of an individual and such killing was the result; or

b. The person's conduct in committing that act led to a natural, though not inevitable, lethal result,

such person commits the capital felony of trafficking in illegal drugs, punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

3. Any person who knowingly brings into this state 60 kilograms or more of any morphine, opium, oxycodone, hydrocodone, hydromorphone, or any salt, derivative, isomer, or salt of an isomer thereof, including heroin, as described in s. 893.03(1)(b) or (2)(a), or 60 kilograms or more of any mixture containing any such substance, and who knows that the probable result of such importation would be the death of any person, commits capital importation of illegal drugs, a capital felony punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

(d)1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 28 grams or more of phencyclidine or of any mixture containing phencyclidine, as described in s. 893.03(2)(b), commits a felony of the first degree, which felony shall be known as "trafficking in phencyclidine." If the quantity involved:

a. Is 28 grams or more, but less than 200 grams, such person shall be sentenced pursuant to the Criminal Punishment Code and *such sentence shall include a mandatory minimum term of imprisonment of 3 years, and the defendant shall be ordered to* pay a fine of $50,000.

b. Is 200 grams or more, but less than 400 grams, such person shall be sentenced pursuant to the Criminal Punishment Code and *such sentence shall include a mandatory minimum term of imprisonment of 7 years, and the defendant shall be ordered to* pay a fine of $100,000.

c. Is 400 grams or more~~, but less than 800 grams~~, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of $250,000.

2. Any person who knowingly brings into this state 800 grams or more of phencyclidine or of any mixture containing phencyclidine, as described in s. 893.03(2)(b), and who knows that the probable result of such importation would be the death of any person commits capital importation of phencyclidine, a capital felony punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

(e)1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 200 grams or more of methaqualone or of any mixture containing methaqualone, as described in s. 893.03(1)(d), commits a felony of the first degree, which felony shall be known as "trafficking in methaqualone." If the quantity involved:

a. Is 200 grams or more, but less than 5 kilograms, such person shall be sentenced pursuant to the Criminal Punishment Code and *such sentence shall include a mandatory minimum term of imprisonment of 3 years, and the defendant shall be ordered to* pay a fine of $50,000.

b. Is 5 kilograms or more, but less than 25 kilograms, such person shall be sentenced pursuant to the Criminal Punishment Code and *such sentence shall include a mandatory minimum term of imprisonment of 7 years, and the defendant shall be ordered to* pay a fine of $100,000.

c. Is 25 kilograms or more~~, but less than 50 kilograms~~, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of $250,000.

2. Any person who knowingly brings into this state 50 kilograms or more of methaqualone or of any mixture containing methaqualone, as described in s. 893.03(1)(d), and who knows that the probable result of such importation would be the death of any person commits capital importation of methaqualone, a capital felony punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

(f)1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 14 grams or more of amphetamine, as described in s. 893.03(2)(c)2., or methamphetamine, as described in s. 893.03(2)(c)4., or of any mixture containing amphetamine or methamphetamine, or phenylacetone, phenylacetic acid, or ephedrine in conjunction with other chemicals and equipment utilized in the manufacture of amphetamine or methamphetamine, commits a felony of the first degree, which felony shall be known as "trafficking in amphetamine." If the quantity involved:

a. Is 14 grams or more, but less than 28 grams, such person shall be sentenced pursuant to the Criminal Punishment Code and *such sentence shall include a mandatory minimum term of imprisonment of 3 years, and the defendant shall be ordered to* pay a fine of $50,000.

b. Is 28 grams or more, but less than 200 grams, such person shall be sentenced pursuant to the Criminal Punishment Code and *such sentence shall include a mandatory minimum term of imprisonment of 7 years and the defendant shall be ordered to* pay a fine of $100,000.

c. Is 200 grams or more~~, but less than 400 grams~~, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of $250,000.

2. Any person who knowingly brings into this state 400 grams or more of amphetamine, as described in s. 893.03(2)(c)2., or methamphetamine, as described in s. 893.03(2)(c)4., or of any mixture containing amphetamine or methamphetamine, or phenylacetone, phenylacetic acid, or ephedrine in conjunction with other chemicals and equipment utilized in the manufacture of amphetamine or methamphetamine, and who knows that the probable result of such importation would be the death of any person commits capital importation of amphetamine, a capital felony punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

(g)1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 4 grams or more of flunitrazepam or any mixture containing flunitrazepam as described in s. 893.03(1)(a) commits a felony of the first degree, which felony shall be known as "trafficking in flunitrazepam." If the quantity involved:

a. Is 4 grams or more but less than 14 grams, such person shall be sentenced pursuant to the *Criminal Punishment Code and such sentence shall include a mandatory minimum term of imprisonment of 3 years and the defendant shall be ordered to* ~~sentencing guidelines and~~ pay a fine of $50,000.

b. Is 14 grams or more but less than 28 grams, such person shall be sentenced pursuant to the *Criminal Punishment Code and such sentence shall include a mandatory minimum term of imprisonment of 7 years, and the defendant shall be ordered to* ~~sentencing guidelines and~~ pay a fine of $100,000.

c. Is 28 grams or more but less than 30 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 25 calendar years and pay a fine of $500,000.

2. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state or who is knowingly in actual or constructive possession of 30 kilograms or more of flunitrazepam or any mixture containing flunitrazepam as described in s. 893.03(1)(a) commits the first degree felony of trafficking in flunitrazepam. A person who has been convicted of the first degree felony of trafficking in flunitrazepam under this subparagraph shall be punished by life imprisonment and is *not eligible for any form of gain time under s. 944.275 or* ~~ineligible for~~ any form of discretionary early release except pardon or executive clemency or conditional medical release under s. 947.149. However, if the court determines that, in addition to committing any act specified in this paragraph:

a. The person intentionally killed an individual or counseled, commanded, induced, procured, or caused the intentional killing of an individual and such killing was the result; or

b. The person's conduct in committing that act led to a natural, though not inevitable, lethal result,

such person commits the capital felony of trafficking in flunitrazepam, punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

(2) A person acts knowingly under subsection (1) if that person intends to sell, purchase, manufacture, deliver, or bring into this state, or to actually or constructively possess, any of the controlled substances listed in subsection (1), regardless of which controlled substance listed in subsection (1) is in fact sold, purchased, manufactured, delivered, or brought into this state, or actually or constructively possessed.

(3) Notwithstanding the provisions of s. 948.01, with respect to any person who is found to have violated this section, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld, nor shall such person be eligible for parole prior to serving the mandatory minimum term of imprisonment prescribed by this section. *A person sentenced to a mandatory minimum term of imprisonment under this section is not eligible for any form of gain time under s. 944.275 or any form of discretionary early release, except pardon or executive clemency or conditional medical release under s. 947.149, prior to serving the mandatory minimum term of imprisonment.*

(4) The state attorney may move the sentencing court to reduce or suspend the sentence of any person who is convicted of a violation of this section and who provides substantial assistance in the identification, arrest, or conviction of any of that person's accomplices, accessories, coconspirators, or principals or of any other person engaged in trafficking in controlled substances. The arresting agency shall be given an opportunity to be heard in aggravation or mitigation in reference to any such motion. Upon good cause shown, the motion may be filed and heard in camera. The judge hearing the motion may reduce or suspend the sentence if the judge finds that the defendant rendered such substantial assistance.

(5) Any person who agrees, conspires, combines, or confederates with another person to commit any act prohibited by subsection (1) commits a felony of the first degree and is punishable as if he or she had actually committed such prohibited act. Nothing in this subsection shall be construed to prohibit separate convictions and sentences for a violation of this subsection and any violation of subsection (1).

Section 10. For the purpose of incorporating the amendment to section 893.135, Florida Statutes, in references thereto, the following sections or subdivisions of Florida Statutes, or Florida Statutes, 1998 Supplement, are reenacted to read:

397.451 Background checks of service provider personnel who have direct contact with unmarried minor clients or clients who are developmentally disabled.—

(7) DISQUALIFICATION FROM RECEIVING STATE FUNDS.—State funds may not be disseminated to any service provider owned or operated by an owner or director who has been convicted of, has entered a plea of guilty or nolo contendere to, or has had adjudication withheld for, a violation of s. 893.135 pertaining to trafficking in controlled substances, or a violation of the law of another state, the District of Columbia, the United States or any possession or territory thereof, or any foreign jurisdiction which is substantially similar in elements and penalties to a trafficking offense in this state, unless the owner's or director's civil rights have been restored.

782.04 Murder.—

(4) The unlawful killing of a human being, when perpetrated without any design to effect death, by a person engaged in the perpetration of, or in the attempt to perpetrate, any felony other than any:

(a) Trafficking offense prohibited by s. 893.135(1),

is murder in the third degree and constitutes a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

893.1351 Lease or rent for the purpose of trafficking in a controlled substance.—

(1) A person may not lease or rent any place, structure, or part thereof, trailer, or other conveyance, with the knowledge that such place, structure, trailer, or conveyance will be used for the purpose of trafficking in a controlled substance, as provided in s. 893.135, or the sale of a controlled substance, as provided in s. 893.13.

903.133 Bail on appeal; prohibited for certain felony convictions.—Notwithstanding the provisions of s. 903.132, no person adjudged guilty of a felony of the first degree for a violation of s. 782.04(2) or (3), s. 787.01, s. 794.011(4), s. 806.01, s. 893.13, or s. 893.135, or adjudged guilty of a violation of s. 794.011(2) or (3), shall be admitted to bail pending review either by posttrial motion or appeal.

907.041 Pretrial detention and release.—

(4) PRETRIAL DETENTION.—

(b) The court may order pretrial detention if it finds a substantial probability, based on a defendant's past and present patterns of behavior, the criteria in s. 903.046, and any other relevant facts, that:

1. The defendant has previously violated conditions of release and that no further conditions of release are reasonably likely to assure the defendant's appearance at subsequent proceedings;

2. The defendant, with the intent to obstruct the judicial process, has threatened, intimidated, or injured any victim, potential witness, juror, or judicial officer, or has attempted or conspired to do so, and that no condition of release will reasonably prevent the obstruction of the judicial process;

3. The defendant is charged with trafficking in controlled substances as defined by s. 893.135, that there is a substantial probability that the defendant has committed the offense, and that no conditions of release will reasonably assure the defendant's appearance at subsequent criminal proceedings; or

4. The defendant poses the threat of harm to the community. The court may so conclude if it finds that the defendant is presently charged with a dangerous crime, that there is a substantial probability that the defendant committed such crime, that the factual circumstances of the crime indicate a disregard for the safety of the community, and that there are no conditions of release reasonably sufficient to protect the community from the risk of physical harm to persons. In addition, the court must find that at least one of the following conditions is present:

a. The defendant has previously been convicted of a crime punishable by death or life imprisonment.

b. The defendant has been convicted of a dangerous crime within the 10 years immediately preceding the date of his or her arrest for the crime presently charged.

c. The defendant is on probation, parole, or other release pending completion of sentence or on pretrial release for a dangerous crime at the time of the current arrest.

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
		(g) LEVEL 7
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
409.920(2)	3rd	Medicaid provider fraud.
494.0018(2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded $50,000 and there were five or more victims.
782.051(3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
782.071	3rd	Killing of human being or viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide).
782.072	3rd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.
784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.
784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.
784.081(1)	1st	Aggravated battery on specified official or employee.
784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.
784.083(1)	1st	Aggravated battery on code inspector.
790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
790.16(1)	1st	Discharge of a machine gun under specified circumstances.
796.03	2nd	Procuring any person under 16 years for prostitution.
800.04	2nd	Handle, fondle, or assault child under 16 years in lewd, lascivious, or indecent manner.
806.01(2)	2nd	Maliciously damage structure by fire or explosive.
810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
812.014(2)(a)	1st	Property stolen, valued at $100,000 or more; property stolen while causing other property damage; 1st degree grand theft.
812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
825.102(3)(b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
825.1025(2)	2nd	Lewd or lascivious battery upon an elderly person or disabled adult.
825.103(2)(b)	2nd	Exploiting an elderly person or disabled adult and property is valued at $20,000 or more, but less than $100,000.
827.03(3)(b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
827.04(4)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
837.05(2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
872.06	2nd	Abuse of a dead human body.
893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b)) within 1,000 feet of a child care facility or school.
893.13(1)(e)	1st	Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b), within 1,000 feet of property used for religious services or a specified business site.
893.13(4)(a)	1st	Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) drugs).
893.135(1)(a)1.	1st	Trafficking in cannabis, more than 50 lbs., less than 2,000 lbs.
893.135 (1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
893.135 (1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
893.135 (1)(d)1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
893.135(1)(e)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
893.135(1)(f)1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
893.135 (1)(g)1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
		(h) LEVEL 8
316.193 (3)(c)3.a.	2nd	DUI manslaughter.
327.35(3)(c)3.	2nd	Vessel BUI manslaughter.
777.03(2)(a)	1st	Accessory after the fact, capital felony.
782.04(4)	2nd	Killing of human without design when engaged in act or attempt of any felony other than arson, sexual battery, robbery, burglary, kidnapping, aircraft piracy, or unlawfully discharging bomb.
782.051(2)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony not enumerated in s. 782.04(3).

Florida Statute	Felony Degree	Description
782.071(2)	2nd	Committing vehicular homicide and failing to render aid or give information.
782.072(2)	2nd	Committing vessel homicide and failing to render aid or give information.
790.161(3)	1st	Discharging a destructive device which results in bodily harm or property damage.
794.011(5)	2nd	Sexual battery, victim 12 years or over, offender does not use physical force likely to cause serious injury.
806.01(1)	1st	Maliciously damage dwelling or structure by fire or explosive, believing person in structure.
810.02(2)(a)	1st,PBL	Burglary with assault or battery.
810.02(2)(b)	1st,PBL	Burglary; armed with explosives or dangerous weapon.
810.02(2)(c)	1st	Burglary of a dwelling or structure causing structural damage or $1,000 or more property damage.
812.13(2)(b)	1st	Robbery with a weapon.
812.135(2)	1st	Home-invasion robbery.
825.102(2)	2nd	Aggravated abuse of an elderly person or disabled adult.
825.103(2)(a)	1st	Exploiting an elderly person or disabled adult and property is valued at $100,000 or more.
827.03(2)	2nd	Aggravated child abuse.
837.02(2)	2nd	Perjury in official proceedings relating to prosecution of a capital felony.
837.021(2)	2nd	Making contradictory statements in official proceedings relating to prosecution of a capital felony.
860.121(2)(c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.
860.16	1st	Aircraft piracy.
893.13(1)(b)	1st	Sell or deliver in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.13(2)(b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.13(6)(c)	1st	Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.135(1)(a)2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
893.135 (1)(b)1.b.	1st	Trafficking in cocaine, more than 200 grams, less than 400 grams.
893.135 (1)(c)1.b.	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
893.135 (1)(d)1.b.	1st	Trafficking in phencyclidine, more than 200 grams, less than 400 grams.
893.135 (1)(e)1.b.	1st	Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms.
893.135 (1)(f)1.b.	1st	Trafficking in amphetamine, more than 28 grams, less than 200 grams.
893.135 (1)(g)1.b.	1st	Trafficking in flunitrazepam, 14 grams or more, less than 28 grams.
895.03(1)	1st	Use or invest proceeds derived from pattern of racketeering activity.
895.03(2)	1st	Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property.
895.03(3)	1st	Conduct or participate in any enterprise through pattern of racketeering activity.
		(i) LEVEL 9
316.193 (3)(c)3.b.	1st	DUI manslaughter; failing to render aid or give information.
782.04(1)	1st	Attempt, conspire, or solicit to commit premeditated murder.
782.04(3)	1st,PBL	Accomplice to murder in connection with arson, sexual battery, robbery, burglary, and other specified felonies.
782.051(1)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony enumerated in s. 782.04(3).
782.07(2)	1st	Aggravated manslaughter of an elderly person or disabled adult.
782.07(3)	1st	Aggravated manslaughter of a child.
787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or reward or as a shield or hostage.
787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit or facilitate commission of any felony.
787.01(1)(a)4.	1st,PBL	Kidnapping with intent to interfere with performance of any governmental or political function.
787.02(3)(a)	1st	False imprisonment; child under age 13; perpetrator also commits child abuse, sexual battery, lewd, or lascivious act, etc.
790.161	1st	Attempted capital destructive device offense.
794.011(2)	1st	Attempted sexual battery; victim less than 12 years of age.
794.011(2)	Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.
794.011(4)	1st	Sexual battery; victim 12 years or older, certain circumstances.
794.011(8)(b)	1st	Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.
812.13(2)(a)	1st,PBL	Robbery with firearm or other deadly weapon.
812.133(2)(a)	1st,PBL	Carjacking; firearm or other deadly weapon.
847.0145(1)	1st	Selling, or otherwise transferring custody or control, of a minor.
847.0145(2)	1st	Purchasing, or otherwise obtaining custody or control, of a minor.
859.01	1st	Poisoning food, drink, medicine, or water with intent to kill or injure another person.
893.135	1st	Attempted capital trafficking offense.
893.135(1)(a)3.	1st	Trafficking in cannabis, more than 10,000 lbs.
893.135 (1)(b)1.c.	1st	Trafficking in cocaine, more than 400 grams, less than 150 kilograms.
893.135 (1)(c)1.c.	1st	Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.

Florida Statute	Felony Degree	Description
893.135 (1)(d)1.c.	1st	Trafficking in phencyclidine, more than 400 grams.
893.135 (1)(e)1.c.	1st	Trafficking in methaqualone, more than 25 kilograms.
893.135 (1)(f)1.c.	1st	Trafficking in amphetamine, more than 200 grams.
		(j) LEVEL 10
782.04(2)	1st,PBL	Unlawful killing of human; act is homicide, unpremeditated.
787.01(1)(a)3.	1st,PBL	Kidnapping; inflict bodily harm upon or terrorize victim.
787.01(3)(a)	Life	Kidnapping; child under age 13, perpetrator also commits child abuse, sexual battery, lewd, or lascivious act, etc.
794.011(3)	Life	Sexual battery; victim 12 years or older, offender uses or threatens to use deadly weapon or physical force to cause serious injury.
876.32	1st	Treason against the state.

921.0024 Criminal Punishment Code; worksheet computations; scoresheets.—

(1)

(b) WORKSHEET KEY:

Legal status points are assessed when any form of legal status existed at the time the offender committed an offense before the court for sentencing. Four (4) sentence points are assessed for an offender's legal status.

Community sanction violation points are assessed when a community sanction violation is before the court for sentencing. Six (6) sentence points are assessed for each community sanction violation, and each successive community sanction violation; however, if the community sanction violation includes a new felony conviction before the sentencing court, twelve (12) community sanction violation points are assessed for such violation, and for each successive community sanction violation involving a new felony conviction. Multiple counts of community sanction violations before the sentencing court shall not be a basis for multiplying the assessment of community sanction violation points.

Prior serious felony points: If the offender has a primary offense or any additional offense ranked in level 8, level 9, or level 10, and one or more prior serious felonies, a single assessment of 30 points shall be added. For purposes of this section, a prior serious felony is an offense in the offender's prior record that is ranked in level 8, level 9, or level 10 under s. 921.0022 or s. 921.0023 and for which the offender is serving a sentence of confinement, supervision, or other sanction or for which the offender's date of release from confinement, supervision, or other sanction, whichever is later, is within 3 years before the date the primary offense or any additional offense was committed.

Prior capital felony points: If the offender has one or more prior capital felonies in the offender's criminal record, points shall be added to the subtotal sentence points of the offender equal to twice the number of points the offender receives for the primary offense and any additional offense. A prior capital felony in the offender's criminal record is a previous capital felony offense for which the offender has entered a plea of nolo contendere or guilty or has been found guilty; or a felony in another jurisdiction which is a capital felony in that jurisdiction, or would be a capital felony if the offense were committed in this state.

Possession of a firearm, semiautomatic firearm, or machine gun: If the offender is convicted of committing or attempting to commit any felony other than those enumerated in s. 775.087(2) while having in his possession: a firearm as defined in s. 790.001(6), an additional 18 sentence points are assessed; or if the offender is convicted of committing or attempting to commit any felony other than those enumerated in s. 775.087(3) while having in his possession a semiautomatic firearm as defined in s. 775.087(3) or a machine gun as defined in s. 790.001(9), an additional 25 sentence points are assessed.

Sentencing multipliers:

Drug trafficking: If the primary offense is drug trafficking under s. 893.135, the subtotal sentence points are multiplied, at the discretion of the court, for a level 7 or level 8 offense, by 1.5. The state attorney may move the sentencing court to reduce or suspend the sentence of a person convicted of a level 7 or level 8 offense, if the offender provides substantial assistance as described in s. 893.135(4).

Law enforcement protection: If the primary offense is a violation of the Law Enforcement Protection Act under s. 775.0823(2), the subtotal sentence points are multiplied by 2.5. If the primary offense is a violation of s. 775.0823(3), (4), (5), (6), (7), or (8), the subtotal sentence points are multiplied by 2.0. If the primary offense is a violation of s. 784.07(3) or s. 775.0875(1), or of the Law Enforcement Protection Act under s. 775.0823(9) or (10), the subtotal sentence points are multiplied by 1.5.

Grand theft of a motor vehicle: If the primary offense is grand theft of the third degree involving a motor vehicle and in the offender's prior record, there are three or more grand thefts of the third degree involving a motor vehicle, the subtotal sentence points are multiplied by 1.5.

Criminal street gang member: If the offender is convicted of the primary offense and is found to have been a member of a criminal street gang at the time of the commission of the primary offense pursuant to s. 874.04, the subtotal sentence points are multiplied by 1.5.

Domestic violence in the presence of a child: If the offender is convicted of the primary offense and the primary offense is a crime of domestic violence, as defined in s. 741.28, which was committed in the presence of a child under 16 years of age who is a family household member as defined in s. 741.28(2) with the victim or perpetrator, the subtotal sentence points are multiplied, at the discretion of the court, by 1.5.

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

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

943.0585 Court-ordered expunction of criminal history records.—The courts of this state have jurisdiction over their own procedures, including the maintenance, expunction, and correction of judicial records containing criminal history information to the extent such procedures are not inconsistent with the conditions, responsibilities, and duties established by this section. Any court of competent jurisdiction may order a criminal justice agency to expunge the criminal history record of a minor or an adult who complies with the requirements of this section. The court shall not order a criminal justice agency to expunge a criminal history record until the person seeking to expunge a criminal history record has applied for and received a certificate of eligibility for expunction pursuant to subsection (2). A criminal history record that relates to a violation of chapter 794, s. 800.04, s. 817.034, s. 827.071, chapter 839, s. 893.135, or a violation enumerated in s. 907.041 may not be expunged, without regard to whether adjudication was withheld, if

the defendant was found guilty of or pled guilty or nolo contendere to the offense, or if the defendant, as a minor, was found to have committed, or pled guilty or nolo contendere to committing, the offense as a delinquent act. The court may only order expunction of a criminal history record pertaining to one arrest or one incident of alleged criminal activity, except as provided in this section. The court may, at its sole discretion, order the expunction of a criminal history record pertaining to more than one arrest if the additional arrests directly relate to the original arrest. If the court intends to order the expunction of records pertaining to such additional arrests, such intent must be specified in the order. A criminal justice agency may not expunge any record pertaining to such additional arrests if the order to expunge does not articulate the intention of the court to expunge a record pertaining to more than one arrest. This section does not prevent the court from ordering the expunction of only a portion of a criminal history record pertaining to one arrest or one incident of alleged criminal activity. Notwithstanding any law to the contrary, a criminal justice agency may comply with laws, court orders, and official requests of other jurisdictions relating to expunction, correction, or confidential handling of criminal history records or information derived therefrom. This section does not confer any right to the expunction of any criminal history record, and any request for expunction of a criminal history record may be denied at the sole discretion of the court.

(1) PETITION TO EXPUNGE A CRIMINAL HISTORY RECORD.—Each petition to a court to expunge a criminal history record is complete only when accompanied by:

(a) A certificate of eligibility for expunction issued by the department pursuant to subsection (2).

(b) The petitioner's sworn statement attesting that the petitioner:

1. Has never previously been adjudicated guilty of a criminal offense or comparable ordinance violation or adjudicated delinquent for committing a felony or a misdemeanor specified in s. 943.051(3)(b).

2. Has not been adjudicated guilty of, or adjudicated delinquent for committing, any of the acts stemming from the arrest or alleged criminal activity to which the petition pertains.

3. Has never secured a prior sealing or expunction of a criminal history record under this section, former s. 893.14, former s. 901.33, or former s. 943.058, or from any jurisdiction outside the state.

4. Is eligible for such an expunction to the best of his or her knowledge or belief and does not have any other petition to expunge or any petition to seal pending before any court.

Any person who knowingly provides false information on such sworn statement to the court commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.—Prior to petitioning the court to expunge a criminal history record, a person seeking to expunge a criminal history record shall apply to the department for a certificate of eligibility for expunction. The department shall, by rule adopted pursuant to chapter 120, establish procedures pertaining to the application for and issuance of certificates of eligibility for expunction. The department shall issue a certificate of eligibility for expunction to a person who is the subject of a criminal history record if that person:

(a) Has obtained, and submitted to the department, a written, certified statement from the appropriate state attorney or statewide prosecutor which indicates:

1. That an indictment, information, or other charging document was not filed or issued in the case.

2. That an indictment, information, or other charging document, if filed or issued in the case, was dismissed or nolle prosequi by the state attorney or statewide prosecutor, or was dismissed by a court of competent jurisdiction.

3. That the criminal history record does not relate to a violation of chapter 794, s. 800.04, s. 817.034, s. 827.071, chapter 839, s. 893.135, or a violation enumerated in s. 907.041, where the defendant was found guilty of, or pled guilty or nolo contendere to any such offense, or that the defendant, as a minor, was found to have committed, or pled guilty or nolo contendere to committing, such an offense as a delinquent act, without regard to whether adjudication was withheld.

(b) Remits a $75 processing fee to the department for placement in the Department of Law Enforcement Operating Trust Fund, unless such fee is waived by the executive director.

(c) Has submitted to the department a certified copy of the disposition of the charge to which the petition to expunge pertains.

(d) Has never previously been adjudicated guilty of a criminal offense or comparable ordinance violation or adjudicated delinquent for committing a felony or a misdemeanor specified in s. 943.051(3)(b).

(e) Has not been adjudicated guilty of, or adjudicated delinquent for committing, any of the acts stemming from the arrest or alleged criminal activity to which the petition to expunge pertains.

(f) Has never secured a prior sealing or expunction of a criminal history record under this section, former s. 893.14, former s. 901.33, or former s. 943.058.

(g) Is no longer under court supervision applicable to the disposition of the arrest or alleged criminal activity to which the petition to expunge pertains.

(h) Is not required to wait a minimum of 10 years prior to being eligible for an expunction of such records because all charges related to the arrest or criminal activity to which the petition to expunge pertains were dismissed prior to trial, adjudication, or the withholding of adjudication. Otherwise, such criminal history record must be sealed under this section, former s. 893.14, former s. 901.33, or former s. 943.058 for at least 10 years before such record is eligible for expunction.

(3) PROCESSING OF A PETITION OR ORDER TO EXPUNGE.—

(a) In judicial proceedings under this section, a copy of the completed petition to expunge shall be served upon the appropriate state attorney or the statewide prosecutor and upon the arresting agency; however, it is not necessary to make any agency other than the state a party. The appropriate state attorney or the statewide prosecutor and the arresting agency may respond to the court regarding the completed petition to expunge.

(b) If relief is granted by the court, the clerk of the court shall certify copies of the order to the appropriate state attorney or the statewide prosecutor and the arresting agency. The arresting agency is responsible for forwarding the order to any other agency to which the arresting agency disseminated the criminal history record information to which the order pertains. The department shall forward the order to expunge to the Federal Bureau of Investigation. The clerk of the court shall certify a copy of the order to any other agency which the records of the court reflect has received the criminal history record from the court.

(c) For an order to expunge entered by a court prior to July 1, 1992, the department shall notify the appropriate state attorney or statewide prosecutor of an order to expunge which is contrary to law because the person who is the subject of the record has previously been convicted of a crime or comparable ordinance violation or has had a prior criminal history record sealed or expunged. Upon receipt of such notice, the appropriate state attorney or statewide prosecutor shall take action, within 60 days, to correct the record and petition the court to void the order to expunge. The department shall seal the record until such time as the order is voided by the court.

(d) On or after July 1, 1992, the department or any other criminal justice agency is not required to act on an order to expunge entered by a court when such order does not comply with the requirements of this section. Upon receipt of such an order, the department must notify the issuing court, the appropriate state attorney or statewide prosecutor, the petitioner or the petitioner's attorney, and the arresting agency of the reason for noncompliance. The appropriate state attorney or statewide prosecutor shall take action within 60 days to correct the record and petition the court to void the order. No cause of action, including contempt of court, shall arise against any criminal justice agency for failure to comply with an order to expunge when the petitioner for such order failed to obtain the certificate of eligibility as required by this section or such order does not otherwise comply with the requirements of this section.

(4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any criminal history record of a minor or an adult which is ordered expunged by a court of competent jurisdiction pursuant to this section must be physically destroyed or obliterated by any criminal justice agency having custody of such record; except that any criminal history record in the custody of the department must be retained in all cases. A criminal history record ordered expunged that is retained by the department is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution and not available to any person or entity except upon order of a court of competent jurisdiction. A criminal justice agency may retain a notation indicating compliance with an order to expunge.

(a) The person who is the subject of a criminal history record that is expunged under this section or under other provisions of law, including former s. 893.14, former s. 901.33, and former s. 943.058, may lawfully deny or fail to acknowledge the arrests covered by the expunged record, except when the subject of the record:

1. Is a candidate for employment with a criminal justice agency;

2. Is a defendant in a criminal prosecution;

3. Concurrently or subsequently petitions for relief under this section or s. 943.059;

4. Is a candidate for admission to The Florida Bar;

5. Is seeking to be employed or licensed by or to contract with the Department of Children and Family Services or the Department of Juvenile Justice or to be employed or used by such contractor or licensee in a sensitive position having direct contact with children, the developmentally disabled, the aged, or the elderly as provided in s. 110.1127(3), s. 393.063(14), s. 394.4572(1), s. 397.451, s. 402.302(8), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s. 415.1075(4), s. 985.407, or chapter 400; or

6. Is seeking to be employed or licensed by the Office of Teacher Education, Certification, Staff Development, and Professional Practices of the Department of Education, any district school board, or any local governmental entity that licenses child care facilities.

(b) Subject to the exceptions in paragraph (a), a person who has been granted an expunction under this section, former s. 893.14, former s. 901.33, or former s. 943.058 may not be held under any provision of law of this state to commit perjury or to be otherwise liable for giving a false statement by reason of such person's failure to recite or acknowledge an expunged criminal history record.

(c) Information relating to the existence of an expunged criminal history record which is provided in accordance with paragraph (a) is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except that the department shall disclose the existence of a criminal history record ordered expunged to the entities set forth in subparagraphs (a)1., 4., 5., and 6. for their respective licensing and employment purposes, and to criminal justice agencies for their respective criminal justice purposes. It is unlawful for any employee of an entity set forth in subparagraph (a)1., subparagraph (a)4., subparagraph (a)5., or subparagraph (a)6. to disclose information relating to the existence of an expunged criminal history record of a person seeking employment or licensure with such entity or contractor, except to the person to whom the criminal history record relates or to persons having direct responsibility for employment or licensure decisions. Any person who violates this paragraph commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

943.059 Court-ordered sealing of criminal history records.—The courts of this state shall continue to have jurisdiction over their own procedures, including the maintenance, sealing, and correction of judicial records containing criminal history information to the extent such procedures are not inconsistent with the conditions, responsibilities, and duties established by this section. Any court of competent jurisdiction may order a criminal justice agency to seal the criminal history record of a minor or an adult who complies with the requirements of this section. The court shall not order a criminal justice agency to seal a criminal history record until the person seeking to seal a criminal history record has applied for and received a certificate of eligibility for sealing pursuant to subsection (2). A criminal history record that relates to a violation of chapter 794, s. 800.04, s. 817.034, s. 827.071, chapter 839, s. 893.135, or a violation enumerated in s. 907.041 may not be sealed, without regard to whether adjudication was withheld, if the defendant was found guilty of or pled guilty or nolo contendere to the offense, or if the defendant, as a minor, was found to have committed or pled guilty or nolo contendere to committing the offense as a delinquent act. The court may only order sealing of a criminal history record pertaining to one arrest or one incident of alleged criminal activity, except as provided in this section. The court may, at its sole discretion, order the sealing of a criminal history record pertaining to more than one arrest if the additional arrests directly relate to the original arrest. If the court intends to order the sealing of records pertaining to such additional arrests, such intent must be specified in the order. A criminal justice agency may not seal any record pertaining to such additional arrests if the order to seal does not articulate the intention of the court to seal records pertaining to more than one arrest. This section does not prevent the court from ordering the sealing of only a portion of a criminal history record pertaining to one arrest or one incident of alleged criminal activity. Notwithstanding any law to the contrary, a criminal justice agency may comply with laws, court orders, and official requests of other jurisdictions relating to sealing, correction, or confidential handling of criminal history records or information derived therefrom. This section does not confer any right to the sealing of any criminal history record, and any request for sealing a criminal history record may be denied at the sole discretion of the court.

(1) PETITION TO SEAL A CRIMINAL HISTORY RECORD.—Each petition to a court to seal a criminal history record is complete only when accompanied by:

(a) A certificate of eligibility for sealing issued by the department pursuant to subsection (2).

(b) The petitioner's sworn statement attesting that the petitioner:

1. Has never previously been adjudicated guilty of a criminal offense or comparable ordinance violation or adjudicated delinquent for committing a felony or a misdemeanor specified in s. 943.051(3)(b).

2. Has not been adjudicated guilty of or adjudicated delinquent for committing any of the acts stemming from the arrest or alleged criminal activity to which the petition to seal pertains.

3. Has never secured a prior sealing or expunction of a criminal history record under this section, former s. 893.14, former s. 901.33, former s. 943.058, or from any jurisdiction outside the state.

4. Is eligible for such a sealing to the best of his or her knowledge or belief and does not have any other petition to seal or any petition to expunge pending before any court.

Any person who knowingly provides false information on such sworn statement to the court commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) CERTIFICATE OF ELIGIBILITY FOR SEALING.—Prior to petitioning the court to seal a criminal history record, a person seeking to seal a criminal history record shall apply to the department for a certificate of eligibility for sealing. The department shall, by rule adopted pursuant to chapter 120, establish procedures pertaining to the application for and issuance of certificates of eligibility for sealing. The department shall issue a certificate of eligibility for sealing to a person who is the subject of a criminal history record provided that such person:

(a) Has submitted to the department a certified copy of the disposition of the charge to which the petition to seal pertains.

(b) Remits a $75 processing fee to the department for placement in the Department of Law Enforcement Operating Trust Fund, unless such fee is waived by the executive director.

(c) Has never previously been adjudicated guilty of a criminal offense or comparable ordinance violation or adjudicated delinquent for committing a felony or a misdemeanor specified in s. 943.051(3)(b).

(d) Has not been adjudicated guilty of or adjudicated delinquent for committing any of the acts stemming from the arrest or alleged criminal activity to which the petition to seal pertains.

(e) Has never secured a prior sealing or expunction of a criminal history record under this section, former s. 893.14, former s. 901.33, or former s. 943.058.

(f) Is no longer under court supervision applicable to the disposition of the arrest or alleged criminal activity to which the petition to seal pertains.

(3) PROCESSING OF A PETITION OR ORDER TO SEAL.—

(a) In judicial proceedings under this section, a copy of the completed petition to seal shall be served upon the appropriate state attorney or the statewide prosecutor and upon the arresting agency; however, it is not necessary to make any agency other than the state a party. The appropriate state attorney or the statewide prosecutor and the arresting agency may respond to the court regarding the completed petition to seal.

(b) If relief is granted by the court, the clerk of the court shall certify copies of the order to the appropriate state attorney or the statewide prosecutor and to the arresting agency. The arresting agency is responsible for forwarding the order to any other agency to which the arresting agency disseminated the criminal history record information to which the order pertains. The department shall forward the order to seal to the Federal Bureau of Investigation. The clerk of the court shall certify a copy of the order to any other agency which the records of the court reflect has received the criminal history record from the court.

(c) For an order to seal entered by a court prior to July 1, 1992, the department shall notify the appropriate state attorney or statewide prosecutor of any order to seal which is contrary to law because the person who is the subject of the record has previously been convicted of a crime or comparable ordinance violation or has had a prior criminal history record sealed or expunged. Upon receipt of such notice, the appropriate state attorney or statewide prosecutor shall take action, within 60 days, to correct the record and petition the court to void the order to seal. The department shall seal the record until such time as the order is voided by the court.

(d) On or after July 1, 1992, the department or any other criminal justice agency is not required to act on an order to seal entered by a court when such order does not comply with the requirements of this section. Upon receipt of such an order, the department must notify the issuing court, the appropriate state attorney or statewide prosecutor, the petitioner or the petitioner's attorney, and the arresting agency of the reason for noncompliance. The appropriate state attorney or statewide prosecutor shall take action within 60 days to correct the record and petition the court to void the order. No cause of action, including contempt of court, shall arise against any criminal justice agency for failure to comply with an order to seal when the petitioner for such order failed to obtain the certificate of eligibility as required by this section or when such order does not comply with the requirements of this section.

(e) An order sealing a criminal history record pursuant to this section does not require that such record be surrendered to the court, and such record shall continue to be maintained by the department and other criminal justice agencies.

(4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.—A criminal history record of a minor or an adult which is ordered sealed by a court of competent jurisdiction pursuant to this section is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution and is available only to the person who is the subject of the record, to the subject's attorney, to criminal justice agencies for their respective criminal justice purposes, or to those entities set forth in subparagraphs (a)1., 4., 5., and 6. for their respective licensing and employment purposes.

(a) The subject of a criminal history record sealed under this section or under other provisions of law, including former s. 893.14, former s. 901.33, and former s. 943.058, may lawfully deny or fail to acknowledge the arrests covered by the sealed record, except when the subject of the record:

1. Is a candidate for employment with a criminal justice agency;

2. Is a defendant in a criminal prosecution;

3. Concurrently or subsequently petitions for relief under this section or s. 943.0585;

4. Is a candidate for admission to The Florida Bar;

5. Is seeking to be employed or licensed by or to contract with the Department of Children and Family Services or the Department of Juvenile Justice or to be employed or used by such contractor or licensee in a sensitive position having direct contact with children, the developmentally disabled, the aged, or the elderly as provided in s. 110.1127(3), s. 393.063(14), s. 394.4572(1), s. 397.451, s. 402.302(8), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s. 415.103, s. 985.407, or chapter 400; or

6. Is seeking to be employed or licensed by the Office of Teacher Education, Certification, Staff Development, and Professional Practices of the Department of Education, any district school board, or any local governmental entity which licenses child care facilities.

(b) Subject to the exceptions in paragraph (a), a person who has been granted a sealing under this section, former s. 893.14, former s. 901.33, or former s. 943.058 may not be held under any provision of law of this state to commit perjury or to be otherwise liable for giving a false statement by reason of such person's failure to recite or acknowledge a sealed criminal history record.

(c) Information relating to the existence of a sealed criminal record provided in accordance with the provisions of paragraph (a) is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except that the department shall disclose the sealed criminal history record to the entities set forth in subparagraphs (a)1., 4., 5., and 6. for their respective licensing and employment purposes. It is unlawful for any employee of an entity set forth in subparagraph (a)1., subparagraph (a)4., subparagraph (a)5., or subparagraph (a)6. to disclose information relating to the existence of a sealed criminal history record of a person seeking employment or licensure with such entity or contractor, except to the person to whom the criminal history record relates or to persons having direct responsibility for employment or licensure decisions. Any person who violates the provisions of this paragraph commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 11. Section 943.0535, Florida Statutes, is amended to read:

943.0535 Aliens, criminal records.~~—Upon the official request of the United States immigration officer in charge of the territory or district in which is located any court committing an alien, for the conviction of a felony or a misdemeanor, to any state or county institution which is supported, wholly or in part, by public funds,~~ It shall be the duty of the clerk of ~~such~~ court to furnish without charge a certified copy of the complaint, information, or indictment and the judgment and sentence and any other record pertaining to the case of *any* ~~the convicted~~ alien *to the United States immigration officer in charge of the territory or district in which the court is located in every case in which an alien is convicted of a felony or misdemeanor or enters a plea of guilty or nolo contendere to any felony or misdemeanor charge. The state attorney shall assist the clerk of the court in determining if a defendant entering a plea or is convicted is an alien.*

Section 12. *In order to inform the public and to deter and prevent crime in the state, the Executive Office of the Governor shall place public service announcements in visible local media throughout the state explaining the penalties provided in this act.*

Section 13. Subsection (3) of section 810.011, Florida Statutes, is amended to read:

810.011 Definitions.—As used in this chapter:

(3) "Conveyance" means any motor vehicle, ship, vessel, railroad *vehicle or* car, trailer, aircraft, or sleeping car; and "to enter a conveyance" includes taking apart any portion of the conveyance. However, during the time of a state of emergency declared by executive order or proclamation of the Governor under chapter 252 and within the area covered by such executive order or proclamation and for purposes of ss. 810.02 and 810.08 only, the term "conveyance" means a motor vehicle, ship, vessel, railroad *vehicle or* car, trailer, aircraft, or sleeping car or such portions thereof as exist.

Section 14. This act shall take effect July 1, 1999.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to sentencing; creating the "Three-Strike Violent

Felony Offender Act"; amending s. 775.082, F.S.; redefining the term "prison releasee reoffender"; revising legislative intent; amending s. 775.084, F.S., relating to sentencing of habitual felony offenders, habitual violent felony offenders, and violent career criminals; redefining the terms "habitual felony offender," "habitual violent felony offender" and "violent career criminal"; revising the alternative time periods within which the habitual felony offender, habitual violent felony offender, or violent career criminal could have committed the felony to be sentenced; providing that the felony to be sentenced could have been committed either while the defendant was serving a prison sentence or other sentence or supervision, or within 5 years of the defendant's release from a prison sentence, probation, community control, or supervision or other sentence, under specified circumstances when the sentence was imposed as a result of a prior conviction for a felony, enumerated felony, or other qualified offense; removing certain references to "commitment" and otherwise conforming terminology; providing that the placing of a person on probation without an adjudication of guilt shall be treated as a prior conviction regardless of when the subsequent offense was committed; defining "three-time violent felony offender"; providing a category of enumerated felony offenses within the definition; requiring the court to sentence a defendant as a three-time violent felony offender and impose certain mandatory minimum terms of imprisonment under specified circumstances when the defendant is to be sentenced for committing or attempting to commit, any of the enumerated felony offenses and the defendant has previously been convicted of committing or attempting to commit, any two of the enumerated felony offenses; providing penalties; providing procedures and criteria for court determination if the defendant is a three-time violent felony offender; providing for sentencing as a three-time violent felony offender; providing mandatory term of imprisonment for life when the three-time violent felony offense for which the defendant is to be sentenced is a felony punishable by life; providing mandatory prison term of 30 years when the three-time violent felony offense is a first degree felony; providing mandatory prison term of 15 years when the three-time violent felony offense is a second degree felony; providing mandatory prison term of 5 years when the three-time violent felony offense is a third degree felony; providing for construction; requiring a three-time violent felony offender to serve 100 percent of the court-imposed sentence; providing for ineligibility of a three-time violent felony offender for parole, control release, or early release; amending ss. 784.07 and 784.08, F.S.; providing minimum terms of imprisonment for persons convicted of aggravated assault or aggravated battery of a law enforcement officer or a person 65 years of age or older; amending s. 790.235, F.S., relating to prohibitions against, and penalties for, unlawful possession or other unlawful acts involving firearm, electric weapon or device, or concealed weapon by a violent career criminal; conforming cross references to changes made by the act; creating s. 794.0115, F.S.; defining "repeat sexual batterer"; providing within the definition a category of enumerated felony offenses in violation of s. 794.011, F.S., relating to sexual battery; requiring the court to sentence a defendant as a repeat sexual batterer and impose a 10-year mandatory minimum term of imprisonment under specified circumstances when the defendant is to be sentenced for committing or attempting to commit, any of the enumerated felony violations of s. 794.011, F.S., and the defendant has previously been convicted of committing or attempting to commit, any one of certain enumerated felony offenses involving sexual battery; providing penalties; providing procedures and criteria for court determination if the defendant is a repeat sexual batterer; providing for sentencing as a repeat sexual batterer; providing for construction; amending s. 794.011, F.S., to conform references to changes made by the act; amending s. 893.135, F.S.; defining the term "cannabis plant"; providing mandatory minimum prison terms and mandatory fine amounts for trafficking in cannabis, cocaine, illegal drugs, phencyclidine, methaqualone, amphetamine, or flunitrazepam; providing for sentencing pursuant to the Criminal Punishment Code of offenders convicted of trafficking in specified quantities of cannabis; removing weight caps for various trafficking offenses; providing that an offender who is sentenced to a mandatory minimum term upon conviction of trafficking in specified quantities of cannabis, cocaine, illegal drugs, phencyclidine, methaqualone, amphetamine, or flunitrazepam is not eligible for gain time or certain discretionary early-release mechanisms prior to serving the mandatory minimum sentence; providing exceptions; providing penalties; reenacting s. 397.451(7), F.S., relating to the prohibition against dissemination of state funds to service providers convicted of certain offenses, s. 782.04(4)(a), F.S., relating to murder, s. 893.1351(1), F.S., relating to lease or rent for the purpose of trafficking in a controlled substance, s. 903.133, F.S., relating to the prohibition against bail on appeal for certain felony convictions, s. 907.041(4)(b), F.S., relating to pretrial detention and release, s. 921.0022(3)(g), (h), and (i), F.S., relating to the Criminal Punishment Code offense severity ranking chart, s. 921.0024(1)(b), F.S., relating to the Criminal Punishment Code worksheet computations and scoresheets, s. 921.142(2), F.S., relating to sentencing for capital drug trafficking felonies, s. 943.0585, F.S., relating to court-ordered expunction of criminal history records, and s. 943.059, F.S., relating to court-ordered sealing of criminal history records, to incorporate said amendment in references; amending s. 943.0535, F.S., relating to aliens and criminal records; requiring clerk of the courts to furnish criminal records to United States immigration officers; requiring state attorney to assist clerk of the courts in determining which defendants are aliens; requiring the Governor to place public service announcements explaining the provisions of this act; amending s. 810, F.S.; redefining the term "conveyance" for purposes of ch. 810, F.S., to include a railroad vehicle; providing an effective date.

WHEREAS, in 1996, Florida had the highest violent crime rate of any state in the nation, exceeding the national average by 66 percent, and

WHEREAS, although this state possessed the highest state violent crime rate in 1996 in the nation, the incarceration rate in this state in 1996 was less than the incarceration rate in at least eleven other states, all of which had a lower violent crime rate than the rate in this state, and

WHEREAS, since 1988, criminals in this state have committed at least 1.6 million violent crimes against Floridians and visitors to this state, and

WHEREAS, the per capita violent crime rate has increased 86 percent in this state in the last 25 years, and

WHEREAS, in fiscal year 1996-1997, over 16,000 violent felons in this state were sentenced to probation, community control, and other punishments that did not incarcerate the violent felon for the maximum prison term authorized by law, and

WHEREAS, during that same fiscal year, less than 9,900 violent felons were sentenced to prison, while during that same period criminals committed approximately 150,000 violent felonies, and

WHEREAS, in this state, as of June 30, 1997, more violent felons were on probation, community control, control release, or parole, than were in state prison, and

WHEREAS, in 1997, only 15.6 percent of all persons convicted of a felony were sentenced to state prison, the second lowest rate of incarcerated felons since 1984, and

WHEREAS, the rate of incarcerated felons has declined seven out of the last eight years, and

WHEREAS, since fiscal year 1993-1994, the per capita prison population rate in this state has increased 10 percent and the proportion of violent offenders incarcerated in state prison has increased 5 percent, and

WHEREAS, since 1995, the Florida Legislature has enacted stronger criminal punishment laws, including requiring all prisoners to serve 85 percent of their court-imposed sentences, and

WHEREAS, since 1994, the violent crime rate in this state has decreased 9.8 percent, and

WHEREAS, the Legislature previously has found that a substantial and disproportionate number of serious crimes are committed in this state by a relatively small number of repeat and violent felony offenders, that priority should be given to the incarceration of career criminals for extended prison terms, and that, in the case of violent career criminals, such extended terms must include substantial minimum terms of imprisonment, and

WHEREAS, as of June 30, 1997, only 71 designated "violent career criminals" have been sentenced to mandatory prison terms, out of a prison population of over 65,000 state inmates; and this number does not approach the true number of repeat violent felony offenders in this state, and

WHEREAS, to be sentenced as a "violent career criminal," a felon must be convicted of at least four violent, forcible, or serious felonies and must have served a prison term, and

WHEREAS, current law does not require the courts to impose mandatory prison terms on violent felons who commit three violent felonies, and these three-time violent felony offenders should be sentenced to mandatory maximum prison terms to protect citizens of this state and visitors, and

WHEREAS, studies such as the recent report issued by the National Center for Policy Analysis, "Does punishment deter?", indicate that recent crime rates have declined because of the increasing number of incarcerated felons, and

WHEREAS, since California enacted "three strike" legislation in 1994 that requires courts to impose mandatory prison terms on repeat felony offenders convicted of three serious crimes, that state has experienced significant reductions in violent crime, and overall crime rates, and

WHEREAS, a study by the RAND Corporation estimates that the enforcement of this California legislation will reduce serious crime in California committed by adults between 22 and 34 percent, and

WHEREAS, the enactment and enforcement of legislation in Florida that requires courts to impose mandatory prison terms on three-time violent felony offenders will improve public safety by incapacitating repeat offenders who are most likely to murder, rape, rob, or assault innocent victims in our communities, and

WHEREAS, imposing mandatory prison terms on three-time violent felony offenders will prevent such offenders from committing more crimes in our communities, and likely accelerate recent declines in the violent crime rate in this state, NOW, THEREFORE,

Senator Lee moved the following amendments to **Amendment 1** which were adopted:

Amendment 1A (765266)—On page 15, line 22, delete "*(3)(c)*" and insert: *(3)(b)*

Amendment 1B (325776)—On page 3, line 28, after "*offender*" insert: *not*

Amendment 1 as amended was adopted.

Pursuant to Rule 4.19, **CS for HB 121** as amended was placed on the calendar of Bills on Third Reading.

On motion by Senator Clary—

CS for SB 2220—A bill to be entitled An act relating to the Department of Health; amending s. 20.43, F.S.; revising powers and the internal structure of the department; amending s. 110.205, F.S.; exempting certain positions from career service; amending s. 120.80, F.S.; exempting certain hearings within the department from the requirement of being conducted by an administrative law judge from the Division of Administrative Hearings; amending s. 154.504, F.S.; revising standards for eligibility to participate in a primary care for children and families challenge grant; amending s. 287.155, F.S.; authorizing the department to purchase vehicles and automotive equipment for county health departments; amending s. 372.6672, F.S.; deleting an obsolete reference to the Department of Health and Rehabilitative Services; amending s. 381.004, F.S.; prescribing conditions under which an HIV test may be performed without obtaining consent; amending s. 381.0051, F.S.; authorizing the Department of Health to adopt rules to implement the Comprehensive Family Planning Act; amending s. 381.006, F.S.; providing the department with rule authority relating to inspection of certain group care facilities; amending s. 381.0061, F.S.; providing the department with authority to impose certain fines; amending s. 381.0062, F.S.; redefining the term "private water system" and defining the term "multi-family water system"; providing that either type of system may include a rental residence in its service; regulating multi-family systems; amending s. 381.90, F.S.; revising membership of the Health Information Systems Council; prescribing its duties with respect to developing a review process; requiring a report; amending s. 382.003, F.S.; revising powers and duties of the department with respect to vital records; providing for forms and documents to be submitted under oath; amending s. 382.004, F.S.; restating the admissibility of copies of records; amending s. 382.008, F.S.; deleting provisions relating to restriction on disclosure of a decedent's social security number; amending s. 382.013, F.S.; revising provisions relating to who must file a birth registration; amending s. 382.015, F.S.; revising provisions relating to issuance of new birth certificates upon determination of paternity; amending s. 382.016, F.S.; prescribing procedures for amending records; amending s. 382.019, F.S.; providing for dismissal of an application for delayed registration which is not actively pursued; amending s. 382.025, F.S.; exempting certain birth records from confidentiality requirements; amending s. 382.0255, F.S.; revising provisions relating to disposition of the additional fee imposed on certification of birth records; amending s. 383.14, F.S.; conforming a reference to the name of a program; amending s. 385.202, F.S.; deleting provisions relating to reimbursing hospitals reporting information for the statewide cancer registry; amending s. 385.203, F.S.; establishing requirements and membership for the Diabetes Advisory Council; amending s. 391.028, F.S.; revising provisions relating to administration of the Children's Medical Services program; amending s. 391.0315, F.S.; revising standards for benefits provided under the program for certain children; amending s. 392.69, F.S.; providing for an advisory board for the A. G. Holley State Hospital; amending s. 401.25, F.S.; revising qualifications for licensure as basic or advanced life support service; amending s. 401.27, F.S.; requiring applications to be made under oath by emergency medical technicians or paramedics; amending s. 401.30, F.S.; providing the department with rule authority for patient care records of licensed ambulance services; amending s. 401.35, F.S.; authorizing the department to prescribe by rule requirements for storage, and security of medications maintained by licensed support services; creating s. 401.49, F.S.; authorizing the department's approval of emergency medical technician and paramedic programs; amending s. 409.9126, F.S.; revising requirements for capitation payments to Children's Medical Services programs; amending s. 465.019, F.S.; revising definitions; amending s. 499.005, F.S.; revising the elements of certain offenses relating to purchase or receipt of legend drugs, recordkeeping with respect to drugs, cosmetics, and household products, and permit and registration requirements; amending s. 499.007, F.S.; revising conditions under which a drug is considered misbranded; amending s. 499.028, F.S.; providing an exemption from the prohibition against possession of a drug sample; amending s. 499.066, F.S.; providing conditions on issuance of cease and desist orders; amending s. 499.069, F.S.; providing penalties for certain violations of s. 499.005, F.S.; amending s. 742.10, F.S.; revising procedures relating to establishing paternity for children born out of wedlock; amending ss. 39.303, 385.203, 391.021, 391.221, 391.222, 391.223, F.S., to conform to the renaming of the Division of Children's Medical Services; amending s. 63.162, F.S.; revising requirements for release of the name and identity of an adoptee, birth parent, or adoptive parent; repealing s. 381.731(3), F.S., relating to the date for submission of a report; repealing s. 383.307(5), F.S., relating to licensure of birth center staff and consultants; repealing s. 404.20(7), F.S., relating to transportation of radioactive materials; repealing s. 409.9125, F.S., relating to the study of Medicaid alternative networks; naming a certain building in Jacksonville the "Wilson T. Sowder, M.D., Building"; naming a certain building in Tampa the "William G. 'Doc' Myers, M.D., Building"; naming the department headquarters building the "Charlton E. Prather, M.D., Building"; authorizing the Department of Health to become an accrediting authority for environmental laboratory standards; providing intent and rulemaking authority for the Department of Health to implement standards of the National Environmental Laboratory Accreditation Program; providing an effective date.

—was read the second time by title.

Amendments were considered and failed and amendments were considered and adopted to conform **CS for SB 2220** to **HB 2125**.

Pending further consideration of **CS for SB 2220** as amended, on motion by Senator Clary, by two-thirds vote **HB 2125** was withdrawn from the Committees on Health, Aging and Long-Term Care; Governmental Oversight and Productivity; and Fiscal Policy.

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

HB 2125—A bill to be entitled An act relating to the Department of Health; amending s. 20.43, F.S.; providing the department with authority for certain divisions; revising certain division names; revising language with respect to the use of certain funds; amending s. 39.303, F.S.; conforming titles relating to Children's Medical Services; amending s. 110.205, F.S.; conforming language relating to exempt positions with respect to the career service; amending s. 120.80, F.S.; providing the department with contract authority for certain administrative hearings; amending s. 154.504, F.S.; providing requirements for provider con-

tracts; amending s. 287.155, F.S.; providing certain authority to purchase automotive equipment; amending s. 372.6672, F.S.; removing responsibility regarding alligator management and trapping from the Department of Health and Rehabilitative Services; amending s. 381.0022, F.S.; allowing the department to share certain confidential information relating to Medicaid recipients for certain payment purposes; amending s. 381.004, F.S.; revising requirements relating to HIV tests on deceased persons; amending s. 381.0051, F.S.; providing the department with certain rulemaking authority; amending s. 381.006, F.S.; providing the department with rulemaking authority relating to inspection of certain group care facilities under the environmental health program; amending s. 381.0061, F.S.; providing the department with authority to impose certain fines; amending s. 381.0062, F.S.; revising definitions to clarify differences in regulatory requirements for drinking water systems; amending s. 381.90, F.S.; revising membership and duties of the Health Information Systems Council; requiring a report; amending s. 382.003, F.S.; removing unnecessary language; providing for certain rules; amending s. 382.004, F.S.; revising language with respect to reproduction and destruction of certain records; amending s. 382.008, F.S.; removing language conflicting with federal law; amending s. 382.013, F.S.; providing certain requirements relating to birth registration; amending s. 382.015, F.S.; providing for technical changes with respect to certificates of live birth; amending s. 382.016, F.S.; providing for administrative procedures for acknowledging paternity; amending s. 382.019, F.S.; establishing certain requirements and rulemaking authority for registration; amending s. 382.025, F.S.; setting requirements for certain data; amending s. 382.0255, F.S.; revising requirements for fee transfer; amending s. 383.011, F.S.; clarifying Department of Health rulemaking authority relating to the Child Care Food Program; amending s. 383.14, F.S.; correcting the name of the WIC program to conform to federal law; amending s. 385.202, F.S.; removing certain department reimbursement requirements; amending s. 385.203, F.S.; revising requirements and membership for the Diabetes Advisory Council; amending s. 391.021, F.S.; conforming references to Children's Medical Services; amending s. 391.028, F.S.; providing the Director of Children's Medical Services with certain appointment authority; amending s. 391.0315, F.S.; providing requirements for benefits to children with special health care needs; amending ss. 391.221, 391.222, and 391.223, F.S.; conforming references to Children's Medical Services; amending s. 392.69, F.S.; authorizing the department to use certain excess money for improvements to facilities and establishing an advisory board for the A.G. Holley State Hospital; amending s. 409.912, F.S.; requiring the Agency for Health Care Administration to enter into certain agreements; amending s. 409.9126, F.S.; revising date requirements for certain capitation payments to Children's Medical Services; amending s. 455.564, F.S.; authorizing certain boards to require continuing education hours in certain areas; providing construction; authorizing certain boards within the Division of Medical Quality Assurance to adopt rules granting continuing education hours for certain activities; amending s. 455.5651, F.S.; prohibiting certain information from being included in practitioner profiles; amending s. 465.019, F.S.; authorizing certain nursing homes to purchase medical oxygen; amending ss. 468.304 and 468.306, F.S.; permitting the department to increase certain examination costs; amending s. 468.309, F.S.; providing the department with rulemaking authority for establishing expirations for radiologic technologists' certificates; amending s. 499.005, F.S.; requiring and clarifying certain prohibitions relating to sales of prescription drugs and legend devices; amending s. 499.007, F.S.; conforming prescription statement requirements to federal language; amending s. 499.028, F.S.; authorizing certain federal, state, or local government employees to possess drug samples; amending ss. 499.069 and 742.10, F.S.; conforming cross references; naming the Wilson T. Sowder, M.D., Building, the William G. "Doc" Myers, M.D., Building, and the E. Charlton Prather, M.D., Building; directing the Department of Children and Family Services and the Agency for Health Care Administration to develop a system for newborn Medicaid identification; repealing s. 381.731(3), F.S., relating to submission of the Healthy Communities, Healthy People Plan; repealing s. 383.307(5), F.S., relating to consultations between birth centers and the Department of Health; repealing s. 404.20(7), F.S., relating to obsolete radioactive monitoring systems; repealing s. 409.9125, F.S., relating to Medicaid alternative service networks; authorizing the Department of Health to become an accrediting authority for environmental laboratory standards; providing intent and rulemaking authority for the department to implement standards of the National Environmental Laboratory Accreditation Program; providing an effective date.

—a companion measure, was substituted for **CS for SB 2220** as amended and by two-thirds vote read the second time by title.

Senator Clary moved the following amendment:

Amendment 1 (360802)(with title amendment)—Delete everything after the enacting clause and insert:

Section 1. *The Department of Children and Family Services and the Agency for Health Care Administration shall, by October 1, 1999, develop a system to allow unborn children of Medicaid-eligible mothers to be issued a Medicaid number that shall be used for billing purposes and for monitoring of care for the child beginning with the child's date of birth.*

Section 2. Paragraphs (e) and (f) of subsection (3) and paragraphs (a) and (b) of subsection (7) of section 20.43, Florida Statutes, 1998 Supplement, are amended, and paragraphs (h), (i), and (j) are added to subsection (3) of that section, to read:

20.43 Department of Health.—There is created a Department of Health.

(3) The following divisions of the Department of Health are established:

(e) Division of Children's Medical Services *Network*.

(f) Division of *Emergency Medical Services and Community Health Resources* ~~Local Health Planning, Education, and Workforce Development~~.

(h) Division of Children's Medical Services Prevention and Intervention.

(i) Division of Information Resource Management.

(j) Division of Health Awareness and Tobacco.

(7) To protect and improve the public health, the department may use state or federal funds to:

(a) Provide incentives, *including, but not limited to, the promotional items listed in paragraph (b), food and* including food coupons, *and* ~~or~~ payment for travel expenses, for encouraging *healthy lifestyle and* disease prevention *behaviors* and patient compliance with medical treatment, such as tuberculosis therapy *and smoking cessation programs. Such incentives shall be intended to cause individuals to take action to improve their health. Any incentive for food, food coupons, or travel expenses may not exceed the limitations in s. 112.061.*

(b) Plan and conduct health education campaigns for the purpose of protecting or improving public health. The department may purchase promotional items, *such as, but not limited to, t-shirts, hats, sports items such as water bottles and sweat bands, calendars, nutritional charts, baby bibs, growth charts, and other items printed with health-promotion messages,* and advertising, such as space on billboards or in publications or radio or television time, for health information and promotional messages that recognize that the following behaviors, among others, are detrimental to public health: unprotected sexual intercourse, other than with one's spouse; cigarette *and cigar* smoking, *use of smokeless tobacco products, and exposure to environmental tobacco smoke*; alcohol consumption or other substance abuse during pregnancy; alcohol abuse or other substance abuse; lack of exercise and poor diet and nutrition habits; and failure to recognize and address a genetic tendency to suffer from sickle-cell anemia, diabetes, high blood pressure, cardiovascular disease, or cancer. For purposes of activities under this paragraph, the Department of Health may establish requirements for local matching funds or in-kind contributions to create and distribute advertisements, in either print or electronic format, which are concerned with each of the targeted behaviors, establish an independent evaluation and feedback system for the public health communication campaign, and monitor and evaluate the efforts to determine which of the techniques and methodologies are most effective.

Section 3. Paragraphs (l), (p), and (s) of subsection (2) of section 110.205, Florida Statutes, are amended to read:

110.205 Career service; exemptions.—

(2) EXEMPT POSITIONS.—The exempt positions which are not covered by this part include the following, provided that no position, except for positions established for a limited period of time pursuant to para-

graph (h), shall be exempted if the position reports to a position in the career service:

(l) All assistant division director, deputy division director, and bureau chief positions in any department, and those positions determined by the department to have managerial responsibilities comparable to such positions, which positions include, but are not limited to, positions in the Department of Health, *the Department of Children and Family Services*, ~~and Rehabilitative Services~~ and the Department of Corrections that are assigned primary duties of serving as the superintendent of an institution: positions in the Department of Transportation that are assigned primary duties of serving as regional toll managers and managers of offices as defined in s. 20.23(3)(d)3. and (4)(d); positions in the Department of Environmental Protection that are assigned the duty of an Environmental Administrator or program administrator; and positions in the Department of Health ~~and Rehabilitative Services~~ that are assigned the *duties* ~~duty~~ of ~~an~~ Environmental Administrator, *Assistant County Health Department Director, and County Health Department Financial Administrator*. Unless otherwise fixed by law, the department shall set the salary and benefits of these positions in accordance with the rules established for the Selected Exempt Service.

(p) The staff directors, assistant staff directors, district program managers, district program coordinators, district subdistrict administrators, district administrative services directors, district attorneys, ~~county health department directors, county health department administrators,~~ and the Deputy Director of Central Operations Services of the Department of *Children and Family* ~~Health and Rehabilitative~~ Services *and the county health department directors and county health department administrators of the Department of Health*. Unless otherwise fixed by law, the department shall establish the salary range and benefits for these positions in accordance with the rules of the Selected Exempt Service.

(s) The executive director of each board or commission established within the Department of Business and Professional Regulation *or the Department of Health*. Unless otherwise fixed by law, the department shall establish the salary and benefits for these positions in accordance with the rules established for the Selected Exempt Service.

Section 4. Subsection (15) of section 120.80, Florida Statutes, 1998 Supplement, is amended to read:

120.80 Exceptions and special requirements; agencies.—

(15) DEPARTMENT OF HEALTH.—Notwithstanding s. 120.57(1)(a), formal hearings may not be conducted by the Secretary of Health, the director of the Agency for Health Care Administration, or a board or member of a board within the Department of Health or the Agency for Health Care Administration for matters relating to the regulation of professions, as defined by part II of chapter 455. *Notwithstanding s. 120.57(1)(a), hearings conducted within the Department of Health in execution of the Special Supplemental Nutrition Program for Women, Infants, and Children; Child Care Food Program; Children's Medical Services Program; and the exemption from disqualification reviews for certified nurse assistants program need not be conducted by an administrative law judge assigned by the division. The Department of Health may contract with the Department of Children and Family Services for a hearing officer in these matters.*

Section 5. Subsection (1) of section 154.504, Florida Statutes, 1998 Supplement, is amended to read:

154.504 Eligibility and benefits.—

(1) Any county or counties may apply for a primary care for children and families challenge grant to provide primary health care services to children and families with incomes of up to 150 percent of the federal poverty level. Participants shall pay no monthly premium for participation, but shall be required to pay a copayment at the time a service is provided. Copayments may be paid from sources other than the participant, including, but not limited to, the child's or parent's employer, or other private sources. *Providers may enter into contracts pursuant to* ~~As used in~~ s. 766.1115, *provided copayments*~~, the term "copayment"~~ may not be considered and may not be used as compensation for services to health care providers, and all funds generated from copayments shall be used by the governmental contractor *and all other provisions in s. 766.1115 are met*.

Section 6. Subsection (3) is added to section 287.155, Florida Statutes, to read:

287.155 Motor vehicles; purchase by Division of Universities, Department of Health and Rehabilitative Services, Department of Juvenile Justice, and Department of Corrections.—

(3) The Department of Health is authorized, subject to the approval of the Department of Management Services, to purchase automobiles, trucks, and other automotive equipment for use by county health departments.

Section 7. Subsection (3) of section 372.6672, Florida Statutes, 1998 Supplement, is amended to read:

372.6672 Alligator management and trapping program implementation; commission authority.—

(3) The powers and duties of the commission hereunder shall not be construed so as to supersede the regulatory authority or lawful responsibility of the ~~Department of Health and Rehabilitative Services, the~~ Department of Agriculture and Consumer Services, or any local governmental entity regarding the processing or handling of food products, but shall be deemed supplemental thereto.

Section 8. Paragraph (h) of subsection (3) of section 381.004, Florida Statutes, 1998 Supplement, is amended to read:

381.004 Testing for human immunodeficiency virus.—

(3) HUMAN IMMUNODEFICIENCY VIRUS TESTING; INFORMED CONSENT; RESULTS; COUNSELING; CONFIDENTIALITY.—

(h) Notwithstanding the provisions of paragraph (a), informed consent is not required:

1. When testing for sexually transmissible diseases is required by state or federal law, or by rule including the following situations:

a. HIV testing pursuant to s. 796.08 of persons convicted of prostitution or of procuring another to commit prostitution.

b. Testing for HIV by a medical examiner in accordance with s. 406.11.

2. Those exceptions provided for blood, plasma, organs, skin, semen, or other human tissue pursuant to s. 381.0041.

3. For the performance of an HIV-related test by licensed medical personnel in bona fide medical emergencies when the test results are necessary for medical diagnostic purposes to provide appropriate emergency care or treatment to the person being tested and the patient is unable to consent, as supported by documentation in the medical record. Notification of test results in accordance with paragraph (c) is required.

4. For the performance of an HIV-related test by licensed medical personnel for medical diagnosis of acute illness where, in the opinion of the attending physician, obtaining informed consent would be detrimental to the patient, as supported by documentation in the medical record, and the test results are necessary for medical diagnostic purposes to provide appropriate care or treatment to the person being tested. Notification of test results in accordance with paragraph (c) is required if it would not be detrimental to the patient. This subparagraph does not authorize the routine testing of patients for HIV infection without informed consent.

5. When HIV testing is performed as part of an autopsy for which consent was obtained pursuant to s. 872.04.

6. For the performance of an HIV test upon a defendant pursuant to the victim's request in a prosecution for any type of sexual battery where a blood sample is taken from the defendant voluntarily, pursuant to court order for any purpose, or pursuant to the provisions of s. 775.0877, s. 951.27, or s. 960.003; however, the results of any HIV test performed shall be disclosed solely to the victim and the defendant, except as provided in ss. 775.0877, 951.27, and 960.003.

7. When an HIV test is mandated by court order.

8. For epidemiological research pursuant to s. 381.0032, for research consistent with institutional review boards created by 45 C.F.R. part 46, or for the performance of an HIV-related test for the purpose of research, if the testing is performed in a manner by which the identity of the test subject is not known and may not be retrieved by the researcher.

9. When human tissue is collected lawfully without the consent of the donor for corneal removal as authorized by s. 732.9185 or enucleation of the eyes as authorized by s. 732.919.

10. For the performance of an HIV test upon an individual who comes into contact with medical personnel in such a way that a significant exposure has occurred during the course of employment or within the scope of practice and where a blood sample is available that was taken from that individual voluntarily by medical personnel for other purposes. "Medical personnel" includes a licensed or certified health care professional; an employee of a health care professional, health care facility, or blood bank; and a paramedic or emergency medical technician as defined in s. 401.23.

a. Prior to performance of an HIV test on a voluntarily obtained blood sample, the individual from whom the blood was obtained shall be requested to consent to the performance of the test and to the release of the results. The individual's refusal to consent and all information concerning the performance of an HIV test and any HIV test result shall be documented only in the medical personnel's record unless the individual gives written consent to entering this information on the individual's medical record.

b. Reasonable attempts to locate the individual and to obtain consent shall be made and all attempts must be documented. If the individual cannot be found, an HIV test may be conducted on the available blood sample. If the individual does not voluntarily consent to the performance of an HIV test, the individual shall be informed that an HIV test will be performed, and counseling shall be furnished as provided in this section. However, HIV testing shall be conducted only after a licensed physician documents, in the medical record of the medical personnel, that there has been a significant exposure and that, in the physician's medical judgment, the information is medically necessary to determine the course of treatment for the medical personnel.

c. Costs of any HIV test of a blood sample performed with or without the consent of the individual, as provided in this subparagraph, shall be borne by the medical personnel or the employer of the medical personnel. However, costs of testing or treatment not directly related to the initial HIV tests or costs of subsequent testing or treatment shall not be borne by the medical personnel or the employer of the medical personnel.

d. In order to utilize the provisions of this subparagraph, the medical personnel must either be tested for HIV pursuant to this section or provide the results of an HIV test taken within 6 months prior to the significant exposure if such test results are negative.

e. A person who receives the results of an HIV test pursuant to this subparagraph shall maintain the confidentiality of the information received and of the persons tested. Such confidential information is exempt from s. 119.07(1).

f. If the source of the exposure will not voluntarily submit to HIV testing and a blood sample is not available, the medical personnel or the employer of such person acting on behalf of the employee may seek a court order directing the source of the exposure to submit to HIV testing. A sworn statement by a physician licensed under chapter 458 or chapter 459 that a significant exposure has occurred and that, in the physician's medical judgment, testing is medically necessary to determine the course of treatment constitutes probable cause for the issuance of an order by the court. The results of the test shall be released to the source of the exposure and to the person who experienced the exposure.

11. For the performance of an HIV test upon an individual who comes into contact with medical personnel in such a way that a significant exposure has occurred during the course of employment or within the scope of practice of the medical personnel while the medical personnel provides emergency medical treatment to the individual; or who comes into contact with nonmedical personnel in such a way that a significant exposure has occurred while the nonmedical personnel provides emergency medical assistance during a medical emergency. For the purposes of this subparagraph, a medical emergency means an emergency medical condition outside of a hospital or health care facility that provides physician care. The test may be performed only during the course of treatment for the medical emergency.

a. An individual who is capable of providing consent shall be requested to consent to an HIV test prior to the testing. The individual's refusal to consent, and all information concerning the performance of an HIV test and its result, shall be documented only in the medical personnel's record unless the individual gives written consent to entering this information on the individual's medical record.

b. HIV testing shall be conducted only after a licensed physician documents, in the medical record of the medical personnel or nonmedical personnel, that there has been a significant exposure and that, in the physician's medical judgment, the information is medically necessary to determine the course of treatment for the medical personnel or nonmedical personnel.

c. Costs of any HIV test performed with or without the consent of the individual, as provided in this subparagraph, shall be borne by the medical personnel or the employer of the medical personnel or nonmedical personnel. However, costs of testing or treatment not directly related to the initial HIV tests or costs of subsequent testing or treatment shall not be borne by the medical personnel or the employer of the medical personnel or nonmedical personnel.

d. In order to utilize the provisions of this subparagraph, the medical personnel or nonmedical personnel shall be tested for HIV pursuant to this section or shall provide the results of an HIV test taken within 6 months prior to the significant exposure if such test results are negative.

e. A person who receives the results of an HIV test pursuant to this subparagraph shall maintain the confidentiality of the information received and of the persons tested. Such confidential information is exempt from s. 119.07(1).

f. If the source of the exposure will not voluntarily submit to HIV testing and a blood sample was not obtained during treatment for the medical emergency, the medical personnel, the employer of the medical personnel acting on behalf of the employee, or the nonmedical personnel may seek a court order directing the source of the exposure to submit to HIV testing. A sworn statement by a physician licensed under chapter 458 or chapter 459 that a significant exposure has occurred and that, in the physician's medical judgment, testing is medically necessary to determine the course of treatment constitutes probable cause for the issuance of an order by the court. The results of the test shall be released to the source of the exposure and to the person who experienced the exposure.

12. For the performance of an HIV test by the medical examiner *or attending physician* upon *an* ~~a deceased~~ individual who ~~is the source of a significant exposure to medical personnel or nonmedical personnel who provided emergency medical assistance and who~~ expired or could not be resuscitated *while receiving* ~~during treatment for the medical~~ emergency *medical assistance or care and who was the source of a significant exposure to medical or nonmedical personnel providing such assistance or care.*

a. HIV testing may be conducted only after a licensed physician documents in the medical record of the medical personnel or nonmedical personnel that there has been a significant exposure and that, in the physician's medical judgment, the information is medically necessary to determine the course of treatment for the medical personnel or nonmedical personnel.

b. Costs of any HIV test performed under this subparagraph may not be charged to the deceased or to the family of the deceased person.

c. For the provisions of this subparagraph to be applicable, the medical personnel or nonmedical personnel must be tested for HIV under this section or must provide the results of an HIV test taken within 6 months before the significant exposure if such test results are negative.

d. A person who receives the results of an HIV test pursuant to this subparagraph shall comply with paragraph (e).

13. For the performance of an HIV-related test medically indicated by licensed medical personnel for medical diagnosis of a hospitalized infant as necessary to provide appropriate care and treatment of the infant when, after a reasonable attempt, a parent cannot be contacted

to provide consent. The medical records of the infant shall reflect the reason consent of the parent was not initially obtained. Test results shall be provided to the parent when the parent is located.

14. For the performance of HIV testing conducted to monitor the clinical progress of a patient previously diagnosed to be HIV positive.

15. For the performance of repeated HIV testing conducted to monitor possible conversion from a significant exposure.

Section 9. Subsection (7) is added to section 381.0051, Florida Statutes, to read:

381.0051 Family planning.—

(7) RULES.—The Department of Health may adopt rules to implement this section.

Section 10. Subsection (16) is added to section 381.006, Florida Statutes, 1998 Supplement, to read:

381.006 Environmental health.—The department shall conduct an environmental health program as part of fulfilling the state's public health mission. The purpose of this program is to detect and prevent disease caused by natural and manmade factors in the environment. The environmental health program shall include, but not be limited to:

(16) A group-care-facilities function, where a group-care facility means any public or private school, housing, building or buildings, section of a building, or distinct part of a building or other place, whether operated for profit or not, which undertakes, through its ownership or management, to provide one or more personal services, care, protection, and supervision to persons who require such services and who are not related to the owner or administrator. The department may adopt rules necessary to protect the health and safety of residents, staff, and patrons of group-care facilities, such as child care facilities, family day-care homes, assisted-living facilities, adult day-care centers, adult family-care homes, hospices, residential treatment facilities, crisis-stabilization units, pediatric extended-care centers, intermediate-care facilities for the developmentally disabled, group-care homes, and, jointly with the Department of Education, private and public schools. These rules may include provisions relating to operation and maintenance of facilities, buildings, grounds, equipment, furnishings, and occupant-space requirements; lighting; heating, cooling, and ventilation; water supply, plumbing; sewage; sanitary facilities; insect and rodent control; garbage; safety; personnel health, hygiene, and work practices; and other matters the department finds are appropriate or necessary to protect the safety and health of the residents, staff, or patrons. The department may not adopt rules that conflict with rules adopted by the licensing or certifying agency. The department may enter and inspect at reasonable hours to determine compliance with applicable statutes or rules. In addition to any sanctions that the department may impose for violations of rules adopted under this section, the department shall also report such violations to any agency responsible for licensing or certifying the group-care facility. The licensing or certifying agency may also impose any sanction based solely on the findings of the department.

The department may adopt rules to carry out the provisions of this section.

Section 11. Subsection (1) of section 381.0061, Florida Statutes, is amended to read:

381.0061 Administrative fines.—

(1) In addition to any administrative action authorized by chapter 120 or by other law, the department may impose a fine, which shall not exceed $500 for each violation, for a violation of *s. 381.006(16),* s. 381.0065, s. 381.0066, s. 381.0072, or part III of chapter 489, for a violation of any rule adopted under this chapter, or for a violation of any of the provisions of chapter 386. Notice of intent to impose such fine shall be given by the department to the alleged violator. Each day that a violation continues may constitute a separate violation.

Section 12. Subsections (2), (3), (4), and (5) of section 381.0062, Florida Statutes, 1998 Supplement, are amended to read:

381.0062 Supervision; private and certain public water systems.—

(2) DEFINITIONS.—As used in this section:

(a) "Contaminant" means any physical, biological, chemical, or radiological substance or matter in water.

(b) "Department" means the Department of Health, including the county health departments.

(c) "Florida Safe Drinking Water Act" means part VI of chapter 403.

(d) "Health hazard" means any condition, contaminant, device, or practice in a water system or its operation which will create or has the potential to create an acute or chronic threat to the health and well-being of the water consumer.

(e) "Limited use commercial public water system" means a public water system not covered or included in the Florida Safe Drinking Water Act, which serves one or more nonresidential establishments and provides piped water.

(f) "Limited use community public water system" means a public water system not covered or included in the Florida Safe Drinking Water Act, which serves five or more ~~private~~ residences or two or more rental residences, and provides piped water.

(g) "Maximum contaminant level" means the maximum permissible level of a contaminant in potable water delivered to consumers.

(h) "Multi-family water system" means a water system that provides piped water to three or four residences, one of which may be a rental residence.

(i)~~(h)~~ "Person" means an individual, public or private corporation, company, association, partnership, municipality, agency of the state, district, federal, or any other legal entity, or its legal representative, agent, or assignee.

(j)~~(i)~~ "Potable water" means water that is satisfactory for human consumption, dermal contact, culinary purposes, or dishwashing as approved by the department.

(k)~~(j)~~ "Private water system" means a water system that provides piped water for *one or two* ~~no more than four nonrental~~ residences, *one of which may be a rental residence.*

(l)~~(k)~~ "Public consumption" means oral ingestion or physical contact with water by a person for any purpose other than cleaning work areas or simple handwashing. Examples of public consumption include, when making food or beverages available to the general public, water used for washing food, cooking utensils, or food service areas and water used for preparing food or beverages; washing surfaces accessed by children as in a child care center or similar setting; washing medical instruments or surfaces accessed by a patient; any water usage in health care facilities; emergency washing devices such as eye washing sinks; washing in food processing plants or establishments like slaughterhouses and packinghouses; and water used in schools.

(m)~~(l)~~ "Public water system" means a water system that is not included or covered under the Florida Safe Drinking Water Act, provides piped water to the public, and is not a private *or multi-family* water system. For purposes of this section, public water systems are classified as limited use community or limited use commercial.

(n)~~(m)~~ "Supplier of water" means the person, company, or corporation that owns or operates a limited use community or limited use commercial public water system, *a multi-family water system,* or a private water system.

(o)~~(n)~~ "Variance" means a sanction from the department affording a supplier of water an extended time to correct a maximum contaminant level violation caused by the raw water or to deviate from construction standards established by rule of the department.

(3) SUPERVISION.—The department and its agents shall have general supervision and control over all private water systems, *multi-family water systems,* and public water systems not covered or included in the Florida Safe Drinking Water Act (part VI of chapter 403), and over those aspects of the public water supply program for which it has the duties and responsibilities provided for in part VI of chapter 403. The department shall:

(a) Administer and enforce the provisions of this section and all rules and orders adopted or issued under this section, including water quality and monitoring standards.

(b) Require any person wishing to construct, modify, or operate a limited use community or limited use commercial public water system or a *multi-family* ~~private~~ water system to first make application to and obtain approval from the department on forms adopted by rule of the department.

(c) Review and act upon any application for the construction, modification, operation, or change of ownership of, and conduct surveillance, enforcement, and compliance investigations of, limited use community and limited use commercial public water systems, and *multi-family* ~~private~~ water systems.

(d) Require a fee from the supplier of water in an amount sufficient to cover the costs of reviewing and acting upon any application for the construction, modification, or operation of a limited use community and limited use commercial public water system, of not less than $10 or more than $90 annually.

(e) Require a fee from the supplier of water in an amount sufficient to cover the costs of reviewing and acting upon any application for the construction or change of ownership of a *multi-family* ~~private~~ water system ~~serving more than one residence~~, of not less than $10 or more than $90.

(f) Require a fee from the supplier of water in an amount sufficient to cover the costs of sample collection, review of analytical results, health-risk interpretations, and coordination with other agencies when such work is not included in paragraphs (b) and (c) and is requested by the supplier of water, of not less than $10 or more than $90.

(g) Require suppliers of water to collect samples of water, to submit such samples to a department-certified drinking water laboratory for contaminant analysis, and to keep sampling records as required by rule of the department.

(h) Require all fees collected by the department in accordance with the provisions of this section to be deposited in an appropriate trust fund of the department, and used exclusively for the payment of costs incurred in the administration of this section.

(i) Prohibit any supplier of water from, intentionally or otherwise, introducing any contaminant which poses a health hazard into a drinking water system.

(j) Require suppliers of water to give public notice of water problems and corrective measures under the conditions specified by rule of the department.

(k) Require a fee to cover the cost of reinspection of any system regulated under this section, which may not be less than $25 or more than $40.

(4) RIGHT OF ENTRY.—For purposes of this section, department personnel may enter, at any reasonable time and if they have reasonable cause to believe a violation of this section is occurring or about to occur, upon any and all parts of the premises of such limited use public and *multi-family* ~~private~~ drinking water systems ~~serving more than one residence~~, to make an examination and investigation to determine the sanitary and safety conditions of such systems. Any person who interferes with, hinders, or opposes any employee of the department in the discharge of his or her duties pursuant to the provisions of this section is subject to the penalties provided in s. 381.0025.

(5) ENFORCEMENT AND PENALTIES.—

(a) Any person who constructs, modifies, or operates a limited use community or limited use commercial public water system, *a multi-family water system,* or a private water system, without first complying with the requirements of this section, who operates a water system in violation of department order, or who maintains or operates a water system after revocation of the permit is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(b) This section and rules adopted pursuant to this section may be enforced by injunction or restraining order granted by a circuit court as provided in s. 381.0012(2).

(c) Additional remedies available to county health department staff through any county or municipal ordinance may be applied, over and above the penalties set forth in this section, to any violation of this section or the rules adopted pursuant to this section.

Section 13. Subsections (3) and (7) of section 381.90, Florida Statutes, are amended to read:

381.90 Health Information Systems Council; legislative intent; creation, appointment, duties.—

(3) The council shall be composed of the following members or their senior executive-level designees:

(a) The secretary of the Department of Health;

(b) The secretary of the Department of Business and Professional Regulation;

(c) The secretary of the Department of Children and Family Services;

(d) The director of the Agency for Health Care Administration;

(e) The secretary of the Department of Corrections;

(f) The Attorney General;

(g) The executive director of the Correctional Medical Authority;

(h) Two members representing county health departments, one from a small county and one from a large county, appointed by the Governor; ~~and~~

(i) A representative from the Florida Association of Counties;~~.~~

(j) The State Treasurer and Insurance Commissioner;

(k) A representative from the Florida Healthy Kids Corporation;

(l) A representative from a school of public health chosen by the Board of Regents;

(m) The Commissioner of Education;

(n) The Secretary of the Department of Elderly Affairs; and

(o) The Secretary of the Department of Juvenile Justice.

Representatives of the Federal Government may serve without voting rights.

(7) The council's duties and responsibilities include, but are not limited to, the following:

(a) By March 1 of each year, to develop and approve a strategic plan pursuant to the requirements set forth in s. 186.022(9). Copies of the plan shall be transmitted electronically or in writing to the Executive Office of the Governor, the Speaker of the House of Representatives, and the President of the Senate.

(b) To develop a mission statement, goals, and plan of action, based on the guiding principles specified in s. 282.3032, for the identification, collection, standardization, sharing, and coordination of health-related data across federal, state, and local government and private-sector entities.

(c) To develop a review process to ensure cooperative planning among agencies that collect or maintain health-related data. The council shall submit a report on the implementation of this requirement to the Executive Office of the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2000.

(d)~~(c)~~ To create ad hoc issue-oriented technical workgroups, on an as-needed basis, to make recommendations to the council.

Section 14. Subsection (10) of section 382.003, Florida Statutes, is amended, and subsection (11) is added to that section, to read:

382.003 Powers and duties of the department.—The department may:

(10) Adopt, promulgate, and enforce rules necessary for the creation, issuance, recording, ~~rescinding,~~ maintenance, and processing of vital records and for carrying out the provisions of ss. 382.004-382.014 and ss. 382.016-382.019.

(11) By rule require that forms, documents, and information submitted to the department in the creation or amendment of a vital record be under oath.

Section 15. Subsection (3) of section 382.004, Florida Statutes, is amended to read:

382.004 Reproduction and destruction of records.—

(3) Photographs, microphotographs, or reproductions of any record in the form of film, prints, or electronically produced certifications made in compliance with the provisions of this chapter and certified by the department shall have the same force and effect as the originals thereof, shall be treated as originals for the purpose of their admissibility ~~in any court or case,~~ and shall be prima facie evidence ~~in all courts and cases~~ of the facts stated therein.

Section 16. Subsection (1) of section 382.008, Florida Statutes, 1998 Supplement, is amended to read:

382.008 Death and fetal death registration.—

(1) A certificate for each death and fetal death which occurs in this state shall be filed on a form prescribed by the department with the local registrar of the district in which the death occurred within 5 days after such death and prior to final disposition, and shall be registered by such registrar if it has been completed and filed in accordance with this chapter or adopted rules. The certificate shall include the decedent's social security number, if available. ~~Disclosure of social security numbers obtained through this requirement shall be limited to the purpose of administration of the Title IV-D program for child support enforcement and as otherwise provided by law.~~ In addition, each certificate of death or fetal death:

(a) If requested by the informant, shall include aliases or "also known as" (AKA) names of a decedent in addition to the decedent's name of record. Aliases shall be entered on the face of the death certificate in the space provided for name if there is sufficient space. If there is not sufficient space, aliases may be recorded on the back of the certificate and shall be considered part of the official record of death;

(b) If the place of death is unknown, shall be registered in the registration district in which the dead body or fetus is found within 5 days after such occurrence; and

(c) If death occurs in a moving conveyance, shall be registered in the registration district in which the dead body was first removed from such conveyance.

Section 17. Subsections (1), (2), and (4) of section 382.013, Florida Statutes, 1998 Supplement, are amended to read:

382.013 Birth registration.—A certificate for each live birth that occurs in this state shall be filed within 5 days after such birth with the local registrar of the district in which the birth occurred and shall be registered by the local registrar if the certificate has been completed and filed in accordance with this chapter and adopted rules. The information regarding registered births shall be used for comparison with information in the state case registry, as defined in chapter 61.

(1) FILING.—

(a) If a birth occurs in a hospital, birth center, or other health care facility, or en route thereto, the person in charge of the facility shall be responsible for preparing the certificate, certifying the facts of the birth, and filing the certificate with the local registrar. Within 48 hours after the birth, the physician, midwife, or person in attendance during or immediately after the delivery shall provide the facility with the medical information required by the birth certificate.

(b) If a birth occurs outside a facility and *a physician licensed in this state, a certified nurse midwife, a midwife licensed in this state, or a public health nurse employed by the department was in attendance during or immediately after the delivery, that person shall prepare and file the certificate.*

(c) If a birth occurs outside a facility and the delivery is not attended by one of the persons described in paragraph (b), the person in attendance, the mother, or the father shall report the birth to the registrar and provide proof of the facts of birth. The department may require such documents to be presented and such proof to be filed as it deems necessary and sufficient to establish the truth of the facts to be recorded by the certificate and may withhold registering the birth until its requirements are met. ~~the child is not taken to the facility within 3 days after delivery, the certificate shall be prepared and filed by one of the following persons in the indicated order of priority:~~

~~1. The physician or midwife in attendance during or immediately after the birth.~~

~~2. In the absence of persons described in subparagraph 1., any other person in attendance during or immediately after the birth.~~

~~3. In the absence of persons described in subparagraph 2., the father or mother.~~

~~4. In the absence of the father and the inability of the mother, the person in charge of the premises where the birth occurred.~~

(d)~~(c)~~ If a birth occurs in a moving conveyance and the child is first removed from the conveyance in this state, the birth shall be filed and registered in this state and the place to which the child is first removed shall be considered the place of birth.

(e)~~(d)~~ *The mother or the father* ~~At least one of the parents~~ of the child shall attest to the accuracy of the personal data entered on the certificate in time to permit the timely registration of the certificate.

(f)~~(e)~~ If a certificate of live birth is incomplete, the local registrar shall immediately notify the health care facility or person filing the certificate and shall require the completion of the missing items of information if they can be obtained prior to issuing certified copies of the birth certificate.

(g)~~(f)~~ Regardless of any plan to place a child for adoption after birth, the information on the birth certificate as required by this section must be as to the child's birth parents unless and until an application for a new birth record is made under s. 63.152.

(2) PATERNITY.—

(a) If the mother is married at the time of birth, the name of the husband shall be entered on the birth certificate as the father of the child, unless paternity has been determined otherwise by a court of competent jurisdiction.

(b) *Notwithstanding paragraph (a),* if the husband of the mother dies while the mother is pregnant but before the birth of the child, the name of the deceased husband shall be entered on the birth certificate as the father of the child, unless paternity has been determined otherwise by a court of competent jurisdiction.

(c) If the mother is not married at the time of birth, the name of the father may not be entered on the birth certificate without the execution of a consenting affidavit signed by both the mother and the person to be named as the father. After giving notice orally or through the use of video or audio equipment, and in writing, of the alternatives to, the legal consequences of, and the rights, including, if one parent is a minor, any rights afforded due to minority status, and responsibilities that arise from signing an acknowledgment of paternity, the facility shall provide the mother and the person to be named as the father with the affidavit, as well as information provided by the Title IV-D agency established pursuant to s. 409.2557, regarding the benefits of voluntary establishment of paternity. Upon request of the mother and the person to be named as the father, the facility shall assist in the execution of the affidavit.

(d) If the paternity of the child is determined by a court of competent jurisdiction as provided under s. 382.015, the name of the father and the surname of the child shall be entered on the certificate in accordance with the finding and order of the court. If the court fails to specify a surname for the child, the surname shall be entered in accordance with subsection (3).

(e) If the father is not named on the certificate, no other information about the father shall be entered on the certificate.

(4) UNDETERMINED PARENTAGE.—*The person having custody of a child of undetermined parentage shall register* a birth certificate ~~shall be registered for every child of undetermined parentage~~ showing all known or approximate facts relating to the birth. To assist in later determination, information concerning the place and circumstances under which the child was found shall be included on the portion of the birth certificate relating to marital status and medical details. In the event the child is later identified ~~to the satisfaction of the department~~, a new birth certificate shall be prepared which shall bear the same number as the original birth certificate, and the original certificate shall be sealed and filed, shall be confidential and exempt from the provisions of s. 119.07(1), and shall not be opened to inspection by, nor shall certified copies of the same be issued except by court order to, any person other than the registrant if of legal age.

Section 18. Section 382.015, Florida Statutes, is amended to read:

382.015 New certificates of live birth; duty of clerks of court and department.—The clerk of the court in which any proceeding for adoption, annulment of an adoption, affirmation of parental status, or determination of paternity is to be registered, shall within 30 days after the final disposition, forward to the department a *certified* ~~court-certified~~ copy of the court *order* ~~decree~~, or a report of the proceedings upon a form to be furnished by the department, together with sufficient information to identify the original birth certificate and to enable the preparation of a new birth certificate.

(1) ADOPTION AND ANNULMENT OF ADOPTION.—

(a) Upon receipt of the report or certified copy of an adoption decree, together with the information necessary to identify the original certificate of live birth, and establish a new certificate, the department shall prepare and file a new birth certificate, absent objection by the court decreeing the adoption, the adoptive parents, or the adoptee if of legal age. The certificate shall bear the same file number as the original birth certificate. All names and identifying information relating to the adoptive parents entered on the new certificate shall refer to the adoptive parents, but nothing in the certificate shall refer to or designate the parents as being adoptive. All other items not affected by adoption shall be copied as on the original certificate, including the date of registration and filing.

(b) Upon receipt of the report or certified copy of an annulment-of-adoption decree, together with the sufficient information to identify the original certificate of live birth, the department shall, if a new certificate of birth was filed following an adoption report or decree, remove the new certificate and restore the original certificate to its original place in the files, and the certificate so removed shall be sealed by the department.

(c) Upon receipt of a report or certified copy of an adoption decree or annulment-of-adoption decree for a person born in another state, the department shall forward the report or decree to the state of the registrant's birth. If the adoptee was born in Canada, the department shall send a copy of the report or decree to the appropriate birth registration authority in Canada.

(2) DETERMINATION OF PATERNITY.—

~~(a)~~ Upon receipt of the report or a certified copy of a final decree of determination of paternity, ~~or upon written request and receipt of a consenting affidavit signed by both parents acknowledging the paternity of the registrant,~~ together with sufficient information to identify the original certificate of live birth, the department shall prepare and file a new birth certificate which shall bear the same file number as the original birth certificate. ~~If paternity has been established pursuant to court order,~~ The registrant's name shall be entered as decreed by the court. ~~Otherwise, the surname of the registrant may be changed from that shown on the original birth certificate at the request of the parents or the registrant if of legal age.~~ The names and identifying information of the parents shall be entered as of the date of the registrant's birth.

~~(b) If the parents marry each other at any time after the registrant's birth, the department shall, upon request of the parents or registrant if of legal age and proof of the marriage, amend the certificate with regard to the parent's marital status as though the parents were married at the time of birth.~~

~~(c) If a father's name is already listed on the birth certificate, the birth certificate may only be amended to add a different father's name upon court order. If a change in the registrant's surname is also desired, such change must be included in the court order determining paternity or the name must be changed pursuant to s. 68.07.~~

(3) AFFIRMATION OF PARENTAL STATUS.—Upon receipt of an order of affirmation of parental status issued pursuant to s. 742.16, together with sufficient information to identify the original certificate of live birth, the department shall prepare and file a new birth certificate which shall bear the same file number as the original birth certificate. The names and identifying information of the registrant's parents entered on the new certificate shall be the commissioning couple, but the new certificate may not make reference to or designate the parents as the commissioning couple.

(4) SUBSTITUTION OF NEW CERTIFICATE OF BIRTH FOR ORIGINAL.—When a new certificate of birth is prepared, the department shall substitute the new certificate of birth for the original certificate on file. All copies of the original certificate of live birth in the custody of a local registrar or other state custodian of vital records shall be forwarded to the State Registrar. Thereafter, when a certified copy of the certificate of birth ~~of such person~~ or portion thereof is issued, it shall be a copy of the new certificate of birth or portion thereof, except when a court order requires issuance of a certified copy of the original certificate of birth. In an adoption, change in paternity, affirmation of parental status, undetermined parentage, or court-ordered substitution, the department shall place the original certificate of birth and all papers pertaining thereto under seal, not to be broken except by order of a court of competent jurisdiction or as otherwise provided by law.

(5) FORM.—Except for certificates of foreign birth which are registered as provided in s. 382.017, and delayed certificates of birth which are registered as provided in ss. 382.019 and 382.0195, all original, new, or amended certificates of live birth shall be identical in form, regardless of the marital status of the parents or the fact that the registrant is adopted or of undetermined parentage.

(6) RULES.—The department shall adopt and enforce all rules necessary for carrying out the provisions of this section.

Section 19. Subsections (3), (4), and (5) are added to section 382.016, Florida Statutes, to read:

382.016 Amendment of records.—

(3) Upon written request and receipt of an affidavit signed by the mother and father acknowledging the paternity of a registrant born out of wedlock, together with sufficient information to identify the original certificate of live birth, the department shall prepare a new birth certificate, which shall bear the same file number as the original birth certificate. The names and identifying information of the parents shall be entered as of the date of the registrant's birth. The surname of the registrant may be changed from that shown on the original birth certificate at the request of the mother and father of the registrant, or the registrant if of legal age. If the mother and father marry each other at any time after the registrant's birth, the department shall, upon the request of the mother and father or registrant if of legal age and proof of the marriage, amend the certificate with regard to the parents' marital status as though the parents were married at the time of birth.

(4) When a new certificate of birth is prepared pursuant to subsection (3), the department shall substitute the new certificate of birth for the original certificate on file. All copies of the original certificate of live birth in the custody of a local registrar or other state custodian of vital records shall be forwarded to the State Registrar. Thereafter, when a certified copy of the certificate of birth or portion thereof is issued, it shall be a copy of the new certificate of birth or portion thereof, except when a court order requires issuance of a certified copy of the original certificate of birth. The department shall place the original certificate of birth and all papers pertaining thereto under seal, not to be broken except by order of a court of competent jurisdiction or as otherwise provided by law.

(5) If a father's name is listed on the birth certificate, the birth certificate may only be amended to remove the father's name or to add a different father's name upon court order. If a change in the registrant's surname is also desired, such change must be included in the court order or the name must be changed pursuant to s. 68.07.

Section 20. Section 382.019, Florida Statutes, is amended to read:

382.019 Delayed registration*; administrative procedures*.—

(1) Registration after 1 year is a delayed registration, and the department may, upon receipt of *an application and* the fee required under s. 382.0255, and proof of the birth, death, or fetal death as prescribed by this section or rule, register a delayed certificate if the department does not already have a certificate of the birth, death, or fetal death on file.

(2) The department may require such supporting documents to be presented and such proof to be filed as it deems necessary and sufficient to establish the truth of the facts to be recorded by the certificate, and may withhold registering the birth, death, or fetal death certificate until its requirements are met.

(3) Certificates registered under this section are admissible as prima facie evidence of the facts recited therein with like force and effect as other vital records received or admitted in evidence.

(4) A delayed certificate of birth filed under this section shall include a summary statement of the evidence submitted in support of the delayed registration.

(5) A delayed certificate of birth submitted for registration under this section shall be signed before a notarizing official by the registrant if of legal age, or by the parent or guardian of a minor registrant.

(6) A person may not establish more than one birth certificate, and a delayed certificate of birth may not be registered for a deceased person.

(7) A delayed death or fetal death record shall be registered on a certificate of death or fetal death and marked "delayed."

(8) In addition to the rulemaking authority found at s. 382.003(10), the department may, by rule, provide for the dismissal of an application that is not pursued within 1 year.

Section 21. Subsections (1) and (2) of section 382.025, Florida Statutes, are amended to read:

382.025 Certified copies of vital records; confidentiality; research.—

(1) BIRTH RECORDS.—*Except for birth records over 100 years old which are not under seal pursuant to court order,* all birth records of this state shall be confidential and are exempt from the provisions of s. 119.07(1).

(a) Certified copies of the original birth certificate or a new or amended certificate, or affidavits thereof, are confidential and exempt from the provisions of s. 119.07(1) and, upon receipt of a request and payment of the fee prescribed in s. 382.0255, shall be issued only as authorized by the department and in the form prescribed by the department, and only:

1. To the registrant, if of legal age;

2. To the registrant's parent or guardian or other legal representative;

3. Upon receipt of the registrant's death certificate, to the registrant's spouse or to the registrant's child, grandchild, or sibling, if of legal age, or to the legal representative of any of such persons;

4. To any person if the birth record is over 100 years old and not under seal pursuant to court order;

5. To a law enforcement agency for official purposes;

6. To any agency of the state or the United States for official purposes upon approval of the department; or

7. Upon order of any court of competent jurisdiction.

(b) To protect the integrity of vital records and prevent the fraudulent use of the birth certificates of deceased persons, the department shall match birth and death certificates and post the fact of death to the appropriate birth certificate. *Except for a commemorative birth certificate, any* ~~A~~ certification of a birth certificate of a deceased registrant shall be marked "deceased." *In the case of a commemorative birth certificate, such indication of death shall be made on the back of the certificate.*

(c) The department shall issue, upon request and upon payment of an additional fee as prescribed under s. 382.0255, a commemorative birth certificate representing that the birth of the person named thereon is recorded in the office of the registrar. The certificate issued under this paragraph shall be in a form consistent with the need to protect the integrity of vital records but shall be suitable for display. It may bear the seal of the state printed thereon and may be signed by the Governor.

(2) OTHER RECORDS.—

(a) The department shall authorize the issuance of a certified copy of all or part of any marriage, dissolution of marriage, or death or fetal death certificate, excluding that portion which is confidential and exempt from the provisions of s. 119.07(1) as provided under s. 382.008, to any person requesting it upon receipt of a request and payment of the fee prescribed by this section. A certification of the death or fetal death certificate which includes the confidential portions shall be issued only:

1. To the registrant's spouse or parent, or to the registrant's child, grandchild, or sibling, if of legal age, or to any *person* ~~family member~~ who provides a will *that has been executed pursuant to s. 732.502*, insurance policy, or other document that demonstrates *his or her* ~~the family member's~~ interest in the estate of the registrant, or to any person who provides documentation that he or she is acting on behalf of any of them;

2. To any agency of the state or local government or the United States for official purposes upon approval of the department; or

3. Upon order of any court of competent jurisdiction.

(b) All portions of a certificate of death shall cease to be exempt from the provisions of s. 119.07(1) 50 years after the date of death.

(c) The department shall issue, upon request and upon payment of an additional fee prescribed by this section, a commemorative marriage license representing that the marriage of the persons named thereon is recorded in the office of the registrar. The certificate issued under this paragraph shall be in a form consistent with the need to protect the integrity of vital records but shall be suitable for display. It may bear the seal of the state printed thereon and may be signed by the Governor.

Section 22. Subsection (2) of section 382.0255, Florida Statutes, is amended to read:

382.0255 Fees.—

(2) The fee charged for each request for a certification of a birth record issued by the department or by the local registrar shall be subject to an additional fee of $4 which shall be deposited in the appropriate departmental trust fund. On a quarterly basis, the department shall transfer ~~$2 of this additional fee to the General Revenue Fund and~~ $1.50 to the Child Welfare Training Trust Fund created in s. 402.40. ~~Fifty cents of the fee shall be available for appropriation to the department for administration of this chapter.~~

Section 23. Paragraph (e) of subsection (3) and subsection (5) of section 383.14, Florida Statutes, are amended to read:

383.14 Screening for metabolic disorders, other hereditary and congenital disorders, and environmental risk factors.—

(3) DEPARTMENT OF HEALTH; POWERS AND DUTIES.—The department shall administer and provide certain services to implement the provisions of this section and shall:

(e) Supply the necessary dietary treatment products where practicable for diagnosed cases of phenylketonuria and other metabolic diseases for as long as medically indicated when the products are not otherwise available. Provide nutrition education and supplemental foods to those families eligible for the Special Supplemental *Nutrition* ~~Food~~ Program for Women, Infants, and Children as provided in s. 383.011.

All provisions of this subsection must be coordinated with the provisions and plans established under this chapter, chapter 411, and Pub. L. No. 99-457.

(5) ADVISORY COUNCIL.—There is established a Genetics and Infant Screening Advisory Council made up of 12 members appointed by the Secretary of Health. The council shall be composed of two consumer members, three practicing pediatricians, at least one of whom must be

a pediatric hematologist, one representative from each of the four medical schools in the state, the Secretary of Health or his or her designee, one representative from the *Department of Health representing* ~~Division of~~ Children's Medical Services, and one representative from the Developmental Services Program Office of the Department of Children and Family Services. All appointments shall be for a term of 4 years. The chairperson of the council shall be elected from the membership of the council and shall serve for a period of 2 years. The council shall meet at least semiannually or upon the call of the chairperson. The council may establish ad hoc or temporary technical advisory groups to assist the council with specific topics which come before the council. Council members shall serve without pay. Pursuant to the provisions of s. 112.061, the council members are entitled to be reimbursed for per diem and travel expenses. It is the purpose of the council to advise the department about:

(a) Conditions for which testing should be included under the screening program and the genetics program;

(b) Procedures for collection and transmission of specimens and recording of results; and

(c) Methods whereby screening programs and genetics services for children now provided or proposed to be offered in the state may be more effectively evaluated, coordinated, and consolidated.

Section 24. Subsection (4) of section 385.202, Florida Statutes, is amended to read:

385.202 Statewide cancer registry.—

(4) Funds appropriated for this section shall be used for establishing, administering, compiling, processing, and providing biometric and statistical analyses to the reporting facilities. Funds may also be used to ensure the quality and accuracy of the information reported and to provide management information to the reporting facilities. ~~Such reporting hospitals shall be reimbursed for reasonable costs.~~

Section 25. Section 385.203, Florida Statutes, is amended to read:

385.203 Diabetes Advisory Council; creation; function; membership.—

(1) *To guide a statewide comprehensive approach to diabetes prevention, diagnosis, education, care, treatment, impact, and costs thereof,* there is created a Diabetes Advisory Council *that serves as the advisory unit* to ~~the diabetes centers, the Board of Regents, and~~ the Department of Health, *other governmental agencies, professional and other organizations, and the general public.* The council shall:

(a) *Provide statewide leadership to continuously improve the lives of Floridians with diabetes and reduce the burden of diabetes.*

(b) Serve as a forum for the discussion and study of issues related to the *public health approach for the* delivery of health care services to persons with diabetes.

~~(b) Provide advice and consultation to the deans of the medical schools in which are located diabetes centers, and by June 30 of each year, the council shall submit written recommendations to the deans regarding the need for diabetes education, treatment, and research activities to promote the prevention and control of diabetes.~~

(c) By June 30 of each year, meet with the Secretary of Health or ~~his or her~~ designee to make specific recommendations regarding the public health aspects of the prevention and control of diabetes.

(2) The members of the council shall be appointed by the Governor *with advice* from ~~nominations by the Board of Regents, the Board of Trustees of the University of Miami, and~~ the Secretary of Health. Members shall serve 4-year terms or until their successors are appointed or qualified.

(3) The council shall be composed of *25* ~~18~~ citizens of the state *who have knowledge of, or work in the area of diabetes mellitus* as follows:

(a) Five interested citizens, three of whom are affected by diabetes.

(b) Twenty members, who must include one representative from each of the following areas: nursing with diabetes-educator certification; dietary with diabetes educator certification; podiatry; opthalmology or optometry; psychology; pharmacy; adult endocrinology; pediatric endocrinology; the American Diabetes Association (ADA); the Juvenile Diabetes Foundation (JDF); a community health center; a county health department; an American Diabetes Association-recognized community education program; each medical school in the state; an osteopathic medical school; the insurance industry; a Children's Medical Services diabetes regional program; and an employer.

(c) One or more representatives from the Department of Health, who shall serve on the council as ex officio members. ~~four practicing physicians; one representative from each medical school; seven interested citizens, at least three of whom shall be persons who have or have had diabetes mellitus or who have a child with diabetes mellitus; the Secretary of Health or his or her designee; one representative from the Division of Children's Medical Services of the Department of Health; and one professor of nutrition.~~

(4)(a) The council shall annually elect from its members a chair and *vice chair* ~~a secretary~~. The council shall meet at the chair's discretion; however, at least three meetings shall be held each year.

(b) In conducting its meetings, the council shall use accepted rules of procedure. A majority of the members of the council constitutes a quorum, and action by a majority of a quorum is necessary for the council to take any official action. The *Department of Health* ~~secretary~~ shall keep a complete record of the proceedings of each meeting. The record shall show the names of the members present and the actions taken. The records shall be kept on file with the department, and these and other documents about matters within the jurisdiction of the council may be inspected by members of the council.

(5) Members of the council shall serve without remuneration but may be reimbursed for per diem and travel expenses as provided in s. 112.061, to the extent resources are available.

(6) The department shall serve as an intermediary for the council if the council coordinates, applies for, or accepts any grants, funds, gifts, or services made available to it by any agency or department of the Federal Government, or any private agency or individual, for assistance in the operation of the council ~~or the diabetes centers established in the various medical schools~~.

Section 26. Section 391.028, Florida Statutes, 1998 Supplement, is amended to read:

391.028 Administration.—The Children's Medical Services program shall have a central office and area offices.

(1) The Director of ~~the Division of~~ Children's Medical Services must be a physician licensed under chapter 458 or chapter 459 who has specialized training and experience in the provision of health care to children and who has recognized skills in leadership and the promotion of children's health programs. The ~~division~~ director shall be the deputy secretary and the Deputy State Health Officer for Children's Medical Services and is appointed by and reports to the secretary. *The director may appoint division directors subject to the approval of the secretary.*

(2) The ~~division~~ director shall designate Children's Medical Services area offices to perform operational activities, including, but not limited to:

(a) Providing case management services for the network.

(b) Providing local oversight of the program.

(c) Determining an individual's medical and financial eligibility for the program.

(d) Participating in the determination of a level of care and medical complexity for long-term care services.

(e) Authorizing services in the program and developing spending plans.

(f) Participating in the development of treatment plans.

(g) Taking part in the resolution of complaints and grievances from participants and health care providers.

(3) Each Children's Medical Services area office shall be directed by a physician licensed under chapter 458 or chapter 459 who has specialized training and experience in the provision of health care to children. The director of a Children's Medical Services area office shall be appointed by the ~~division~~ director from the active panel of Children's Medical Services physician consultants.

Section 27. Section 391.0315, Florida Statutes, 1998 Supplement, is amended to read:

391.0315 Benefits.—Benefits provided under the program *for children with special health care needs* shall be the same benefits provided to children as specified in ss. 409.905 and 409.906. The department may offer additional benefits for early intervention services, respite services, genetic testing, genetic and nutritional counseling, and parent support services, if such services are determined to be medically necessary. No child or person determined eligible for the program who is eligible under Title XIX or Title XXI of the Social Security Act shall receive any service other than an initial health care screening or treatment of an emergency medical condition as defined in s. 395.002, until such child or person is enrolled in Medicaid or a Title XXI program.

Section 28. Subsection (3) of section 392.69, Florida Statutes, is amended, and subsection (4) is added to that section, to read:

392.69 Appropriation, sinking, and maintenance trust funds; additional powers of the department.—

(3) In the execution of its public health program functions, *notwithstanding s. 216.292(5)(b),* the department is hereby authorized to use any sums of money which it may heretofore have saved or which it may hereafter save from its regular operating appropriation, or use any sums of money acquired by gift or grant, or any sums of money it may acquire by the issuance of revenue certificates of the hospital to match or supplement any state or federal funds, or any moneys received by said department by gift or otherwise, for the construction or maintenance of additional facilities or improvement to existing facilities, as the department deems necessary.

(4) The department shall appoint an advisory board, which shall meet quarterly to review and make recommendations relating to patient care at A. G. Holley State Hospital. Members shall be appointed for terms of 3 years, with such appointments being staggered so that terms of no more than two members expire in any one year. Members shall serve without compensation, but they are entitled to be reimbursed for per diem and travel expenses under s. 112.061.

Section 29. Subsection (7) of section 401.25, Florida Statutes, is added to read:

401.25 Licensure as a basic life support or an advanced life support service.—

(7)(a) Each permitted basic life support ambulance not specifically exempted from this part, when transporting a person who is sick, injured, wounded, incapacitated, or helpless, must be occupied by at least two persons: one patient attendant who is a certified emergency medical technician, certified paramedic, or licensed physician; and one ambulance driver who meets the requirements of s. 401.281. This paragraph does not apply to interfacility transfers governed by s. 401.252(1).

(b) Each permitted advanced life support ambulance not specifically exempted from this part, when transporting a person who is sick, injured, wounded, incapacitated, or helpless must be occupied by at least two persons: one who is a certified paramedic or licensed physician; and one who is a certified emergency medical technician, certified paramedic, or licensed physician who also meets the requirements of s. 401.281 for drivers. The person with the highest medical certifications shall be in charge of patient care. This paragraph does not apply to interfacility transfers governed by s. 401.252(1).

Section 30. Subsection (3) of section 401.27, Florida Statutes, is amended to read:

401.27 Personnel; standards and certification.—

(3) Any person who desires to be certified or recertified as an emergency medical technician or paramedic must apply to the department *under oath* on forms provided by the department *which shall contain such information as the department reasonably requires, which may include affirmative evidence of ability to comply with applicable laws and rules.* The department shall determine whether the applicant meets the requirements specified in this section and in rules of the department and shall issue a certificate to any person who meets such requirements.

Section 31. Section 401.2701, Florida Statutes, is created to read:

401.2701 Emergency medical services training programs.—

(1) Any private or public institution in Florida desiring to conduct an approved program for the education of emergency medical technicians and paramedics shall:

(a) Submit a completed application on a form provided by the department, which must include:

1. Evidence that the institution is in compliance with all applicable requirements of the Department of Education.

2. Evidence of an affiliation agreement with a hospital that has an emergency department staffed by at least one physician and one registered nurse.

3. Evidence of an affiliation agreement with a current Florida-licensed emergency medical services provider. Such agreement shall include, at a minimum, a commitment by the provider to conduct the field experience portion of the education program.

4. Documentation verifying faculty, including:

a. A medical director who is a licensed physician meeting the applicable requirements for emergency medical services medical directors as outlined in this chapter and rules of the department. The medical director shall have the duty and responsibility of certifying that graduates have successfully completed all phases of the education program and are proficient in basic or advanced life support techniques, as applicable.

b. A program director responsible for the operation, organization, periodic review, administration, development, and approval of the program.

5. Documentation verifying that the curriculum:

a. Meets the course guides and instructor's lesson plans in the most recent Emergency Medical Technician-Basic National Standard Curricula for emergency medical technician programs and Emergency Medical Technician-Paramedic National Standard Curricula for paramedic programs.

b. Includes 2 hours of instruction on the trauma scorecard methodologies for assessment of adult trauma patients and pediatric trauma patients as specified by the department by rule.

c. Includes 4 hours of instruction on HIV/AIDS training consistent with the requirements of chapter 381.

6. Evidence of sufficient medical and educational equipment to meet emergency medical services training program needs.

(b) Receive a scheduled site visit from the department to the applicant's institution. Such site visit shall be conducted within 30 days after notification to the institution that the application was accepted. During the site visit, the department must determine the applicant's compliance with the following criteria:

1. Emergency medical technician programs must be a minimum of 110 hours, with at least 20 hours of supervised clinical supervision, including 10 hours in a hospital emergency department.

2. Paramedic programs must be available only to Florida-certified emergency medical technicians or an emergency medical technician applicant who will obtain Florida certification prior to completion of phase one of the paramedic program. Paramedic programs must be a minimum of 700 hours of didactic and skills practice components, with the skills laboratory student-to-instructor ratio not exceeding six to one. Paramedic programs must provide a field internship experience aboard an advanced life support permitted ambulance.

(2) After completion of the site visit, the department shall prepare a report which shall be provided to the institution. Upon completion of the report, the application shall be deemed complete and the provisions of s. 120.60, shall apply.

(3) If the program is approved, the department must issue the institution a 2-year certificate of approval as an emergency medical technician training program or a paramedic training program. If the application is denied, the department must notify the applicant of any areas of strength, areas needing improvement, and any suggested means of improvement of the program. A denial notification shall be provided to the applicant so as to allow the applicant 5 days prior to the expiration of the application processing time in s. 120.60 to advise the department in writing of its intent to submit a plan of correction. Such intent notification shall provide the time for application processing in s. 120.60. The plan of correction must be submitted to the department within 30 days of the notice. The department shall advise the applicant of its approval or denial of the plan of correction within 30 days of receipt. The denial of the plan of correction or denial of the application may be reviewed as provided in chapter 120.

(4) Approved emergency medical services training programs must maintain records and reports that must be made available to the department, upon written request. Such records must include student applications, records of attendance, records of participation in hospital clinic and field training, medical records, course objectives and outlines, class schedules, learning objectives, lesson plans, number of applicants, number of students accepted, admission requirements, description of qualifications, duties and responsibilities of faculty, and correspondence.

(5) Each approved program must notify the department within 30 days of any change in the professional or employment status of faculty. Each approved program must require its students to pass a comprehensive final written and practical examination evaluating the skills described in the current United States Department of Transportation EMT-Basic or EMT-Paramedic, National Standard Curriculum. Each approved program must issue a certificate of completion to program graduates within 14 days of completion.

Section 32. Section 401.2715, Florida Statutes, is created to read:

401.2715 Recertification training of emergency medical technicians and paramedics.—

(1) The department shall establish by rule criteria for all emergency medical technician and paramedic recertification training. The rules shall provide that all recertification training equals at least 30 hours, includes the performance parameters for adult and pediatric emergency medical clinical care, and is documented through a system of recordkeeping.

(2) Any individual, institution, school, corporation, or governmental entity may conduct emergency medical technician or paramedic recertification training upon application to the department and payment of a nonrefundable fee to be deposited into the Emergency Medical Services Trust Fund. Institutions conducting department-approved educational programs as provided in this chapter and licensed ambulance services are exempt from the application process and payment of fees. The department shall adopt rules for the application and payment of a fee not to exceed the actual cost of administering this approval process.

(3) To be eligible for recertification as provided in s. 401.27, certified emergency medical technicians and paramedics must provide proof of completion of training conducted pursuant to this section. The department shall accept the written affirmation of a licensee's or a department-approved educational program's medical director as documentation that the certificateholder has completed a minimum of 30 hours of recertification training as provided herein.

Section 33. Present subsections (2), (3), and (4) of section 401.30, Florida Statutes, 1998 Supplement, are renumbered as subsections (3), (4), and (5), respectively, and a new subsection (2) is added to said section, to read:

401.30 Records.—

(2) Each licensee must provide the receiving hospital with a copy of an individual patient care record for each patient who is transported to the hospital. The information contained in the record and the method and timeframe for providing the record shall be prescribed by rule of the department.

(3)~~(2)~~ Reports to the department from licensees which cover statistical data are public records, except that the names of patients and other patient-identifying information contained in such reports are confidential and exempt from the provisions of s. 119.07(1). Any record furnished by a licensee at the request of the department must be a true and certified copy of the original record and may not be altered or have information deleted.

(4)~~(3)~~ Records of emergency calls which contain patient examination or treatment information are confidential and exempt from the provisions of s. 119.07(1) and may not be disclosed without the consent of the person to whom they pertain, but appropriate limited disclosure may be made without such consent:

(a) To the person's guardian, to the next of kin if the person is deceased, or to a parent if the person is a minor;

(b) To hospital personnel for use in conjunction with the treatment of the patient;

(c) To the department;

(d) To the service medical director;

(e) For use in a critical incident stress debriefing. Any such discussions during a critical incident stress debriefing shall be considered privileged communication under s. 90.503;

(f) In any civil or criminal action, unless otherwise prohibited by law, upon the issuance of a subpoena from a court of competent jurisdiction and proper notice by the party seeking such records, to the patient or his or her legal representative; or

(g) To a local trauma agency or a regional trauma agency, or a panel or committee assembled by such an agency to assist the agency in performing quality assurance activities in accordance with a plan approved under s. 395.401. Records obtained under this paragraph are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

This subsection does not prohibit the department or a licensee from providing information to any law enforcement agency or any other regulatory agency responsible for the regulation or supervision of emergency medical services and personnel.

(5)~~(4)~~ The department shall adopt and enforce all rules necessary to administer this section.

Section 34. Paragraph (l) is added to subsection (1) of section 401.35, Florida Statutes, and paragraph (i) is added to subsection (2) of said section, to read:

401.35 Rules.—The department shall adopt rules necessary to carry out the purposes of this part.

(1) The rules must provide at least minimum standards governing:

(l) Licensees' security and storage of controlled substances, medications, and fluids, not inconsistent with the provisions of chapter 499 or chapter 893.

(2) The rules must establish application requirements for licensure and certification. Pursuant thereto, the department must develop application forms for basic life support services and advanced life support services. An application for each respective service license must include, but is not limited to:

(i) An oath, upon forms provided by the department which shall contain such information as the department reasonably requires, which may include affirmative evidence of ability to comply with applicable laws and rules.

Section 35. Subsection (3) of section 409.9126, Florida Statutes, 1998 Supplement, is amended to read:

409.9126 Children with special health care needs.—

(3) Services provided through the Children's Medical Services network shall be reimbursed on a fee-for-service basis and shall utilize a primary care case management process. *Beginning July 1, 1999, the Florida Medicaid program shall phase in by geographical area, capitation payments to Children's Medical Services for services provided to Medicaid children with special healthcare needs. By January 1, 2001, the Agency for Health Care Administration shall make capitation payments for Children's Medical Services enrollees statewide, to the extent provided by federal law.* ~~However, effective July 1, 1999, reimbursement to the Children's Medical Services program for services provided to Medicaid-eligible children with special health care needs through the Children's Medical Services network shall be on a capitated basis.~~

Section 36. Paragraph (a) of subsection (2) of section 465.019, Florida Statutes, 1998 Supplement, is amended to read:

465.019 Institutional pharmacies; permits.—

(2) The following classes of institutional pharmacies are established:

(a) "Class I institutional pharmacies" are those institutional pharmacies in which all medicinal drugs are administered from individual prescription containers to the individual patient and in which medicinal drugs are not dispensed on the premises, *except that nursing homes licensed under part II of chapter 400 may purchase medical oxygen for administration to residents*. No medicinal drugs may be dispensed in a Class I institutional pharmacy.

Section 37. Subsections (14), (15), (16), (19), and (22) of section 499.005, Florida Statutes, 1998 Supplement, are amended, and subsection (24) is added to that section, to read:

499.005 Prohibited acts.—It is unlawful to perform or cause the performance of any of the following acts in this state:

(14) The purchase or receipt of a legend drug from a person that is not authorized under *this chapter* ~~the law of the state in which the person resides~~ to distribute legend drugs.

(15) The sale or transfer of a legend drug to a person that is not authorized under the law of the jurisdiction in which the person *receives the drug* ~~resides~~ to purchase or possess legend drugs.

(16) The purchase or receipt of a compressed medical gas from a person that is not authorized under *this chapter* ~~the law of the state in which the person resides~~ to distribute compressed medical gases.

(19) Providing the department with false or fraudulent records, or making false or fraudulent statements, regarding *any matter within the provisions of this chapter* ~~a drug, device, or cosmetic~~.

(22) Failure to obtain a permit or registration, or operating without a valid permit *when a permit or registration is*~~, as~~ required by ss. 499.001-499.081 *for that activity*.

(24) The distribution of a legend device to the patient or ultimate consumer without a prescription or order from a practitioner licensed by law to use or prescribe the device.

Section 38. Subsection (13) of section 499.007, Florida Statutes, is amended to read:

499.007 Misbranded drug or device.—A drug or device is misbranded:

(13) If it is a drug that is subject to paragraph (12)(a), and if, at any time before it is dispensed, its label fails to bear the statement:

(a) "Caution: Federal Law Prohibits Dispensing Without Prescription"; ~~or~~

(b) "Rx Only";

(c) The prescription symbol followed by the word "Only"; or

(d)~~(b)~~ "Caution: State Law Prohibits Dispensing Without Prescription."

A drug dispensed by filling or refilling a written or oral prescription of a practitioner licensed by law to prescribe such drug is exempt from the requirements of this section, except subsections (1), (8), (10), and (11) and the packaging requirements of subsections (6) and (7), if the drug bears a label that contains the name and address of the dispenser or seller, the prescription number and the date the prescription was written or filled, the name of the prescriber and the name of the patient, and the directions for use and cautionary statements. This exemption does not apply to any drug dispensed in the course of the conduct of a business of dispensing drugs pursuant to diagnosis by mail or to any drug dispensed in violation of subsection (12). The department may, by rule, exempt drugs subject to ss. 499.062-499.064 from subsection (12) if compliance with that subsection is not necessary to protect the public health, safety, and welfare.

Section 39. Subsection (15) of section 499.028, Florida Statutes, is amended to read:

499.028 Drug samples or complimentary drugs; starter packs; permits to distribute.—

(15) A person may not possess a prescription drug sample unless:

(a) The drug sample was prescribed to her or him as evidenced by the label required in s. 465.0276(5).

(b) She or he is the employee of a complimentary drug distributor that holds a permit issued under ss. 499.001-499.081.

(c) She or he is a person to whom prescription drug samples may be distributed pursuant to this section.

(d) He or she is an officer or employee of a federal, state, or local government acting within the scope of his or her employment.

Section 40. Subsection (1) of section 499.069, Florida Statutes, is amended to read:

499.069 Punishment for violations of s. 499.005; dissemination of false advertisement.—

(1) Any person who violates any of the provisions of s. 499.005 is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083; but, if the violation is committed after a conviction of such person under this section has become final, such person is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083 or as otherwise provided in ss. 499.001-499.081, except that any person who violates subsection (8), subsection (10), *subsection (14),* subsection (15), ~~subsection (16),~~ or subsection (17) of s. 499.005 is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, or as otherwise provided in ss. 499.001-499.081.

Section 41. Subsection (1) of section 742.10, Florida Statutes, is amended to read:

742.10 Establishment of paternity for children born out of wedlock.—

(1) This chapter provides the primary jurisdiction and procedures for the determination of paternity for children born out of wedlock. When the establishment of paternity has been raised and determined within an adjudicatory hearing brought under the statutes governing inheritance, or dependency under workers' compensation or similar compensation programs, or when an affidavit acknowledging paternity or a stipulation of paternity is executed by both parties and filed with the clerk of the court, or when a consenting affidavit as provided for in s. 382.013 or *s. 382.016* ~~s. 382.015~~ is executed by both parties, it shall constitute the establishment of paternity for purposes of this chapter. If no adjudicatory proceeding was held, a voluntary acknowledgment of paternity shall create a rebuttable presumption, as defined by s. 90.304, of paternity and is subject to the right of any signatory to rescind the acknowledgment within 60 days of the date the acknowledgment was signed or the date of an administrative or judicial proceeding relating to the child, including a proceeding to establish a support order, in which the signatory is a party, whichever is earlier. Both parents are required to provide their social security numbers on any acknowledgment of paternity, consent affidavit, or stipulation of paternity. Except for consenting affidavits under seal pursuant to *ss.* ~~s.~~ 382.015 *and 382.016*, the Office of Vital Statistics shall provide certified copies of affidavits to the Title IV-D agency upon request.

Section 42. Section 39.303, Florida Statutes, 1998 Supplement, is amended to read:

39.303 Child protection teams; services; eligible cases.—The ~~Division of Children's Medical Services of the~~ Department of Health shall develop, maintain, and coordinate the services of one or more multidisciplinary child protection teams in each of the service districts of the Department of Children and Family Services. Such teams may be composed of representatives of appropriate health, mental health, social service, legal service, and law enforcement agencies. The Legislature finds that optimal coordination of child protection teams and sexual abuse treatment programs requires collaboration between the Department of Health and the Department of Children and Family Services. The two departments shall maintain an interagency agreement that establishes protocols for oversight and operations of child protection teams and sexual abuse treatment programs. The Secretary of Health and the *director of* ~~Deputy Secretary for~~ Children's Medical Services, in consultation with the Secretary of Children and Family Services, shall maintain the responsibility for the screening, employment, and, if necessary, the termination of child protection team medical directors, at headquarters and in the 15 districts. Child protection team medical directors shall be responsible for oversight of the teams in the districts.

(1) The Department of Health shall utilize and convene the teams to supplement the assessment and protective supervision activities of the family safety and preservation program of the Department of Children and Family Services. Nothing in this section shall be construed to remove or reduce the duty and responsibility of any person to report pursuant to this chapter all suspected or actual cases of child abuse, abandonment, or neglect or sexual abuse of a child. The role of the teams shall be to support activities of the program and to provide services deemed by the teams to be necessary and appropriate to abused, abandoned, and neglected children upon referral. The specialized diagnostic assessment, evaluation, coordination, consultation, and other supportive services that a child protection team shall be capable of providing include, but are not limited to, the following:

(a) Medical diagnosis and evaluation services, including provision or interpretation of X rays and laboratory tests, and related services, as needed, and documentation of findings relative thereto.

(b) Telephone consultation services in emergencies and in other situations.

(c) Medical evaluation related to abuse, abandonment, or neglect, as defined by policy or rule of the Department of Health.

(d) Such psychological and psychiatric diagnosis and evaluation services for the child or the child's parent or parents, legal custodian or custodians, or other caregivers, or any other individual involved in a child abuse, abandonment, or neglect case, as the team may determine to be needed.

(e) Expert medical, psychological, and related professional testimony in court cases.

(f) Case staffings to develop treatment plans for children whose cases have been referred to the team. A child protection team may provide consultation with respect to a child who is alleged or is shown to be abused, abandoned, or neglected, which consultation shall be provided at the request of a representative of the family safety and preservation program or at the request of any other professional involved with a child or the child's parent or parents, legal custodian or custodians, or other caregivers. In every such child protection team case staffing, consultation, or staff activity involving a child, a family safety and preservation program representative shall attend and participate.

(g) Case service coordination and assistance, including the location of services available from other public and private agencies in the community.

(h) Such training services for program and other employees of the Department of Children and Family Services, employees of the Department of Health, and other medical professionals as is deemed appropriate to enable them to develop and maintain their professional skills and abilities in handling child abuse, abandonment, and neglect cases.

(i) Educational and community awareness campaigns on child abuse, abandonment, and neglect in an effort to enable citizens more successfully to prevent, identify, and treat child abuse, abandonment, and neglect in the community.

(2) The child abuse, abandonment, and neglect cases that are appropriate for referral by the family safety and preservation program to child protection teams of the Department of Health for support services as set forth in subsection (1) include, but are not limited to, cases involving:

(a) Bruises, burns, or fractures in a child under the age of 3 years or in a nonambulatory child of any age.

(b) Unexplained or implausibly explained bruises, burns, fractures, or other injuries in a child of any age.

(c) Sexual abuse of a child in which vaginal or anal penetration is alleged or in which other unlawful sexual conduct has been determined to have occurred.

(d) Venereal disease, or any other sexually transmitted disease, in a prepubescent child.

(e) Reported malnutrition of a child and failure of a child to thrive.

(f) Reported medical, physical, or emotional neglect of a child.

(g) Any family in which one or more children have been pronounced dead on arrival at a hospital or other health care facility, or have been injured and later died, as a result of suspected abuse, abandonment, or neglect, when any sibling or other child remains in the home.

(h) Symptoms of serious emotional problems in a child when emotional or other abuse, abandonment, or neglect is suspected.

(3) In all instances in which a child protection team is providing certain services to abused, abandoned, or neglected children, other offices and units of the Department of Health, and offices and units of the Department of Children and Family Services, shall avoid duplicating the provision of those services.

Section 43. Subsection (3) of section 385.203, Florida Statutes, is amended to read:

385.203 Diabetes Advisory Council; creation; function; membership.—

(3) The council shall be composed of 18 citizens of the state as follows: four practicing physicians; one representative from each medical school; seven interested citizens, at least three of whom shall be persons who have or have had diabetes mellitus or who have a child with diabetes mellitus; the Secretary of Health or his or her designee; one representative from the ~~Division of Children's Medical Services of the~~ Department of Health *who represents Children's Medical Services*; and one professor of nutrition.

Section 44. Subsection (8) of section 391.021, Florida Statutes, 1998 Supplement, is amended to read:

391.021 Definitions.—When used in this act, unless the context clearly indicates otherwise:

(8) "Program" means the Children's Medical Services program established in the ~~Division of Children's Medical Services of the~~ department.

Section 45. Paragraph (b) of subsection (1) of section 391.221, Florida Statutes, 1998 Supplement, is amended to read:

391.221 Statewide Children's Medical Services Network Advisory Council.—

(1) The secretary of the department may appoint a Statewide Children's Medical Services Network Advisory Council for the purpose of acting as an advisory body to the department. Specifically, the duties of the council shall include, but not be limited to:

(b) Making recommendations to the director of ~~the Division of~~ Children's Medical Services concerning the selection of health care providers for the Children's Medical Services network.

Section 46. Subsection (1) of section 391.222, Florida Statutes, 1998 Supplement, is amended to read:

391.222 Cardiac Advisory Council.—

(1) The secretary of the department may appoint a Cardiac Advisory Council for the purpose of acting as the advisory body to the *Department of Health* ~~Division of Children's Medical Services~~ in the delivery of cardiac services to children. Specifically, the duties of the council shall include, but not be limited to:

(a) Recommending standards for personnel and facilities rendering cardiac services ~~for the Division of Children's Medical Services~~;

(b) Receiving reports of the periodic review of cardiac personnel and facilities to determine if established standards for the ~~Division of Children's Medical Services~~ cardiac services are met;

(c) Making recommendations to the ~~division~~ director as to the approval or disapproval of reviewed personnel and facilities;

(d) Making recommendations as to the intervals for reinspection of approved personnel and facilities; and

(e) Providing input ~~to the Division of Children's Medical Services~~ on all aspects of Children's Medical Services cardiac programs, including the rulemaking process.

Section 47. Section 391.223, Florida Statutes, 1998 Supplement, is amended to read:

391.223 Technical advisory panels.—The secretary of the department may establish technical advisory panels to assist ~~the Division of Children's Medical Services~~ in developing specific policies and procedures for the Children's Medical Services program.

Section 48. *Subsection (3) of section 381.731, Florida Statutes, as amended by section 2 of chapter 98-224, Laws of Florida, is repealed.*

Section 49. *Subsection (5) of section 383.307, Florida Statutes, is repealed.*

Section 50. *Subsection (7) of section 404.20, Florida Statutes, is repealed.*

Section 51. *Section 409.9125, Florida Statutes, is repealed.*

Section 52. *The building that is known as the "1911 State Board of Health Building" which is part of a multi-building complex with the address of 1217 Pearl Street, Jacksonville, Florida, shall be known as the "Wilson T. Sowder, M.D., Building."*

Section 53. *The building authorized by chapter 98-307, Laws of Florida, which will be located at the University of South Florida which will house laboratory facilities for the Department of Health shall be known as the "William G. 'Doc' Myers, M.D., Building."*

Section 54. *The Department of Health headquarters building which will comprise approximately 100,000 square feet which is authorized by Specific Appropriation 1986 in the 1998-1999 General Appropriations Act shall be known as the "E. Charlton Prather, M.D., Building."*

Section 55. *The Department of Health may apply for and become a National Environmental Laboratory Accreditation Program accrediting authority. The department, as an accrediting entity, may adopt rules pursuant to sections 120.536(1) and 120.54, Florida Statutes, to implement standards of the National Environmental Laboratory Accreditation Program, including requirements for proficiency testing providers and other rules that are not inconsistent with this section, including rules pertaining to fees, application procedures, standards applicable to environmental or public water supply laboratories, and compliance.*

Section 56. Section 381.0022, Florida Statutes, 1998 Supplement, is amended to read:

381.0022 Sharing confidential or exempt information.—

(1) Notwithstanding any other provision of law to the contrary, the Department of Health and the Department of Children and Family Services may share confidential information or information exempt from disclosure under chapter 119 on any individual who is or has been the subject of a program within the jurisdiction of each agency. Information so exchanged remains confidential or exempt as provided by law.

(2) Notwithstanding any other provision of law to the contrary, the Department of Health may share confidential information or information exempt from disclosure under chapter 119 on any individual who is or has been a Medicaid recipient and is or was the subject of a program within the jurisdiction of the Department of Health, for the purpose of requesting, receiving, or auditing payment for services. Information so exchanged remains confidential or exempt as provided by law.

Section 57. Paragraph (c) of subsection (2) of section 383.011, Florida Statutes, 1998 Supplement, is amended to read:

383.011 Administration of maternal and child health programs.—

(2) The Department of Health shall follow federal requirements and may adopt any rules necessary for the implementation of the maternal and child health care program, the WIC program, and the Child Care Food Program.

(c) With respect to the Child Care Food Program, the department shall adopt rules that interpret and implement relevant federal regulations, including 7 C.F.R. part 226. The rules *may* ~~must~~ address at least those program requirements and procedures identified in paragraph (1)(i).

Section 58. Section 468.304, Florida Statutes, 1998 Supplement, is amended to read:

468.304 Certification examination; admission.—The department shall admit to examination for certification any applicant who pays to the department a nonrefundable fee not to exceed $100 *plus the actual per-applicant cost to the department for purchasing the examination from a national organization* and submits satisfactory evidence, verified by oath or affirmation, that she or he:

(1) Is at least 18 years of age at the time of application;

(2) Is a high school graduate or has successfully completed the requirements for a graduate equivalency diploma (GED) or its equivalent;

(3) Is of good moral character; and

(4)(a) Has successfully completed an educational program, which program may be established in a hospital licensed pursuant to chapter 395 or in an accredited postsecondary academic institution which is subject to approval by the department as maintaining a satisfactory standard; or

(b)1. With respect to an applicant for a basic X-ray machine operator's certificate, has completed a course of study approved by the department with appropriate study material provided the applicant by the department;

2. With respect to an applicant for a basic X-ray machine operator-podiatric medicine certificate, has completed a course of study approved by the department, provided that such course of study shall be limited to that information necessary to perform radiographic procedures within the scope of practice of a podiatric physician licensed pursuant to chapter 461;

3. With respect only to an applicant for a general radiographer's certificate who is a basic X-ray machine operator certificateholder, has completed an educational program or a 2-year training program that takes into account the types of procedures and level of supervision usually and customarily practiced in a hospital, which educational or training program complies with the rules of the department; or

4. With respect only to an applicant for a nuclear medicine technologist's certificate who is a general radiographer certificateholder, has completed an educational program or a 2-year training program that takes into account the types of procedures and level of supervision usually and customarily practiced in a hospital, which educational or training program complies with the rules of the department.

No application for a limited computed tomography certificate shall be accepted. All persons holding valid computed tomography certificates as of October 1, 1984, are subject to the provisions of s. 468.309.

Section 59. Subsection (4) of section 468.306, Florida Statutes, 1998 Supplement, is amended to read:

468.306 Examinations.—All applicants, except those certified pursuant to s. 468.3065, shall be required to pass an examination. The department is authorized to develop or use examinations for each type of certificate.

(4) A nonrefundable fee not to exceed $75 *plus the actual per-applicant cost for purchasing the examination from a national organization* shall be charged for any subsequent examination.

Section 60. Paragraph (a) of subsection (1) of section 468.309, Florida Statutes, is amended to read:

468.309 Certificate; duration; renewal; reversion to inactive status.—

(1)(a) A radiologic technologist's certificate issued in accordance with this part ~~automatically~~ expires *as specified in rules adopted by the department which establish a procedure for the biennial renewal of certificates* ~~on December 31 of the year following the year of issuance~~. A certificate shall be renewed by the department for a period of 2 years upon payment of a renewal fee in an amount not to exceed $75 and upon submission of a renewal application containing such information as the department deems necessary to show that the applicant for renewal is a radiologic technologist in good standing and has completed any continuing education requirements *that* ~~which may be established by~~ the department *establishes*.

Section 61. Subsection (1) of section 455.565, Florida Statutes, 1998 Supplement, is amended to read:

455.565 Designated health care professionals; information required for licensure.—

(1) Each person who applies for initial licensure as a physician under chapter 458, chapter 459, chapter 460, or chapter 461, *except a person applying for registration pursuant to ss. 458.345 and 459.021* must, at the time of application, and each physician who applies for license renewal under chapter 458, chapter 459, chapter 460, or chapter 461, *except a person registered pursuant to ss. 458.345 and 459.021* must, in conjunction with the renewal of such license and under procedures adopted by the Department of Health, and in addition to any other information that may be required from the applicant, furnish the following information to the Department of Health:

(a)1. The name of each medical school that the applicant has attended, with the dates of attendance and the date of graduation, and a description of all graduate medical education completed by the applicant, excluding any coursework taken to satisfy medical licensure continuing education requirements.

2. The name of each hospital at which the applicant has privileges.

3. The address at which the applicant will primarily conduct his or her practice.

4. Any certification that the applicant has received from a specialty board that is recognized by the board to which the applicant is applying.

5. The year that the applicant began practicing medicine.

6. Any appointment to the faculty of a medical school which the applicant currently holds and an indication as to whether the applicant has had the responsibility for graduate medical education within the most recent 10 years.

7. A description of any criminal offense of which the applicant has been found guilty, regardless of whether adjudication of guilt was withheld, or to which the applicant has pled guilty or nolo contendere. A criminal offense committed in another jurisdiction which would have been a felony or misdemeanor if committed in this state must be reported. If the applicant indicates that a criminal offense is under appeal and submits a copy of the notice for appeal of that criminal offense, the department must state that the criminal offense is under appeal if the criminal offense is reported in the applicant's profile. If the applicant indicates to the department that a criminal offense is under appeal, the applicant must, upon disposition of the appeal, submit to the department a copy of the final written order of disposition.

8. A description of any final disciplinary action taken within the previous 10 years against the applicant by the agency regulating the profession that the applicant is or has been licensed to practice, whether in this state or in any other jurisdiction, by a specialty board that is recognized by the American Board of Medical Specialities, the American Osteopathic Association, or a similar national organization, or by a licensed hospital, health maintenance organization, prepaid health clinic, ambulatory surgical center, or nursing home. Disciplinary action includes resignation from or nonrenewal of medical staff membership or the restriction of privileges at a licensed hospital, health maintenance organization, prepaid health clinic, ambulatory surgical center, or nursing home taken in lieu of or in settlement of a pending disciplinary case related to competence or character. If the applicant indicates that the disciplinary action is under appeal and submits a copy of the document initiating an appeal of the disciplinary action, the department must state that the disciplinary action is under appeal if the disciplinary action is reported in the applicant's profile.

(b) In addition to the information required under paragraph (a), each applicant who seeks licensure under chapter 458, chapter 459, or chapter 461, and who has practiced previously in this state or in another jurisdiction or a foreign country must provide the information required of licensees under those chapters pursuant to s. 455.697. An applicant for licensure under chapter 460 who has practiced previously in this state or in another jurisdiction or a foreign country must provide the same information as is required of licensees under chapter 458, pursuant to s. 455.697.

Section 62. *(1) The Division of Children's Medical Services of the Department of Health shall contract with a private nonprofit provider affiliated with a teaching hospital to conduct clinical trials, approved by a federally–sanctioned institutional review board within the teaching hospital, on the use of the drug Secretin to treat autism.*

(2) The private nonprofit provider shall report its findings to the Division of Children's Medical Services, the President of the Senate, the Speaker of the House of Representatives, and other appropriate bodies.

Section 63. *The sum of $50,000 is appropriated to the Division of Children's Medical Services of the Department of Health from the General Revenue Fund for the purpose of implementing this act.*

Section 64. Paragraph (b) of subsection (3) of section 232.435, Florida Statutes, is amended to read:

232.435 Extracurricular athletic activities; athletic trainers.—

(3)

(b) If a school district uses the services of an athletic trainer who is not a teacher athletic trainer or a teacher apprentice trainer within the requirements of this section, such athletic trainer must be licensed as required by part *XIII* ~~XIV~~ of chapter 468.

Section 65. Subsection (2) of section 381.026, Florida Statutes, 1998 Supplement, is amended to read:

381.026 Florida Patient's Bill of Rights and Responsibilities.—

(2) DEFINITIONS.—As used in this section *and s. 381.0261*, the term:

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

(b)~~(a)~~ "Health care facility" means a facility licensed under chapter 395.

(c)~~(b)~~ "Health care provider" means a physician licensed under chapter 458, an osteopathic physician licensed under chapter 459, or a podiatric physician licensed under chapter 461.

(d)~~(c)~~ "Responsible provider" means a health care provider who is primarily responsible for patient care in a health care facility or provider's office.

Section 66. Subsection (4) of section 381.0261, Florida Statutes, 1998 Supplement, is amended to read:

381.0261 Summary of patient's bill of rights; distribution; penalty.—

(4)*(a)* An administrative fine may be imposed by the Agency *for Health Care Administration* when any ~~health care provider or~~ health

care facility fails to make available to patients a summary of their rights, pursuant to s. 381.026 and this section. Initial nonwillful violations shall be subject to corrective action and shall not be subject to an administrative fine. The Agency *for Health Care Administration* may levy a fine against a health care facility of up to $5,000 for nonwillful violations, and up to $25,000 for intentional and willful violations. *Each intentional and willful violation constitutes a separate violation and is subject to a separate fine.*

(b) An administrative fine may be imposed by the appropriate regulatory board, or the department if there is no board, when any health care provider fails to make available to patients a summary of their rights, pursuant to s. 381.026 and this section. Initial nonwillful violations shall be subject to corrective action and shall not be subject to an administrative fine. The *appropriate regulatory board or department* ~~agency~~ may levy a fine against a health care provider of up to $100 for nonwillful violations and up to $500 for willful violations. Each intentional and willful violation constitutes a separate violation and is subject to a separate fine.

Section 67. Subsection (11) of section 409.906, Florida Statutes, 1998 Supplement, is amended to read:

409.906 Optional Medicaid services.—Subject to specific appropriations, the agency may make payments for services which are optional to the state under Title XIX of the Social Security Act and are furnished by Medicaid providers to recipients who are determined to be eligible on the dates on which the services were provided. Any optional service that is provided shall be provided only when medically necessary and in accordance with state and federal law. Nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. Optional services may include:

(11) HEALTHY START SERVICES.—The agency may pay for a continuum of risk-appropriate medical and psychosocial services for the Healthy Start program in accordance with a federal waiver. The agency may not implement the federal waiver unless the waiver permits the state to limit enrollment or the amount, duration, and scope of services to ensure that expenditures will not exceed funds appropriated by the Legislature or available from local sources. *If the Health Care Financing Administration does not approve a federal waiver for Healthy Start services, the agency, in consultation with the Department of Health and the Florida Association of Healthy Start Coalitions, is authorized to establish a Medicaid certified-match program for Healthy Start services. Participation in the Healthy Start certified-match program shall be voluntary and reimbursement shall be limited to the federal Medicaid share to Medicaid-enrolled Healthy Start coalitions for services provided to Medicaid recipients. The agency shall take no action to implement a certified-match program without ensuring that the amendment and review requirements of ss. 216.177 and 216.181 have been met.*

Section 68. Subsection (21) of section 409.910, Florida Statutes, 1998 Supplement, is renumbered as subsection (22), and a new subsection (21) is added to that section to read:

409.910 Responsibility for payments on behalf of Medicaid-eligible persons when other parties are liable.—

(21) Entities providing health insurance as defined in s. 624.603, and health maintenance organizations as defined in chapter 641, requiring tape or electronic billing formats from the agency shall accept Medicaid billings that are prepared using the current Medicare standard billing format. If the insurance entity or health maintenance organization is unable to use the agency format, the entity shall accept paper claims from the agency in lieu of tape or electronic billing, provided that these claims are prepared using current Medicare standard billing formats.

Section 69. Section 409.9101, Florida Statutes, is created to read:

409.9101 Recovery for payments made on behalf of Medicaid-eligible persons.—

(1) This section may be cited as the "Medicaid Estate Recovery Act."

(2) It is the intent of the Legislature by this section to supplement Medicaid funds that are used to provide medical services to eligible persons. Medicaid estate recovery shall generally be accomplished through the filing of claims against the estates of deceased Medicaid recipients. The recoveries shall be made pursuant to federal authority in s. 13612 of the Omnibus Budget Reconciliation Act of 1993, which amends s. 1917(b)(1) of the Social Security Act (42 U.S.C. s. 1396p(b)(1)).

(3) Pursuant to s. 733.212(4)(a), the personal representative of the estate of the decedent shall serve the agency with a copy of the notice of administration of the estate within 3 months after the first publication of the notice, unless the agency has already filed a claim pursuant to this section.

(4) The acceptance of public medical assistance, as defined by Title XIX (Medicaid) of the Social Security Act, including mandatory and optional supplemental payments under the Social Security Act, shall create a claim, as defined in s. 731.201, in favor of the agency as an interested person as defined in s. 731.201. The claim amount is calculated as the total amount paid to or for the benefit of the recipient for medical assistance on behalf of the recipient after he or she reached 55 years of age. There is no claim under this section against estates of recipients who had not yet reached 55 years of age.

(5) At the time of filing the claim, the agency may reserve the right to amend the claim amounts based on medical claims submitted by providers subsequent to the agency's initial claim calculation.

(6) The claim of the agency shall be the current total allowable amount of Medicaid payments as denoted in the agency's provider payment processing system at the time the agency's claim or amendment is filed. The agency's provider processing system reports shall be admissible as prima facie evidence in substantiating the agency's claim.

(7) The claim of the agency under this section shall constitute a Class 3 claim under s. 733.707(1)(c), as provided in s. 414.28(1).

(8) The claim created under this section shall not be enforced if the recipient is survived by:

(a) A spouse;

(b) A child or children under 21 years of age; or

(c) A child or children who are blind or permanently and totally disabled pursuant to the eligibility requirements of Title XIX of the Social Security Act.

(9) In accordance with s. 4, Art. X of the State Constitution, no claim under this section shall be enforced against any property that is determined to be the homestead of the deceased Medicaid recipient and is determined to be exempt from the claims of creditors of the deceased Medicaid recipient.

(10) The agency shall not recover from an estate if doing so would cause undue hardship for the qualified heirs, as defined in s. 731.201. The personal representative of an estate and any heir may request that the agency waive recovery of any or all of the debt when recovery would create a hardship. A hardship does not exist solely because recovery will prevent any heirs from receiving an anticipated inheritance. The following criteria shall be considered by the agency in reviewing a hardship request:

(a) The heir:

1. Currently resides in the residence of the decedent;

2. Resided there at the time of the death of the decedent;

3. Has made the residence his or her primary residence for the 12 months immediately preceding the death of the decedent; and

4. Owns no other residence;

(b) The heir would be deprived of food, clothing, shelter, or medical care necessary for the maintenance of life or health;

(c) The heir can document that he or she provided full-time care to the recipient which delayed the recipient's entry into a nursing home. The heir must be either the decedent's sibling or the son or daughter of the decedent and must have resided with the recipient for at least 1 year prior to the recipient's death; or

(d) The cost involved in the sale of the property would be equal to or greater than the value of the property.

(11) Instances arise in Medicaid estate-recovery cases where the assets include a settlement of a claim against a liable third party. The agency's claim under s. 409.910 must be satisfied prior to including the settlement proceeds as estate assets. The remaining settlement proceeds shall be included in the estate and be available to satisfy the Medicaid estate-recovery claim. The Medicaid estate-recovery share shall be one-half of the settlement proceeds included in the estate. Nothing in this subsection is intended to limit the agency's rights against other assets in the estate not related to the settlement. However, in no circumstances shall the agency's recovery exceed the total amount of Medicaid medical assistance provided to the recipient.

(12) In instances where there are no liquid assets to satisfy the Medicaid estate-recovery claim, if there is nonhomestead real property and the costs of sale will not exceed the proceeds, the property shall be sold to satisfy the Medicaid estate-recovery claim. Real property shall not be transferred to the agency in any instance.

(13) The agency is authorized to adopt rules to implement the provisions of this section.

Section 70. Paragraph (d) of subsection (3) of section 409.912, Florida Statutes, 1998 Supplement, is amended to read:

409.912 Cost-effective purchasing of health care.—The agency shall purchase goods and services for Medicaid recipients in the most cost-effective manner consistent with the delivery of quality medical care. The agency shall maximize the use of prepaid per capita and prepaid aggregate fixed-sum basis services when appropriate and other alternative service delivery and reimbursement methodologies, including competitive bidding pursuant to s. 287.057, designed to facilitate the cost-effective purchase of a case-managed continuum of care. The agency shall also require providers to minimize the exposure of recipients to the need for acute inpatient, custodial, and other institutional care and the inappropriate or unnecessary use of high-cost services.

(3) The agency may contract with:

(d) No more than four provider service networks for demonstration projects to test Medicaid direct contracting. ~~One demonstration project must be located in Orange County.~~ The demonstration projects may be reimbursed on a fee-for-service or prepaid basis. A provider service network which is reimbursed by the agency on a prepaid basis shall be exempt from parts I and III of chapter 641, but must meet appropriate financial reserve, quality assurance, and patient rights requirements as established by the agency. The agency shall award contracts on a competitive bid basis and shall select bidders based upon price and quality of care. Medicaid recipients assigned to a demonstration project shall be chosen equally from those who would otherwise have been assigned to prepaid plans and MediPass. The agency is authorized to seek federal Medicaid waivers as necessary to implement the provisions of this section. A demonstration project awarded pursuant to this paragraph shall be for 2 years from the date of implementation.

Section 71. Paragraph (a) of subsection (24) of section 409.913, Florida Statutes, is amended to read:

409.913 Oversight of the integrity of the Medicaid program.—The agency shall operate a program to oversee the activities of Florida Medicaid recipients, and providers and their representatives, to ensure that fraudulent and abusive behavior and neglect of recipients occur to the minimum extent possible, and to recover overpayments and impose sanctions as appropriate.

(24)(a) The agency may withhold Medicaid payments, *in whole or in part,* to a provider *upon receipt of reliable evidence that the circumstances giving rise to the need for a withholding of payments involve fraud or willful misrepresentation under the Medicaid program, or a crime committed while rendering goods or services to Medicaid recipients,* ~~up to the amount of the overpayment as determined by final agency audit report,~~ pending completion of legal proceedings ~~under this section~~. ~~If the agency withholds payments under this section, the Medicaid payment may not be reduced by more than 10 percent.~~ If it *is* ~~has been~~ determined that *fraud, willful misrepresentation, or a crime did not occur* ~~an overpayment has not occurred~~, the payments withheld must be paid to the provider within *14* ~~60~~ days *after such determination* with interest at the rate of 10 percent a year. *Any money withheld in accordance with this paragraph shall be placed in a suspended account, readily accessible to the agency, so that any payment ultimately due the provider shall be made within 14 days. Furthermore, the authority to withhold payments under this paragraph shall not apply to physicians whose alleged overpayments are being determined by administrative proceedings pursuant to chapter 120.* ~~If the amount of the alleged overpayment exceeds $75,000, the agency may reduce the Medicaid payments by up to $25,000 per month.~~

Section 72. Section 409.9131, Florida Statutes, is created to read:

409.9131 Special provisions relating to integrity of the Medicaid program.—

(1) LEGISLATIVE FINDINGS AND INTENT.—It is the intent of the Legislature that physicians, as defined in this section, be subject to Medicaid fraud and abuse investigations in accordance with the provisions set forth in this section as a supplement to the provisions contained in s. 409.913. If a conflict exists between the provisions of this section and s. 409.913, it is the intent of the Legislature that the provisions of this section shall control.

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

(a) "Active practice" means a physician must have regularly provided medical care and treatment to patients within the past 2 years.

(b) "Medical necessity" or "medically necessary" means any goods or services necessary to palliate the effects of a terminal condition or to prevent, diagnose, correct, cure, alleviate, or preclude deterioration of a condition that threatens life, causes pain or suffering, or results in illness or infirmity, which goods or services are provided in accordance with generally accepted standards of medical practice. For purposes of determining Medicaid reimbursement, the agency is the final arbiter of medical necessity. In making determinations of medical necessity, the agency must, to the maximum extent possible, use a physician in active practice, either employed by or under contract with the agency, of the same specialty or subspecialty as the physician under review. Such determination must be based upon the information available at the time the goods or services were provided.

(c) "Peer" means a Florida licensed physician who is, to the maximum extent possible, of the same specialty or subspecialty, licensed under the same chapter, and in active practice.

(d) "Peer review" means an evaluation of the professional practices of a Medicaid physician provider by a peer or peers in order to assess the medical necessity, appropriateness, and quality of care provided, as such care is compared to that customarily furnished by the physician's peers and to recognized health care standards, and to determine whether the documentation in the physician's records is adequate.

(e) "Physician" means a person licensed to practice medicine under chapter 458 or a person licensed to practice osteopathic medicine under chapter 459.

(f) "Professional services" means procedures provided to a Medicaid recipient, either directly by or under the supervision of a physician who is a registered provider for the Medicaid program.

(3) ONSITE RECORDS REVIEW.—As specified in s. 409.913(8), the agency may investigate, review, or analyze a physician's medical records concerning Medicaid patients. The physician must make such records available to the agency during normal business hours. The agency must provide notice to the physician at least 24 hours before such visit. The agency and physician shall make every effort to set a mutually agreeable time for the agency's visit during normal business hours and within the 24-hour period. If such a time cannot be agreed upon, the agency may set the time.

(4) NOTICE OF DUE PROCESS RIGHTS REQUIRED.—Whenever the agency seeks an administrative remedy against a physician pursuant to this section or s. 409.913, the physician must be advised of his or her rights to due process under chapter 120. This provision shall not limit or hinder the agency's ability to pursue any remedy available to it under s. 409.913 or other applicable law.

(5) DETERMINATIONS OF OVERPAYMENT.—In making a determination of overpayment to a physician, the agency must:

(a) Use accepted and valid auditing, accounting, analytical, statistical, or peer-review methods, or combinations thereof. Appropriate statistical methods may include, but are not limited to, sampling and extension to the population, parametric and nonparametric statistics, tests of hypotheses, other generally accepted statistical methods, review of medical records, and a consideration of the physician's client case mix. Before performing a review of the physician's Medicaid records, however, the agency shall make every effort to consider the physician's patient case mix, including, but not limited to, patient age and whether individual patients are clients of the Children's Medical Services network established in chapter 391. In meeting its burden of proof in any administrative or court proceeding, the agency may introduce the results of such statistical methods and its other audit findings as evidence of overpayment.

(b) Refer all physician service claims for peer review when the agency's preliminary analysis indicates a potential overpayment, and before any formal proceedings are initiated against the physician, except as required by s. 409.913.

(c) By March 1, 2000, the agency shall study and report to the Legislature on its current statistical model used to calculate overpayments and advise the Legislature what, if any, changes, improvements, or other modifications should be made to the statistical model. Such review shall include, but not be limited to, a review of the appropriateness of including physician specialty and case-mix parameters within the statistical model.

Section 73. Subsections (4) and (6) of section 455.501, Florida Statutes, are amended to read:

455.501 Definitions.—As used in this part, the term:

(4) "Health care practitioner" means any person licensed under chapter 457; chapter 458; chapter 459; chapter 460; chapter 461; chapter 462; chapter 463; chapter 464; chapter 465; chapter 466; *chapter 467;* part I, *part II,* part III, part V, ~~or~~ part X, *part XIII, or part XIV* of chapter 468; *chapter 478;* chapter 480; *part III or part IV of chapter 483;* chapter 484; chapter 486; chapter 490; or chapter 491.

(6) "Licensee" means any person *or entity* issued a permit, registration, certificate, or license by the department.

Section 74. Section 455.507, Florida Statutes, is amended to read:

455.507 Members of Armed Forces in good standing with administrative boards *or department*.—

(1) Any member of the Armed Forces of the United States now or hereafter on active duty who, at the time of ~~his~~ becoming such a member, was in good standing with any administrative board of the state, *or the department when there is no board,* and was entitled to practice or engage in his *or her* profession or vocation in the state shall be kept in good standing by such administrative board, *or the department when there is no board,* without registering, paying dues or fees, or performing any other act on his *or her* part to be performed, as long as he *or she* is a member of the Armed Forces of the United States on active duty and for a period of 6 months after ~~his~~ discharge from active duty as a member of the Armed Forces of the United States, provided he *or she* is not engaged in his *or her* licensed profession or vocation in the private sector for profit.

(2) The boards listed in *s.* ~~ss. 20.165 and~~ 20.43, *or the department when there is no board,* shall adopt rules exempting the spouses of members of the Armed Forces of the United States from licensure renewal provisions, but only in cases of absence from the state because of their spouses' duties with the Armed Forces.

Section 75. Section 455.521, Florida Statutes, 1998 Supplement, is amended to read:

455.521 Department; powers and duties.—The department, for the *professions* ~~boards~~ under its jurisdiction, shall:

(1) Adopt rules establishing a procedure for the biennial renewal of licenses; however, the department may issue up to a 4-year license to selected licensees notwithstanding any other provisions of law to the contrary. Fees for such renewal shall not exceed the fee caps for individual professions on an annualized basis as authorized by law.

(2) Appoint the executive director of each board, subject to the approval of the board.

(3) Submit an annual budget to the Legislature at a time and in the manner provided by law.

(4) Develop a training program for persons newly appointed to membership on any board. The program shall familiarize such persons with the substantive and procedural laws and rules and fiscal information relating to the regulation of the appropriate profession and with the structure of the department.

(5) Adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this part.

(6) Establish by rules procedures by which the department shall use the expert or technical advice of the appropriate board for the purposes of investigation, inspection, evaluation of applications, other duties of the department, or any other areas the department may deem appropriate.

(7) Require all proceedings of any board or panel thereof and all formal or informal proceedings conducted by the department, an administrative law judge, or a hearing officer with respect to licensing or discipline to be electronically recorded in a manner sufficient to assure the accurate transcription of all matters so recorded.

(8) Select only those investigators, or consultants who undertake investigations, who meet criteria established with the advice of the respective boards.

(9) Allow applicants for new or renewal licenses and current licensees to be screened by the Title IV-D child support agency pursuant to s. 409.2598 to assure compliance with a support obligation. The purpose of this subsection is to promote the public policy of this state as established in s. 409.2551. The department shall, when directed by the court, suspend or deny the license of any licensee found to have a delinquent support obligation. The department shall issue or reinstate the license without additional charge to the licensee when notified by the court that the licensee has complied with the terms of the court order. The department shall not be held liable for any license denial or suspension resulting from the discharge of its duties under this subsection.

Section 76. Section 455.557, Florida Statutes, 1998 Supplement, is amended to read:

455.557 Standardized credentialing for health care practitioners.—

(1) INTENT.—The Legislature recognizes that an efficient and effective health care practitioner credentialing program helps to ensure access to quality health care and also recognizes that health care practitioner credentialing activities have increased significantly as a result of health care reform and recent changes in health care delivery and reimbursement systems. Moreover, the resulting duplication of health care practitioner credentialing activities is unnecessarily costly and cumbersome for both the practitioner and the entity granting practice privileges. Therefore, it is the intent of this section that a ~~mandatory~~ credentials *collection* ~~verification~~ program be established which provides that, once a health care practitioner's core credentials data are collected, ~~validated, maintained, and stored,~~ they need not be collected again, *except for corrections, updates, and modifications thereto. Participation* ~~Mandatory credentialing~~ under this section shall initially include those individuals licensed under chapter 458, chapter 459, chapter 460, or chapter 461. However, the department shall, with the approval of the applicable board, include other professions under the jurisdiction of the Division of Medical Quality Assurance in this ~~credentialing~~ program, provided they meet the requirements of s. 455.565.

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

(a) "Advisory council" or "council" means the Credentials ~~Verification~~ Advisory Council.

~~(b) "Applicant" means an individual applying for licensure or a current licensee applying for credentialing.~~

(b)~~(c)~~ "Certified" or "accredited," as applicable, means approved by a quality assessment program, from the National Committee for Quality Assurance, the Joint Commission on Accreditation of Healthcare Organizations, the *American Accreditation HealthCare Commission/URAC*

~~Utilization Review Accreditation Commission~~, or any such other nationally recognized and accepted organization authorized by the department, used to assess and certify any credentials verification program, entity, or organization that verifies the credentials of any health care practitioner.

(c)~~(d)~~ "Core credentials data" means *the following data: current name, any former name, and any alias,* any professional education, professional training, ~~peer references,~~ licensure, *current* Drug Enforcement Administration certification, social security number, *specialty* board certification, Educational Commission for Foreign Medical Graduates *certification* ~~information~~, hospital *or* ~~affiliations, managed care organization affiliations,~~ other institutional affiliations, ~~professional society memberships,~~ *evidence of* professional liability *coverage or evidence of financial responsibility as required by s. 458.320 or s. 459.0085* ~~insurance~~, *history of* claims, suits, judgments, or settlements, *final disciplinary action reported pursuant to s. 455.565(1)(a)8., and* Medicare or Medicaid sanctions~~, civil or criminal law violations, practitioner profiling data, special conditions of impairment, or regulatory exemptions not previously reported to the department in accordance with both s. 455.565 and the initial licensure reporting requirements specified in the applicable practice act~~.

(d)~~(e)~~ "*Credential" or* "credentialing" means the process of assessing and *verifying* ~~validating~~ the qualifications of a licensed health care practitioner *or applicant for licensure as a health care practitioner*.

(e)~~(f)~~ "Credentials verification *organization* ~~entity~~" means any ~~program, entity, or~~ organization ~~that is organized and~~ certified or accredited *as a credentials verification organization* ~~for the express purpose of collecting, verifying, maintaining, storing, and providing to health care entities a health care practitioner's total core credentials data, including all corrections, updates, and modifications thereto, as authorized by the health care practitioner and in accordance with the provisions of this including all corrections, updates, and modifications thereto, as authorized by the health care practitioner and in accordance with the provisions of this section. The division, once certified, shall be considered a credentials verification entity for all health care practitioners~~.

(f)~~(g)~~ "Department" means the Department of Health, *Division of Medical Quality Assurance.*

(g)~~(h)~~ "Designated credentials verification *organization* ~~entity~~" means the *credentials verification* ~~program, entity, or~~ organization ~~organized and certified or accredited for the express purpose of collecting, verifying, maintaining, storing, and providing to health care entities a health care practitioner's total core credentials data, including all corrections, updates, and modifications thereto,~~ which is selected by the health care practitioner ~~as the credentials verification entity for all inquiries into his or her credentials~~, if the health care practitioner chooses to make such a designation. ~~Notwithstanding any such designation by a health care practitioner, the division, once certified, shall also be considered a designated credentials verification entity for that health care practitioner.~~

(h) "Drug Enforcement Administration certification" means certification issued by the Drug Enforcement Administration for purposes of administration or prescription of controlled substances. Submission of such certification under this section must include evidence that the certification is current and must also include all current addresses to which the certificate is issued.

~~(i) "Division" means the Division of Medical Quality Assurance within the Department of Health.~~

(i)~~(j)~~ "Health care entity" means:

1. Any health care facility or other health care organization licensed or certified to provide approved medical and allied health services in *this state* ~~Florida~~; ~~or~~

2. Any entity licensed by the Department of Insurance as a prepaid health care plan or health maintenance organization or as an insurer to provide coverage for health care services through a network of providers*; or*

3. Any accredited medical school in this state.

(j)~~(k)~~ "Health care practitioner" means any person licensed*, or, for credentialing purposes only, any person applying for licensure,* under chapter 458, chapter 459, chapter 460, or chapter 461 or any person licensed *or applying for licensure* under a chapter subsequently made subject to this section by the department with the approval of the applicable board*, except a person registered or applying for registration pursuant to s. 458.345 or s. 459.021.*

(k) "Hospital or other institutional affiliations" means each hospital or other institution for which the health care practitioner or applicant has provided medical services. Submission of such information under this section must include, for each hospital or other institution, the name and address of the hospital or institution, the staff status of the health care practitioner or applicant at that hospital or institution, and the dates of affiliation with that hospital or institution.

(l) "National accrediting organization" means an organization that awards accreditation or certification to hospitals, managed care organizations*, credentials verification organizations,* or other health care organizations*,* including, but not limited to, the Joint Commission on Accreditation of Healthcare Organizations*, the American Accreditation HealthCare Commission/URAC,* and the National Committee for Quality Assurance.

(m) "Professional training" means any internship, residency, or fellowship relating to the profession for which the health care practitioner is licensed or seeking licensure.

(n) "Specialty board certification" means certification in a specialty issued by a specialty board recognized by the board in this state that regulates the profession for which the health care practitioner is licensed or seeking licensure.

~~(m) "Primary source verification" means verification of professional qualifications based on evidence obtained directly from the issuing source of the applicable qualification.~~

~~(n) "Recredentialing" means the process by which a credentials verification entity verifies the credentials of a health care practitioner whose core credentials data, including all corrections, updates, and modifications thereto, are currently on file with the entity.~~

~~(o) "Secondary source verification" means confirmation of a professional qualification by means other than primary source verification, as outlined and approved by national accrediting organizations.~~

(3) STANDARDIZED CREDENTIALS VERIFICATION PROGRAM.—

(a) Every health care practitioner shall:

1. Report all core credentials data to the department which is not already on file with the department, either by designating a credentials verification organization to submit the data or by submitting the data directly.

2. Notify the department within 45 days of any corrections, updates, or modifications to the core credentials data either through his or her designated credentials verification organization or by submitting the data directly. Corrections, updates, and modifications to the core credentials data provided the department under this section shall comply with the updating requirements of s. 455.565(3) related to profiling.

(b)~~(a) In accordance with the provisions of this section,~~ The department shall*:*

1. Maintain a complete, current file of core credentials data on each health care practitioner, which shall include all updates provided in accordance with subparagraph (3)(a)2.

2. Release the core credentials data that is otherwise confidential or exempt from the provisions of chapter 119 and s. 24(a), Art. I of the State Constitution and any corrections, updates, and modifications thereto, if authorized by the health care practitioner.

3. Charge a fee to access the core credentials data, which may not exceed the actual cost, including prorated setup and operating costs, pursuant to the requirements of chapter 119. The actual cost shall be set in consultation with the advisory council.

4. Develop, in consultation with the advisory council, standardized forms to be used by the health care practitioner or designated credentials

verification organization for the initial reporting of core credentials data, for the health care practitioner to authorize the release of core credentials data, and for the subsequent reporting of corrections, updates, and modifications thereto ~~develop standardized forms necessary for the creation of a standardized system as well as guidelines for collecting, verifying, maintaining, storing, and providing core credentials data on health care practitioners through credentials verification entities, except as otherwise provided in this section, for the purpose of eliminating duplication. Once the core credentials data are submitted, the health care practitioner is not required to resubmit this initial data when applying for practice privileges with health care entities. However, as provided in paragraph (d), each health care practitioner is responsible for providing any corrections, updates, and modifications to his or her core credentials data, to ensure that all credentialing data on the practitioner remains current. Nothing in this paragraph prevents the designated credentials verification entity from obtaining all necessary attestation and release form signatures and dates~~.

5.~~(b)~~ *Establish* ~~There is established~~ a Credentials ~~Verification~~ Advisory Council, consisting of 13 members, to assist *the department as provided in this section* ~~with the development of guidelines for establishment of the standardized credentials verification program~~. The secretary, or his or her designee, shall serve as one member and chair of the council and shall appoint the remaining 12 members. Except for any initial lesser term required to achieve staggering, such appointments shall be for 4-year staggered terms, with one 4-year reappointment, as applicable. Three members shall represent hospitals, and two members shall represent health maintenance organizations. One member shall represent health insurance entities. One member shall represent the credentials verification industry. Two members shall represent physicians licensed under chapter 458. One member shall represent osteopathic physicians licensed under chapter 459. One member shall represent chiropractic physicians licensed under chapter 460. One member shall represent podiatric physicians licensed under chapter 461.

(c) A registered credentials verification organization may be designated by a health care practitioner to assist the health care practitioner to comply with the requirements of subsection (3)(a)2. A designated credentials verification organization shall:

1. Timely comply with the requirements of subsection (3)(a)2., pursuant to rules adopted by the department.

2. Not provide the health care practitioner's core data, including all corrections, updates, and modifications, without the authorization of the practitioner.

~~(c) The department, in consultation with the advisory council, shall develop standard forms for the initial reporting of core credentials data for credentialing purposes and for the subsequent reporting of corrections, updates, and modifications thereto for recredentialing purposes.~~

~~(d) Each health care practitioner licensed under chapter 458, chapter 459, chapter 460, or chapter 461, or any person licensed under a chapter subsequently made subject to this section, must report any action or information as defined in paragraph (2)(d), including any correction, update, or modification thereto, as soon as possible but not later than 30 days after such action occurs or such information is known, to the department or his or her designated credentials verification entity, if any, who must report it to the department. In addition, a licensee must update, at least quarterly, his or her data on a form prescribed by the department.~~

~~(e) An individual applying for licensure under chapter 458, chapter 459, chapter 460, or chapter 461, or any person applying for licensure under a chapter subsequently made subject to this section, must submit the individual's initial core credentials data to a credentials verification entity, if such information has not already been submitted to the department or the appropriate licensing board or to any other credentials verification entity.~~

~~(f) Applicants may decide which credentials verification entity they want to process and store their core credentials data; however, such data shall at all times be maintained by the department. An applicant may choose not to designate a credentials verification entity, provided the applicant has a written agreement with the health care entity or entities that are responsible for his or her credentialing. In addition, any licensee may choose to move his or her core credentials data from one credentials verification entity to another.~~

~~(g) Any health care entity that employs, contracts with, or allows health care practitioners to treat its patients must use the designated credentials verification entity to obtain core credentials data on a health care practitioner applying for privileges with that entity, if the health care practitioner has made such a designation, or may use the division in lieu thereof as the designated credentials verification entity required for obtaining core credentials data on such health care practitioner. Any additional information required by the health care entity's credentialing process may be collected from the primary source of that information either by the health care entity or its contractee or by the designated credentials verification entity.~~

~~(h) Nothing in this section may be construed to restrict the right of any health care entity to request additional information necessary for credentialing.~~

~~(i) Nothing in this section may be construed to restrict access to the National Practitioner Data Bank by the department, any health care entity, or any credentials verification entity.~~

(d)~~(j)~~ ~~Nothing in~~ This section *shall not* ~~may~~ be construed to restrict in any way the authority of the health care entity *to credential and* to approve or deny an application for hospital staff membership, clinical privileges, or managed care network participation.

~~(4) DELEGATION BY CONTRACT.—A health care entity may contract with any credentials verification entity to perform the functions required under this section. The submission of an application for health care privileges with a health care entity shall constitute authorization for the health care entity to access the applicant's core credentials data with the department or the applicant's designated credentials verification entity, if the applicant has made such a designation.~~

~~(5) AVAILABILITY OF DATA COLLECTED.—~~

~~(a) The department shall make available to a health care entity or credentials verification entity registered with the department all core credentials data it collects on any licensee that is otherwise confidential and exempt from the provisions of chapter 119 and s. 24(a), Art. I of the State Constitution, including corrections, updates, and modifications thereto, if a health care entity submits proof of the licensee's current pending application for purposes of credentialing the applicant based on the core credentials data maintained by the department.~~

~~(b) Each credentials verification entity shall make available to a health care entity the licensee has authorized to receive the data, and to the department at the credentials verification entity's actual cost of providing the data, all core credentials data it collects on any licensee, including all corrections, updates, and modifications thereto.~~

~~(c) The department shall charge health care entities and other credentials verification entities a reasonable fee, pursuant to the requirements of chapter 119, to access all credentialing data it maintains on applicants and licensees. The fee shall be set in consultation with the advisory council and may not exceed the actual cost of providing the data.~~

(4)~~(6)~~ DUPLICATION OF DATA PROHIBITED.—

(a) A health care entity *or credentials verification organization is prohibited from collecting or attempting* ~~may not collect or attempt~~ to collect duplicate core credentials data from any ~~individual~~ health care practitioner ~~or from any primary source~~ if the information is *available from* ~~already on file with~~ the department ~~or with any credentials verification entity~~. *This section shall not be construed to restrict the right of any health care entity or credentials verification organization to collect additional information from the health care practitioner which is not included in the core credentials data file. This section shall not be construed to prohibit a health care entity or credentials verification organization from obtaining all necessary attestation and release form signatures and dates.*

(b) Effective July 1, 2002, a state agency in this state which credentials health care practitioners may not collect or attempt to collect duplicate core credentials data from any individual health care practitioner if the information is already available from the department. This section shall not be construed to restrict the right of any such state agency to request additional information not included in the core credential data

file, but which is deemed necessary for the agency's specific credentialing purposes.

~~(b) A credentials verification entity other than the department may not attempt to collect duplicate core credentials data from any individual health care practitioner if the information is already on file with another credentials verification entity or with the appropriate licensing board of another state, provided the other state's credentialing program meets national standards and is certified or accredited, as outlined by national accrediting organizations, and agrees to provide all data collected under such program on that health care practitioner.~~

~~(7) RELIABILITY OF DATA.—Any credentials verification entity may rely upon core credentials data, including all corrections, updates, and modifications thereto, from the department if the department certifies that the information was obtained in accordance with primary source verification procedures; and the department may rely upon core credentials data, including all corrections, updates, and modifications thereto, from any credentials verification entity if the designated credentials verification entity certifies that the information was obtained in accordance with primary source verification procedures.~~

(5)~~(8)~~ STANDARDS AND REGISTRATION.—

~~(a) The department's credentials verification procedures must meet national standards, as outlined by national accrediting organizations.~~

~~(b)~~ Any credentials verification *organization* ~~entity~~ that does business in *this state* ~~Florida~~ must *be fully accredited or certified as a credentials verification organization* ~~meet national standards, as outlined~~ by *a* national accrediting *organization as specified in paragraph (2)(b)* ~~organizations,~~ and must register with the department. The department may charge a reasonable registration fee, *set in consultation with the advisory council,* not to exceed an amount sufficient to cover its actual expenses in providing *and enforcing* ~~for~~ such registration. *The department shall establish by rule for biennial renewal of such registration. Failure by a registered* ~~Any~~ credentials verification *organization to maintain full accreditation or certification, to provide data as authorized by the health care practitioner, to report to the department changes, updates, and modifications to a health care practitioner's records within the time period specified in subparagraph (3)(a)2., or to comply with the prohibition against collection of duplicate core credentials data from a practitioner may result in denial of an application for renewal of registration or in revocation or suspension of a registration* ~~entity that fails to meet the standards required to be certified or accredited, fails to register with the department, or fails to provide data collected on a health care practitioner may not be selected as the designated credentials verification entity for any health care practitioner~~.

(6)~~(9)~~ LIABILITY.—No civil, criminal, or administrative action may be instituted, and there shall be no liability, against any *registered credentials verification organization or* health care entity on account of its reliance on any data obtained *directly* from *the department* ~~a credentials verification entity~~.

~~(10) REVIEW.—Before releasing a health care practitioner's core credentials data from its data bank, a designated credentials verification entity other than the department must provide the practitioner up to 30 days to review such data and make any corrections of fact.~~

~~(11) VALIDATION OF CREDENTIALS.—Except as otherwise acceptable to the health care entity and applicable certifying or accrediting organization listed in paragraph (2)(c), the department and all credentials verification entities must perform primary source verification of all credentialing information submitted to them pursuant to this section; however, secondary source verification may be utilized if there is a documented attempt to contact primary sources. The validation procedures used by the department and credentials verification entities must meet the standards established by rule pursuant to this section.~~

(7)~~(12)~~ LIABILITY INSURANCE REQUIREMENTS.~~—The department, in consultation with the Credentials Verification Advisory Council, shall establish the minimum liability insurance requirements for~~ Each credentials verification *organization* ~~entity~~ doing business in this state *shall maintain liability insurance appropriate to meet the certification or accreditation requirements established in this section.*

(8)~~(13)~~ RULES.—The department, in consultation with the *advisory council* ~~applicable board~~, shall adopt rules necessary to develop and implement the standardized *core* credentials *data collection* ~~verification~~ program established by this section.

(9) COUNCIL ABOLISHED; DEPARTMENT AUTHORITY.—The council shall be abolished October 1, 1999. After the council is abolished, all duties of the department required under this section to be in consultation with the council may be carried out by the department on its own.

Section 77. Subsections (1), (2), (6), (7), (8), and (9) of section 455.564, Florida Statutes, 1998 Supplement, are amended to read:

455.564 Department; general licensing provisions.—

(1) Any person desiring to be licensed in a profession within the jurisdiction of the department shall apply to the department in writing to take the licensure examination. The application shall be made on a form prepared and furnished by the department and shall require the social security number of the applicant. The form shall be supplemented as needed to reflect any material change in any circumstance or condition stated in the application which takes place between the initial filing of the application and the final grant or denial of the license and which might affect the decision of the department. *An incomplete application shall expire 1 year after initial filing.* In order to further the economic development goals of the state, and notwithstanding any law to the contrary, the department may enter into an agreement with the county tax collector for the purpose of appointing the county tax collector as the department's agent to accept applications for licenses and applications for renewals of licenses. The agreement must specify the time within which the tax collector must forward any applications and accompanying application fees to the department.

(2) Before the issuance of any license, the department may charge an initial license fee as determined by rule of the applicable board or, if no such board exists, by rule of the department. Upon receipt of the appropriate license fee, the department shall issue a license to any person certified by the appropriate board, or its designee, as having met the licensure requirements imposed by law or rule. The *license* ~~licensee~~ shall *consist of* ~~be issued~~ a wallet-size identification card and a *wall card measuring 6½ inches by 5 inches. In addition to the two-part license, the department, at the time of initial licensure, shall issue a* wall certificate suitable for conspicuous display, which shall be no smaller than 8½ inches by 14 inches. The licensee shall surrender to the department the wallet-size identification card, *the wall card,* and the wall certificate, *if one has been issued by the department,* if the licensee's license is ~~suspended or~~ revoked. ~~The department shall promptly return the wallet-size identification card and the wall certificate to the licensee upon reinstatement of a suspended or revoked license.~~

(6) As a condition of renewal of a license, the Board of Medicine, the Board of Osteopathic Medicine, the Board of Chiropractic Medicine, and the Board of Podiatric Medicine shall each require licensees which they respectively regulate to periodically demonstrate their professional competency by completing at least 40 hours of continuing education every 2 years~~, which may include up to 1 hour of risk management or cost containment and up to 2 hours of other topics related to the applicable medical specialty, if required by board rule~~. *The boards may require by rule that up to 1 hour of the required 40 or more hours be in the area of risk management or cost containment. This provision shall not be construed to limit the number of hours that a licensee may obtain in risk management or cost containment to be credited toward satisfying the 40 or more required hours. This provision shall not be construed to require the boards to impose any requirement on licensees except for the completion of at least 40 hours of continuing education every 2 years.* Each of such boards shall determine whether any specific *continuing education* ~~course~~ requirements not otherwise mandated by law shall be mandated and shall approve criteria for, and the content of, any *continuing education* ~~course~~ mandated by such board. Notwithstanding any other provision of law, the board, or the department when there is no board, may approve by rule alternative methods of obtaining continuing education credits in risk management. The alternative methods may include attending a board meeting at which *another* ~~a~~ licensee is disciplined, serving as a volunteer expert witness for the department in a disciplinary case, or serving as a member of a probable cause panel following the expiration of a board member's term. *Other boards within the Division of Medical Quality Assurance, or the department if there is no board, may adopt rules granting continuing education hours in risk management for attending a board meeting at which another licensee is disciplined, serving as a volunteer expert witness for the department in a disciplinary*

case, or serving as a member of a probable cause panel following the expiration of a board member's term.

(7) The respective boards within the jurisdiction of the department, *or the department when there is no board,* may adopt rules to provide for the use of approved videocassette courses, not to exceed 5 hours per subject, to fulfill the continuing education requirements of the professions they regulate. Such rules shall provide for prior ~~board~~ approval *of the board, or the department when there is no board,* of the criteria for and content of such courses and shall provide for a videocassette course validation form to be signed by the vendor and the licensee and submitted to the department, along with the license renewal application, for continuing education credit.

(8) Any board that currently requires continuing education for renewal of a license, *or the department if there is no board,* shall adopt rules to establish the criteria for continuing education courses. The rules may provide that up to a maximum of 25 percent of the required continuing education hours can be fulfilled by the performance of pro bono services to the indigent or to underserved populations or in areas of critical need within the state where the licensee practices. The board, or the department if there is no board, must require that any pro bono services be approved in advance in order to receive credit for continuing education under this subsection. The standard for determining indigency shall be that recognized by the Federal Poverty Income Guidelines produced by the United States Department of Health and Human Services. The rules may provide for approval by the board, or the department if there is no board, that a part of the continuing education hours can be fulfilled by performing research in critical need areas or for training leading to advanced professional certification. The board, or the department if there is no board, may make rules to define underserved and critical need areas. The department shall adopt rules for administering continuing education requirements adopted by the boards or the department if there is no board.

(9) Notwithstanding any law to the contrary, an elected official who is licensed under a practice act administered by the Division of *Medical* ~~Health~~ Quality Assurance may hold employment for compensation with any public agency concurrent with such public service. Such dual service must be disclosed according to any disclosure required by applicable law.

Section 78. Present subsections (5), (6), and (7) of section 455.5651, Florida Statutes, 1998 Supplement, are renumbered as subsections (6), (7), and (8), respectively, and a new subsection (5) is added to that section, to read:

455.5651 Practitioner profile; creation.—

(5) The Department of Health may not include disciplinary action taken by a licensed hospital or an ambulatory surgical center in the practitioner profile.

Section 79. Section 455.567, Florida Statutes, is amended to read:

455.567 Sexual misconduct; disqualification for license, certificate, or registration.—

(1) Sexual misconduct in the practice of a health care profession means violation of the professional relationship through which the health care practitioner uses such relationship to engage or attempt to engage the patient or client, or an immediate family member of the patient or client in, or to induce or attempt to induce such person to engage in, verbal or physical sexual activity outside the scope of the professional practice of such health care profession. Sexual misconduct in the practice of a health care profession is prohibited.

(2) Each board within the jurisdiction of the department, or the department if there is no board, shall refuse to admit a candidate to any examination and refuse to issue a license, certificate, or registration to any applicant if the candidate or applicant has:

(a)~~(1)~~ Had any license, certificate, or registration to practice any profession or occupation revoked or surrendered based on a violation of sexual misconduct in the practice of that profession under the laws of any other state or any territory or possession of the United States and has not had that license, certificate, or registration reinstated by the licensing authority of the jurisdiction that revoked the license, certificate, or registration; or

(b)~~(2)~~ Committed any act in any other state or any territory or possession of the United States which if committed in this state would constitute sexual misconduct.

For purposes of this subsection, a licensing authority's acceptance of a candidate's relinquishment of a license which is offered in response to or in anticipation of the filing of administrative charges against the candidate's license constitutes the surrender of the license.

Section 80. Subsection (2) of section 455.574, Florida Statutes, 1998 Supplement, is amended to read:

455.574 Department of Health; examinations.—

(2) For each examination developed by the department or a contracted vendor, the board, or the department when there is no board, shall adopt rules providing for reexamination of any applicants who failed an examination developed by the department or a contracted vendor. If both a written and a practical examination are given, an applicant shall be required to retake only the portion of the examination on which the applicant failed to achieve a passing grade, if the applicant successfully passes that portion within a reasonable time, as determined by rule of the board, or the department when there is no board, of passing the other portion. Except for national examinations approved and administered pursuant to this section, the department shall provide procedures for applicants who fail an examination developed by the department or a contracted vendor to review their examination questions, answers, papers, grades, and grading key *for the questions the candidate answered incorrectly or, if not feasible, the parts of the examination failed*. Applicants shall bear the actual cost for the department to provide examination review pursuant to this subsection. An applicant may waive in writing the confidentiality of the applicant's examination grades.

Section 81. Subsection (1) of section 455.587, Florida Statutes, is amended, present subsections (2) through (7) are renumbered as subsections (3) through (8), respectively, and a new subsection (2) is added to that section, to read:

455.587 Fees; receipts; disposition for boards within the department.—

(1) Each board within the jurisdiction of the department, *or the department when there is no board,* shall determine by rule the amount of license fees for *the* ~~its~~ profession *it regulates,* based upon long-range estimates prepared by the department of the revenue required to implement laws relating to the regulation of professions by the department and the board. Each board, or the department if there is no board, shall ensure that license fees are adequate to cover all anticipated costs and to maintain a reasonable cash balance, as determined by rule of the agency, with advice of the applicable board. If sufficient action is not taken by a board within 1 year after notification by the department that license fees are projected to be inadequate, the department shall set license fees on behalf of the applicable board to cover anticipated costs and to maintain the required cash balance. The department shall include recommended fee cap increases in its annual report to the Legislature. Further, it is the legislative intent that no regulated profession operate with a negative cash balance. The department may provide by rule for advancing sufficient funds to any profession operating with a negative cash balance. The advancement may be for a period not to exceed 2 consecutive years, and the regulated profession must pay interest. Interest shall be calculated at the current rate earned on investments of a trust fund used by the department to implement this part. Interest earned shall be allocated to the various funds in accordance with the allocation of investment earnings during the period of the advance.

(2) Each board, or the department if there is no board, may charge a fee not to exceed $25, as determined by rule, for the issuance of a wall certificate pursuant to s. 455.564(2) requested by a licensee who was licensed prior to July 1, 1998, or for the issuance of a duplicate wall certificate requested by any licensee.

Section 82. Section 455.601, Florida Statutes, is amended to read:

455.601 Hepatitis B or human immunodeficiency carriers.—

(1) The department and each appropriate board within the Division of Medical Quality Assurance shall have the authority to establish proce-

dures to handle, counsel, and provide other services to health care professionals within their respective boards who are infected with hepatitis B or the human immunodeficiency virus.

(2) Any person licensed by the department and any other person employed by a health care facility who contracts a blood-borne infection shall have a rebuttable presumption that the illness was contracted in the course and scope of his or her employment, provided that the person, as soon as practicable, reports to the person's supervisor or the facility's risk manager any significant exposure, as that term is defined in s. 381.004(2)(c), to blood or body fluids. The employer may test the blood or body fluid to determine if it is infected with the same disease contracted by the employee. The employer may rebut the presumption by the preponderance of the evidence. Except as expressly provided in this subsection, there shall be no presumption that a blood-borne infection is a job-related injury or illness.

Section 83. Subsections (1) and (6) of section 455.604, Florida Statutes, 1998 Supplement, are amended to read:

455.604 Requirement for instruction for certain licensees on human immunodeficiency virus and acquired immune deficiency syndrome.—

(1) The appropriate board shall require each person licensed or certified under chapter 457; chapter 458; chapter 459; chapter 460; chapter 461; chapter 463; chapter 464; chapter 465; chapter 466; part II, part III, ~~or~~ part V, *or part X* of chapter 468; or chapter 486 to complete a continuing educational course, approved by the board, on human immunodeficiency virus and acquired immune deficiency syndrome as part of biennial relicensure or recertification. The course shall consist of education on the modes of transmission, infection control procedures, clinical management, and prevention of human immunodeficiency virus and acquired immune deficiency syndrome. Such course shall include information on current Florida law on acquired immune deficiency syndrome and its impact on testing, confidentiality of test results, treatment of patients, and any protocols and procedures applicable to human immunodeficiency virus counseling and testing, reporting, the offering of HIV testing to pregnant women, and partner notification issues pursuant to ss. 381.004 and 384.25.

(6) The board shall require as a condition of granting a license under the chapters *and parts* specified in subsection (1) that an applicant making initial application for licensure complete an educational course acceptable to the board on human immunodeficiency virus and acquired immune deficiency syndrome. An applicant who has not taken a course at the time of licensure shall, upon an affidavit showing good cause, be allowed 6 months to complete this requirement.

Section 84. Subsection (1) of section 455.607, Florida Statutes, is amended to read:

455.607 Athletic trainers and massage therapists; requirement for instruction on human immunodeficiency virus and acquired immune deficiency syndrome.—

(1) The board, or the department where there is no board, shall require each person licensed or certified under part *XIII* ~~XIV~~ of chapter 468 or chapter 480 to complete a continuing educational course approved by the board, or the department where there is no board, on human immunodeficiency virus and acquired immune deficiency syndrome as part of biennial relicensure or recertification. The course shall consist of education on modes of transmission, infection control procedures, clinical management, and prevention of human immunodeficiency virus and acquired immune deficiency syndrome, with an emphasis on appropriate behavior and attitude change.

Section 85. Paragraphs (t), (u), (v), (w), and (x) are added to subsection (1) of section 455.624, Florida Statutes, subsection (2) of that section is amended, present subsection (3) of that section is renumbered as subsection (4) and amended, present subsections (4) and (5) of that subsection are renumbered as subsections (5) and (6), respectively, and a new subsection (3) is added to that section, to read:

455.624 Grounds for discipline; penalties; enforcement.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(t) Failing to comply with the requirements of ss. 381.026 and 381.0261 to provide patients with information about their patient rights and how to file a patient complaint.

(u) Engaging or attempting to engage a patient or client in verbal or physical sexual activity. For the purposes of this section, a patient or client shall be presumed to be incapable of giving free, full, and informed consent to verbal or physical sexual activity.

(v) Failing to comply with the requirements for profiling and credentialing, including, but not limited to, failing to provide initial information, failing to timely provide updated information, or making misleading, untrue, deceptive, or fraudulent representations on a profile, credentialing, or initial or renewal licensure application.

(w) Failing to report to the board, or the department if there is no board, in writing within 30 days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction. Convictions, findings, adjudications, and pleas entered into prior to the enactment of this paragraph must be reported in writing to the board, or department if there is no board, on or before October 1, 1999.

(x) Using information about people involved in motor vehicle accidents which has been derived from accident reports made by law enforcement officers or persons involved in accidents pursuant to s. 316.066, or using information published in a newspaper or other news publication or through a radio or television broadcast that has used information gained from such reports, for the purposes of commercial or any other solicitation whatsoever of the people involved in such accidents.

(2) When the board, or the department when there is no board, finds any person guilty of the grounds set forth in subsection (1) or of any grounds set forth in the applicable practice act, including conduct constituting a substantial violation of subsection (1) or a violation of the applicable practice act which occurred prior to obtaining a license, it may enter an order imposing one or more of the following penalties:

(a) Refusal to certify, or to certify with restrictions, an application for a license.

(b) Suspension or permanent revocation of a license.

(c) Restriction of practice.

(d) Imposition of an administrative fine not to exceed *$10,000* ~~$5,000~~ for each count or separate offense.

(e) Issuance of a reprimand.

(f) Placement of the licensee on probation for a period of time and subject to such conditions as the board, or the department when there is no board, may specify. Those conditions may include, but are not limited to, requiring the licensee to undergo treatment, attend continuing education courses, submit to be reexamined, work under the supervision of another licensee, or satisfy any terms which are reasonably tailored to the violations found.

(g) Corrective action.

(h) Imposition of an administrative fine in accordance with s. 381.0261 for violations regarding patient rights.

In determining what action is appropriate, the board, or department when there is no board, must first consider what sanctions are necessary to protect the public or to compensate the patient. Only after those sanctions have been imposed may the disciplining authority consider and include in the order requirements designed to rehabilitate the practitioner. All costs associated with compliance with orders issued under this subsection are the obligation of the practitioner.

(3) Notwithstanding subsection (2), if the ground for disciplinary action is the first-time failure of the licensee to satisfy continuing education requirements established by the board, or by the department if there is no board, the board or department, as applicable, shall issue a citation in accordance with s. 455.617 and assess a fine, as determined by the board or department by rule. In addition, for each hour of continuing education not completed or completed late, the board or department, as applicable, may require the licensee to take 1 additional hour of continuing education for each hour not completed or completed late.

(4)~~(3)~~ In addition to any other discipline imposed pursuant to this section or discipline imposed for a violation of any practice act, the board, or the department when there is no board, may assess costs related to the investigation and prosecution of the case ~~excluding costs associated with an attorney's time~~. In any case where the board or the department imposes a fine or assessment and the fine or assessment is not paid within a reasonable time, such reasonable time to be prescribed in the rules of the board, or the department when there is no board, or in the order assessing such fines or costs, the department or the Department of Legal Affairs may contract for the collection of, or bring a civil action to recover, the fine or assessment.

Section 86. Section 455.664, Florida Statutes, is amended to read:

455.664 Advertisement by a health care *practitioner* ~~provider~~ of free or discounted services; required statement.—In any advertisement for a free, discounted fee, or reduced fee service, examination, or treatment by a health care *practitioner* ~~provider~~ licensed under chapter 458, chapter 459, chapter 460, chapter 461, chapter 462, chapter 463, chapter 464, *chapter 465,* chapter 466, *chapter 467, chapter 478, chapter 483, chapter 484,* ~~or~~ chapter 486, *chapter 490, or chapter 491,* the following statement shall appear in capital letters clearly distinguishable from the rest of the text: THE PATIENT AND ANY OTHER PERSON RESPONSIBLE FOR PAYMENT HAS A RIGHT TO REFUSE TO PAY, CANCEL PAYMENT, OR BE REIMBURSED FOR PAYMENT FOR ANY OTHER SERVICE, EXAMINATION, OR TREATMENT THAT IS PERFORMED AS A RESULT OF AND WITHIN 72 HOURS OF RESPONDING TO THE ADVERTISEMENT FOR THE FREE, DISCOUNTED FEE, OR REDUCED FEE SERVICE, EXAMINATION, OR TREATMENT. However, the required statement shall not be necessary as an accompaniment to an advertisement of a licensed health care *practitioner* ~~provider~~ defined by this section if the advertisement appears in a classified directory the primary purpose of which is to provide products and services at free, reduced, or discounted prices to consumers and in which the statement prominently appears in at least one place.

Section 87. Subsections (7) and (16) of section 455.667, Florida Statutes, 1998 Supplement, are amended to read:

455.667 Ownership and control of patient records; report or copies of records to be furnished.—

(7)*(a)1.* ~~The department may obtain patient records and insurance information, if the complaint being investigated alleges inadequate medical care based on termination of insurance.~~ The department may *obtain patient* ~~access these~~ records pursuant to a subpoena without written authorization from the patient if the department and the probable cause panel of the appropriate board, if any, find reasonable cause to believe that a health care practitioner has excessively or inappropriately prescribed any controlled substance specified in chapter 893 in violation of this part or any professional practice act or that a health care practitioner has practiced his or her profession below that level of care, skill, and treatment required as defined by this part or any professional practice act~~; provided, however, the~~ *and also find that appropriate, reasonable attempts were made to obtain a patient release.*

2. The department may obtain patient records and insurance information pursuant to a subpoena without written authorization from the patient if the department and the probable cause panel of the appropriate board, if any, find reasonable cause to believe that a health care practitioner has provided inadequate medical care based on termination of insurance and also find that appropriate, reasonable attempts were made to obtain a patient release.

3. The department may obtain patient records, billing records, insurance information, provider contracts, and all attachments thereto pursuant to a subpoena without written authorization from the patient if the department and probable cause panel of the appropriate board, if any, find reasonable cause to believe that a health care practitioner has submitted a claim, statement, or bill using a billing code that would result in payment greater in amount than would be paid using a billing code that accurately describes the services performed, requested payment for services that were not performed by that health care practitioner, used information derived from a written report of an automobile accident generated pursuant to chapter 316 to solicit or obtain patients personally or through an agent regardless of whether the information is derived directly from the report or a summary of that report or from another person, solicited patients fraudulently, received a kickback as defined in s. 455.657, violated the patient brokering provisions of s. 817.505, or presented or caused to be presented a false or fraudulent insurance claim within the meaning of s. 817.234(1)(a), and also find that, within the meaning of s. 817.234(1)(a), patient authorization cannot be obtained because the patient cannot be located or is deceased, incapacitated, or suspected of being a participant in the fraud or scheme, and if the subpoena is issued for specific and relevant records.

(b) Patient *records, billing records, insurance information, provider contracts, and all attachments thereto* ~~record~~ obtained by the department pursuant to this subsection shall be used solely for the purpose of the department and the appropriate regulatory board in disciplinary proceedings. ~~The records shall otherwise be confidential and exempt from s. 119.07(1).~~ This section does not limit the assertion of the psychotherapist-patient privilege under s. 90.503 in regard to records of treatment for mental or nervous disorders by a medical practitioner licensed pursuant to chapter 458 or chapter 459 who has primarily diagnosed and treated mental and nervous disorders for a period of not less than 3 years, inclusive of psychiatric residency. However, the health care practitioner shall release records of treatment for medical conditions even if the health care practitioner has also treated the patient for mental or nervous disorders. If the department has found reasonable cause under this section and the psychotherapist-patient privilege is asserted, the department may petition the circuit court for an in camera review of the records by expert medical practitioners appointed by the court to determine if the records or any part thereof are protected under the psychotherapist-patient privilege.

(16) A health care practitioner or records owner furnishing copies of reports or records *or making the reports or records available for digital scanning* pursuant to this section shall charge no more than the actual cost of copying, including reasonable staff time, or the amount specified in administrative rule by the appropriate board, or the department when there is no board.

Section 88. Subsection (3) is added to section 455.687, Florida Statutes, to read:

455.687 Certain health care practitioners; immediate suspension of license.—

(3) The department may issue an emergency order suspending or restricting the license of any health care practitioner as defined in s. 455.501(4) who tests positive for any drug on any government or private-sector preemployment or employer-ordered confirmed drug test, as defined in s. 112.0455, when the practitioner does not have a lawful prescription and legitimate medical reason for using such drug. The practitioner shall be given 48 hours from the time of notification to the practitioner of the confirmed test result to produce a lawful prescription for the drug before an emergency order is issued.

Section 89. Section 455.694, Florida Statutes, 1998 Supplement, is amended to read:

455.694 *Financial responsibility requirements for* ~~Boards regulating~~ certain health care practitioners.—

(1) As a prerequisite for licensure or license renewal, the Board of Acupuncture, the Board of Chiropractic Medicine, the Board of Podiatric Medicine, and the Board of Dentistry shall, by rule, require that all health care practitioners licensed under the respective board, and the Board of Nursing shall, by rule, require that advanced registered nurse practitioners certified under s. 464.012, *and the department shall, by rule, require that midwives* maintain medical malpractice insurance or provide proof of financial responsibility in an amount and in a manner determined by the board *or department* to be sufficient to cover claims arising out of the rendering of or failure to render professional care and services in this state.

(2) The board *or department* may grant exemptions upon application by practitioners meeting any of the following criteria:

(a) Any person licensed under chapter 457, chapter 460, chapter 461, s. 464.012, ~~or~~ chapter 466, *or chapter 467* who practices exclusively as an officer, employee, or agent of the Federal Government or of the state or its agencies or its subdivisions. For the purposes of this subsection, an agent of the state, its agencies, or its subdivisions is a person who is eligible for coverage under any self-insurance or insurance program

authorized by the provisions of s. 768.28(15) or who is a volunteer under s. 110.501(1).

(b) Any person whose license or certification has become inactive under chapter 457, chapter 460, chapter 461, chapter 464, ~~or~~ chapter 466, *or chapter 467* and who is not practicing in this state. Any person applying for reactivation of a license must show either that such licensee maintained tail insurance coverage which provided liability coverage for incidents that occurred on or after October 1, 1993, or the initial date of licensure in this state, whichever is later, and incidents that occurred before the date on which the license became inactive; or such licensee must submit an affidavit stating that such licensee has no unsatisfied medical malpractice judgments or settlements at the time of application for reactivation.

(c) Any person holding a limited license pursuant to s. 455.561, and practicing under the scope of such limited license.

(d) Any person licensed or certified under chapter 457, chapter 460, chapter 461, s. 464.012, ~~or~~ chapter 466, *or chapter 467* who practices only in conjunction with his or her teaching duties at an accredited school or in its main teaching hospitals. Such person may engage in the practice of medicine to the extent that such practice is incidental to and a necessary part of duties in connection with the teaching position in the school.

(e) Any person holding an active license or certification under chapter 457, chapter 460, chapter 461, s. 464.012, ~~or~~ chapter 466, *or chapter 467* who is not practicing in this state. If such person initiates or resumes practice in this state, he or she must notify the department of such activity.

(f) Any person who can demonstrate to the board *or department* that he or she has no malpractice exposure in the state.

(3) Notwithstanding the provisions of this section, the financial responsibility requirements of ss. 458.320 and 459.0085 shall continue to apply to practitioners licensed under those chapters.

Section 90. Section 455.712, Florida Statutes, is created to read:

455.712 Business establishments; requirements for active status licenses.—

(1) A business establishment regulated by the Division of Medical Quality Assurance pursuant to this part may provide regulated services only if the business establishment has an active status license. A business establishment that provides regulated services without an active status license is in violation of this section and s. 455.624, and the board, or the department if there is no board, may impose discipline on the business establishment.

(2) A business establishment must apply with a complete application, as defined by rule of the board, or the department if there is no board, to renew an active status license before the license expires. If a business establishment fails to renew before the license expires, the license becomes delinquent, except as otherwise provided in statute, in the license cycle following expiration.

(3) A delinquent business establishment must apply with a complete application, as defined by rule of the board, or the department if there is no board, for active status within 6 months after becoming delinquent. Failure of a delinquent business establishment to renew the license within the 6 months after the expiration date of the license renders the license null without any further action by the board or the department. Any subsequent licensure shall be as a result of applying for and meeting all requirements imposed on a business establishment for new licensure.

(4) The status or a change in status of a business establishment license does not alter in any way the right of the board, or of the department if there is no board, to impose discipline or to enforce discipline previously imposed on a business establishment for acts or omissions committed by the business establishment while holding a license, whether active or null.

(5) This section applies to any a business establishment registered, permitted, or licensed by the department to do business. Business establishments include, but are not limited to, dental laboratories, electrology facilities, massage establishments, pharmacies, and health care services pools.

Section 91. Subsection (7) is added to section 457.102, Florida Statutes, 1998 Supplement, to read:

457.102 Definitions.—As used in this chapter:

(7) "Prescriptive rights" means the prescription, administration, and use of needles and devices, restricted devices, and prescription devices that are used in the practice of acupuncture and oriental medicine.

Section 92. Subsections (2) and (4) of section 458.307, Florida Statutes, 1998 Supplement, are amended to read:

458.307 Board of Medicine.—

(2) Twelve members of the board must be licensed physicians in good standing in this state who are residents of the state and who have been engaged in the active practice or teaching of medicine for at least 4 years immediately preceding their appointment. One of the physicians must be on the full-time faculty of a medical school in this state, and one of the physicians must be in private practice and on the full-time staff of a statutory teaching hospital in this state as defined in s. 408.07. At least one of the physicians must be a graduate of a foreign medical school. The remaining three members must be residents of the state who are not, and never have been, licensed health care practitioners. One member must be a *health care* ~~hospital~~ risk manager *licensed* ~~certified~~ under *s. 395.10974* ~~part IX of chapter 626~~. At least one member of the board must be 60 years of age or older.

(4) The board, in conjunction with the department, shall establish a disciplinary training program for board members. The program shall provide for initial and periodic training in the grounds for disciplinary action, the actions which may be taken by the board and the department, changes in relevant statutes and rules, and any relevant judicial and administrative decisions. ~~After January 1, 1989,~~ No member of the board shall participate on probable cause panels or in disciplinary decisions of the board unless he or she has completed the disciplinary training program.

Section 93. Subsection (3) is added to section 458.309, Florida Statutes, 1998 Supplement, to read:

458.309 Authority to make rules.—

(3) All physicians who perform level 2 procedures lasting more than 5 minutes and all level 3 surgical procedures in an office setting must register the office with the department unless that office is licensed as a facility pursuant to chapter 395. The department shall inspect the physician's office annually unless the office is accredited by a nationally recognized accrediting agency or an accrediting organization subsequently approved by the Board of Medicine. The actual costs for registration and inspection or accreditation shall be paid by the person seeking to register and operate the office setting in which office surgery is performed.

Section 94. Section 458.311, Florida Statutes, 1998 Supplement, is amended to read:

458.311 Licensure by examination; requirements; fees.—

(1) Any person desiring to be licensed as a physician, *who does not hold a valid license in any state,* shall apply to the department *on forms furnished by the department* ~~to take the licensure examination~~. The department shall *license* ~~examine~~ each applicant *who* ~~whom~~ the board certifies:

(a) Has completed the application form and remitted a nonrefundable application fee not to exceed $500 ~~and an examination fee not to exceed $300 plus the actual per applicant cost to the department for purchase of the examination from the Federation of State Medical Boards of the United States or a similar national organization, which is refundable if the applicant is found to be ineligible to take the examination~~.

(b) Is at least 21 years of age.

(c) Is of good moral character.

(d) Has not committed any act or offense in this or any other jurisdiction which would constitute the basis for disciplining a physician pursuant to s. 458.331.

(e) For any applicant who has graduated from medical school after October 1, 1992, has completed the equivalent of 2 academic years of preprofessional, postsecondary education, as determined by rule of the board, which shall include, at a minimum, courses in such fields as anatomy, biology, and chemistry prior to entering medical school.

(f) Meets one of the following medical education and postgraduate training requirements:

1.a. Is a graduate of an allopathic medical school or allopathic college recognized and approved by an accrediting agency recognized by the United States Office of Education or is a graduate of an allopathic medical school or allopathic college within a territorial jurisdiction of the United States recognized by the accrediting agency of the governmental body of that jurisdiction;

b. If the language of instruction of the medical school is other than English, has demonstrated competency in English through presentation of a satisfactory grade on the Test of Spoken English of the Educational Testing Service or a similar test approved by rule of the board; and

c. Has completed an approved residency of at least 1 year.

2.a. Is a graduate of *an allopathic* ~~a~~ foreign medical school registered with the World Health Organization and certified pursuant to s. 458.314 as having met the standards required to accredit medical schools in the United States or reasonably comparable standards;

b. If the language of instruction of the foreign medical school is other than English, has demonstrated competency in English through presentation of the Educational Commission for Foreign Medical Graduates English proficiency certificate or by a satisfactory grade on the Test of Spoken English of the Educational Testing Service or a similar test approved by rule of the board; and

c. Has completed an approved residency of at least 1 year.

3.a. Is a graduate of *an allopathic* ~~a~~ foreign medical school which has not been certified pursuant to s. 458.314;

b. Has had his or her medical credentials evaluated by the Educational Commission for Foreign Medical Graduates, holds an active, valid certificate issued by that commission, and has passed the examination utilized by that commission; and

c. Has completed an approved residency of at least 1 year; however, after October 1, 1992, the applicant shall have completed an approved residency or fellowship of at least 2 years in one specialty area. However, to be acceptable, the fellowship experience and training must be counted toward regular or subspecialty certification by a board recognized and certified by the American Board of Medical Specialties.

(g) Has submitted to the department a set of fingerprints on a form and under procedures specified by the department, along with a payment in an amount equal to the costs incurred by the Department of Health for the criminal background check of the applicant.

(h) Has obtained a passing score, as established by rule of the board, on the licensure examination of the United States Medical Licensing Examination (USMLE); or a combination of the United States Medical Licensing Examination (USMLE), the examination of the Federation of State Medical Boards of the United States, Inc. (FLEX), or the examination of the National Board of Medical Examiners up to the year 2000; or for the purpose of examination of any applicant who was licensed on the basis of a state board examination and who is currently licensed in at least one other jurisdiction of the United States or Canada, and who has practiced pursuant to such licensure for a period of at least 10 years, use of the Special Purpose Examination of the Federation of State Medical Boards of the United States (SPEX) upon receipt of a passing score as established by rule of the board. However, for the purpose of examination of any applicant who was licensed on the basis of a state board examination prior to 1974, who is currently licensed in at least three other jurisdictions of the United States or Canada, and who has practiced pursuant to such licensure for a period of at least 20 years, this paragraph does not apply.

(2) As prescribed by board rule, the board may require an applicant who does not pass the *national* licensing examination after five attempts to complete additional remedial education or training. The board shall prescribe the additional requirements in a manner that permits the applicant to complete the requirements and be reexamined within 2 years after the date the applicant petitions the board to retake the examination a sixth or subsequent time.

(3) Notwithstanding the provisions of subparagraph (1)(f)3., a graduate of a foreign medical school need not present the certificate issued by the Educational Commission for Foreign Medical Graduates or pass the examination utilized by that commission if the graduate:

(a) Has received a bachelor's degree from an accredited United States college or university.

(b) Has studied at a medical school which is recognized by the World Health Organization.

(c) Has completed all of the formal requirements of the foreign medical school, except the internship or social service requirements, and has passed part I of the National Board of Medical Examiners examination or the Educational Commission for Foreign Medical Graduates examination equivalent.

(d) Has completed an academic year of supervised clinical training in a hospital affiliated with a medical school approved by the Council on Medical Education of the American Medical Association and upon completion has passed part II of the National Board of Medical Examiners examination or the Educational Commission for Foreign Medical Graduates examination equivalent.

(4) The department and the board shall assure that applicants for licensure meet the criteria in subsection (1) through an investigative process. When the investigative process is not completed within the time set out in s. 120.60(1) and the department or board has reason to believe that the applicant does not meet the criteria, the secretary or the secretary's designee may issue a 90-day licensure delay which shall be in writing and sufficient to notify the applicant of the reason for the delay. The provisions of this subsection shall control over any conflicting provisions of s. 120.60(1).

(5) The board may not certify to the department for licensure any applicant who is under investigation in another jurisdiction for an offense which would constitute a violation of this chapter until such investigation is completed. Upon completion of the investigation, the provisions of s. 458.331 shall apply. Furthermore, the department may not issue an unrestricted license to any individual who has committed any act or offense in any jurisdiction which would constitute the basis for disciplining a physician pursuant to s. 458.331. When the board finds that an individual has committed an act or offense in any jurisdiction which would constitute the basis for disciplining a physician pursuant to s. 458.331, then the board may enter an order imposing one or more of the terms set forth in subsection (9).

(6) Each applicant who ~~passes the examination and~~ meets the requirements of this chapter shall be licensed as a physician, with rights as defined by law.

(7) Upon certification by the board, the department shall impose conditions, limitations, or restrictions on a license ~~by examination~~ if the applicant is on probation in another jurisdiction for an act which would constitute a violation of this chapter.

(8) When the board determines that any applicant for licensure ~~by examination~~ has failed to meet, to the board's satisfaction, each of the appropriate requirements set forth in this section, it may enter an order requiring one or more of the following terms:

(a) Refusal to certify to the department an application for licensure, certification, or registration;

(b) Certification to the department of an application for licensure, certification, or registration with restrictions on the scope of practice of the licensee; or

(c) Certification to the department of an application for licensure, certification, or registration with placement of the physician on probation for a period of time and subject to such conditions as the board may specify, including, but not limited to, requiring the physician to submit to treatment, attend continuing education courses, submit to reexamination, or work under the supervision of another physician.

~~(9)(a) Notwithstanding any of the provisions of this section, an applicant who, at the time of his or her medical education, was a citizen of the country of Nicaragua and, at the time of application for licensure under this subsection, is either a citizen of the country of Nicaragua or a citizen of the United States may make initial application to the department on or before July 1, 1992, for licensure subject to this subsection and may reapply pursuant to board rule. Upon receipt of such application, the department shall issue a 2-year restricted license to any applicant therefor upon the applicant's successful completion of the licensure examination as described in paragraph (1)(a) and who the board certifies has met the following requirements:~~

~~1. Is a graduate of a World Health Organization recognized foreign medical institution located in a country in the Western Hemisphere.~~

~~2. Received a medical education which has been determined by the board to be substantially similar, at the time of the applicant's graduation, to approved United States medical programs.~~

~~3. Practiced medicine in the country of Nicaragua for a period of 1 year prior to residing in the United States and has lawful employment authority in the United States.~~

~~4. Has had his or her medical education verified by the Florida Board of Medicine.~~

~~5. Successfully completed the Educational Commission for Foreign Medical Graduates Examination or Foreign Medical Graduate Examination in the Medical Sciences or successfully completed a course developed for the University of Miami for physician training equivalent to the course developed for such purposes pursuant to chapter 74-105, Laws of Florida. No person shall be permitted to enroll in the physician training course until he or she has been certified by the board as having met the requirements of this paragraph or conditionally certified by the board as having substantially complied with the requirements of this paragraph. Any person conditionally certified by the board shall be required to establish, to the board's satisfaction, full compliance with all the requirements of this paragraph prior to completion of the physician training course and shall not be permitted to sit for the licensure examination unless the board certifies that all of the requirements of this paragraph have been met.~~

~~However, applicants eligible for licensure under s. 455.581 or subsection (9), 1988 Supplement to the Florida Statutes 1987, as amended by s. 18, chapter 89-162, Laws of Florida, and ss. 5 and 42, chapter 89-374, Laws of Florida, and renumbered as subsection (8) by s. 5, chapter 89-374, Laws of Florida, shall not be eligible to apply under this subsection.~~

~~(b) The holder of a restricted license issued pursuant to this subsection may practice medicine for the first year only under the direct supervision, as defined by board rule, of a board-approved physician.~~

~~(c) Upon recommendation of the supervising physician and demonstration of clinical competency to the satisfaction of the board that the holder of a restricted license issued pursuant to this subsection has practiced for 1 year under direct supervision, such licenseholder shall work for 1 year under general supervision, as defined by board rule, of a Florida-licensed physician in an area of critical need as determined by the board. Prior to commencing such supervision, the supervising physician shall notify the board.~~

~~(d) Upon completion of the 1 year of work under general supervision and demonstration to the board that the holder of the restricted license has satisfactorily completed the requirements of this subsection, and has not committed any act or is not under investigation for any act which would constitute a violation of this chapter, the department shall issue an unrestricted license to such licenseholder.~~

~~(e) Rules necessary to implement and carry out the provisions of this subsection shall be promulgated by the board.~~

~~(10) Notwithstanding any other provision of this section, the department shall examine any person who meets the criteria set forth in sub-subparagraph (1)(f)1.a., sub-subparagraphs (1)(f)3.a. and b., or subsection (3), if the person:~~

~~(a) Submits proof of successful completion of Steps I and II of the United States Medical Licensing Examination or the equivalent, as defined by rule of the board;~~

~~(b) Is participating in an allocated slot in an allopathic training program in this state on a full-time basis at the time of examination;~~

~~(c) Makes a written request to the department that he or she be administered the examination without applying for a license as a physician in this state; and~~

~~(d) Remits a nonrefundable administration fee, not to exceed $50, and an examination fee, not to exceed $300, plus the actual cost per person to the department for the purchase of the examination from the Federation of State Medical Boards of the United States or a similar national organization. The examination fee is refundable if the person is found to be ineligible to take the examination.~~

Section 95. Section 458.3115, Florida Statutes, 1998 Supplement, is amended to read:

458.3115 Restricted license; certain foreign-licensed physicians; ~~United States Medical Licensing Examination (USMLE) or agency-developed~~ examination; restrictions on practice; full licensure.—

(1)(a) Notwithstanding any other provision of law, the *department* ~~agency~~ shall provide procedures under which certain physicians who are or were foreign-licensed and have practiced medicine no less than 2 years may take the USMLE or an ~~agency-developed~~ examination *developed by the department, in consultation with the board,* to qualify for a restricted license to practice medicine in this state. The *department-developed* ~~agency and board-developed~~ examination shall test the same areas of medical knowledge as the Federation of State Medical Boards of the United States, Inc. (FLEX) previously administered by the Florida Board of Medicine to grant medical licensure in Florida. The *department-developed* ~~agency-developed~~ examination must be made available no later than December 31, 1998, to a physician who qualifies for licensure. A person who is eligible to take and elects to take the *department-developed* ~~agency and board-developed~~ examination, who has previously passed part 1 or part 2 of the previously administered FLEX shall not be required to retake or pass the equivalent parts of the *department-developed* ~~agency-developed~~ examination, and may sit for the *department-developed* ~~agency and board-developed~~ examination five times within 5 years.

(b) A person who is eligible to take and elects to take the USMLE who has previously passed part 1 or part 2 of the previously administered FLEX shall not be required to retake or pass the equivalent parts of the USMLE up to the year 2000.

(c) A person shall be eligible to take such examination for restricted licensure if the person:

1. Has taken, upon approval by the board, and completed, in November 1990 or November 1992, one of the special preparatory medical update courses authorized by the board and the University of Miami Medical School and subsequently passed the final course examination; upon approval by the board to take the course completed in 1990 or in 1992, has a certificate of successful completion of that course from the University of Miami or the Stanley H. Kaplan course; or can document to the department that he or she was one of the persons who took and successfully completed the Stanley H. Kaplan course that was approved by the board ~~of Medicine~~ and supervised by the University of Miami. At a minimum, the documentation must include class attendance records and the test score on the final course examination;

2. Applies to the *department* ~~agency~~ and submits an application fee that is nonrefundable and equivalent to the fee required for full licensure;

3. Documents no less than 2 years of the active practice of medicine in *any* ~~another~~ jurisdiction;

4. Submits an examination fee that is nonrefundable and equivalent to the fee required for full licensure plus the actual per-applicant cost to the *department* ~~agency~~ to provide either examination described in this section;

5. Has not committed any act or offense in this or any other jurisdiction that would constitute a substantial basis for disciplining a physician under this chapter or part II of chapter 455; and

6. Is not under discipline, investigation, or prosecution in this or any other jurisdiction for an act that would constitute a violation of this

chapter or part II of chapter 455 and that substantially threatened or threatens the public health, safety, or welfare.

(d) Every person eligible for restricted licensure under this section may sit for the USMLE or the *department-developed* ~~agency and board-developed~~ examination five times within 5 calendar years. Applicants desiring to use portions of the FLEX and the USMLE may do so up to the year 2000. However, notwithstanding subparagraph (c)3., applicants applying under this section who fail the examination up to a total of five times will only be required to pay the examination fee required for full licensure for the second and subsequent times they take the examination.

(e) The *department* ~~Agency for Health Care Administration~~ and the board shall be responsible for working with one or more organizations to offer a medical refresher course designed to prepare applicants to take either licensure examination described in this section. The organizations may develop the medical refresher course, purchase such a course, or contract for such a course from a private organization that specializes in developing such courses.

(f) The course shall require no less than two 16-week semesters of 16 contact hours per week for a total of 256 contact hours per student for each semester. The cost is to be paid by the students taking the course.

(2)(a) Before the *department* ~~agency~~ may issue a restricted license to an applicant under this section, the applicant must have passed either of the two examinations described in this section. However, the board may impose reasonable restrictions on the applicant's license to practice. These restrictions may include, but are not limited to:

1. Periodic and random *department* ~~agency~~ audits of the licensee's patient records and review of those records by the board or the *department* ~~agency~~.

2. Periodic appearances of the licensee before the board or the *department* ~~agency~~.

3. Submission of written reports to the board or the *department* ~~agency~~.

(b) A restricted licensee under this section shall practice under the supervision of a full licensee approved by the board with the first year of the licensure period being under direct supervision as defined by board rule and the second year being under indirect supervision as defined by board rule.

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

(3)(a) A restricted license issued by the *department* ~~agency~~ under this section is valid for 2 years unless sooner revoked or suspended, and a restricted licensee is subject to the requirements of this chapter, part II of chapter 455, and any other provision of law not in conflict with this section. Upon expiration of such restricted license, a restricted licensee shall become a full licensee if the restricted licensee:

1. Is not under discipline, investigation, or prosecution for a violation which poses a substantial threat to the public health, safety, or welfare; and

2. Pays all renewal fees required of a full licensee.

(b) The *department* ~~agency~~ shall renew a restricted license under this section upon payment of the same fees required for renewal for a full license if the restricted licensee is under discipline, investigation, or prosecution for a violation which posed or poses a substantial threat to the public health, safety, or welfare and the board has not permanently revoked the restricted license. A restricted licensee who has renewed such restricted license shall become eligible for full licensure when the licensee is no longer under discipline, investigation, or prosecution.

(4) The board shall adopt rules necessary to carry out the provisions of this section.

Section 96. Subsections (1), (2), and (8) of section 458.313, Florida Statutes, are amended to read:

458.313 Licensure by endorsement; requirements; fees.—

(1) The department shall issue a license by endorsement to any applicant who, upon applying to the department *on forms furnished by the department* and remitting a fee *set by the board* not to exceed $500 ~~set by the board~~, the board certifies:

(a) Has met the qualifications for licensure in s. 458.311(1)(b)-(g) *or in s. 458.311(1)(b)-(e) and (g) and (3)*;

(b) *Prior to January 1, 2000,* has obtained a passing score, as established by rule of the board, on the licensure examination of the Federation of State Medical Boards of the United States, Inc. (FLEX), *on* ~~or of~~ the United States Medical Licensing Examination (USMLE), or *on* the examination of the National Board of Medical Examiners, or on a combination thereof, *and on or after January 1, 2000, has obtained a passing score on the United States Medical Licensing Examination (USMLE)* ~~provided the board certifies as eligible for licensure by endorsement any applicant who took the required examinations more than 10 years prior to application~~; and

(c) Has submitted evidence of the active licensed practice of medicine in another jurisdiction, for at least 2 of the immediately preceding 4 years, or evidence of successful completion of either *a* board-approved postgraduate training *program within 2 years preceding filing of an application*~~,~~ or a board-approved clinical competency examination~~,~~ within the year preceding the filing of an application for licensure. For purposes of this paragraph, "active licensed practice of medicine" means that practice of medicine by physicians, including those employed by any governmental entity in community or public health, as defined by this chapter, medical directors under s. 641.495(11) who are practicing medicine, and those on the active teaching faculty of an accredited medical school.

(2)~~(a) As prescribed by board rule, the board may require an applicant who does not pass the licensing examination after five attempts to complete additional remedial education or training. The board shall prescribe the additional requirements in a manner that permits the applicant to complete the requirements and be reexamined within 2 years after the date the applicant petitions the board to retake the examination a sixth or subsequent time.~~

~~(b)~~ The board may require an applicant for licensure by endorsement to take and pass the appropriate licensure examination prior to certifying the applicant as eligible for licensure.

~~(8) The department shall reactivate the license of any physician whose license has become void by failure to practice in Florida for a period of 1 year within 3 years after issuance of the license by endorsement, if the physician was issued a license by endorsement prior to 1989, has actively practiced medicine in another state for the last 4 years, applies for licensure before October 1, 1998, pays the applicable fees, and otherwise meets any continuing education requirements for reactivation of the license as determined by the board.~~

Section 97. Subsection (1) of section 458.315, Florida Statutes, is amended to read:

458.315 Temporary certificate for practice in areas of critical need.—Any physician who is licensed to practice in any other state, whose license is currently valid, and who pays an application fee of $300 may be issued a temporary certificate to practice in communities of Florida where there is a critical need for physicians. A certificate may be issued to a physician who will be employed by a county health department, correctional facility, community health center funded by s. 329, s. 330, or s. 340 of the United States Public Health Services Act, or other entity that provides health care to indigents and that is approved by the State Health Officer. The Board of Medicine may issue this temporary certificate with the following restrictions:

(1) The board shall determine the areas of critical need, and the physician so certified may practice *in any of those areas* ~~only in that specific area~~ for a time to be determined by the board. Such areas shall include, but not be limited to, health professional shortage areas designated by the United States Department of Health and Human Services.

(a) A recipient of a temporary certificate for practice in areas of critical need may use the license to work for any approved employer in any area of critical need approved by the board.

(b) The recipient of a temporary certificate for practice in areas of critical need shall, within 30 days after accepting employment, notify the board of all approved institutions in which the licensee practices and of all approved institutions where practice privileges have been denied.

Section 98. Section 458.3165, Florida Statutes, is amended to read:

458.3165 Public psychiatry certificate.—The board shall issue a public psychiatry certificate to an individual who remits an application fee not to exceed $300, as set by the board, who is a board-certified psychiatrist, who is licensed to practice medicine without restriction in another state, and who meets the requirements in s. 458.311(1)(a)-(g) and (5). *A recipient of a public psychiatry certificate may use the certificate to work at any public mental health facility or program funded in part or entirely by state funds.*

(1) Such certificate shall:

(a) Authorize the holder to practice only in a public mental health facility or program funded in part or entirely by state funds.

(b) Be issued and renewable biennially if the secretary of the Department of Health ~~and Rehabilitative Services~~ and the chair of the department of psychiatry at one of the public medical schools or the chair of the department of psychiatry at the accredited medical school at the University of Miami recommend in writing that the certificate be issued or renewed.

(c) Automatically expire if the holder's relationship with a public mental health facility or program expires.

(d) Not be issued to a person who has been adjudged unqualified or guilty of any of the prohibited acts in this chapter.

(2) The board may take disciplinary action against a certificate-holder for noncompliance with any part of this section or for any reason for which a regular licensee may be subject to discipline.

Section 99. Subsection (4) is added to section 458.317, Florida Statutes, 1998 Supplement, to read:

458.317 Limited licenses.—

(4) Any person holding an active license to practice medicine in the state may convert that license to a limited license for the purpose of providing volunteer, uncompensated care for low-income Floridians. The applicant must submit a statement from the employing agency or institution stating that he or she will not receive compensation for any service involving the practice of medicine. The application and all licensure fees, including neurological injury compensation assessments, shall be waived.

Section 100. Paragraph (mm) is added to subsection (1) of section 458.331, Florida Statutes, 1998 Supplement, and subsection (2) of that section is amended to read:

458.331 Grounds for disciplinary action; action by the board and department.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(mm) Failing to comply with the requirements of ss. 381.026 and 381.0261 to provide patients with information about their patient rights and how to file a patient complaint.

(2) When the board finds any person guilty of any of the grounds set forth in subsection (1), including conduct that would constitute a substantial violation of subsection (1) which occurred prior to licensure, it may enter an order imposing one or more of the following penalties:

(a) Refusal to certify, or certification with restrictions, to the department an application for licensure, certification, or registration.

(b) Revocation or suspension of a license.

(c) Restriction of practice.

(d) Imposition of an administrative fine not to exceed *$10,000* ~~$5,000~~ for each count or separate offense.

(e) Issuance of a reprimand.

(f) Placement of the physician on probation for a period of time and subject to such conditions as the board may specify, including, but not limited to, requiring the physician to submit to treatment, to attend continuing education courses, to submit to reexamination, or to work under the supervision of another physician.

(g) Issuance of a letter of concern.

(h) Corrective action.

(i) Refund of fees billed to and collected from the patient.

(j) Imposition of an administrative fine in accordance with s. 381.0261 for violations regarding patient rights.

In determining what action is appropriate, the board must first consider what sanctions are necessary to protect the public or to compensate the patient. Only after those sanctions have been imposed may the disciplining authority consider and include in the order requirements designed to rehabilitate the physician. All costs associated with compliance with orders issued under this subsection are the obligation of the physician.

Section 101. Subsection (7) of section 458.347, Florida Statutes, 1998 Supplement, is amended to read:

458.347 Physician assistants.—

(7) PHYSICIAN ASSISTANT LICENSURE.—

(a) Any person desiring to be licensed as a physician assistant must apply to the department. The department shall issue a license to any person certified by the council as having met the following requirements:

1. Is at least 18 years of age.

2. Has satisfactorily passed a proficiency examination by an acceptable score established by the National Commission on Certification of Physician Assistants. If an applicant does not hold a current certificate issued by the National Commission on Certification of Physician Assistants and has not actively practiced as a physician assistant within the immediately preceding 4 years, the applicant must retake and successfully complete the entry-level examination of the National Commission on Certification of Physician Assistants to be eligible for licensure.

3. Has completed the application form and remitted an application fee not to exceed $300 as set by the boards. An application for licensure made by a physician assistant must include:

a. A certificate of completion of a physician assistant training program specified in subsection (6).

b. A sworn statement of any prior felony convictions.

c. A sworn statement of any previous revocation or denial of licensure or certification in any state.

d. Two letters of recommendation.

(b)1. Notwithstanding subparagraph (a)2. and sub-subparagraph (a)3.a., the department shall examine each applicant who the Board of Medicine certifies:

a. Has completed the application form and remitted a nonrefundable application fee not to exceed $500 and an examination fee not to exceed $300, plus the actual cost to the department to provide the examination. The examination fee is refundable if the applicant is found to be ineligible to take the examination. The department shall not require the applicant to pass a separate practical component of the examination. For examinations given after July 1, 1998, competencies measured through practical examinations shall be incorporated into the written examination through a multiple-choice format. The department shall translate the examination into the native language of any applicant who requests and agrees to pay all costs of such translation, provided that the translation request is filed with the board office no later than 9 months before the scheduled examination and the applicant remits translation fees as specified by the department no later than 6 months before the scheduled examination, and provided that the applicant demonstrates to the department the ability to communicate orally in basic English. If the applicant is unable to pay translation costs, the applicant may take the next

available examination in English if the applicant submits a request in writing by the application deadline and if the applicant is otherwise eligible under this section. To demonstrate the ability to communicate orally in basic English, a passing score or grade is required, as determined by the department or organization that developed it, on one of the following English examinations:

(I) The test for spoken English (TSE) by the Educational Testing Service (ETS);

(II) The test of English as a foreign language (TOEFL), by ETS;

(III) A high school or college level English course;

(IV) The English examination for citizenship, Immigration and Naturalization Service.

A notarized copy of an Educational Commission for Foreign Medical Graduates (ECFMG) certificate may also be used to demonstrate the ability to communicate in basic English.

b. Is an unlicensed physician who graduated from a foreign medical school listed with the World Health Organization who has not previously taken and failed the examination of the National Commission on Certification of Physician Assistants and who has been certified by the Board of Medicine as having met the requirements for licensure as a medical doctor by examination as set forth in s. 458.311(1), (3), (4), and (5), with the exception that the applicant is not required to have completed an approved residency of at least 1 year and the applicant is not required to have passed the licensing examination specified under s. 458.311 or hold a valid, active certificate issued by the Educational Commission for Foreign Medical Graduates.

c. Was eligible and made initial application for certification as a physician assistant in this state between July 1, 1990, and June 30, 1991.

d. Was a resident of this state on July 1, 1990, or was licensed or certified in any state in the United States as a physician assistant on July 1, 1990.

2. The department may grant temporary licensure to an applicant who meets the requirements of subparagraph 1. Between meetings of the council, the department may grant temporary licensure to practice based on the completion of all temporary licensure requirements. All such administratively issued licenses shall be reviewed and acted on at the next regular meeting of the council. A temporary license expires *30 days after* ~~upon~~ receipt and notice of scores to the licenseholder from the first available examination specified in subparagraph 1. following licensure by the department. An applicant who fails the proficiency examination is no longer temporarily licensed, but may apply for a one-time extension of temporary licensure after reapplying for the next available examination. Extended licensure shall expire upon failure of the licenseholder to sit for the next available examination or upon receipt and notice of scores to the licenseholder from such examination.

3. Notwithstanding any other provision of law, the examination specified pursuant to subparagraph 1. shall be administered by the department only five times. Applicants certified by the board for examination shall receive at least 6 months' notice of eligibility prior to the administration of the initial examination. Subsequent examinations shall be administered at 1-year intervals following the reporting of the scores of the first and subsequent examinations. For the purposes of this paragraph, the department may develop, contract for the development of, purchase, or approve an examination~~, including a practical component,~~ that adequately measures an applicant's ability to practice with reasonable skill and safety. The minimum passing score on the examination shall be established by the department, with the advice of the board. Those applicants failing to pass that examination or any subsequent examination shall receive notice of the administration of the next examination with the notice of scores following such examination. Any applicant who passes the examination and meets the requirements of this section shall be licensed as a physician assistant with all rights defined thereby.

(c) The license must be renewed biennially. Each renewal must include:

1. A renewal fee not to exceed $500 as set by the boards.

2. A sworn statement of no felony convictions in the previous 2 years.

(d) Each licensed physician assistant shall biennially complete 100 hours of continuing medical education or shall hold a current certificate issued by the National Commission on Certification of Physician Assistants.

(e) Upon employment as a physician assistant, a licensed physician assistant must notify the department in writing within 30 days after such employment or after any subsequent changes in the supervising physician. The notification must include the full name, Florida medical license number, specialty, and address of the supervising physician.

(f) Notwithstanding subparagraph (a)2., the department may grant to a recent graduate of an approved program, as specified in subsection (6), *who expects to take the first examination administered by the National Commission on Certification of Physician Assistants available for registration after the applicant's graduation,* a temporary license. *The temporary license shall* ~~to~~ expire *30 days after* ~~upon~~ receipt of scores of the proficiency examination administered by the National Commission on Certification of Physician Assistants. Between meetings of the council, the department may grant a temporary license to practice based on the completion of all temporary licensure requirements. All such administratively issued licenses shall be reviewed and acted on at the next regular meeting of the council. The recent graduate may be licensed prior to employment, but must comply with paragraph (e). An applicant who has passed the proficiency examination may be granted permanent licensure. An applicant failing the proficiency examination is no longer temporarily licensed, but may reapply for a 1-year extension of temporary licensure. An applicant may not be granted more than two temporary licenses and may not be licensed as a physician assistant until he or she passes the examination administered by the National Commission on Certification of Physician Assistants. As prescribed by board rule, the council may require an applicant who does not pass the licensing examination after five or more attempts to complete additional remedial education or training. The council shall prescribe the additional requirements in a manner that permits the applicant to complete the requirements and be reexamined within 2 years after the date the applicant petitions the council to retake the examination a sixth or subsequent time.

(g) The Board of Medicine may impose any of the penalties specified in ss. 455.624 and 458.331(2) upon a physician assistant if the physician assistant or the supervising physician has been found guilty of or is being investigated for any act that constitutes a violation of this chapter or part II of chapter 455.

Section 102. Section 459.005, Florida Statutes, 1998 Supplement, is amended to read:

459.005 Rulemaking authority.—

(1) The board has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this chapter conferring duties upon it.

(2) All physicians who perform level 2 procedures lasting more than 5 minutes and all level 3 surgical procedures in an office setting must register the office with the department unless that office is licensed as a facility pursuant to chapter 395. The department shall inspect the physician's office annually unless the office is accredited by a nationally recognized accrediting agency or an accrediting organization subsequently approved by the Board of Osteopathic Medicine. The actual costs for registration and inspection or accreditation shall be paid by the person seeking to register and operate the office setting in which office surgery is performed.

Section 103. Subsection (7) is added to section 459.0075, Florida Statutes, to read:

459.0075 Limited licenses.—

(7) Any person holding an active license to practice osteopathic medicine in the state may convert that license to a limited license for the purpose of providing volunteer, uncompensated care for low-income Floridians. The applicant must submit a statement from the employing agency or institution stating that he or she will not receive compensation for any service involving the practice of osteopathic medicine. The appli-

cation and all licensure fees, including neurological injury compensation assessments, shall be waived.

Section 104. Paragraph (oo) is added to subsection (1) of section 459.015, Florida Statutes, 1998 Supplement, and subsection (2) of that section is amended to read:

459.015 Grounds for disciplinary action by the board.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(oo) Failing to comply with the requirements of ss. 381.026 and 381.0261 to provide patients with information about their patient rights and how to file a patient complaint.

(2) When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(a) Refusal to certify, or certify with restrictions, to the department an application for certification, licensure, renewal, or reactivation.

(b) Revocation or suspension of a license or certificate.

(c) Restriction of practice.

(d) Imposition of an administrative fine not to exceed *$10,000* ~~$5,000~~ for each count or separate offense.

(e) Issuance of a reprimand.

(f) Issuance of a letter of concern.

(g) Placement of the osteopathic physician on probation for a period of time and subject to such conditions as the board may specify, including, but not limited to, requiring the osteopathic physician to submit to treatment, attend continuing education courses, submit to reexamination, or work under the supervision of another osteopathic physician.

(h) Corrective action.

(i) Refund of fees billed to and collected from the patient.

(j) Imposition of an administrative fine in accordance with s. 381.0261 for violations regarding patient rights.

In determining what action is appropriate, the board must first consider what sanctions are necessary to protect the public or to compensate the patient. Only after those sanctions have been imposed may the disciplining authority consider and include in the order requirements designed to rehabilitate the physician. All costs associated with compliance with orders issued under this subsection are the obligation of the physician.

Section 105. Subsection (6) is added to section 460.402, Florida Statutes, to read:

460.402 Exceptions.—The provisions of this chapter shall not apply to:

(6) A chiropractic student enrolled in a chiropractic college accredited by the Council on Chiropractic Education and participating in a community-based internship under the direct supervision of a doctor of chiropractic medicine who is credentialed as an adjunct faculty member of a chiropractic college in which the student is enrolled.

Section 106. Present subsections (4) through (10) of section 460.403, Florida Statutes, 1998 Supplement, are renumbered as subsections (5) through (11), respectively, a new subsection (4) is added to that section, and present subsections (6) and (9) are amended, to read:

460.403 Definitions.—As used in this chapter, the term:

(4) "Community-based internship" means a program in which a student enrolled in the last year of a chiropractic college accredited by the Council on Chiropractic Education is approved to obtain required pregraduation clinical experience in a chiropractic clinic or practice under the direct supervision of a doctor of chiropractic medicine approved as an adjunct faculty member of the chiropractic college in which the student is enrolled, according to the teaching protocols for the clinical practice requirements of the college.

(7)~~(6)~~ "Direct supervision" means responsible supervision and control, with the licensed chiropractic physician assuming legal liability for the services rendered by a registered chiropractic assistant *or a chiropractic student enrolled in a community-based intern program*. Except in cases of emergency, direct supervision shall require the physical presence of the licensed chiropractic physician for consultation and direction of the actions of the registered chiropractic assistant *or a chiropractic student enrolled in a community-based intern program*. The board shall further establish rules as to what constitutes responsible direct supervision of a registered chiropractic assistant.

(10)~~(9)~~ "Registered chiropractic assistant" means a person who is registered by the board to perform chiropractic services under the direct supervision of a chiropractic physician *or certified chiropractic physician's assistant*.

Section 107. Subsection (1) of section 460.406, Florida Statutes, 1998 Supplement, is amended to read:

460.406 Licensure by examination.—

(1) Any person desiring to be licensed as a chiropractic physician shall apply to the department to take the licensure examination. There shall be an application fee set by the board not to exceed $100 which shall be nonrefundable. There shall also be an examination fee not to exceed $500 plus the actual per applicant cost to the department for purchase of portions of the examination from the National Board of Chiropractic Examiners or a similar national organization, which may be refundable if the applicant is found ineligible to take the examination. The department shall examine each applicant who the board certifies has:

(a) Completed the application form and remitted the appropriate fee.

(b) Submitted proof satisfactory to the department that he or she is not less than 18 years of age.

(c) Submitted proof satisfactory to the department that he or she is a graduate of a chiropractic college which is accredited by or has status with the Council on Chiropractic Education or its predecessor agency. However, any applicant who is a graduate of a chiropractic college that was initially accredited by the Council on Chiropractic Education in 1995, who graduated from such college within the 4 years immediately preceding such accreditation, and who is otherwise qualified shall be eligible to take the examination. No application for a license to practice chiropractic medicine shall be denied solely because the applicant is a graduate of a chiropractic college that subscribes to one philosophy of chiropractic medicine as distinguished from another.

(d)1. For an applicant who has matriculated in a chiropractic college prior to July 2, 1990, completed at least 2 years of residence college work, consisting of a minimum of one-half the work acceptable for a bachelor's degree granted on the basis of a 4-year period of study, in a college or university accredited by an accrediting agency recognized and approved by the United States Department of Education. However, prior to being certified by the board to sit for the examination, each applicant who has matriculated in a chiropractic college after July 1, 1990, shall have been granted a bachelor's degree, based upon 4 academic years of study, by a college or university accredited by a regional accrediting agency which is a member of the Commission on Recognition of Postsecondary Accreditation.

2. Effective July 1, 2000, completed, prior to matriculation in a chiropractic college, at least 3 years of residence college work, consisting of a minimum of 90 semester hours leading to a bachelor's degree in a liberal arts college or university accredited by an accrediting agency recognized and approved by the United States Department of Education. However, prior to being certified by the board to sit for the examination, each applicant who has matriculated in a chiropractic college after July 1, 2000, shall have been granted a bachelor's degree from an institution holding accreditation for that degree from a regional accrediting agency which is recognized by the United States Department of Education. The applicant's chiropractic degree must consist of credits earned in the chiropractic program and may not include academic credit for courses from the bachelor's degree.

~~(e) Completed not less than a 3-month training program in this state of not less than 300 hours with a chiropractic physician licensed in this state. The chiropractic physician candidate may perform all services~~

~~offered by the licensed chiropractic physician, but must be under the supervision of the licensed chiropractic physician until the results of the first licensure examination for which the candidate has qualified have been received, at which time the candidate's training program shall be terminated. However, an applicant who has practiced chiropractic medicine in any other state, territory, or jurisdiction of the United States or any foreign national jurisdiction for at least 5 years as a licensed chiropractic physician need not be required to complete the 3-month training program as a requirement for licensure.~~

(e)~~(f)~~ Successfully completed the National Board of Chiropractic Examiners certification examination in parts I and II and clinical competency, with a score approved by the board, within 10 years immediately preceding application to the department for licensure.

(f)~~(g)~~ Submitted to the department a set of fingerprints on a form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by the Department of Health for the criminal background check of the applicant.

Section 108. Paragraphs (p) and (dd) of subsection (1) and paragraph (b) of subsection (2) of section 460.413, Florida Statutes, 1998 Supplement, are amended to read:

460.413 Grounds for disciplinary action; action by the board.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(p) Prescribing, dispensing, or administering any medicinal drug except as authorized by *s. 460.403(9)(c)2.* ~~s. 460.403(8)(c)2.~~, performing any surgery, or practicing obstetrics.

(dd) Using acupuncture without being certified pursuant to *s. 460.403(9)(f)* ~~s. 460.403(8)(f)~~.

(2) When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(d) Imposition of an administrative fine not to exceed *$10,000* ~~$2,000~~ for each count or separate offense.

In determining what action is appropriate, the board must first consider what sanctions are necessary to protect the public or to compensate the patient. Only after those sanctions have been imposed may the disciplining authority consider and include in the order requirements designed to rehabilitate the chiropractic physician. All costs associated with compliance with orders issued under this subsection are the obligation of the chiropractic physician.

Section 109. Section 460.4165, Florida Statutes, is amended to read:

460.4165 *Certified* chiropractic physician's assistants.—

(1) LEGISLATIVE INTENT.—The purpose of this section is to encourage the more effective utilization of the skills of chiropractic physicians by enabling them to delegate health care tasks to qualified assistants when such delegation is consistent with the patient's health and welfare and to allow for innovative development of programs for the education of physician's assistants.

(2) PERFORMANCE BY CERTIFIED CHIROPRACTIC PHYSICIAN'S ASSISTANT.—Notwithstanding any other provision of law, a certified chiropractic physician's assistant may perform chiropractic services in the specialty area or areas for which the certified chiropractic physician's assistant is trained or experienced when such services are rendered under the supervision of a licensed chiropractic physician or group of chiropractic physicians certified by the board. Any certified chiropractic physician's assistant certified under this section to perform services may perform those services only:

(a) In the office of the chiropractic physician to whom the certified chiropractic physician's assistant has been assigned, in which office such physician maintains her or his primary practice;

(b) *Under indirect supervision of* ~~When~~ the chiropractic physician to whom she or he is assigned *as defined by rule of the board* ~~is present~~;

(c) In a hospital in which the chiropractic physician to whom she or he is assigned is a member of the staff; or

(d) On calls outside *of the* ~~said~~ office *of the chiropractic physician to whom she or he is assigned*, on the direct order of the chiropractic physician to whom she or he is assigned.

(3) THIRD-PARTY PAYOR. This chapter does not prevent third-party payors from reimbursing employers of chiropractic physicians' assistants for covered services rendered by certified chiropractic physicians' assistants.

(4)~~(3)~~ PERFORMANCE BY TRAINEES.—Notwithstanding any other provision of law, a trainee may perform chiropractic services when such services are rendered within the scope of an approved program.

(5)~~(4)~~ PROGRAM APPROVAL.—The department shall issue certificates of approval for programs for the education and training of certified chiropractic physician's assistants which meet board standards. Any basic program curriculum certified by the board shall cover a period of 24 months. *The curriculum must consist of at least 200 didactic classroom hours during those 24 months.*

(a) In developing criteria for program approval, the board shall give consideration to, and encourage, the utilization of equivalency and proficiency testing and other mechanisms whereby full credit is given to trainees for past education and experience in health fields.

(b) The board shall create groups of specialty classifications of training for certified chiropractic physician's assistants. These classifications shall reflect the training and experience of the certified chiropractic physician's assistant. The certified chiropractic physician's assistant may receive training in one or more such classifications, which shall be shown on the certificate issued.

(c) The board shall adopt and publish standards to ensure that such programs operate in a manner which does not endanger the health and welfare of the patients who receive services within the scope of the program. The board shall review the quality of the curricula, faculties, and facilities of such programs; issue certificates of approval; and take whatever other action is necessary to determine that the purposes of this section are being met.

(6)~~(5)~~ APPLICATION APPROVAL.—*Any person desiring to be licensed as a certified chiropractic physician's assistant must apply to the department. The department shall issue a certificate to any person certified by the board as having met the following requirements:*

(a) Is at least 18 years of age.

(b) Is a graduate of an approved program or its equivalent and is fully certified by reason of experience and education, as defined by board rule, to perform chiropractic services under the responsible supervision of a licensed chiropractic physician and when the board is satisfied that the public will be adequately protected by the arrangement proposed in the application.

(c) Has completed the application form and remitted an application fee set by the board pursuant to this section. An application for certification made by a chiropractic physician's assistant must include:

1. A certificate of completion of a physician's assistant training program specified in subsection (5).

2. A sworn statement of any prior felony conviction in any jurisdiction.

3. A sworn statement of any previous revocation or denial of licensure or certification in any state or jurisdiction.

~~(a) The board shall adopt rules for the consideration of applications by a licensed chiropractic physician or a group of licensed chiropractic physicians to supervise certified chiropractic physician's assistants. Each application made by a chiropractic physician or group of chiropractic physicians shall include all of the following:~~

~~1. The qualifications, including related experience, of the certified chiropractic physician's assistant intended to be employed.~~

~~2. The professional background and specialty of the chiropractic physician or the group of chiropractic physicians.~~

~~3. A description by the chiropractic physician of her or his practice, or by the chiropractic physicians of their practice, and of the way in which the assistant or assistants are to be utilized.~~

~~The board shall certify an application by a licensed chiropractic physician to supervise a certified chiropractic physician's assistant when the proposed assistant is a graduate of an approved program or its equivalent and is fully qualified by reason of experience and education to perform chiropractic services under the responsible supervision of a licensed chiropractic physician and when the board is satisfied that the public will be adequately protected by the arrangement proposed in the application.~~

~~(b) The board shall certify no more than two certified chiropractic physician's assistants for any chiropractic physician practicing alone; no more than four chiropractic physician's assistants for two chiropractic physicians practicing together formally or informally; or no more than a ratio of two certified chiropractic physician's assistants to three chiropractic physicians in any group of chiropractic physicians practicing together formally or informally.~~

(7)~~(6)~~ PENALTY.—Any person who has not been certified by the board and approved by the department and who represents herself or himself as a certified chiropractic physician's assistant or who uses any other term in indicating or implying that she or he is a certified chiropractic physician's assistant is guilty of a felony of the third degree, punishable as provided in s. 775.082 or s. 775.084 or by a fine not exceeding $5,000.

(8)~~(7)~~ REVOCATION OF APPROVAL.—The certificate of approval to supervise a certified chiropractic physician's assistant held by any chiropractic physician or group of chiropractic physicians may be revoked when the board determines that the intent of this section is not being carried out.

(9)~~(8)~~ FEES.—

(a) A fee not to exceed $100 set by the board shall accompany the application by a chiropractic physician for authorization to supervise a certified chiropractic physician's assistant.

(b) Upon approval of an application for certification of a certified chiropractic physician's assistant in a specialty area, the applicant shall be charged an initial certification fee for the first biennium not to exceed $250; and a biennial renewal fee not to exceed $250 shall accompany each application for renewal of the certified chiropractic physician's assistant certificate.

(10)~~(9)~~ EXISTING PROGRAMS.—Nothing in this section shall be construed to eliminate or supersede existing laws relating to other paramedical professions or services. It is the intent of this section to supplement all such existing programs relating to the certification and the practice of paramedical professions as may be authorized by law.

(11)~~(10)~~ LIABILITY.—Each chiropractic physician or group of chiropractic physicians utilizing certified chiropractic physician's assistants shall be liable for any act or omission of any physician's assistant acting under her or his or its supervision and control.

(12) SUPERVISION OF REGISTERED CHIROPRACTIC ASSISTANT.—A certified chiropractic physician's assistant may directly supervise a registered chiropractic assistant and other persons who are not licensed as chiropractic physicians who are employed or supervised by the chiropractic physician to whom the certified chiropractic physician's assistant is assigned.

(13) CERTIFIED CHIROPRACTIC ASSISTANT CERTIFICATION RENEWAL.—The certification must be renewed biennially.

(a) Each renewal must include:

1. A renewal fee as set by board pursuant to this section.

2. A sworn statement of no felony convictions in the previous 2 years in any jurisdiction.

(b) Each certified chiropractic physician's assistant shall biennially complete 24 hours of continuing education courses sponsored by chiropractic colleges accredited by the Council on Chiropractic Education and approved by the board. The board shall approve those courses that build upon the basic courses required for the practice of chiropractic medicine, and the board may also approve courses in adjunctive modalities. The board may make exception from the requirements of this section in emergency or hardship cases. The board may adopt rules within the requirements of this section which are necessary for its implementation.

(c) Upon employment as a certified chiropractic physician's assistant, a certified chiropractic physician's assistant must notify the department in writing within 30 days after such employment or any change of the supervising chiropractic physician. The notification must include the full name, Florida chiropractic medical license number, specialty, and address of the supervising chiropractic physician.

Section 110. *Persons holding certificates as certified chiropractic physicians' assistants on the effective date of this act need not reapply for certification, but must comply with biennial renewal requirements as provided in section 460.4165(6), Florida Statutes. The requirement for completion of the continuing education requirements for biennial renewal of the certificate shall not take effect until the beginning of the next biennial renewal period following the effective date of this act.*

Section 111. Section 460.4166, Florida Statutes, 1998 Supplement, is amended to read:

460.4166 Registered chiropractic assistants.—

(1) DEFINITION.—As used in this section, "registered chiropractic assistant" means a professional, multiskilled person dedicated to assisting in all aspects of chiropractic medical practice under the direct supervision and responsibility of a chiropractic physician *or certified chiropractic physician's assistant*. A registered chiropractic assistant assists with patient care management, executes administrative and clinical procedures, and often performs managerial and supervisory functions. Competence in the field also requires that a registered chiropractic assistant adhere to ethical and legal standards of professional practice, recognize and respond to emergencies, and demonstrate professional characteristics.

(2) DUTIES.—Under the direct supervision and responsibility of a licensed chiropractic physician *or certified chiropractic physician's assistant*, a registered chiropractic assistant may:

(a) Perform clinical procedures, which include:

1. Preparing patients for the chiropractic physician's care.

2. Taking vital signs.

3. Observing and reporting patients' signs or symptoms.

(b) Administer basic first aid.

(c) Assist with patient examinations or treatments other than manipulations or adjustments.

(d) Operate office equipment.

(e) Collect routine laboratory specimens as directed by the chiropractic physician *or certified chiropractic physician's assistant*.

(f) Administer nutritional supplements as directed by the chiropractic physician *or certified chiropractic physician's assistant*.

(g) Perform office procedures required by the chiropractic physician *or certified chiropractic physician's assistant* under direct supervision of the chiropractic physician *or certified chiropractic physician's assistant*.

(3) REGISTRATION.—Registered chiropractic assistants may be registered by the board for a biennial fee not to exceed $25.

Section 112. Section 461.003, Florida Statutes, 1998 Supplement, is amended to read:

461.003 Definitions.—As used in this chapter:

~~(1) "Department" means the Department of Health.~~

(1)~~(2)~~ "Board" means the Board of Podiatric Medicine as created in this chapter.

(2) "Certified podiatric X-ray assistant" means a person who is employed by and under the direct supervision of a licensed podiatric physician to perform only those radiographic functions that are within the scope of practice of a podiatric physician licensed under this chapter. For purposes of this subsection, the term "direct supervision" means supervision whereby a podiatric physician orders the X ray, remains on the premises while the X ray is being performed and exposed, and approves the work performed before dismissal of the patient.

(3) "Department" means the Department of Health.

~~(3) "Practice of podiatric medicine" means the diagnosis or medical, surgical, palliative, and mechanical treatment of ailments of the human foot and leg. The surgical treatment of ailments of the human foot and leg shall be limited anatomically to that part below the anterior tibial tubercle. The practice of podiatric medicine shall include the amputation of the toes or other parts of the foot but shall not include the amputation of the foot or leg in its entirety. A podiatric physician may prescribe drugs that relate specifically to the scope of practice authorized herein.~~

(4) "Podiatric physician" means any person licensed to practice podiatric medicine pursuant to this chapter.

(5) "Practice of podiatric medicine" means the diagnosis or medical, surgical, palliative, and mechanical treatment of ailments of the human foot and leg. The surgical treatment of ailments of the human foot and leg shall be limited anatomically to that part below the anterior tibial tubercle. The practice of podiatric medicine shall include the amputation of the toes or other parts of the foot but shall not include the amputation of the foot or leg in its entirety. A podiatric physician may prescribe drugs that relate specifically to the scope of practice authorized herein.

Section 113. Paragraph (d) of subsection (1) of section 461.006, Florida Statutes, 1998 Supplement, is amended to read:

461.006 Licensure by examination.—

(1) Any person desiring to be licensed as a podiatric physician shall apply to the department to take the licensure examination. The department shall examine each applicant who the board certifies:

(d) ~~Beginning October 1, 1995,~~ Has satisfactorily completed one of the following clinical experience requirements:

1. One year of residency in a residency program approved by the board, *and if it has been 4 or more years since the completion of that residency, active licensed practice of podiatric medicine in another jurisdiction for at least 2 of the immediately preceding 4 years, or successful completion of a board-approved postgraduate program or board-approved course within the year preceding the filing of the application. For the purpose of this subparagraph, "active licensed practice" means the licensed practice of podiatric medicine as defined in s. 461.003(5) by podiatric physicians, including podiatric physicians employed by any governmental entity, on the active teaching faculty of an accredited school of podiatric medicine, or practicing administrative podiatric medicine.*

2. Ten years of continuous, active licensed practice of podiatric medicine in another state immediately preceding the submission of the application and completion of at least the same continuing educational requirements during those 10 years as are required of podiatric physicians licensed in this state.

Section 114. Subsection (1) of section 461.007, Florida Statutes, 1998 Supplement, is amended to read:

461.007 Renewal of license.—

(1) The department shall renew a license upon receipt of the renewal application and a fee not to exceed $350 set by the board, *and evidence that the applicant has actively practiced podiatric medicine or has been on the active teaching faculty of an accredited school of podiatric medicine for at least 2 years of the immediately preceding 4 years. If the licensee has not actively practiced podiatric medicine for at least 2 years of the immediately preceding 4 years, the board shall require that the licensee successfully complete a board-approved course prior to renewal of the license. For purposes of this subsection, "actively practiced podiatric medicine" means the licensed practice of podiatric medicine as defined in s. 461.003(5) by podiatric physicians, including podiatric physicians employed by any governmental entity, on the active teaching faculty of an accredited school of podiatric medicine, or practicing administrative podiatric medicine.* An applicant for a renewed license must also submit the information required under s. 455.565 to the department on a form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by the Department of Health for the statewide criminal background check of the applicant. The applicant must submit a set of fingerprints to the Department of Health on a form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by the department for a national criminal background check of the applicant for the initial renewal of his or her license after January 1, 2000. If the applicant fails to submit either the information required under s. 455.565 or a set of fingerprints to the department as required by this section, the department shall issue a notice of noncompliance, and the applicant will be given 30 additional days to comply. If the applicant fails to comply within 30 days after the notice of noncompliance is issued, the department or board, as appropriate, may issue a citation to the applicant and may fine the applicant up to $50 for each day that the applicant is not in compliance with the requirements of s. 455.565. The citation must clearly state that the applicant may choose, in lieu of accepting the citation, to follow the procedure under s. 455.621. If the applicant disputes the matter in the citation, the procedures set forth in s. 455.621 must be followed. However, if the applicant does not dispute the matter in the citation with the department within 30 days after the citation is served, the citation becomes a final order and constitutes discipline. Service of a citation may be made by personal service or certified mail, restricted delivery, to the subject at the applicant's last known address. If an applicant has submitted fingerprints to the department for a national criminal history check upon initial licensure and is renewing his or her license for the first time, then the applicant need only submit the information and fee required for a statewide criminal history check.

Section 115. Paragraph (bb) is added to subsection (1) of section 461.013, Florida Statutes, 1998 Supplement, and subsection (2) of that section is amended, to read:

461.013 Grounds for disciplinary action; action by the board; investigations by department.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(bb) Failing to comply with the requirements of ss. 381.026 and 381.0261 to provide patients with information about their patient rights and how to file a patient complaint.

(2) When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(a) Refusal to certify to the department an application for licensure.

(b) Revocation or suspension of a license.

(c) Restriction of practice.

(d) Imposition of an administrative fine not to exceed *$10,000* ~~$1,000~~ for each count or separate offense.

(e) Issuance of a reprimand.

(f) Placing the podiatric physician on probation for a period of time and subject to such conditions as the board may specify, including requiring the podiatric physician to submit to treatment, to attend continuing education courses, to submit to reexamination, and to work under the supervision of another podiatric physician.

(g) Imposition of an administrative fine in accordance with s. 381.0261 for violations regarding patient rights.

Section 116. Section 461.0135, Florida Statutes, is created to read:

461.0135 Operation of X-ray machines by podiatric X-ray assistants.—A licensed podiatric physician may utilize an X-ray machine,

expose X-ray films, and interpret or read such films. The provision of part IV of chapter 468 to the contrary notwithstanding, a licensed podiatric physician may authorize or direct a certified podiatric X-ray assistant to operate such equipment and expose such films under the licensed podiatric physician's direction and supervision, pursuant to rules adopted by the board in accordance with s. 461.004, which ensures that such certified podiatric X-ray assistant is competent to operate such equipment in a safe and efficient manner by reason of training, experience, and passage of a board-approved course which includes an examination. The board shall issue a certificate to an individual who successfully completes the board-approved course and passes the examination to be administered by the training authority upon completion of such course.

Section 117. Subsection (3) is added to section 464.008, Florida Statutes, to read:

464.008 Licensure by examination.—

(3) Any applicant who fails the examination three consecutive times, regardless of the jurisdiction in which the examination is taken, shall be required to complete a board-approved remedial course before the applicant will be approved for reexamination. After taking the remedial course, the applicant may be approved to retake the examination up to three additional times before the applicant is required to retake remediation. The applicant shall apply for reexamination within 6 months after completion of remediation. The board shall by rule establish guidelines for remedial courses.

Section 118. Subsection (13) is added to section 464.022, Florida Statutes, to read:

464.022 Exceptions.—No provision of this chapter shall be construed to prohibit:

(13) The practice of nursing by individuals enrolled in board-approved remedial courses.

Section 119. Subsection (12) of section 465.003, Florida Statutes, is amended, subsections (4) through (14) of said section are renumbered as subsections (5) through (15), respectively, and a new subsection (4) is added to said section, to read:

465.003 Definitions.—As used in this chapter, the term:

(4) "Data communication device" means an electronic device that receives electronic information from one source and transmits or routes it to another, including, but not limited to, any such bridge, router, switch, or gateway.

(13)~~(12)~~ "Practice of the profession of pharmacy" includes compounding, dispensing, and consulting concerning contents, therapeutic values, and uses of any medicinal drug*;* ~~and~~ consulting concerning therapeutic values and interactions of patent or proprietary preparations, whether pursuant to prescriptions or in the absence and entirely independent of such prescriptions or orders*; and other pharmaceutical services. For purposes of this subsection, "other pharmaceutical services" means the monitoring of the patient's drug therapy and assisting the patient in the management of his or her drug therapy, and includes review of the patient's drug therapy and communication with the patient's prescribing health care provider as licensed under chapter 458, chapter 459, chapter 461, or chapter 466, or similar statutory provision in another jurisdiction, or such provider's agent or such other persons as specifically authorized by the patient, regarding the drug therapy. However, nothing in this subsection may be interpreted to permit an alteration of a prescriber's directions, the diagnosis or treatment of any disease, the initiation of any drug therapy, the practice of medicine, or the practice of osteopathic medicine, unless otherwise permitted by law. "Practice of the profession of pharmacy"* ~~The phrase~~ also includes any other act, service, operation, *research,* or transaction incidental to, or forming a part of, any of the foregoing acts, requiring, involving, or employing the science or art of any branch of the pharmaceutical profession, study, or training, and shall expressly permit a pharmacist to transmit information from persons authorized to prescribe medicinal drugs to their patients.

Section 120. Paragraph (l) of subsection (1) and paragraph (c) of subsection (2) of section 465.016, Florida Statutes, are amended, and paragraph (q) is added to subsection (1) of that section, to read:

465.016 Disciplinary actions.—

(1) The following acts shall be grounds for disciplinary action set forth in this section:

(l) Placing in the stock of any pharmacy any part of any prescription compounded or dispensed which is returned by a patient; however, in a hospital, nursing home, *correctional facility,* or extended care facility in which unit-dose medication is dispensed to inpatients, each dose being individually sealed and the individual unit dose or unit-dose system labeled with the name of the drug, dosage strength, manufacturer's control number, and expiration date, if any, the unused unit dose of medication may be returned to the pharmacy for redispensing. Each pharmacist shall maintain appropriate records for any unused or returned medicinal drugs.

(q) Using or releasing a patient's records except as authorized by this chapter and chapter 455.

(2) When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(c) Imposition of an administrative fine not to exceed *$5,000* ~~$1,000~~ for each count or separate offense.

Section 121. Section 465.014, Florida Statutes, is amended to read:

465.014 Pharmacy technician.—No person other than a licensed pharmacist or pharmacy intern may engage in the practice of the profession of pharmacy, except that a licensed pharmacist may delegate to nonlicensed pharmacy technicians those duties, tasks, and functions which do not fall within the purview of s. 465.003*(13)*~~(12)~~. All such delegated acts shall be performed under the direct supervision of a licensed pharmacist who shall be responsible for all such acts performed by persons under his or her supervision. A pharmacy technician, under the supervision of a pharmacist, may initiate or receive communications with a practitioner or his or her agent, on behalf of a patient, regarding refill authorization requests. No licensed pharmacist shall supervise more than one pharmacy technician unless otherwise permitted by the guidelines adopted by the board. The board shall establish guidelines to be followed by licensees or permittees in determining the circumstances under which a licensed pharmacist may supervise more than one but not more than three pharmacy technicians.

Section 122. Paragraph (c) of subsection (2) of section 465.015, Florida Statutes, is amended to read:

465.015 Violations and penalties.—

(2) It is unlawful for any person:

(c) To sell or dispense drugs as defined in s. 465.003*(8)*~~(7)~~ without first being furnished with a prescription.

Section 123. Section 465.0196, Florida Statutes, is amended to read:

465.0196 Special pharmacy permits.—Any person desiring a permit to operate a pharmacy which does not fall within the definitions set forth in s. 465.003*(11)*~~(10)~~(a)1., 2., and 3. shall apply to the department for a special pharmacy permit. If the board certifies that the application complies with the applicable laws and rules of the board governing the practice of the profession of pharmacy, the department shall issue the permit. No permit shall be issued unless a licensed pharmacist is designated to undertake the professional supervision of the compounding and dispensing of all drugs dispensed by the pharmacy. The licensed pharmacist shall be responsible for maintaining all drug records and for providing for the security of the area in the facility in which the compounding, storing, and dispensing of medicinal drugs occurs. The permittee shall notify the department within 10 days of any change of the licensed pharmacist responsible for such duties.

Section 124. Subsection (3) of section 468.812, Florida Statutes, is amended to read:

468.812 Exemptions from licensure.—

(3) The provisions of this act relating to orthotics or pedorthics do not apply to any licensed pharmacist or to any person acting under the supervision of a licensed pharmacist. The practice of orthotics or pedorthics by a pharmacist or any of the pharmacist's employees acting

under the supervision of a pharmacist shall be construed to be within the meaning of the term "practice of the profession of pharmacy" as set forth in s. 465.003*(13)*~~(12)~~, and shall be subject to regulation in the same manner as any other pharmacy practice. The Board of Pharmacy shall develop rules regarding the practice of orthotics and pedorthics by a pharmacist. Any pharmacist or person under the supervision of a pharmacist engaged in the practice of orthotics or pedorthics shall not be precluded from continuing that practice pending adoption of these rules.

Section 125. Subsection (19) of section 499.003, Florida Statutes, is amended to read:

499.003 Definitions of terms used in ss. 499.001-499.081.—As used in ss. 499.001-499.081, the term:

(19) "Legend drug," "prescription drug," or "medicinal drug" means any drug, including, but not limited to, finished dosage forms, or active ingredients subject to, defined by, or described by s. 503(b) of the Federal Food, Drug, and Cosmetic Act or s. 465.003*(8)*~~(7)~~, s. 499.007(12), or s. 499.0122(1)(b) or (c).

Section 126. *(1) There is created within the Department of Health a Task Force for the Study of Collaborative Drug Therapy Management. The department shall provide staff support for the task force. The task force shall consist of not more than 13 members nominated by the associations and entities named in this section and appointed by the Secretary of Health. Members of the task force shall not receive compensation, per diem, or reimbursement for travel expenses for service on the task force. Participation in the task force is optional and at the discretion of each identified group or entity. The task force shall include:*

(a) One representative from each of the following associations:

1. Florida Society of Health-System Pharmacists.

2. Florida Pharmacy Association.

3. Florida Medical Association.

4. Florida Osteopathic Medical Association.

5. Florida Retail Federation.

6. Florida Nurses Association.

7. Florida Academy of Family Physicians.

8. Pharmaceutical Research Manufacturing Association.

9. American Society of Consultant Pharmacists.

10. American Society of Health-System Pharmacists.

(b) One representative from each of the following entities:

1. Department of Health.

2. Board of Medicine, which representative must be a member of the board who is licensed under chapter 458, Florida Statutes.

3. Board of Osteopathic Medicine, which representative must be a member of the board who is licensed under chapter 459, Florida Statutes.

4. Board of Pharmacy, which representative must be a member of the board who is licensed under chapter 465, Florida Statutes.

5. Agency for Health Care Administration.

(2) The task force shall hold its first meeting no later than August 1, 1999, and shall report its findings to the President of the Senate, the Speaker of the House of Representatives, and the chairs of the applicable legislative committees of substance not later than December 31, 1999. All task force meetings must be held in Tallahassee at the department in order to minimize costs to the state.

(3) The task force shall be charged with the responsibility to:

(a) Determine the states in which collaborative drug therapy management has been enacted by law or administrative rule and summarize the content of all such laws and rules.

(b) Receive testimony from interested parties and identify the extent to which collaborative drug therapy management is currently being practiced in this state and other states.

(c) Determine the efficacy of collaborative drug therapy management in improving health care outcomes of patients.

Section 127. Section 466.021, Florida Statutes, is amended to read:

466.021 Employment of unlicensed persons by dentist; penalty.—Every duly licensed dentist who uses the services of any unlicensed person for the purpose of constructing, altering, repairing, or duplicating any denture, partial denture, bridge splint, or orthodontic or prosthetic appliance shall be required to furnish such unlicensed person with a written work order in such form as *prescribed* ~~shall be approved~~ by *rule of* the *board* ~~department~~. ~~This form shall be supplied to the dentist by the department at a cost not to exceed that of printing and handling. The work order blanks shall be assigned to individual dentists and are not transferable.~~ This form shall be dated and signed by such dentist and shall include the patient's name or number with sufficient descriptive information to clearly identify the case for each separate and individual piece of work. *A*~~; said work order shall be made in duplicate form, the duplicate~~ copy *of such work order shall* ~~to~~ be retained in a permanent file in the dentist's office for a period of 2 years, and the original *work order shall* ~~to~~ be retained in a permanent file for a period of 2 years by *such* ~~said~~ unlicensed person in her or his place of business. Such permanent file of work orders to be kept by such dentist or by such unlicensed person shall be open to inspection at any reasonable time by the department or its duly constituted agent. Failure of the dentist to keep such permanent records of *such* ~~said~~ work orders shall subject the dentist to suspension or revocation of her or his license to practice dentistry. Failure of such unlicensed person to have in her or his possession a work order as *required by this section* ~~above defined~~ shall be admissible evidence of a violation of this chapter and shall constitute a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Nothing in this section shall preclude a registered dental laboratory from working for another registered dental laboratory, provided that such work is performed pursuant to written authorization, in a form to be prescribed by rule of the *board* ~~department~~, which evidences that the originating laboratory has obtained a valid work order and which sets forth the work to be performed. Furthermore, nothing in this section shall preclude a registered laboratory from providing its services to dentists licensed and practicing in another state, provided that such work is requested or otherwise authorized in written form which clearly identifies the name and address of the requesting dentist and which sets forth the work to be performed.

Section 128. Paragraph (b) of subsection (2), paragraph (b) of subsection (3), and subsection (4) of section 468.1155, Florida Statutes, are amended to read:

468.1155 Provisional license; requirements.—

(2) The department shall issue a provisional license to practice speech-language pathology to each applicant who the board certifies has:

(b) Received a master's degree *or doctoral degree* with a major emphasis in speech-language pathology from an institution of higher learning which, at the time the applicant was enrolled and graduated, was accredited by an accrediting agency recognized by the Commission on Recognition of Postsecondary Accreditation or from an institution which is publicly recognized as a member in good standing with the Association of Universities and Colleges of Canada. An applicant who graduated from a program at a university or college outside the United States or Canada must present documentation of the determination of equivalency to standards established by the Commission on Recognition of Postsecondary Accreditation in order to qualify. The applicant must have completed 60 semester hours that include:

1. Fundamental information applicable to the normal development and use of speech, hearing, and language; information about training in management of speech, hearing, and language disorders; and information supplementary to these fields.

2. Six semester hours in audiology.

3. Thirty of the required 60 semester hours in courses acceptable toward a graduate degree by the college or university in which these

courses were taken, of which 24 semester hours must be in speech-language pathology.

(3) The department shall issue a provisional license to practice audiology to each applicant who the board certifies has:

(b) Received a master's degree *or doctoral degree* with a major emphasis in audiology from an institution of higher learning which at the time the applicant was enrolled and graduated was accredited by an accrediting agency recognized by the Commission on Recognition of Postsecondary Accreditation or from an institution which is publicly recognized as a member in good standing with the Association of Universities and Colleges of Canada. An applicant who graduated from a program at a university or college outside the United States or Canada must present documentation of the determination of equivalency to standards established by the Commission on Recognition of Postsecondary Accreditation in order to qualify. The applicant must have completed 60 semester hours that include:

1. Fundamental information applicable to the normal development and use of speech, hearing, and language; information about training in management of speech, hearing, and language disorders; and information supplementary to these fields.

2. Six semester hours in speech-language pathology.

3. Thirty of the required 60 semester hours in courses acceptable toward a graduate degree by the college or university in which these courses were taken, of which 24 semester hours must be in audiology.

(4) An applicant for a provisional license who has received a master's degree *or doctoral degree* with a major emphasis in speech-language pathology as provided in subsection (2), or audiology as provided in subsection (3), and who seeks licensure in the area in which the applicant is not currently licensed, must have completed 30 semester hours in courses acceptable toward a graduate degree and 200 supervised clinical clock hours in the second discipline from an accredited institution.

Section 129. Section 468.1215, Florida Statutes, is amended to read:

468.1215 Speech-language pathology assistant and audiology assistant; certification.—

~~(1) A person desiring to be certified as a speech-language pathology assistant or audiology assistant shall apply to the department.~~

(1)~~(2)~~ The department shall issue a certificate as a speech-language pathology assistant ~~or as an audiology assistant~~ to each applicant who the board certifies has:

(a) Completed the application form and remitted the required fees, including a nonrefundable application fee.

(b) Earned a bachelor's degree from a college or university accredited by a regional association of colleges and schools recognized by the Department of Education which includes at least 24 semester hours of coursework as approved by the board at an institution accredited by an accrediting agency recognized by the Commission on Recognition of Postsecondary Accreditation.

(2) The department shall issue a certificate as an audiology assistant to each applicant who the board certifies has:

(a) Completed the application form and remitted the required fees, including a nonrefundable application fee.

(b) Completed at least 24 semester hours of coursework as approved by the board at an institution accredited by an accrediting agency recognized by the Commission on Recognition of Postsecondary Accreditation.

(3) The board, by rule, shall establish minimum education and on-the-job training and supervision requirements for certification as a speech-language pathology assistant or audiology assistant.

(4) The provisions of this section shall not apply to any student, intern, or trainee performing speech-language pathology or audiology services while completing the supervised clinical clock hours as required in s. 468.1155.

Section 130. Subsection (1) of section 468.307, Florida Statutes, 1998 Supplement, is amended to read:

468.307 Certificate; issuance; possession; display.—

(1) The department shall issue a certificate to each candidate who has met the requirements of ss. 468.304 and 468.306 or has qualified under s. 468.3065. *The department may by rule establish a subcategory of a certificate issued under this part limiting the certificateholder to a specific procedure or specific type of equipment.*

Section 131. Section 468.506, Florida Statutes, 1998 Supplement, is amended to read:

468.506 Dietetics and Nutrition Practice Council.—There is created the Dietetics and Nutrition Practice Council under the supervision of the board. The council shall consist of four persons licensed under this part and one consumer who is 60 years of age or older. Council members shall be appointed by the board. Licensed members shall be appointed based on the proportion of licensees within each of the respective disciplines. Members shall be appointed for 4-year staggered terms. In order to be eligible for appointment, each licensed member must have been a licensee under this part for at least 3 years prior to his or her appointment. No council member shall serve more than two successive terms. The board may delegate such powers and duties to the council as it may deem proper to carry out the operations and procedures necessary to effectuate the provisions of this part. However, the powers and duties delegated to the council by the board must encompass both dietetics and nutrition practice and nutrition counseling. Any time there is a vacancy on the council, any professional association composed of persons licensed under this part may recommend licensees to fill the vacancy to the board in a number at least twice the number of vacancies to be filled, and the board may appoint from the submitted list, in its discretion, any of those persons so recommended. Any professional association composed of persons licensed under this part may file an appeal regarding a council appointment with the *secretary* ~~director~~ of the *department* ~~agency~~, whose decision shall be final. The board shall fix council members' compensation and pay their expenses in the same manner as provided in s. 455.534.

Section 132. Section 468.701, Florida Statutes, 1998 Supplement, is amended to read:

468.701 Definitions.—As used in this part, the term:

(1) "Athlete" means a person who participates in an athletic activity.

(2) "Athletic activity" means the participation in an activity, conducted by an educational institution, a professional athletic organization, or an amateur athletic organization, involving exercises, sports, games, or recreation requiring any of the physical attributes of strength, agility, flexibility, range of motion, speed, and stamina.

(3) "Athletic injury" means an injury sustained which affects the athlete's ability to participate or perform in athletic activity.

(4) "Athletic trainer" means a person licensed under this part.

(5) "Athletic training" means the recognition, prevention, and treatment of athletic injuries.

(6) "*Board* ~~Council~~" means the *Board* ~~Council~~ of Athletic Training.

(7) "Department" means the Department of Health.

(8) "Direct supervision" means the physical presence of the supervisor on the premises so that the supervisor is immediately available to the trainee when needed.

~~(9) "Secretary" means the Secretary of Health.~~

(9)~~(10)~~ "Supervision" means the easy availability of the supervisor to the athletic trainer, which includes the ability to communicate by telecommunications.

Section 133. Section 468.703, Florida Statutes, 1998 Supplement, is amended to read:

468.703 *Board* ~~Council~~ of Athletic Training.—

(1) The *Board* ~~Council~~ of Athletic Training is created within the department and shall consist of *nine* ~~seven~~ members ~~to be~~ appointed by the *Governor and confirmed by the Senate* ~~secretary~~.

(2) *Five* ~~Four~~ members of the *board must* ~~council shall~~ be licensed athletic trainers. One member of the *board must* ~~council shall~~ be a physician licensed under chapter 458 or chapter 459. One member of the *board must* ~~council shall~~ be a physician licensed under chapter 460. *Two members* ~~One member~~ of the *board shall be consumer members, each of whom must* ~~council shall~~ be a resident of this state who has never worked as an athletic trainer, who has no financial interest in the practice of athletic training, and who has never been a licensed health care practitioner as defined in s. 455.501(4). ~~Members of the council shall serve staggered 4-year terms as determined by rule of the department; however, no member may serve more than two consecutive terms.~~

(3) For the purpose of staggering terms, the Governor shall appoint the initial members of the board as follows:

(a) Three members for terms of 2 years each.

(b) Three members for terms of 3 years each.

(c) Three members for terms of 4 years each.

(4) As the terms of the members expire, the Governor shall appoint successors for terms of 4 years and such members shall serve until their successors are appointed.

(5) All provisions of part II of chapter 455 relating to activities of the board shall apply.

(6) The board shall maintain its official headquarters in Tallahassee.

~~(3) The council shall advise and assist the department in:~~

~~(a) Developing rules relating to licensure requirements, the licensure examination, continuing education requirements, fees, records and reports to be filed by licensees, and any other requirements necessary to regulate the practice of athletic training.~~

~~(b) Monitoring the practice of athletic training in other jurisdictions.~~

~~(c) Educating the public about the role of athletic trainers.~~

~~(d) Collecting and reviewing data regarding the licensed practice of athletic training.~~

~~(e) Addressing concerns and problems of athletic trainers in order to promote improved safety in the practice of athletic training.~~

~~(4) Members of the council shall be entitled to compensation and reimbursement for expenses in the same manner as board members are compensated and reimbursed under s. 455.534.~~

Section 134. Section 468.705, Florida Statutes, 1998 Supplement, is amended to read:

468.705 Rulemaking authority.—The *board* ~~department~~ is authorized to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement provisions of this part conferring duties upon it. Such rules shall include, but not be limited to, the allowable scope of practice regarding the use of equipment, procedures, and medication, ~~and~~ requirements for a written protocol between the athletic trainer and a supervising physician, *licensure requirements, licensure examination, continuing education requirements, fees, records, and reports to be filed by licensees, protocols, and any other requirements necessary to regulate the practice of athletic training.*

Section 135. Section 468.707, Florida Statutes, 1998 Supplement, is amended to read:

468.707 Licensure by examination; requirements.—

(1) Any person desiring to be licensed as an athletic trainer shall apply to the department on a form approved by the department.

(a) The department shall license each applicant who:

1. Has completed the application form and remitted the required fees.

2. Is at least 21 years of age.

3. Has obtained a baccalaureate degree from a college or university accredited by an accrediting agency recognized and approved by the United States Department of Education or the Commission on Recognition of Postsecondary Accreditation, or approved by the *board* ~~department~~.

4. Has completed coursework from a college or university accredited by an accrediting agency recognized and approved by the United States Department of Education or the Commission on Recognition of Postsecondary Accreditation, or approved by the *board* ~~department~~, in each of the following areas, as provided by rule: health, human anatomy, kinesiology/biomechanics, human physiology, physiology of exercise, basic athletic training, and advanced athletic training.

5. Has current certification in standard first aid and cardiovascular pulmonary resuscitation from the American Red Cross or an equivalent certification as determined by the *board* ~~department~~.

6. Has, within 2 of the preceding 5 years, attained a minimum of 800 hours of athletic training experience under the direct supervision of a licensed athletic trainer or an athletic trainer certified by the National Athletic Trainers' Association or a comparable national athletic standards organization.

7. Has passed an examination administered or approved by the *board* ~~department~~.

(b) The department shall also license each applicant who:

1. Has completed the application form and remitted the required fees no later than October 1, 1996.

2. Is at least 21 years of age.

3. Has current certification in standard first aid and cardiovascular pulmonary resuscitation from the American Red Cross or an equivalent certification as determined by the *board* ~~department~~.

4.a. Has practiced athletic training for at least 3 of the 5 years preceding application; or

b. Is currently certified by the National Athletic Trainers' Association or a comparable national athletic standards organization.

(2) Pursuant to the requirements of s. *455.607* ~~455.604~~, each applicant shall complete a continuing education course on human immunodeficiency virus and acquired immune deficiency syndrome as part of initial licensure.

Section 136. Section 468.709, Florida Statutes, is amended to read:

468.709 Fees.—

(1) The *board* ~~department~~ shall, by rule, establish fees for the following purposes:

(a) An application fee, not to exceed $100.

(b) An examination fee, not to exceed $200.

(c) An initial licensure fee, not to exceed $200.

(d) A biennial renewal fee, not to exceed $200.

(e) An inactive fee, not to exceed $100.

(f) A delinquent fee, not to exceed $100.

(g) A reactivation fee, not to exceed $100.

(h) A voluntary inactive fee, not to exceed $100.

(2) The *board* ~~department~~ shall establish fees at a level, not to exceed the statutory fee cap, that is adequate to ensure the continued operation of the regulatory program under this part. The *board* ~~department~~ shall neither set nor maintain the fees at a level that will substantially exceed this need.

Section 137. Subsections (2) and (3) of section 468.711, Florida Statutes, 1998 Supplement, are amended to read:

468.711 Renewal of license; continuing education.—

(2) The *board* ~~department~~ may, by rule, prescribe continuing education requirements, not to exceed 24 hours biennially. The criteria for continuing education shall be approved by the *board* ~~department~~ and shall include 4 hours in standard first aid and cardiovascular pulmonary resuscitation from the American Red Cross or equivalent training as determined by *board* ~~department~~.

(3) Pursuant to the requirements of s. *455.607* ~~455.604~~, each licensee shall complete a continuing education course on human immunodeficiency virus and acquired immune deficiency syndrome as part of biennial relicensure.

Section 138. Subsection (2) of section 468.719, Florida Statutes, 1998 Supplement, is amended to read:

468.719 Disciplinary actions.—

(2) When the *board* ~~department~~ finds any person guilty of any of the acts set forth in subsection (1), the *board* ~~department~~ may enter an order imposing one or more of the penalties provided in s. 455.624.

Section 139. Section 468.721, Florida Statutes, is amended to read:

468.721 Saving clause.—

~~(1) An athletic trainer registration which is valid on October 1, 1995, shall become for all purposes an athletic trainer license as required by this part, subject to any disciplinary or administrative action pending on October 1, 1995, and shall be subject to all the same terms and conditions as athletic trainer licenses issued after October 1, 1995. The department shall retain jurisdiction to impose discipline for any violation of this part which occurred prior to October 1, 1995, but is discovered after October 1, 1995, under the terms of this part prior to October 1, 1995.~~

~~(2) No judicial or administrative proceeding pending on July 1, 1995, shall be abated as a result of enactment of any provision of this act.~~

~~(3)~~ Rules adopted by the department relating to the *regulation* ~~registration~~ of athletic trainers *under this part prior to July 1, 1999,* shall remain in effect until the *board* ~~department~~ adopts rules relating to the *regulation* ~~licensure~~ of athletic trainers *under this part* which supersede such earlier rules.

Section 140. Paragraph (g) of subsection (3) of section 20.43, Florida Statutes, 1998 Supplement, is amended to read:

20.43 Department of Health.—There is created a Department of Health.

(3) The following divisions of the Department of Health are established:

(g) Division of Medical Quality Assurance, which is responsible for the following boards and professions established within the division:

1. Nursing assistants, as provided under s. 400.211.

2. Health care services pools, as provided under s. 402.48.

3. The Board of Acupuncture, created under chapter 457.

4. The Board of Medicine, created under chapter 458.

5. The Board of Osteopathic Medicine, created under chapter 459.

6. The Board of Chiropractic Medicine, created under chapter 460.

7. The Board of Podiatric Medicine, created under chapter 461.

8. Naturopathy, as provided under chapter 462.

9. The Board of Optometry, created under chapter 463.

10. The Board of Nursing, created under chapter 464.

11. The Board of Pharmacy, created under chapter 465.

12. The Board of Dentistry, created under chapter 466.

13. Midwifery, as provided under chapter 467.

14. The Board of Speech-Language Pathology and Audiology, created under part I of chapter 468.

15. The Board of Nursing Home Administrators, created under part II of chapter 468.

16. The Board of Occupational Therapy, created under part III of chapter 468.

17. Respiratory therapy, as provided under part V of chapter 468.

18. Dietetics and nutrition practice, as provided under part X of chapter 468.

19. *The Board of* Athletic *Training* ~~trainers~~, *created* ~~as provided~~ under part XIII of chapter 468.

20. The Board of Orthotists and Prosthetists, created under part XIV of chapter 468.

21. Electrolysis, as provided under chapter 478.

22. The Board of Massage Therapy, created under chapter 480.

23. The Board of Clinical Laboratory Personnel, created under part III of chapter 483.

24. Medical physicists, as provided under part IV of chapter 483.

25. The Board of Opticianry, created under part I of chapter 484.

26. The Board of Hearing Aid Specialists, created under part II of chapter 484.

27. The Board of Physical Therapy Practice, created under chapter 486.

28. The Board of Psychology, created under chapter 490.

29. School psychologists, as provided under chapter 490.

30. The Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling, created under chapter 491.

The department may contract with the Agency for Health Care Administration who shall provide consumer complaint, investigative, and prosecutorial services required by the Division of Medical Quality Assurance, councils, or boards, as appropriate.

Section 141. *The Council of Athletic Training and the terms of all council members are terminated on July 1, 1999. However, such termination in no way precludes the Governor from considering any former council member for appointment to the Board of Athletic Training created by this act.*

Section 142. Section 468.805, Florida Statutes, is amended to read:

468.805 *Grandfathering* ~~Licensure without examination; provisional licensure~~.—

(1) A person who has practiced orthotics, prosthetics, or pedorthics in this state for the required period since July 1, 1990, who, before March 1, 1998, applies to the department for a license to practice orthotics, prosthetics, or pedorthics, may be licensed as a prosthetist, orthotist, prosthetist-orthotist, orthotic fitter, orthotic fitter assistant, or pedorthist, as determined from the person's experience, *certification,* and educational preparation, without meeting the educational requirements set forth in s. 468.803, upon receipt of the application fee and licensing fee and after the board has completed an investigation into the applicant's background and experience. The board shall require an application fee not to exceed $500, which shall be nonrefundable. The board shall complete its investigation within 6 months after receipt of the *completed* application. The period of experience required for licensure under this *section* ~~subsection~~ is 5 years for a prosthetist; 2 years for an orthotic

fitter, an orthotic fitter assistant, or a pedorthist; and 5 years for an orthotist whose scope of practice is defined under s. 468.80(7).

(2)(a) A person who has received certification as an orthotist, a prosthetist, or a prosthetist-orthotist from a national certifying body and who has practiced orthotics or prosthetics in this state for at least 2 years but less than 5 years is eligible for a provisional license.

(b) An applicant for provisional licensure shall submit proof that he or she has been actively practicing as a nationally certified orthotist, prosthetist, or prosthetist-orthotist, an application fee, and a provisional license fee.

(c) A provisional licensee is required to practice under supervision of a fully licensed orthotist, prosthetist, or prosthetist-orthotist for up to 3 years in order to meet the 5-year experience requirement of subsection (1) to be licensed as an orthotist, prosthetist, or prosthetist-orthotist.

(d) After appropriate investigation, the board shall license as an orthotist, prosthetist, or prosthetist-orthotist the provisional licensee who has successfully completed the period of experience required and otherwise meets the requirements of subsection (1).

(e) The board shall require an application fee, not to exceed $500, which is nonrefundable, and a provisional licensure fee, not to exceed $500.

(3) An applicant who has received certification as an orthotist, a prosthetist, a prosthetist-orthotist, or a pedorthist from a national certifying body which requires the successful completion of an examination, may be licensed under this section without taking an additional examination. An applicant who has not received certification from a national certifying body which requires the successful completion of an examination shall be required to take an examination as determined by the board. This examination shall be designed to determine if the applicant has the minimum qualifications needed to be licensed under this section. The board may charge an examination fee and the actual per applicant cost to the department for purchase or development of the examination.

(4) An applicant who successfully completed prior to March 1, 1998, at least one-half of the examination required for national certification and successfully completed the remaining portion of the examination and became certified prior to July 1, 1998, shall be considered as nationally certified by March 1, 1998, for purposes of this section.

(5)~~(4)~~ This section is repealed July 1, 2002.

Section 143. Subsection (3) of section 468.806, Florida Statutes, is amended to read:

468.806 Biennial renewal of license.—

(3) The board may by rule prescribe continuing education requirements and approve course criteria, not to exceed 30 hours biennially, as a condition for license renewal. The board shall establish a procedure for approving continuing education courses *and providers* and may set a fee for continuing education course *and provider* approval.

Section 144. Subsection (5) of section 478.42, Florida Statutes, is amended to read:

478.42 Definitions.—As used in this chapter, the term:

(5) "Electrolysis or electrology" means the permanent removal of hair by *destroying* ~~introducing, into and beneath the skin, ionizing (galvanic current) or nonionizing radiation (thermolysis or high-frequency current) to destroy~~ the hair-producing cells of the skin and vascular system, using *equipment and* ~~needle-type epilation~~ devices *approved by the board which have been cleared by and* ~~that are~~ registered with the United States Food and Drug Administration and *that are* used pursuant to protocols approved by the ~~council and the~~ board.

Section 145. Section 483.041, Florida Statutes, is amended to read:

483.041 Definitions.—As used in this part, the term:

(1) "Agency" means the Agency for Health Care Administration.

(2) "Clinical laboratory" means *the physical location in which one or more of the following services* ~~a laboratory where examinations~~ are performed ~~on materials or specimens taken from the human body~~ to provide information or materials for use in the diagnosis, prevention, or treatment of a disease or the *identification or* assessment of a medical *or physical* condition.

(a) Clinical laboratory services are the examinations of fluids or other materials taken from the human body.

(b) Anatomic laboratory services are the examinations of tissue taken from the human body.

(c) Cytology laboratory services are the examinations of cells from individual tissues or fluid taken from the human body.

(3) "Clinical laboratory examination" means a procedure performed to deliver the services defined in subsection (2), including the oversight or interpretation thereof.

(4)~~(3)~~ "Clinical laboratory proficiency testing program" means a program approved by the agency for evaluating the performance of clinical laboratories.

(5)~~(4)~~ "Collection station" or "branch office" means a facility operated by a clinical laboratory where materials or specimens are withdrawn or collected from patients or assembled after being withdrawn or collected from patients elsewhere, for subsequent delivery to another location for examination.

(6)~~(5)~~ "Hospital laboratory" means a laboratory located in a hospital licensed under chapter 395 that provides services solely to that hospital and that is owned by the hospital and governed by the hospital medical staff or governing board.

(7)~~(6)~~ "Licensed practitioner" means a physician licensed under chapter 458, chapter 459, chapter 460, or chapter 461; a dentist licensed under chapter 466; a person licensed under chapter 462; or an advanced registered nurse practitioner licensed under chapter 464 *or a duly licensed practitioner from another state licensed under similar statutes who orders examinations on materials or specimens for non residents of the State of Florida, but who reside in the same state as the requesting licensed practitioner.*

(8)~~(7)~~ "Person" means the State of Florida or any individual, firm, partnership, association, corporation, county, municipality, political subdivision, or other entity, whether organized for profit or not.

(9)~~(8)~~ "Validation inspection" means an inspection of a clinical laboratory by the agency to assess whether a review by an accrediting organization has adequately evaluated the clinical laboratory according to state standards.

(10)~~(9)~~ "Waived test" means a test that the federal Health Care Financing Administration has determined qualifies for a certificate of waiver under the federal Clinical Laboratory Improvement Amendments of 1988, and the federal rules adopted thereunder.

Section 146. Subsections (2), (3), and (7) of section 483.803, Florida Statutes, are amended to read:

483.803 Definitions.—As used in this part, the term:

(2) "Clinical laboratory" means a clinical laboratory as defined in s. 483.041~~(2)~~.

(3) "Clinical laboratory examination" means *a clinical laboratory examination as defined in s. 483.041* ~~an examination performed on materials or specimens of the human body to provide information or materials for use in the diagnosis, prevention, or treatment of a disease or the identification or assessment of a medical or physical condition~~.

(7) "Licensed practitioner of the healing arts" means a physician licensed *under* ~~pursuant to~~ chapter 458, chapter 459, ~~or~~ chapter 460, *or chapter 461*; a dentist licensed *under* ~~pursuant to~~ chapter 466; or a person licensed *under* ~~pursuant to chapter 461 or~~ chapter 462.

Section 147. Subsection (9) of section 483.807, Florida Statutes, 1998 Supplement, is amended to read:

483.807 Fees; establishment; disposition.—

(9) The initial *application* and renewal fee for approval as a laboratory training program may not exceed $300. The fee for late filing of a renewal application shall be $50.

Section 148. Subsections (2) and (3) of section 483.809, Florida Statutes, are amended to read:

483.809 Licensure; examinations; registration of trainees; approval of curricula.—

(2) EXAMINATIONS.—The department shall conduct examinations required by board rules to determine in part the qualification of clinical laboratory personnel for licensure. *The board by rule may designate a* ~~An approved~~ national certification examination *that* may be accepted in lieu of state examination for *clinical laboratory personnel or* public health scientists.

(3) REGISTRATION OF TRAINEES.—The department shall provide for ~~annual~~ registration of clinical laboratory trainees who are *enrolled in a training program* ~~employed by laboratories~~ approved pursuant to s. 483.811, which registration may not be renewed except upon special authorization of the board.

Section 149. Section 483.812, Florida Statutes, is amended to read:

483.812 Public health laboratory scientists; licensure.—

(1) Applicants at the director level in the category of public health shall qualify under s. 483.824.

(2)~~(1)~~ Applicants at the ~~director and~~ supervisor level in the category of public health who are *certified* ~~registered~~ by the National Registry *in* ~~of~~ Clinical Chemistry ~~Certification~~ or the American Society *for* ~~of~~ Microbiology, *licensed as a technologist, and have 5 years of pertinent clinical laboratory experience* may qualify ~~under board rules~~ by passing the *state-administered* ~~appropriate~~ supervision and administration examination.

(3)~~(2)~~(a) A technologist applicant for licensure in the category of public health microbiology, with a baccalaureate degree in one of the biological sciences from an accredited institution, may use the American Society *for* ~~of~~ Microbiology or the National Registry *in* ~~of~~ Microbiology Certification in Public Health Microbiology to qualify for a technologist license in public health microbiology. Such a technologist may work in a public health microbiology laboratory.

(b) A technologist applicant for licensure in the category of public health chemistry, with a baccalaureate degree in one of the chemical, biological, or physical sciences from an accredited institution, may use the National Registry of Clinical Chemistry Certification to qualify for a technologist license in public health chemistry. Such a technologist may work in a public health chemistry laboratory.

(c) A technician applicant for licensure in the category of public health, with a baccalaureate degree in one of the chemical or biological sciences from an accredited institution, may obtain a *2-year* ~~one-time, 3-year,~~ conditional public health technician license, *which may be renewed once* ~~pending national certification by the American Society of Microbiology or the National Registry of Clinical Chemistry Certification~~. Such a technician may perform testing only under the direct supervision of a licensed pathologist, director, supervisor, or technologist.

(4)~~(3)~~ A person licensed by the Board of Clinical Laboratory Personnel may work in a public health laboratory at the appropriate level and specialty.

Section 150. Section 483.813, Florida Statutes, is amended to read:

483.813 Clinical laboratory personnel license.—A person may not conduct a clinical laboratory examination or report the results of such examination unless such person is licensed under this part to perform such procedures. However, this provision does not apply to any practitioner of the healing arts authorized to practice in this state or to persons engaged in testing performed by laboratories regulated under s. 483.035(1) or exempt from regulation under s. 483.031(2). The department may grant a temporary license to any candidate it deems properly qualified, for a period not to exceed 1 year~~, or a conditional license for a period not to exceed 3 years~~.

Section 151. Subsection (3) is added to section 483.821, Florida Statutes, to read:

483.821 Periodic demonstration of competency; continuing education or reexamination.—

(3) The board may, by rule, provide for continuing education or retraining requirements for candidates failing an examination two or more times.

Section 152. Section 483.824, Florida Statutes, is amended to read:

483.824 Qualifications of clinical laboratory director.—A clinical laboratory director must have 4 years of clinical laboratory experience with 2 years of experience in the speciality to be directed or be nationally board certified in the specialty to be directed, and must meet one of the following requirements:

(1) Be a physician licensed under chapter 458 or chapter 459;

(2) Hold an earned doctoral degree in a chemical, physical, or biological science from a regionally accredited institution *and be nationally certified*; or

(3) For the subspecialty of oral pathology, be a physician licensed under chapter 458 or chapter 459 or a dentist licensed under chapter 466.

Section 153. Section 483.825, Florida Statutes, is amended to read:

483.825 Grounds for disciplinary action.—The following acts constitute grounds for which disciplinary actions specified in s. 483.827 may be taken against applicants, registrants, and licensees under this part:

(1) Attempting to obtain, obtaining, or renewing a license or registration under this part by bribery, by fraudulent misrepresentation, or through an error of the department or the board.

(2) Engaging in or attempting to engage in, or representing herself or himself as entitled to perform, any clinical laboratory procedure or category of procedures not authorized pursuant to her or his license.

(3) Demonstrating incompetence or making consistent errors in the performance of clinical laboratory examinations or procedures or erroneous reporting.

(4) Performing a test and rendering a report thereon to a person not authorized by law to receive such services.

(5) *Has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the activities of clinical laboratory personnel or involves moral turpitude or fraudulent or dishonest dealing. The record of a conviction certified or authenticated in such form as to be admissible in evidence under the laws of the state shall be admissible as prima facie evidence of such guilt.* ~~Having been convicted of a felony or of any crime involving moral turpitude under the laws of any state or of the United States. The record of conviction or a certified copy thereof shall be conclusive evidence of such conviction.~~

(6) Having been adjudged mentally or physically incompetent.

(7) Violating or aiding and abetting in the violation of any provision of this part or the rules adopted hereunder.

(8) Reporting a test result when no laboratory test was performed on a clinical specimen.

(9) Knowingly advertising false services or credentials.

(10) Having a license revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another jurisdiction. The licensing authority's acceptance of a relinquishment of a license, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of administrative charges against the licensee, shall be construed as action against the licensee.

(11) Failing to report to the board, in writing, within 30 days *that an* ~~if~~ action under *subsection (5), subsection (6), or* subsection (10) has been

taken against *the licensee or* one's license to practice as clinical laboratory personnel in another state, territory, ~~or~~ country*, or other jurisdiction*.

(12) Being unable to perform or report clinical laboratory examinations with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this subsection, the department shall have, upon a finding of the secretary or his or her designee that probable cause exists to believe that the licensee is unable to practice because of the reasons stated in this subsection, the authority to issue an order to compel a licensee to submit to a mental or physical examination by physicians designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or does business. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee affected under this subsection shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume competent practice with reasonable skill and safety to patients.

(13) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows, or has reason to know, that such person is not qualified by training, experience, or licensure to perform them.

(14) Violating a previous order of the board entered in a disciplinary proceeding.

(15) Failing to report to the department a person or other licensee who the licensee knows is in violation of this chapter or the rules of the department or board adopted hereunder.

(16) Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing or inducing another person to do so, including, but not limited to, impeding an agent of the state from obtaining a report or record for investigative purposes. Such reports or records shall include only those generated in the capacity as a licensed clinical laboratory personnel.

(17) Paying or receiving any commission, bonus, kickback, or rebate, or engaging in any split-fee arrangement in any form whatsoever with a physician, organization, agency, or person, either directly or indirectly for patients referred to providers of health care goods and services including, but not limited to, hospitals, nursing homes, clinical laboratories, ambulatory surgical centers, or pharmacies. The provisions of this subsection shall not be construed to prevent a clinical laboratory professional from receiving a fee for professional consultation services.

(18) Exercising influence on a patient or client in such a manner as to exploit the patient or client for the financial gain of the licensee or other third party, which shall include, but not be limited to, the promoting, selling, or withholding of services, goods, appliances, referrals, or drugs.

(19) Practicing or offering to practice beyond the scope permitted by law or rule, or accepting or performing professional services or responsibilities which the licensee knows or has reason to know that he or she is not competent to perform.

(20) Misrepresenting or concealing a material fact at any time during any phase of the licensing, investigative, or disciplinary process, procedure, or proceeding.

(21) Improperly interfering with an investigation or any disciplinary proceeding.

(22) Engaging in or attempting to engage in sexual misconduct, causing undue embarrassment or using disparaging language or language of a sexual nature towards a patient, exploiting superior/subordinate, professional/patient, instructor/student relationships for personal gain, sexual gratification, or advantage.

Section 154. Paragraph (g) of subsection (4) and subsections (6) and (8) of section 483.901, Florida Statutes, 1998 Supplement, are amended to read:

483.901 Medical physicists; definitions; licensure.—

(4) COUNCIL.—The Advisory Council of Medical Physicists is created in the Department of Health to advise the department in regulating the practice of medical physics in this state.

(g) If a vacancy on the council occurs, the *secretary* ~~director~~ shall appoint a member to serve for a 4-year term.

(6) LICENSE REQUIRED.—An individual may not engage in the practice of medical physics, including the specialties of diagnostic radiological physics, therapeutic radiological physics, medical nuclear radiological physics, or medical health physics, without a license issued by the department for the appropriate specialty.

(a) The department shall adopt rules to administer this section which specify license application and renewal fees, continuing education requirements, and standards for practicing medical physics. The council shall recommend to the department continuing education requirements that shall be a condition of license renewal. The department shall require a minimum of 24 hours per biennium of continuing education offered by an organization recommended by the council and approved by the department. The department, upon recommendation of the council, may adopt rules to specify continuing education requirements for persons who hold a license in more than one specialty.

(b) In order to apply for a medical physicist license in one or more specialties, a person must file an individual application for each specialty with the department. The application must be on a form prescribed by the department and must be accompanied by a nonrefundable application fee for each specialty.

(c) The department may issue a license to an eligible applicant if the applicant meets all license requirements. At any time before the department issues a license, the applicant may request in writing that the application be withdrawn. To reapply, the applicant must submit a new application and an additional nonrefundable application fee and must meet all current licensure requirements.

(d) The department shall review each completed application for a license which the department receives.

(e) On receipt of an application and fee as specified in this section, the department may issue a license to practice medical physics in this state:

1. Until October 1, 1998, to a person who meets any of the following requirements:

a. Earned from an accredited college or university a doctoral degree in physics, medical physics, biophysics, radiological physics, medical health physics, or nuclear engineering and has at least 2 years' experience in the practice of the medical physics specialty for which application is made.

b. Earned from an accredited college or university a master's degree in physics, medical physics, biophysics, radiological physics, medical health physics, or nuclear engineering and has at least 3 years' experience in the practice of the medical physics specialty for which application is made.

c. Earned from an accredited college or university a bachelor's degree in physics and has at least 5 years' experience in the practice of the medical physics specialty for which application is made.

d. Has at least 8 years' experience in the practice of the medical physics specialty for which application is made, 2 years of which must have been earned within the 4 years immediately preceding application for licensure.

e. Is board certified in the medical physics specialty in which the applicant applies to practice by the American Board of Radiology for diagnostic radiological physics, therapeutic radiological physics, or medical nuclear radiological physics; by the American Board of Medical Physics or the Canadian Board of Medical Physics for diagnostic radiological physics, therapeutic radiological physics, or medical nuclear radiological physics; or by the American Board of Health Physics or an equivalent certifying body approved by the agency.

2. On or after October 1, 1997, to a person who is board certified in the medical physics specialty in which the applicant applies to practice

by the American Board of Radiology for diagnostic radiological physics, therapeutic radiological physics, or medical nuclear radiological physics; by the American Board of Medical Physics for diagnostic radiological physics, therapeutic radiological physics, or medical nuclear radiological physics; or by the American Board of Health Physics or an equivalent certifying body approved by the department.

(f) A licensee shall:

1. Display the license in a place accessible to the public; and

2. Report immediately any change in the licensee's address or name to the department.

(g) The following acts are grounds for which the disciplinary actions in paragraph (h) may be taken:

1. Obtaining or attempting to obtain a license by bribery, fraud, knowing misrepresentation, or concealment of material fact or through an error of the department.

2. Having a license denied, revoked, suspended, or otherwise acted against in another jurisdiction.

3. Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, the profession of medical physics.

4. Willfully failing to file a report or record required for medical physics or willfully impeding or obstructing the filing of a report or record required by this section or inducing another person to do so.

5. Making misleading, deceptive, or fraudulent representations in or related to the practice of medical physics.

6. Willfully failing to report any known violation of this section or any rule adopted thereunder.

7. Willfully or repeatedly violating a rule adopted under this section or an order of the department.

8. Failing to perform any statutory or legal obligation placed upon a licensee.

9. Aiding, assisting, procuring, employing, or advising any unlicensed person to practice medical physics contrary to this section or any rule adopted thereunder.

10. Delegating or contracting for the performance of professional responsibilities by a person when the licensee delegating or contracting such responsibilities knows, or has reason to know, such person is not qualified by training, experience, and authorization to perform them.

11. Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities the licensee knows, or has reason to know, the licensee is not competent to perform.

12. Gross or repeated malpractice or the inability to practice medical physics with reasonable skill and safety.

13. Judicially determined mental incompetency.

14. Being unable to practice medical physics with reasonable skill and safety because of a mental or physical condition or illness or the use of alcohol, controlled substances, or any other substance which impairs one's ability to practice.

a. The department may, upon probable cause, compel a licensee to submit to a mental or physical examination by physicians designated by the department. The cost of an examination shall be borne by the licensee, and the licensee's failure to submit to such an examination constitutes an admission of the allegations against the licensee, consequent upon which a default and a final order may be entered without the taking of testimony or presentation of evidence, unless the failure was due to circumstances beyond the licensee's control.

b. A licensee who is disciplined under this subparagraph shall, at reasonable intervals, be afforded an opportunity to demonstrate that the licensee can resume the practice of medical physics with reasonable skill and safety.

c. With respect to any proceeding under this subparagraph, the record of proceedings or the orders entered by the department may not be used against a licensee in any other proceeding.

(h) When the department finds any person guilty of any of the grounds set forth in paragraph (g), including conduct that would constitute a substantial violation of paragraph (g) which occurred prior to licensure, it may enter an order imposing one or more of the following penalties:

1. Deny the application for licensure.

2. Revoke or suspend the license.

3. Impose an administrative fine for each count or separate offense.

4. Place the licensee on probation for a specified time and subject the licensee to such conditions as the department determines necessary, including requiring treatment, continuing education courses, or working under the monitoring or supervision of another licensee.

5. Restrict a licensee's practice.

6. Issue a reprimand to the licensee.

(i) The department may not issue or reinstate a license to a person it has deemed unqualified until it is satisfied that such person has complied with the terms and conditions of the final order and that the licensee can safely practice medical physics.

~~(j) The department may issue a temporary license to an applicant pending completion of the application process for board certification.~~

(j)~~(k)~~ Upon receipt of a complete application and the fee set forth by rule, the department may issue a physicist-in-training certificate to a person qualified to practice medical physics under direct supervision. The department may establish by rule requirements for initial certification and renewal of a physicist-in-training certificate.

(8) DISPOSITION OF FEES.—The department shall deposit all funds received into the *Medical Quality Assurance* ~~Health Care~~ Trust Fund.

Section 155. Paragraph (d) of subsection (1) of section 484.007, Florida Statutes, is amended to read:

484.007 Licensure of opticians; permitting of optical establishments.—

(1) Any person desiring to practice opticianry shall apply to the department, upon forms prescribed by it, to take a licensure examination. The department shall examine each applicant who the board certifies:

(d)1. Has received an associate degree, or its equivalent, in opticianry from an educational institution the curriculum of which is accredited by an accrediting agency recognized and approved by the United States Department of Education or the Council on Postsecondary Education or approved by the board;

2. Is an individual licensed to practice the profession of opticianry pursuant to a regulatory licensing law of another state, territory, or jurisdiction of the United States, who has actively practiced in such other state, territory, or jurisdiction for more than 3 years immediately preceding application, and who meets the examination qualifications as provided in this subsection;

3. Is an individual who has actively practiced in another state, territory, or jurisdiction of the United States for more than 5 years immediately preceding application and who provides tax or business records, affidavits, or other satisfactory documentation of such practice and who meets the examination qualifications as provided in this subsection; or

4. Has registered as an apprentice with the department and paid a registration fee not to exceed $60, as set by rule of the board. The apprentice shall complete 6,240 hours of training under the supervision of an optician *licensed in this state for at least 1 year or of*~~,~~ a physician~~,~~

or ~~an~~ optometrist licensed under the laws of this state. These requirements must be met within 5 years after the date of registration. However, any time spent in a recognized school may be considered as part of the apprenticeship program provided herein. The board may establish administrative processing fees sufficient to cover the cost of administering apprentice rules as promulgated by the board.

Section 156. Subsection (3) is added to section 484.0512, Florida Statutes, to read:

484.0512 Thirty-day trial period; purchaser's right to cancel; notice; refund; cancellation fee.—

(3) Within 30 days after the return or attempted return of the hearing aid, the seller shall refund all moneys that must be refunded to a purchaser pursuant to this section.

Section 157. Section 484.053, Florida Statutes, is amended to read:

484.053 Prohibitions; penalties.—

(1) A person may not:

(a) Practice dispensing hearing aids unless the person is a licensed hearing aid specialist;

(b) Use the name or title "hearing aid specialist" when the person has not been licensed under this part;

(c) Present as her or his own the license of another;

(d) Give false, incomplete, or forged evidence to the board or a member thereof for the purposes of obtaining a license;

(e) Use or attempt to use a hearing aid specialist license that *is delinquent or* has been suspended, revoked, or placed on inactive ~~or delinquent~~ status;

(f) Knowingly employ unlicensed persons in the practice of dispensing hearing aids; or

(g) Knowingly conceal information relative to violations of this part.

(2) Any person who violates any of the provisions of this section is guilty of a *felony* ~~misdemeanor~~ of the *third* ~~second degree~~, punishable as provided in s. 775.082 or s. 775.083.

(3) If a person licensed under this part allows the sale of a hearing aid by an unlicensed person not registered as a trainee or fails to comply with the requirements of s. 484.0445(2) relating to supervision of trainees, the board shall, upon determination of that violation, order the full refund of moneys paid by the purchaser upon return of the hearing aid to the seller's place of business.

Section 158. Paragraph (a) of subsection (1) of section 484.056, Florida Statutes, 1998 Supplement, is amended to read:

484.056 Disciplinary proceedings.—

(1) The following acts relating to the practice of dispensing hearing aids shall be grounds for both disciplinary action against a hearing aid specialist as set forth in this section and cease and desist or other related action by the department as set forth in s. 455.637 against any person owning or operating a hearing aid establishment who engages in, aids, or abets any such violation:

(a) Violation of any provision of s. 455.624(1), *s. 484.0512,* or s. 484.053.

Section 159. Section 486.041, Florida Statutes, is amended to read:

486.041 Physical therapist; application for license; fee~~; temporary permit~~.—

~~(1)~~ A person who desires to be licensed as a physical therapist shall apply to the department in writing on a form furnished by the department. She or he shall embody in that application evidence under oath, satisfactory to the board, of possession of the qualifications preliminary to examination required by s. 486.031. The applicant shall pay to the department at the time of filing the application a fee not to exceed $100, as fixed by the board.

~~(2) If a person desires to practice physical therapy before becoming licensed through examination, she or he shall apply for a temporary permit in accordance with rules adopted pursuant to this chapter.~~

~~(a) A temporary permit shall only be issued for a limited period of time, not to exceed 1 year, and shall not be renewable. A temporary permit shall automatically expire if an applicant fails the examination.~~

~~(b) An applicant for licensure by examination and practicing under a temporary permit shall do so only under the direct supervision of a licensed physical therapist.~~

Section 160. Section 486.081, Florida Statutes, is amended to read:

486.081 Physical therapist; issuance of license without examination to person passing examination of another authorized examining board; ~~temporary permit;~~ fee.—

(1) The board may cause a license to be issued through the department without examination to any applicant who presents evidence satisfactory to the board of having passed the American Registry Examination prior to 1971 or an examination in physical therapy before a similar lawfully authorized examining board of another state, the District of Columbia, a territory, or a foreign country, if the standards for licensure in physical therapy in such other state, district, territory, or foreign country are determined by the board to be as high as those of this state, as established by rules adopted pursuant to this chapter. Any person who holds a license pursuant to this section may use the words "physical therapist" or "physiotherapist," or the letters "P.T.," in connection with her or his name or place of business to denote her or his licensure hereunder.

(2) At the time of making application for licensure without examination pursuant to the terms of this section, the applicant shall pay to the department a fee not to exceed $175 as fixed by the board, no part of which will be returned.

~~(3) If a person desires to practice physical therapy before becoming licensed through endorsement, she or he shall apply to the board for a temporary permit in accordance with rules adopted pursuant to this chapter. A temporary permit shall only be issued for a limited period of time, not to exceed 1 year, and shall not be renewable.~~

Section 161. Section 486.103, Florida Statutes, is amended to read:

486.103 Physical therapist assistant; application for license; fee~~; temporary permit~~.—

~~(1)~~ A person who desires to be licensed as a physical therapist assistant shall apply to the department in writing on a form furnished by the department. She or he shall embody in that application evidence under oath, satisfactory to the board, of possession of the qualifications preliminary to examination required by s. 486.104. The applicant shall pay to the department at the time of filing the application a fee not to exceed $100, as fixed by the board.

~~(2) If a person desires to work as a physical therapist assistant before being licensed through examination, she or he shall apply for a temporary permit in accordance with rules adopted pursuant to this chapter.~~

~~(a) A temporary permit shall only be issued for a limited period of time, not to exceed 1 year, and shall not be renewable. A temporary permit shall automatically expire if an applicant fails the examination.~~

~~(b) An applicant for licensure by examination who is practicing under a temporary permit shall do so only under the direct supervision of a licensed physical therapist.~~

Section 162. Section 486.107, Florida Statutes, is amended to read:

486.107 Physical therapist assistant; issuance of license without examination to person licensed in another jurisdiction; ~~temporary permit;~~ fee.—

(1) The board may cause a license to be issued through the department without examination to any applicant who presents evidence to the board, under oath, of licensure in another state, the District of Columbia, or a territory, if the standards for registering as a physical therapist assistant or licensing of a physical therapist assistant, as the case may

be, in such other state are determined by the board to be as high as those of this state, as established by rules adopted pursuant to this chapter. Any person who holds a license pursuant to this section may use the words "physical therapist assistant," or the letters "P.T.A.," in connection with her or his name to denote licensure hereunder.

(2) At the time of making application for licensing without examination pursuant to the terms of this section, the applicant shall pay to the department a fee not to exceed $175 as fixed by the board, no part of which will be returned.

~~(3) If a person desires to work as a physical therapist assistant before being licensed through endorsement, she or he shall apply for a temporary permit in accordance with rules adopted pursuant to this chapter. A temporary permit shall only be issued for a limited period of time, not to exceed 1 year, and shall not be renewable.~~

Section 163. Paragraph (b) of subsection (1) of section 490.005, Florida Statutes, 1998 Supplement, is amended to read:

490.005 Licensure by examination.—

(1) Any person desiring to be licensed as a psychologist shall apply to the department to take the licensure examination. The department shall license each applicant who the board certifies has:

(b) Submitted proof satisfactory to the board that the applicant has:

1. Received doctoral-level psychological education, as defined in s. 490.003(3);

2. Received the equivalent of a doctoral-level psychological education, as defined in s. 490.003(3), from a program at a school or university located outside the United States of America and Canada, which was officially recognized by the government of the country in which it is located as an institution or program to train students to practice professional psychology. The burden of establishing that the requirements of this provision have been met shall be upon the applicant;

3. Received and submitted to the board, prior to July 1, 1999, certification of an augmented doctoral-level psychological education from the program director of a doctoral-level psychology program accredited by a programmatic agency recognized and approved by the United States Department of Education; or

4. Received and submitted to the board, prior to *August 31, 2001* ~~July 1, 2001~~, certification of a doctoral-level program that at the time the applicant was enrolled and graduated maintained a standard of education and training comparable to the standard of training of programs accredited by a programmatic agency recognized and approved by the United States Department of Education~~, as such comparability was determined by the Board of Psychological Examiners immediately prior to the amendment of s. 490.005, Florida Statutes, 1994 Supplement, by s. 5, chapter 95-279, Laws of Florida~~. *Such certification of comparability shall be provided by the program director of a doctoral-level psychology program accredited by a programmatic agency recognized and approved by the United States Department of Education.*

Section 164. Subsection (1) of section 490.006, Florida Statutes, is amended to read:

490.006 Licensure by endorsement.—

(1) The department shall license a person as a psychologist or school psychologist who, upon applying to the department and remitting the appropriate fee, demonstrates to the department or, in the case of psychologists, to the board that the applicant:

(a) Holds a valid license or certificate in another state to practice psychology or school psychology, as applicable, provided that, when the applicant secured such license or certificate, the requirements were substantially equivalent to or more stringent than those set forth in this chapter at that time; and, if no Florida law existed at that time, then the requirements in the other state must have been substantially equivalent to or more stringent than those set forth in this chapter at the present time; ~~or~~

(b) Is a diplomate in good standing with the American Board of Professional Psychology, Inc.*; or*

(c) Possesses a doctoral degree in psychology as described in s. 490.003 and has at least 20 years of experience as a licensed psychologist in any jurisdiction or territory of the United States within 25 years preceding the date of application.

Section 165. Subsection (2) of section 490.0085, Florida Statutes, is amended to read:

490.0085 Continuing education; approval of providers, programs, and courses; proof of completion.—

(2) The department or, in the case of psychologists, the board has the authority to set a fee not to exceed $500 for each applicant who applies for or renews provider status. Such fees shall be deposited into the *Medical Quality Assurance* ~~Health Care~~ Trust Fund.

Section 166. Section 491.0045, Florida Statutes, is amended to read:

491.0045 Intern registration; requirements.—

(1) Effective January 1, 1998, an individual who intends to practice in Florida to satisfy the postgraduate or post-master's level experience requirements, as specified in s. 491.005(1)(c), (3)(c), or (4)(c), must register as an intern in the profession for which he or she is seeking licensure prior to commencing the *post-master's* experience requirement *or an individual who intends to satisfy part of the required graduate-level practicum, internship, or field experience, outside the academic arena for any profession, must register as an intern in the profession for which he or she is seeking licensure prior to commencing the practicum, internship, or field experience.*

(2) The department shall register as a clinical social worker intern, marriage and family therapist intern, or mental health counselor intern each applicant who the board certifies has:

(a) Completed the application form and remitted a nonrefundable application fee not to exceed $200, as set by board rule;

(b)*1.* Completed the education requirements as specified in s. 491.005*(1)(c), (3)(c), or (4)(c)* for the profession for which he or she is applying for licensure, *if needed*; and

2. Submitted an acceptable supervision plan, as determined by the board, for meeting the practicum, internship, or field work required for licensure that was not satisfied in his or her graduate program.

(c) Identified a qualified supervisor.

(3) An individual registered under this section must remain under supervision until he or she is in receipt of a license or a letter from the department stating that he or she is licensed to practice the profession for which he or she applied.

(4) An individual who has applied for intern registration on or before December 31, 2001, and has satisfied the education requirements of s. 491.005 that are in effect through December 31, 2000, will have met the educational requirements for licensure for the profession for which he or she has applied.

(5) Individuals who have commenced the experience requirement as specified in s. 491.005(1)(c), (3)(c), or (4)(c) but failed to register as required by subsection (1) shall register with the department before January 1, 2000. Individuals who fail to comply with this subsection shall not be granted a license, and any time spent by the individual completing the experience requirement prior to registering as an intern shall not count toward completion of such requirement.

Section 167. Subsections (1) and (2) of section 491.0046, Florida Statutes, are amended to read:

491.0046 Provisional license; requirements.—

(1) An individual *applying for licensure by examination* who has satisfied the clinical experience requirements of s. 491.005 *or an individual applying for licensure by endorsement pursuant to s. 491.006* intending to provide clinical social work, marriage and family therapy, or mental health counseling services in Florida while satisfying coursework or examination requirements for licensure must be provisionally licensed in the profession for which he or she is seeking licensure prior to beginning practice.

(2) The department shall issue a provisional clinical social worker license, provisional marriage and family therapist license, or provisional mental health counselor license to each applicant who the board certifies has:

(a) Completed the application form and remitted a nonrefundable application fee not to exceed $100, as set by board rule; and

(b)~~1.~~ Earned a graduate degree in social work, a graduate degree with a major emphasis in marriage and family therapy or a closely related field, or a graduate degree in a major related to the practice of mental health counseling*; and*~~, and satisfied the clinical experience requirements for licensure pursuant to s. 491.005; or~~

~~2. Been approved for examination under the provisions for licensure by endorsement pursuant to s. 491.006.~~

(c) Has met the following minimum coursework requirements:

1. For clinical social work, a minimum of 15 semester hours or 22 quarter hours of the coursework required by s. 491.005(1)(b)2.b.

2. For marriage and family therapy, ten of the courses required by s. 491.005(3)(b)1.a.-c., as determined by the board, and at least 6 semester hours or 9 quarter hours of the course credits must have been completed in the area of marriage and family systems, theories, or techniques.

3. For mental health counseling, a minimum of seven of the courses required under s. 491.005(b)1.a.-c.

Section 168. Section 491.005, Florida Statutes, is amended to read:

491.005 Licensure by examination.—

(1) *CLINICAL SOCIAL WORK.*—Upon verification of documentation and payment of a fee not to exceed $200, as set by board rule, plus the actual per applicant cost to the department for purchase of the examination from the American Association of State Social Worker's Boards or a similar national organization, the department shall issue a license as a clinical social worker to an applicant who the board certifies:

(a) Has made application therefor and paid the appropriate fee.

(b)1. Has received a doctoral degree in social work from a graduate school of social work which at the time the applicant graduated was accredited by an accrediting agency recognized by the United States Department of Education or has received a master's degree in social work from a graduate school of social work which at the time the applicant graduated:

a. Was accredited by the Council on Social Work Education;

b. Was accredited by the Canadian Association of Schools of Social Work; or

c. Has been determined to have been a program equivalent to programs approved by the Council on Social Work Education by the Foreign Equivalency Determination Service of the Council on Social Work Education. An applicant who graduated from a program at a university or college outside of the United States or Canada must present documentation of the equivalency determination from the council in order to qualify.

2. The applicant's graduate program must have emphasized direct clinical patient or client health care services, including, but not limited to, coursework in clinical social work, psychiatric social work, medical social work, social casework, psychotherapy, or group therapy. The applicant's graduate program must have included all of the following coursework:

a. A supervised field placement which was part of the applicant's advanced concentration in direct practice, during which the applicant provided clinical services directly to clients.

b. Completion of 24 semester hours or *32* ~~37~~ quarter hours in theory of human behavior and practice methods as courses in clinically oriented services, including a minimum of one course in psychopathology, *and no more than one course in research,* taken in a school of social work accredited or approved pursuant to subparagraph 1.

3. If the course title which appears on the applicant's transcript does not clearly identify the content of the coursework, the applicant shall be required to provide additional documentation, including, but not limited to, a syllabus or catalog description published for the course.

(c) Has had not less than 2 years of clinical social work experience, which took place subsequent to completion of a graduate degree in social work at an institution meeting the accreditation requirements of this section, under the supervision of a licensed clinical social worker or the equivalent who is a qualified supervisor as determined by the board. An individual who intends to practice in Florida to satisfy clinical experience requirements must register pursuant to s. 491.0045 prior to commencing practice. If the applicant's graduate program was not a program which emphasized direct clinical patient or client health care services as described in *subparagraph (b)2.* ~~s. 491.003~~, the supervised experience requirement must take place after the applicant has completed a minimum of 15 semester hours or 22 quarter hours of the coursework required. A doctoral internship may be applied toward the clinical social work experience requirement. The experience requirement may be met by work performed on or off the premises of the supervising clinical social worker or the equivalent, provided the off-premises work is not the independent private practice rendering of clinical social work that does not have a licensed mental health professional, as determined by the board, on the premises at the same time the intern is providing services.

(d) Has passed a theory and practice examination provided by the department for this purpose.

(e) Has demonstrated, in a manner designated by rule of the board, knowledge of the laws and rules governing the practice of clinical social work, marriage and family therapy, and mental health counseling.

(2) *CLINICAL SOCIAL WORK.*—

(a) Notwithstanding the provisions of paragraph (1)(b), coursework which was taken at a baccalaureate level shall not be considered toward completion of education requirements for licensure unless an official of the graduate program certifies in writing on the graduate school's stationery that a specific course, which students enrolled in the same graduate program were ordinarily required to complete at the graduate level, was waived or exempted based on completion of a similar course at the baccalaureate level. If this condition is met, the board shall apply the baccalaureate course named toward the education requirements.

(b) An applicant from a master's or doctoral program in social work which did not emphasize direct patient or client services may complete the clinical curriculum content requirement by returning to a graduate program accredited by the Council on Social Work Education or the Canadian Association of Schools of Social Work, or to a clinical social work graduate program with comparable standards, in order to complete the education requirements for examination. However, a maximum of 6 semester or 9 quarter hours of the clinical curriculum content requirement may be completed by credit awarded for independent study coursework as defined by board rule.

(3) *MARRIAGE AND FAMILY THERAPY.*— Upon verification of documentation and payment of a fee not to exceed $200, as set by board rule, plus the actual cost to the department for the purchase of the examination from the Association of Marital and Family Therapy Regulatory Board, or similar national organization, the department shall issue a license as a marriage and family therapist to an applicant who the board certifies:

(a) Has made application therefor and paid the appropriate fee.

(b)1. Has a minimum of a master's degree with major emphasis in marriage and family therapy, or a closely related field, and has completed all of the following requirements:

a. Twenty-seven semester hours or 41 quarter hours of graduate coursework, which must include a minimum of 2 semester hours or 3 quarter hours of graduate-level course credits in each of the following nine areas: dynamics of marriage and family systems; marriage therapy and counseling theory and techniques; family therapy and counseling theory and techniques; individual human development theories throughout the life cycle; personality theory; psychopathology; human sexuality theory and counseling techniques; general counseling theory and techniques; and psychosocial theory. Content may be combined, provided no more than two of the nine content areas are included in any

one graduate-level course and the applicant can document that the equivalent of 2 semester hours of coursework was devoted to each content area. Courses in research, evaluation, appraisal, assessment, or testing theories and procedures; thesis or dissertation work; or practicums, internships, or fieldwork may not be applied toward this requirement.

b. A minimum of one graduate-level course of 2 semester hours or 3 quarter hours in legal, ethical, and professional standards issues in the practice of marriage and family therapy or a course determined by the board to be equivalent.

c. A minimum of one graduate-level course of 2 semester hours or 3 quarter hours in diagnosis, appraisal, assessment, and testing for individual or interpersonal disorder or dysfunction; and a minimum of one 2-semester-hour or 3-quarter-hour graduate-level course in behavioral research which focuses on the interpretation and application of research data as it applies to clinical practice. Credit for thesis or dissertation work, practicums, internships, or fieldwork may not be applied toward this requirement.

d. A minimum of one supervised clinical practicum, internship, or field experience in a marriage and family counseling setting, during which the student provided 180 direct client contact hours of marriage and family therapy services under the supervision of an individual who met the requirements for supervision under paragraph (c). This requirement may be met by a supervised practice experience which took place outside the academic arena, but which is certified as equivalent to a graduate-level practicum or internship program which required a minimum of 180 direct client contact hours of marriage and family therapy services currently offered within an academic program of a college or university accredited by an accrediting agency approved by the United States Department of Education, or an institution which is publicly recognized as a member in good standing with the Association of Universities and Colleges of Canada or a training institution accredited by the Commission on Accreditation for Marriage and Family Therapy Education recognized by the United States Department of Education. Certification shall be required from an official of such college, university, or training institution.

2. If the course title which appears on the applicant's transcript does not clearly identify the content of the coursework, the applicant shall be required to provide additional documentation, including, but not limited to, a syllabus or catalog description published for the course.

The required master's degree must have been received in an institution of higher education which at the time the applicant graduated was: fully accredited by a regional accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation; publicly recognized as a member in good standing with the Association of Universities and Colleges of Canada; or an institution of higher education located outside the United States and Canada, which at the time the applicant was enrolled and at the time the applicant graduated maintained a standard of training substantially equivalent to the standards of training of those institutions in the United States which are accredited by a regional accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation. Such foreign education and training must have been received in an institution or program of higher education officially recognized by the government of the country in which it is located as an institution or program to train students to practice as professional marriage and family therapists or psychotherapists. The burden of establishing that the requirements of this provision have been met shall be upon the applicant, and the board shall require documentation, such as, but not limited to, an evaluation by a foreign equivalency determination service, as evidence that the applicant's graduate degree program and education were equivalent to an accredited program in this country. An applicant with a master's degree from a program which did not emphasize marriage and family therapy may complete the coursework requirement in a training institution fully accredited by the Commission on Accreditation for Marriage and Family Therapy Education recognized by the United States Department of Education.

(c) Has had not less than 2 years of clinical experience during which 50 percent of the applicant's clients were receiving marriage and family therapy services, which must be at the post-master's level under the supervision of a licensed marriage and family therapist with at least 5 years of experience, or the equivalent, who is a qualified supervisor as determined by the board. An individual who intends to practice in Florida to satisfy the clinical experience requirements must register pursuant to s. 491.0045 prior to commencing practice. If a graduate has a master's degree with a major emphasis in marriage and family therapy or a closely related field that did not include all the coursework required under sub-subparagraphs (b)1.a.-c., credit for the post-master's level clinical experience shall not commence until the applicant has completed a minimum of 10 of the courses required under sub-subparagraphs (b)1.a.-c., as determined by the board, and at least 6 semester hours or 9 quarter hours of the course credits must have been completed in the area of marriage and family systems, theories, or techniques. Within the 3 years of required experience, the applicant shall provide direct individual, group, or family therapy and counseling, to include the following categories of cases: unmarried dyads, married couples, separating and divorcing couples, and family groups including children. A doctoral internship may be applied toward the clinical experience requirement. The clinical experience requirement may be met by work performed on or off the premises of the supervising marriage and family therapist or the equivalent, provided the off-premises work is not the independent private practice rendering of marriage and family therapy services that does not have a licensed mental health professional, as determined by the board, on the premises at the same time the intern is providing services.

(d) Has passed a theory and practice examination provided by the department for this purpose.

(e) Has demonstrated, in a manner designated by rule of the board, knowledge of the laws and rules governing the practice of clinical social work, marriage and family therapy, and mental health counseling.

(f) For the purposes of dual licensure, the department shall license as a marriage and family therapist any person who meets the requirements of s. 491.0057. Fees for dual licensure shall not exceed those stated in this subsection.

(4) *MENTAL HEALTH COUNSELING.*—Upon verification of documentation and payment of a fee not to exceed $200, as set by board rule, plus the actual per applicant cost to the department for purchase of the examination from the Professional Examination Service for the National Academy of Certified Clinical Mental Health Counselors or a similar national organization, the department shall issue a license as a mental health counselor to an applicant who the board certifies:

(a) Has made application therefor and paid the appropriate fee.

(b)1. Has received a minimum of an earned master's degree with a major related to the practice of mental health counseling, and has completed all of the following requirements:

a. Twenty-one semester hours or 32 quarter hours of graduate coursework, which must include a minimum of 2 semester hours or 3 quarter hours of graduate-level coursework in each of the following seven content areas: counseling theories and practice; human development theories; personality theory; psychopathology or abnormal psychology; human sexuality theories; group theories and practice; and individual evaluation and assessment. Content may be combined, provided no more than two of the seven content areas are included in any one graduate-level course and the applicant can document that the equivalent of 2 semester hours of content was devoted to each content area. Courses in research, thesis or dissertation work, practicums, internships, or fieldwork may not be applied toward this requirement.

b. A minimum of one 2-semester-hour or 3-quarter-hour graduate-level course in research or in career or vocational counseling. Credit for thesis or dissertation work, practicums, internships, or fieldwork may not be applied toward this requirement.

c. A minimum of 2 semester hours or 3 quarter hours of graduate-level coursework in legal, ethical, and professional standards issues in the practice of mental health counseling, which includes goals and objectives of professional counseling organizations, codes of ethics, legal considerations, standards of preparation, certifications and licensing, and the role identity of counselors. Courses in research, thesis or dissertation work, practicums, internships, or fieldwork may not be applied toward this requirement.

d. A minimum of one supervised practicum, internship, or field experience in a counseling setting. This requirement may be met by a supervised practice experience which takes place outside the academic arena, but which is certified as equivalent to a graduate-level practicum in a

clinical mental health counseling setting currently offered within an academic program of a college or university accredited by an accrediting agency approved by the United States Department of Education. Such certification shall be required from an official of such college or university.

2. If the course title which appears on the applicant's transcript does not clearly identify the content of the coursework, the applicant shall be required to provide additional documentation, including, but not limited to, a syllabus or catalog description published for the course.

Except as provided in sub-subparagraph 1.d., education and training in mental health counseling must have been received in an institution of higher education which at the time the applicant graduated was: fully accredited by a regional accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation; publicly recognized as a member in good standing with the Association of Universities and Colleges of Canada; or an institution of higher education located outside the United States and Canada, which at the time the applicant was enrolled and at the time the applicant graduated maintained a standard of training substantially equivalent to the standards of training of those institutions in the United States which are accredited by a regional accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation. Such foreign education and training must have been received in an institution or program of higher education officially recognized by the government of the country in which it is located as an institution or program to train students to practice as mental health counselors. The burden of establishing that the requirements of this provision have been met shall be upon the applicant, and the board shall require documentation, such as, but not limited to, an evaluation by a foreign equivalency determination service, as evidence that the applicant's graduate degree program and education were equivalent to an accredited program in this country.

(c) Has had not less than 2 years of clinical experience in mental health counseling, which must be at the post-master's level under the supervision of a licensed mental health counselor or the equivalent who is a qualified supervisor as determined by the board. An individual who intends to practice in Florida to satisfy the clinical experience requirements must register pursuant to s. 491.0045 prior to commencing practice. If a graduate has a master's degree with a major related to the practice of mental health counseling which did not include all the coursework required under sub-subparagraphs (b)1.a.-c., credit for the post-master's level clinical experience shall not commence until the applicant has completed a minimum of seven of the courses required under sub-subparagraphs (b)1.a.-c., as determined by the board, one of which must be a course in psychopathology or abnormal psychology. A doctoral internship may be applied toward the clinical experience requirement. The clinical experience requirement may be met by work performed on or off the premises of the supervising mental health counselor or the equivalent, provided the off-premises work is not the independent private practice rendering of services that does not have a licensed mental health professional, as determined by the board, on the premises at the same time the intern is providing services.

(d) Has passed a theory and practice examination provided by the department for this purpose.

(e) Has demonstrated, in a manner designated by rule of the board, knowledge of the laws and rules governing the practice of clinical social work, marriage and family therapy, and mental health counseling.

(5) INTERNSHIP.—An individual who is registered as an intern and has satisfied all of the educational requirements for the profession for which the applicant seeks licensure shall be certified as having met the educational requirements for licensure under this section.

(6) RULES.—The board may adopt rules necessary to implement any education or experience requirement of this section for licensure as a clinical social worker, marriage and family therapist, or mental health counselor.

Section 169. Effective January 1, 2001, paragraph (b) of subsection (4) of section 491.005, Florida Statutes, as amended by section 13 of chapter 97-198 and section 205 of chapter 97-264, Laws of Florida, and as amended by this act, is amended, and subsection (6) of that section, as created by this act, is reenacted, to read:

491.005 Licensure by examination.—

(4) MENTAL HEALTH COUNSELING.—Upon verification of documentation and payment of a fee not to exceed $200, as set by board rule, plus the actual per applicant cost to the department for purchase of the examination from the Professional Examination Service for the National Academy of Certified Clinical Mental Health Counselors or a similar national organization, the department shall issue a license as a mental health counselor to an applicant who the board certifies:

(b)1. Has a minimum of an earned master's degree from a mental health counseling program accredited by the Council for the Accreditation of Counseling and Related Educational Programs that consists of at least 60 semester hours or 80 quarter hours of clinical and didactic instruction, including a course in human sexuality and *a course in* substance abuse. If the master's degree is earned from a program related to the practice of mental health counseling that is not accredited by the Council for the Accreditation of Counseling and Related Educational Programs, then the coursework and practicum, internship, or fieldwork must *consist of at least 60 semester hours or 80 quarter hours and* meet the following requirements:

a. *Thirty-three* ~~Thirty-six~~ semester hours or *44* ~~48~~ quarter hours of graduate coursework, which must include a minimum of 3 semester hours or 4 quarter hours of graduate-level coursework in each of the following *11* ~~12~~ content areas: counseling theories and practice; human growth and development; diagnosis and treatment of psychopathology; human sexuality; group theories and practice; individual evaluation and assessment; career and lifestyle assessment; research and program evaluation; social and cultural foundations; ~~foundations of mental health counseling;~~ counseling in community settings; and substance abuse. Courses in research, thesis or dissertation work, practicums, internships, or fieldwork may not be applied toward this requirement.

b. A minimum of 3 semester hours or 4 quarter hours of graduate-level coursework in legal, ethical, and professional standards issues in the practice of mental health counseling, which includes goals, objectives, and practices of professional counseling organizations, codes of ethics, legal considerations, standards of preparation, certifications and licensing, and the role identity and professional obligations of mental health counselors. Courses in research, thesis or dissertation work, practicums, internships, or fieldwork may not be applied toward this requirement.

c. The equivalent, *as determined by the board,* of at least 1,000 hours of university-sponsored supervised clinical practicum, internship, or field experience as required in the accrediting standards of the Council for Accreditation of Counseling and Related Educational Programs for mental health counseling programs. ~~If the academic practicum, internship, or field experience was less than 1,000 hours, experience gained outside the academic arena in clinical mental health settings under the supervision of a qualified supervisor as determined by the board may be applied.~~ This experience may not be used to satisfy the post-master's clinical experience requirement.

2. If the course title which appears on the applicant's transcript does not clearly identify the content of the coursework, the applicant shall be required to provide additional documentation, including, but not limited to, a syllabus or catalog description published for the course.

Education and training in mental health counseling must have been received in an institution of higher education which at the time the applicant graduated was: fully accredited by a regional accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation; publicly recognized as a member in good standing with the Association of Universities and Colleges of Canada; or an institution of higher education located outside the United States and Canada, which at the time the applicant was enrolled and at the time the applicant graduated maintained a standard of training substantially equivalent to the standards of training of those institutions in the United States which are accredited by a regional accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation. Such foreign education and training must have been received in an institution or program of higher education officially recognized by the government of the country in which it is located as an institution or program to train students to practice as mental health counselors. The burden of establishing that the requirements of this provision have been met shall be upon the applicant, and the board shall require documentation, such as, but not limited to, an evaluation by a foreign equivalency determination service, as evidence that the applicant's graduate degree program and education were equivalent to an accredited program in this country.

(6) RULES.—The board may adopt rules necessary to implement any education or experience requirement of this section for licensure as a clinical social worker, marriage and family therapist, or mental health counselor.

Section 170. Paragraph (b) of subsection (1) of section 491.006, Florida Statutes, is amended to read:

491.006 Licensure or certification by endorsement.—

(1) The department shall license or grant a certificate to a person in a profession regulated by this chapter who, upon applying to the department and remitting the appropriate fee, demonstrates to the board that he or she:

(b)1. Holds an active valid license to practice and has actively practiced the profession for which licensure is applied in another state for 3 of the last 5 years immediately preceding licensure.

2. Meets the education requirements of this chapter for the profession for which licensure is applied.

3. Has passed a substantially equivalent licensing examination in another state *or has passed the licensure examination in this state in the profession for which the applicant seeks licensure.*

4. Holds a license in good standing, is not under investigation for an act which would constitute a violation of this chapter, and has not been found to have committed any act which would constitute a violation of this chapter.

Section 171. Section 491.0085, Florida Statutes, is amended to read:

491.0085 Continuing education *and laws and rules courses*; approval of providers, programs, and courses; proof of completion.—

(1) Continuing education providers, programs, and courses *and laws and rules courses and their providers and programs* shall be approved by the department or the board.

(2) The department or the board has the authority to set a fee not to exceed $200 for each applicant who applies for or renews provider status. Such fees shall be deposited into the *Medical Quality Assurance* ~~Health Care~~ Trust Fund.

(3) Proof of completion of the required number of hours of continuing education *and completion of the laws and rules course* shall be submitted to the department or the board in the manner and time specified by rule and on forms provided by the department or the board.

(4) The department or the board shall adopt rules and guidelines to administer and enforce the provisions of this section.

Section 172. Paragraph (d) of subsection (4) of section 491.014, Florida Statutes, 1998 Supplement, is amended to read:

491.014 Exemptions.—

(4) No person shall be required to be licensed, provisionally licensed, registered, or certified under this chapter who:

(d) Is not a resident of this state but offers services in this state, provided:

1. Such services are performed for no more than ~~5 days in any month and no more than~~ 15 days in any calendar year; and

2. Such nonresident is licensed or certified to practice the services provided by a state or territory of the United States or by a foreign country or province.

Section 173. Paragraph (a) of subsection (1) and subsection (5) of section 499.012, Florida Statutes, 1998 Supplement, are amended to read:

499.012 Wholesale distribution; definitions; permits; general requirements.—

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

(a) "Wholesale distribution" means distribution of prescription drugs to persons other than a consumer or patient, but does not include:

1. Any of the following activities, which is not a violation of s. 499.005(21) if such activity is conducted in accordance with s. 499.014:

a. The purchase or other acquisition by a hospital or other health care entity that is a member of a group purchasing organization of a prescription drug for its own use from the group purchasing organization or from other hospitals or health care entities that are members of that organization.

b. The sale, purchase, or trade of a prescription drug or an offer to sell, purchase, or trade a prescription drug by a charitable organization described in s. 501(c)(3) of the Internal Revenue Code of 1986, as amended and revised, to a nonprofit affiliate of the organization to the extent otherwise permitted by law.

c. The sale, purchase, or trade of a prescription drug or an offer to sell, purchase, or trade a prescription drug among hospitals or other health care entities that are under common control. For purposes of this section, "common control" means the power to direct or cause the direction of the management and policies of a person or an organization, whether by ownership of stock, by voting rights, by contract, or otherwise.

d. The sale, purchase, trade, or other transfer of a prescription drug from or for any federal, state, or local government agency or any entity eligible to purchase prescription drugs at public health services prices pursuant to s. 602 of Pub. L. No. 102-585 to a contract provider or its subcontractor for eligible patients of the agency or entity under the following conditions:

(I) The agency or entity must obtain written authorization for the sale, purchase, trade, or other transfer of a prescription drug under this sub-subparagraph from the Secretary of Health or his or her designee.

(II) The contract provider or subcontractor must be authorized by law to administer or dispense prescription drugs.

(III) In the case of a subcontractor, the agency or entity must be a party to and execute the subcontract.

(IV) A contract provider or subcontractor must maintain separate and apart from other prescription drug inventory any prescription drugs of the agency or entity in its possession.

(V) The contract provider and subcontractor must maintain and produce immediately for inspection all records of movement or transfer of all the prescription drugs belonging to the agency or entity, including, but not limited to, the records of receipt and disposition of prescription drugs. Each contractor and subcontractor dispensing or administering these drugs must maintain and produce records documenting the dispensing or administration. Records that are required to be maintained include, but are not limited to, a perpetual inventory itemizing drugs received and drugs dispensed by prescription number or administered by patient identifier, which must be submitted to the agency or entity quarterly.

(VI) The contract provider or subcontractor may administer or dispense the prescription drugs only to the eligible patients of the agency or entity or must return the prescription drugs for or to the agency or entity. The contract provider or subcontractor must require proof from each person seeking to fill a prescription or obtain treatment that the person is an eligible patient of the agency or entity and must, at a minimum, maintain a copy of this proof as part of the records of the contractor or subcontractor required under sub-sub-subparagraph (V).

(VII) The prescription drugs transferred pursuant to this sub-subparagraph may not be billed to Medicaid.

(VIII) In addition to the departmental inspection authority set forth in s. 499.051, the establishment of the contract provider and subcontractor and all records pertaining to prescription drugs subject to this sub-subparagraph shall be subject to inspection by the agency or entity. All records relating to prescription drugs of a manufacturer under this sub-subparagraph shall be subject to audit by the manufacturer of those drugs, without identifying individual patient information.

2. Any of the following activities, which is not a violation of s. 499.005(21) if such activity is conducted in accordance with rules established by the department:

a. The sale, purchase, or trade of a prescription drug among federal, state, or local government health care entities that are under common control and are authorized to purchase such prescription drug.

b. The sale, purchase, or trade of a prescription drug or an offer to sell, purchase, or trade a prescription drug for emergency medical reasons.~~;~~ For purposes of this *sub-subparagraph* ~~subparagraph~~, the term "emergency medical reasons" includes transfers of prescription drugs by a retail pharmacy to another retail pharmacy to alleviate a temporary shortage.

c. The *transfer* ~~purchase or acquisition~~ of a prescription drug *acquired* by *a medical director on behalf of a licensed* ~~an~~ emergency medical services *provider to that* ~~medical director for use by~~ emergency medical services *provider and its transport vehicles for use in accordance with the provider's license under* ~~providers acting within the scope of their professional practice pursuant to~~ chapter 401.

d. The revocation of a sale or the return of a prescription drug to the person's prescription drug wholesale supplier.

e. The donation of a prescription drug by a health care entity to a charitable organization that has been granted an exemption under s. 501(c)(3) of the Internal Revenue Code of 1986, as amended, and that is authorized to possess prescription drugs.

f. The transfer of a prescription drug by a person authorized to purchase or receive prescription drugs to a person licensed or permitted to handle reverse distributions or destruction under the laws of the jurisdiction in which the person handling the reverse distribution or destruction receives the drug.

~~3. The dispensing of a prescription drug pursuant to a prescription;~~

3.~~4.~~ The distribution of prescription drug samples by manufacturers' representatives or distributors' representatives *conducted in accordance with s. 499.028.*~~; or~~

4.~~5.~~ The sale, purchase, or trade of blood and blood components intended for transfusion. As used in this *subparagraph* ~~section~~, the term "blood" means whole blood collected from a single donor and processed either for transfusion or further manufacturing, and the term "blood components" means that part of the blood separated by physical or mechanical means.

5. The lawful dispensing of a prescription drug in accordance with chapter 465.

(5) The department may adopt rules governing the recordkeeping, storage, and handling with respect to each of the distributions of prescription drugs specified in subparagraphs *(1)(a)1.-4.* ~~(1)(a)1., 2., 4., and 5.~~

Section 174. Subsection (6) is added to section 626.883, Florida Statutes, to read:

626.883 Administrator as intermediary; collections held in fiduciary capacity; establishment of account; disbursement; payments on behalf of insurer.—

(6) All payments to a health care provider by a fiscal intermediary for noncapitated providers must include an explanation of services being reimbursed which includes, at a minimum, the patient's name, the date of service, the procedure code, the amount of reimbursement, and the identification of the plan on whose behalf the payment is being made. For capitated providers, the statement of services must include the number of patients covered by the contract, the rate per patient, the total amount of the payment, and the identification of the plan on whose behalf the payment is being made.

Section 175. Paragraph (a) of subsection (2) of section 641.316, Florida Statutes, 1998 Supplement, is amended to read:

641.316 Fiscal intermediary services.—

(2)(a) The term "fiduciary" or "fiscal intermediary services" means reimbursements received or collected on behalf of health care professionals for services rendered, patient and provider accounting, financial reporting and auditing, receipts and collections management, compensation and reimbursement disbursement services, or other related fiduciary services pursuant to health care professional contracts with health maintenance organizations. *All payments to a health care provider by a fiscal intermediary for noncapitated providers must include an explanation of services being reimbursed which includes, at a minimum, the patient's name, the date of service, the procedure code, the amount of reimbursement, and the identification of the plan on whose behalf the payment is being made. For capitated providers, the statement of services must include the number of patients covered by the contract, the rate per patient, the total amount of the payment, and the identification of the plan on whose behalf the payment is being made.*

Section 176. *Task Force on Telehealth.—*

(1) Because telecommunications technology has made it possible to provide a wide range of health care services across state lines between healthcare practitioners and patients, it is the intent of the Legislature to protect the health and safety of all patients in this state receiving services by means of such technology and to ensure the accountability of the healthcare profession with respect to unsafe and incompetent practitioners using such technology to provide health care services to patients in this state.

(2) The Secretary of Health shall appoint a task force consisting of representatives from the affected medical and allied health professions and other affected health care industries.

(3) The task force shall address the following:

(a) Identification of various electronic communications or telecommunications technologies currently used within the state and by other states to provide healthcare information.

(b) Identification of laws, regulations, and reimbursement practices that serve as barriers to implementation of electronic communications related to health care.

(c) Recommendation of the appropriate level of regulation of health care professionals necessary to protect the health and safety of patients in this state, including analysis of existing provisions governing in-state professionals such as licensing, financial responsibility, and medical malpractice insurance requirements.

(d) Potential preemption of state regulation by the Commerce Clause of the United States Constitution.

(e) The effect of telehealth on access to health care in rural and underserved areas.

(f) Potential antitrust concerns.

(g) The effect of regulations by other states or jurisdictions on health care professionals in this state who provide consultative services through telehealth to entities and patients outside the state.

(h) Research on other public and private data and initiatives related to telehealth.

(i) Any other issue affecting the health, safety, and welfare of patients through telehealth identified by the task force.

(4) The task force shall submit a report of its findings and recommendations by January 1, 2000, to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Section 177. Subsection (1) of section 468.352, Florida Statutes, is amended to read:

468.352 Definitions.—As used in this part, unless the context otherwise requires, the term:

(1) "Board" means the Board of *Respiratory Care* ~~Medicine~~.

Section 178. Section 468.353, Florida Statutes, is amended to read:

468.353 Board of *Respiratory Care* ~~Medicine~~; powers and duties.—

(1) The board~~, with the assistance of the Advisory Council on Respiratory Care,~~ is authorized to establish minimum standards for the deliv-

ery of respiratory care services and to adopt those rules necessary to administer this part.

(2) The board may administer oaths, summon witnesses, and take testimony in all matters relating to its duties under this part.

(3) The board may *adopt rules to administer this part, including rules governing the investigation, inspection, and review of schools and colleges that offer courses in respiratory care in order to ascertain their compliance with standards established by the board or appropriate accrediting agencies* ~~delegate such powers and duties to the council as it may deem proper~~.

Section 179. Section 468.354, Florida Statutes, is amended to read:

468.354 *Board of* ~~Advisory Council on~~ Respiratory Care; organization; function.—

(1) There is created *within* the *department, the Board of* ~~Advisory Council on~~ Respiratory Care, *composed of seven members appointed by the Governor and confirmed by the Senate* ~~under the supervision of the board~~.

(2) The *board* ~~council shall consist of five members appointed by the board and~~ shall include:

(a) A *registered* respiratory therapist.

(b) A *certified* respiratory *therapist* ~~care practitioner~~.

(c) A respiratory care professional from each of the following areas:

1. Respiratory care education.

2. Respiratory care management and supervision.

3. *Homecare/subacute* ~~Cardiopulmonary diagnostics~~.

(d) Two consumer members, who are residents of this state and have never been licensed as health care practitioners.

Each ~~member of the council shall be a~~ respiratory care professional *on the board must have* ~~who has~~ been actively engaged in the delivery of respiratory care services in this state for at least 4 consecutive years prior to appointment.

(3)(a) Except as provided in paragraph (b), the term of office for each *board* ~~council~~ member shall be 4 years. No member shall serve for more than two consecutive terms. Any time there is a vacancy to be filled ~~on the council~~, all professional organizations dealing with respiratory therapy incorporated within the state as not for profit which register their interest ~~with the board~~ shall recommend at least twice as many persons to fill the vacancy ~~to the council~~ as the number of vacancies to be filled, and the *Governor* ~~board~~ may appoint from the submitted list, in *his* ~~its~~ discretion, any of those persons so recommended. The *Governor* ~~board~~ shall, insofar as possible, appoint persons from different geographical areas.

(b) ~~In order~~ To achieve staggering of terms, within 120 days after *July 1, 1999,* ~~October 1, 1984,~~ the *Governor* ~~board~~ shall appoint the *board* members ~~of the council~~ as follows:

1. *Two members* ~~One member~~ shall be appointed for *terms* ~~a term~~ of 2 years.

2. Two members shall be appointed for terms of 3 years.

3. *Three* ~~Two~~ members shall be appointed for terms of 4 years.

(c) All provisions of part II of chapter 455, relating to boards apply to this part.

(4)(a) The *board* ~~council~~ shall annually elect from among its members a chair and vice chair.

(b) The *board* ~~council~~ shall meet at least twice a year and shall hold ~~such~~ additional meetings as are deemed necessary ~~by the board~~. *Four* ~~Three~~ members of the council constitute a quorum.

(c) Unless otherwise provided by law, a *board* ~~council~~ member shall be compensated $50 for each day he or she attends an official *board* meeting ~~of the council~~ and for each day he or she participates in any other *board* business ~~involving the council~~. A *board* ~~council~~ member shall also be entitled to reimbursement for expenses pursuant to s. 112.061. Travel out of the state shall require the prior approval of the secretary of the department.

(5)~~(a)~~ The *board may* ~~council shall~~ recommend to the department a code of ethics for those persons licensed pursuant to this part.

~~(b) The council shall make recommendations to the department for the approval of continuing education courses.~~

Section 180. Section 468.355, Florida Statutes, is amended to read:

468.355 Eligibility for licensure; temporary licensure.—

(1) To be eligible for licensure by the board as a respiratory care practitioner, an applicant must:

(a) Be at least 18 years old.

(b) Possess a high school diploma or a graduate equivalency diploma.

(c) Meet at least one of the following criteria:

1. The applicant has successfully completed a training program for respiratory therapy technicians or respiratory therapists approved by the Commission on Accreditation of Allied Health Education Programs, or the equivalent thereof, as accepted by the board.

2. The applicant is currently a "Certified Respiratory Therapy Technician" certified by the National Board for Respiratory Care, or the equivalent thereof, as accepted by the board.

3. The applicant is currently a "Registered Respiratory Therapist" registered by the National Board for Respiratory Care, or the equivalent thereof, as accepted by the board.

~~4. The applicant is currently employed in this state as a respiratory care practitioner or respiratory therapist on October 1, 1984.~~

The criteria set forth in subparagraphs 2. and 3. notwithstanding, the board shall *periodically* ~~annually~~ review the examinations and standards of the National Board for Respiratory Care and may reject those examinations and standards if they are deemed inappropriate.

(2) To be eligible for licensure by the board as a respiratory therapist, an applicant must:

(a) Be at least 18 years old.

(b) Possess a high school diploma or a graduate equivalency diploma.

(c) Meet at least one of the following criteria:

1. The applicant has successfully completed a training program for respiratory therapists approved by the Commission on Accreditation of Allied Health Education Programs, or the equivalent thereof, as accepted by the board.

2. The applicant is currently a "Registered Respiratory Therapist" registered by the National Board for Respiratory Care, or the equivalent thereof, as accepted by the board.

The criteria set forth in subparagraphs 1. and 2. notwithstanding, the board shall *periodically* ~~annually~~ review the examinations and standards of the National Board for Respiratory Care and may reject those examinations and standards if they are deemed inappropriate.

(3) With respect to the delivery of respiratory care services, the board shall establish procedures for temporary licensure of eligible individuals entering the state and temporary licensure of those persons who have graduated from a program approved by the board. Such temporary licensure shall be for a period not to exceed 1 year.

Section 181. Section 468.357, Florida Statutes, is amended to read:

468.357 Licensure by examination.—

(1) A person who desires to be licensed as a respiratory care practitioner may submit an application ~~to the department~~ to take the exami-

nation, *in accordance with board rule* ~~to be administered by the department~~.

(a) ~~The department shall examine~~ Each applicant *may take the examination* who is determined by the board to have:

1. Completed the application form and remitted the applicable fee set by the board;

2. Submitted required documentation as required in s. 468.355; and

3. Remitted an examination fee set by the *examination provider* ~~board~~.

(b) ~~The department shall conduct~~ Examinations for licensure of respiratory care practitioners *must be conducted* no less than two times a year in such geographical locations *or by such methods* as are deemed advantageous to the majority of the applicants.

(c) The examination given for respiratory care practitioners shall be the same as that given by the National Board for Respiratory Care for entry-level certification of respiratory therapy technicians. However, an equivalent examination may be accepted by the board in lieu of that examination.

(2) Each applicant who passes the examination shall be entitled to licensure as a respiratory care practitioner, and the department shall issue a license pursuant to this part to any applicant who successfully completes the examination in accordance with this section. However, the department shall not issue a license to any applicant who is under investigation in another jurisdiction for an offense which would constitute a violation of this part. Upon completion of such an investigation, if the applicant is found guilty of such an offense, the applicable provisions of s. 468.365 will apply.

~~(3) Any person who was employed in this state on or before September 30, 1983, as a respiratory therapy technician or respiratory therapist, and who has performed services in such professional capacity for 4 years or more by October 1, 1987, under the supervision of a licensed physician or in a hospital or licensed health care facility, shall be issued a license without examination, if such person provides acceptable documentation of performance of such services to the board. Such documentation shall include certification by a physician licensed pursuant to chapter 458 or chapter 459 who has direct knowledge of the practice of, or who has supervised, the person. If such person is not determined to have performed critical care respiratory services for at least 4 years, the board may limit the license of such person to the performance of noncritical care respiratory services.~~

Section 182. Section 468.364, Florida Statutes, 1998 Supplement, is amended to read:

468.364 Fees; establishment; disposition.—

(1) The board shall establish by rule fees for the following purposes:

(a) Application, a fee not to exceed $50.

~~(b) Examination, a fee not to exceed $125 plus the actual per applicant cost to the department for purchase of the examination from the National Board for Respiratory Care or a similar national organization.~~

(b)~~(c)~~ Initial licensure, a fee not to exceed $200.

(c)~~(d)~~ Renewal of licensure, a fee not to exceed $200 biennially.

(d)~~(e)~~ Renewal of inactive licensure, a fee not to exceed $50.

(e)~~(f)~~ Reactivation, a fee not to exceed $50.

(2) The fees established pursuant to subsection (1) shall be based upon the actual costs incurred by the department in carrying out its responsibilities under this part.

(3) All moneys collected by the department under this part shall be deposited as required by s. 455.587.

Section 183. Paragraph (f) of subsection (1) of section 468.365, Florida Statutes, 1998 Supplement, is amended to read:

468.365 Disciplinary grounds and actions.—

(1) The following acts constitute grounds for which the disciplinary actions in subsection (2) may be taken:

(f) Unprofessional conduct, which includes, but is not limited to, any departure from, or failure to conform to, acceptable standards related to the delivery of respiratory care services, as set forth by the board ~~and the Advisory Council on Respiratory Care~~ in rules adopted pursuant to this part.

Section 184. Paragraph (a) of subsection (2) of section 464.016, Florida Statutes, is amended to read:

464.016 Violations and penalties.—

(2) Each of the following acts constitutes a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083:

(a) Using the name or title "*Nurse*," "Registered Nurse," "Licensed Practical Nurse," "Advanced Registered Nurse Practitioner," or any other name or title which implies that a person was licensed or certified as same, unless such person is duly licensed or certified.

Section 185. Paragraphs (b) and (c) of subsection (1) of section 458.3115, Florida Statutes, 1998 Supplement, are amended to read:

458.3115 Restricted license; certain foreign-licensed physicians; United States Medical Licensing Examination (USMLE) or agency-developed examination; restrictions on practice; full licensure.—

(1)

(b) A person who is eligible to take and elects to take the USMLE who has previously passed part 1 or part 2 of the previously administered FLEX shall not be required to retake or pass the equivalent parts of the USMLE up to the year *2002* ~~2000~~.

(c) A person shall be eligible to take such examination for restricted licensure if the person:

1. Has taken, upon approval by the board, and completed, in November 1990 or November 1992, one of the special preparatory medical update courses authorized by the board and the University of Miami Medical School and subsequently passed the final course examination; upon approval by the board to take the course completed in 1990 or in 1992, has a certificate of successful completion of that course from the University of Miami or the Stanley H. Kaplan course; or can document to the department that he or she was one of the persons who took and successfully completed the Stanley H. Kaplan course that was approved by the Board of Medicine and supervised by the University of Miami. At a minimum, the documentation must include class attendance records and the test score on the final course examination;

2. Applies to the agency and submits an application fee that is nonrefundable and equivalent to the fee required for full licensure;

3. Documents no less than 2 years of the active practice of medicine in *any* ~~another~~ jurisdiction;

4. Submits an examination fee that is nonrefundable and equivalent to the fee required for full licensure plus the actual per-applicant cost to the agency to provide either examination described in this section;

5. Has not committed any act or offense in this or any other jurisdiction that would constitute a substantial basis for disciplining a physician under this chapter or part II of chapter 455; and

6. Is not under discipline, investigation, or prosecution in this or any other jurisdiction for an act that would constitute a violation of this chapter or part II of chapter 455 and that substantially threatened or threatens the public health, safety, or welfare.

Section 186. Subsection (2) of section 458.3124, Florida Statutes, 1998 Supplement, is amended to read:

458.3124 Restricted license; certain experienced foreign-trained physicians.—

(2) A person applying for licensure under this section must submit to the Department of Health on or before December 31, *2000* ~~1998~~:

(a) A completed application and documentation required by the Board of Medicine to prove compliance with subsection (1); and

(b) A nonrefundable application fee not to exceed $500 and a nonrefundable examination fee not to exceed $300 plus the actual cost to purchase and administer the examination.

Section 187. Effective upon this act becoming a law, section 301 of chapter 98-166, Laws of Florida, is amended to read:

Section 301. The sum of $1.2 million from the unallocated balance in the Medical Quality Assurance Trust Fund is appropriated to the Department of Health to allow the department to develop the examination required for foreign licensed physicians in section 458.3115(1)(a), Florida Statutes, through a contract with the University of South Florida. The department shall charge examinees a fee *not to exceed 25 percent of the cost of the actual costs of the first examination administered pursuant to section 458.3115, Florida Statutes, 1998 Supplement, and a fee not to exceed 75 percent of the actual costs for any subsequent examination administered pursuant to that section*.

Section 188. *The Agency for Health Care Administration shall conduct a detailed study and analysis of clinical laboratory services for kidney dialysis patients in the State of Florida. The study shall include, but not be limited to, an analysis of the past and present utilization rates of clinical laboratory services for dialysis patients, financial arrangements among kidney dialysis centers, their medical directors, and any business relationships and affiliations with clinical laboratories, any self referral to clinical laboratories, the quality and responsiveness of clinical laboratory services for dialysis patients in Florida, and the average annual revenue for dialysis patients for clinical laboratory services for the past ten years. The agency shall report back to the President of the Senate, Speaker of the House of Representatives, and chairs of the appropriate substantive committees of the Legislature on its findings no later than February 1, 2000.*

Section 189. Subsection (3) is added to section 455.651, Florida Statutes, 1998 Supplement, to read:

455.651 Disclosure of confidential information.—

(1) No officer, employee, or person under contract with the department, or any board therein, or any subject of an investigation shall convey knowledge or information to any person who is not lawfully entitled to such knowledge or information about any public meeting or public record, which at the time such knowledge or information is conveyed is exempt from the provisions of s. 119.01, s. 119.07(1), or s. 286.011.

(2) Any person who willfully violates any provision of this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, and may be subject to discipline pursuant to s. 455.624, and, if applicable, shall be removed from office, employment, or the contractual relationship.

(3) Any person injured as a result of a violation of this section shall have a civil cause of action for treble damages, reasonable attorney fees, and costs.

Section 190. Section 641.261, Florida Statutes, is amended to read:

641.261 Other reporting requirements.—

(1) Each authorized health maintenance organization shall provide records and information to the *Agency for Health Care Administration* ~~Department of Health and Rehabilitative Services~~ pursuant to s. 409.910*(20) and (21)* ~~(22)~~ for the sole purpose of identifying potential coverage for claims filed with the *agency* ~~Department of Health and Rehabilitative Services~~ and its fiscal agents for payment of medical services under the Medicaid program.

(2) Any information provided by a health maintenance organization under this section to the *agency* ~~Department of Health and Rehabilitative Services~~ shall not be considered a violation of any right of confidentiality or contract that the health maintenance organization may have with covered persons. The health maintenance organization is immune from any liability that it may otherwise incur through its release of information to the *agency* ~~Department of Health and Rehabilitative Services~~ under this section.

Section 191. Section 641.411, Florida Statutes, is amended to read:

641.411 Other reporting requirements.—

(1) Each prepaid health clinic shall provide records and information to the *Agency for Health Care Administration* ~~Department of Health and Rehabilitative Services~~ pursuant to s. 409.910*(20) and (21)* ~~(22)~~ for the sole purpose of identifying potential coverage for claims filed with the *agency* ~~Department of Health and Rehabilitative Services~~ and its fiscal agents for payment of medical services under the Medicaid program.

(2) Any information provided by a prepaid health clinic under this section to the *agency* ~~Department of Health and Rehabilitative Services~~ shall not be considered a violation of any right of confidentiality or contract that the prepaid health clinic may have with covered persons. The prepaid health clinic is immune from any liability that it may otherwise incur through its release of information to the *agency* ~~Department of Health and Rehabilitative Services~~ under this section.

Section 192. Paragraph (a) of subsection (4) of section 733.212, Florida Statutes, is amended to read:

733.212 Notice of administration; filing of objections and claims.—

(4)(a) The personal representative shall promptly make a diligent search to determine the names and addresses of creditors of the decedent who are reasonably ascertainable and shall serve on those creditors a copy of the notice within 3 months after the first publication of the notice. *Under s. 409.9101, the Agency for Health Care Administration is considered a reasonably ascertainable creditor in instances where the decedent had received Medicaid assistance for medical care after reaching 55 years of age.* Impracticable and extended searches are not required. Service is not required on any creditor who has filed a claim as provided in this part; a creditor whose claim has been paid in full; or a creditor whose claim is listed in a personal representative's timely proof of claim if the personal representative notified the creditor of that listing.

Section 193. *(1) There is established a seven-member task force to review sources of funds deposited into the Public Medical Assistance Trust Fund as created by section 409.918, Florida Statutes. The task force shall consist of:*

(a) Two members appointed by the President of the Senate, one of whom must be a member of the Senate and one of whom must represent a hospital subject to the assessment imposed under section 395.701, Florida Statutes, 1998 Supplement, or section 394.4786, Florida Statutes;

(b) Two members appointed by the Speaker of the House of Representatives, one of whom must be a member of the House and one of whom must represent a health care entity subject to the assessment imposed under section 395.7015, Florida Statutes, 1998 Supplement;

(c) Three members appointed by the Governor, one of whom must be the Director of the Agency for Health Care Administration, or his or her designee; one of whom must be a medical doctor licensed to practice in the state; and one of whom must be a consumer who has no employment or investment interest in any health care entity subject to the assessment imposed for deposit into the Public Medical Assistance Trust Fund and who is a representative of Florida TaxWatch.

(2) The Governor shall designate the task force chair from among the members.

(3) The task force shall consider and make specific recommendations concerning, but not limited to:

(a) Whether any provisions of sections 395.701, 395.7015, and 409.918, Florida Statutes, need to be revised;

(b) Whether the annual assessments imposed by these statutes on the various health care entities are imposed equitably;

(c) Whether additional exemptions from, or inclusions within, the assessments are justified; and

(d) The extent to which modifications to other statutory provisions that require deposit of specified revenue into the Public Medical Assistance Trust Fund, including, but not limited to, sections 210.20, 395.1041, 408.040, and 408.08, Florida Statutes, could result in increased revenue for the trust fund.

The task force shall provide an analysis of the budgetary impact of any recommended exemptions from, inclusions within, or modifications to existing assessments.

(4) The Agency for Health Care Administration shall provide necessary staff support and technical assistance to the task force.

(5) The task force shall convene by August 1, 1999, for its first meeting, and shall submit its findings and recommendations, including any proposed legislation, to the President of the Senate, the Speaker of the House of Representatives, and the Governor by December 1, 1999.

Section 194. Section 395.40, Florida Statutes, is created to read:

395.40 Legislative findings and intent.—

(1) The Legislature finds that there has been a lack of timely access to trauma care due to the state's fragmented trauma system. This finding is based on the 1999 Trauma System Report on Timely Access to Trauma Care submitted by the department in response to the request of the Legislature.

(2) The Legislature finds that it is necessary to plan for and to establish an inclusive trauma system to meet the needs of trauma victims. An "inclusive trauma system" means a system designed to meet the needs of all injured trauma victims who require care in an acute-care setting and into which every health care provider or facility with resources to care for the injured trauma victim is incorporated. The Legislature deems the benefits of trauma care provided within an inclusive trauma system to be of vital significance to the outcome of a trauma victim.

(3) It is the intent of the Legislature to place primary responsibility for the planning and establishment of a statewide inclusive trauma system with the department. The department shall undertake the implementation of a statewide inclusive trauma system as funding is available.

(4) The Legislature finds that significant benefits are to be obtained by directing the coordination of activities by several state agencies, relative to access to trauma care and the provision of trauma care to all trauma victims. It is the intent of the Legislature that the department, the Agency for Health Care Administration, the Board of Medicine, and the Board of Nursing establish interagency teams and agreements for the development of guidelines, standards, and rules for those portions of the inclusive state trauma system within the statutory authority of each agency. This coordinated approach will provide the necessary continuum of care for the trauma victim from injury to final hospital discharge. The department has the leadership responsibility for this activity.

(5) In addition, the agencies listed in subsection (4) should undertake to:

(a) Establish a coordinated methodology for monitoring, evaluating, and enforcing the requirements of the state's inclusive trauma system which recognizes the interests of each agency.

(b) Develop appropriate roles for trauma agencies, to assist in furthering the operation of trauma systems at the regional level. This should include issues of system evaluation as well as managed care.

(c) Develop and submit appropriate requests for waivers of federal requirements which will facilitate the delivery of trauma care.

(d) Develop criteria that will become the future basis for mandatory consultation on the care of trauma victims and mandatory transfer of appropriate trauma victims to trauma centers.

(e) Develop a coordinated approach to the care of the trauma victim. This shall include the movement of the trauma victim through the system of care and the identification of medical responsibility for each phase of care for out-of-hospital and in-hospital trauma care.

(f) Require the medical director of an emergency medical services provider to have medical accountability for a trauma victim during interfacility transfer.

(6) Furthermore, the Legislature encourages the department to actively foster the provision of trauma care and serve as a catalyst for improvements in the process and outcome of the provision of trauma care in an inclusive trauma system. Among other considerations, the department is encouraged to:

(a) Promote the development of at least one trauma center in every trauma service area.

(b) Promote the development of a trauma agency for each trauma region.

(c) Update the state trauma system plan by December 2000 and at least every 5th year thereafter.

Section 195. Subsection (1) and paragraphs (c) and (n) of subsection (2) of section 395.401, Florida Statutes, 1998 Supplement, are amended to read:

395.401 Trauma services system plans; verification of trauma centers and pediatric trauma referral centers; procedures; renewal.—

(1) As used in this part, the term:

(a) "Agency" means the Agency for Health Care Administration.

(b) "Charity care" or "uncompensated charity care" means that portion of hospital charges reported to the agency for which there is no compensation for care provided to a patient whose family income for the 12 months preceding the determination is less than or equal to 150 percent of the federal poverty level, unless the amount of hospital charges due from the patient exceeds 25 percent of the annual family income. However, in no case shall the hospital charges for a patient whose family income exceeds four times the federal poverty level for a family of four be considered charity.

(c) "Department" means the Department of Health.

(d) "Level I trauma center" means a hospital that is determined by the department to be in substantial compliance with trauma center and pediatric trauma referral center verification standards as established by rule of the department, and which:

1. Has formal research and education programs for the enhancement of trauma care.

2. Serves as a resource facility to Level II trauma centers, pediatric trauma referral centers, and community hospitals.

3. Ensures an organized system of trauma care.

(e) "Level II trauma center" means a hospital that is determined by the department to be in substantial compliance with trauma center verification standards as established by rule of the department, and which:

1. Serves as a resource facility to community hospitals.

2. Ensures an organized system of trauma care.

~~(f) "Local trauma agency" means an agency established and operated by a county or an entity with which the county contracts for the purpose of administrative trauma services.~~

(f)~~(g)~~ "Pediatric trauma referral center" means a hospital that is determined to be in substantial compliance with pediatric trauma referral center standards as established by rule of the department.

~~(h) "Regional trauma agency" means an agency created and operated by two or more counties, or an entity with which two or more counties contract, for the purpose of administering trauma services.~~

(g)~~(i)~~ "State-approved trauma center" means a hospital that has successfully completed the state-approved selection process pursuant to s. 395.4025 and has been approved by the department to operate as a trauma center in the state.

(h)~~(j)~~ "State-sponsored trauma center" means a state-approved trauma center that receives state funding for trauma care services.

(i) "Trauma agency" means an agency established and operated by one or more counties, or an entity with which one or more counties contract, for the purpose of administering an inclusive regional trauma system.

(j) "Trauma alert victim" means a person who has incurred a single or multisystem injury due to blunt or penetrating means or burns; who requires immediate medical intervention or treatment; and who meets one or more of the adult or pediatric scorecard criteria established by the department by rule.

(k) "Trauma center" means any hospital that has been determined by the department to be in substantial compliance with trauma center verification standards.

(l) "Trauma scorecard" means a statewide methodology adopted by the department by rule under which a person who has incurred a traumatic injury is graded as to the severity of his or her injuries or illness and which methodology is used as the basis for making destination decisions.

(m) "Trauma victim" means any person who has incurred a single or multisystem ~~life-threatening~~ injury due to blunt or penetrating means *or burns* and who requires immediate medical intervention or treatment.

(2)

(c) The department shall receive plans for the implementation of *inclusive* trauma ~~care~~ systems from ~~local and regional~~ trauma agencies. The department may approve or not approve ~~the local or regional~~ trauma agency plans based on the conformance of the *plan* ~~local or regional plans~~ with this section and ss. 395.4015, 395.404, and 395.4045 and the rules adopted by the department pursuant to those sections. The department shall approve or disapprove the plans within 120 days after the date the plans are submitted to the department.

(n) After the submission of the initial ~~local or regional~~ trauma ~~care~~ system plan, each ~~local or regional~~ trauma agency shall*, every 5th year,* ~~annually~~ submit to the department for approval an updated plan *that* ~~which~~ identifies the changes, if any, to be made in the *regional* trauma ~~care~~ system. ~~The department shall approve or disapprove the updated plan within 120 days after the date the plan is submitted to the department. At least 60 days before the local or regional trauma agency submits a plan for a trauma care system to the department, the local or regional trauma agency shall hold a public hearing and give adequate notice of the public hearing to all hospitals and other interested parties in the area. A local or regional trauma agency shall submit to the department written notice of its intent to cease operation of the local or regional trauma agency at least 90 days before the date on which the local or regional trauma agency will cease operation.~~

Section 196. Subsections (1) and (3) of section 395.402, Florida Statutes, are amended to read:

395.402 Trauma service areas; number and location of trauma centers.—

(1) ~~The Legislature finds that it is appropriate to recognize as a trauma patient someone with an injury severity score (ISS) of 9 or greater.~~ The Legislature ~~also~~ recognizes that Level I and Level II trauma centers should each be capable of annually treating a minimum of 1,000 and 500 patients, respectively, with an injury severity score *(ISS)* of 9 or greater. Further, the Legislature finds that, based on the numbers and locations of trauma victims with these injury severity scores, there should be 19 trauma service areas in the state, and, at a minimum, there should be at least one trauma center in each service area.

(3) *Trauma service areas are to be used. The department shall periodically review the assignment of the 67 counties to trauma service areas. These assignments are made for the purpose of developing a system of trauma centers. Revisions made by the department should take into consideration the recommendations made as part of the regional trauma system plans approved by the department, as well as the recommendations made as part of the state trauma system plan. These areas must, at a minimum, be reviewed in the year 2000 and every 5 years thereafter. Until the department completes its initial review, the assignment of counties shall remain as established pursuant to chapter 90-284, Laws of Florida.* ~~The following trauma service areas are to be utilized in developing a system of state-sponsored trauma centers. These areas are subject to periodic revision by the Legislature based on recommendations made as part of local or regional trauma plans approved by the department pursuant to s. 395.401(2). These areas shall, at a minimum, be reviewed by the Legislature prior to the next 7-year verification cycle of state-sponsored trauma centers.~~

(a) The following trauma service areas are hereby established:

1. Trauma service area 1 shall consist of Escambia, Okaloosa, Santa Rosa, and Walton Counties.

2. Trauma service area 2 shall consist of Bay, Gulf, Holmes, and Washington Counties.

3. Trauma service area 3 shall consist of Calhoun, Franklin, Gadsden, Jackson, Jefferson, Leon, Liberty, Madison, Taylor, and Wakulla Counties.

4. Trauma service area 4 shall consist of Alachua, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Lafayette, Levy, Putnam, Suwannee, and Union Counties.

5. Trauma service area 5 shall consist of Baker, Clay, Duval, Nassau, and St. Johns Counties.

6. Trauma service area 6 shall consist of Citrus, Hernando, and Marion Counties.

7. Trauma service area 7 shall consist of Flagler and Volusia Counties.

8. Trauma service area 8 shall consist of Lake, Orange, Osceola, Seminole, and Sumter Counties.

9. Trauma service area 9 shall consist of Pasco and Pinellas Counties.

10. Trauma service area 10 shall consist of Hillsborough County.

11. Trauma service area 11 shall consist of Hardee, Highlands, and Polk Counties.

12. Trauma service area 12 shall consist of Brevard and Indian River Counties.

13. Trauma service area 13 shall consist of DeSoto, Manatee, and Sarasota Counties.

14. Trauma service area 14 shall consist of Martin, Okeechobee, and St. Lucie Counties.

15. Trauma service area 15 shall consist of Charlotte, Glades, Hendry, and Lee Counties.

16. Trauma service area 16 shall consist of Palm Beach County.

17. Trauma service area 17 shall consist of Collier County.

18. Trauma service area 18 shall consist of Broward County.

19. Trauma service area 19 shall consist of Dade and Monroe Counties.

(b) Each trauma service area should have at least one Level I or Level II trauma center.

(c) There shall be no more than a total of 44 state-sponsored trauma centers in the state.

Section 197. Subsection (1) of section 395.4045, Florida Statutes, is amended to read:

395.4045 Emergency medical service providers; transport of trauma victims to trauma centers.—

(1) Each emergency medical services provider licensed under chapter 401 shall transport trauma *alert* victims to hospitals approved as trauma centers, except as may be provided for either in department-approved local or regional trauma transport protocol or, if no local or

regional trauma transport protocol is in effect, as provided for in a department-approved provider's trauma transport protocol. Development of regional trauma protocols shall be through consultation with interested parties, including, but not limited to, each approved trauma center; physicians specializing in trauma care, emergency care, and surgery in the region; each trauma system administrator in the region; and each emergency medical service provider in the region licensed under chapter 401. Trauma *alert* victims shall be identified through the use of a trauma scoring system. The department shall specify by rule the subjects to be included in an emergency medical service provider's trauma transport protocol and shall approve or disapprove each such protocol.

Section 198. Section 458.351, Florida Statutes, is created to read:

458.351 Reports of adverse incidents in office practice settings.—

(1) Any adverse incident that occurs on or after January 1, 2000, in any office maintained by a physician for the practice of medicine which is not licensed under chapter 395 must be reported to the department in accordance with the provisions of this section.

(2) Any physician or other licensee under this chapter practicing in this state must notify the department if the physician or licensee was involved in an adverse incident that occurred on or after January 1, 2000, in any office maintained by a physician for the practice of medicine which is not licensed under chapter 395.

(3) The required notification to the department must be submitted in writing by certified mail and postmarked within 15 days after the occurrence of the adverse incident.

(4) For purposes of notification to the department pursuant to this section, the term "adverse incident" means an event over which the physician or licensee could exercise control and which is associated in whole or in part with a medical intervention, rather than the condition for which such intervention occurred, and which results in the following patient injuries:

(a) The death of a patient.

(b) Brain or spinal damage to a patient.

(c) The performance of a surgical procedure on the wrong patient.

(d)1. The performance of a wrong-site surgical procedure;

2. The performance of a wrong surgical procedure; or

3. The surgical repair of damage to a patient resulting from a planned surgical procedure where the damage is not a recognized specific risk as disclosed to the patient and documented through the informed-consent process

if it results in: death; brain or spinal damage; permanent disfigurement not to include the incision scar; fracture or dislocation of bones or joints; a limitation of neurological, physical or sensory function; or any condition that required the transfer of the patient.

(e) A procedure to remove unplanned foreign objects remaining from a surgical procedure.

(f) Any condition that required the transfer of a patient to a hospital licensed under chapter 395 from an ambulatory surgical center licensed under chapter 395 or any facility or any office maintained by a physician for the practice of medicine which is not licensed under chapter 395.

(5) The department shall review each incident and determine whether it potentially involved conduct by a health care professional who is subject to disciplinary action, in which case s. 455.621 applies. Disciplinary action, if any, shall be taken by the board under which the health care professional is licensed.

(6) The board may adopt rules to administer this section.

Section 199. Section 459.026, Florida Statutes, is created to read:

459.026 Reports of adverse incidents in office practice settings.—

(1) Any adverse incident that occurs on or after January 1, 2000, in any office maintained by an osteopathic physician for the practice of osteopathic medicine which is not licensed under chapter 395 must be reported to the department in accordance with the provisions of this section.

(2) Any osteopathic physician or other licensee under this chapter practicing in this state must notify the department if the osteopathic physician or licensee was involved in an adverse incident that occurred on or after January 1, 2000, in any office maintained by an osteopathic physician for the practice of osteopathic medicine which is not licensed under chapter 395.

(3) The required notification to the department must be submitted in writing by certified mail and postmarked within 15 days after the occurrence of the adverse incident.

(4) For purposes of notification to the department pursuant to this section, the term "adverse incident" means an event over which the physician or licensee could exercise control and which is associated in whole or in part with a medical intervention, rather than the condition for which such intervention occurred, and which results in the following patient injuries:

(a) The death of a patient.

(b) Brain or spinal damage to a patient.

(c) The performance of a surgical procedure on the wrong patient.

(d)1. The performance of a wrong-site surgical procedure;

2. The performance of a wrong surgical procedure; or

3. The surgical repair of damage to a patient resulting from a planned surgical procedure where the damage is not a recognized specific risk as disclosed to the patient and documented through the informed-consent process

if it results in: death; brain or spinal damage; permanent disfigurement not to include the incision scar; fracture or dislocation of bones or joints; a limitation of neurological, physical or sensory function; or any condition that required the transfer of the patient.

(e) A procedure to remove unplanned foreign objects remaining from a surgical procedure.

(f) Any condition that required the transfer of a patient to a hospital licensed under chapter 395 from an ambulatory surgical center licensed under chapter 395 or any facility or any office maintained by a physician for the practice of medicine which is not licensed under chapter 395.

(5) The department shall review each incident and determine whether it potentially involved conduct by a health care professional who is subject to disciplinary action, in which case s. 455.621 applies. Disciplinary action, if any, shall be taken by the board under which the health care professional is licensed.

(6) The board may adopt rules to administer this section.

Section 200. *(1) The Department of Health shall establish maximum allowable levels for contaminants in compressed air used for recreational sport diving in this state. In developing the standards, the department must take into consideration the levels of contaminants allowed by the Grade "E" Recreational Diving Standards of the Compressed Gas Association.*

(2) The standards prescribed under this section do not apply to:

(a) Any person providing compressed air for his or her own use.

(b) Any governmental entity using a governmentally owned compressed air source for work related to the governmental entity.

(c) Foreign registered vessels upon which a compressor is used to provide compressed air for work related to the operation of the vessel.

(3) A person or entity that, for compensation, provides compressed air for recreational sport diving in this state, including compressed air provided as part of a dive package of equipment rental, dive boat rental, or dive boat charter, must ensure that the compressed air is tested quarterly by a laboratory that is accredited by either the American Industrial

Hygiene Association or the American Association for Laboratory Accreditation and that the results of such tests are provided quarterly to the Department of Health. In addition, the person or entity must post the certificate issued by the laboratory accredited by the American Industrial Hygiene Association or the American Association for Laboratory Accreditation in a conspicuous location where it can readily be seen by any person purchasing compressed air.

(4) The Department of Health shall maintain a record of all quarterly test results provided under this section.

(5) It is a misdemeanor of the second degree for any person or entity to provide, for compensation, compressed air for recreational sport diving in this state, including compressed air provided as part of a dive package of equipment rental, dive boat rental, or dive boat charter, without:

(a) Having received a valid certificate issued by a laboratory accredited by the American Industrial Hygiene Association or the American Association for Laboratory Accreditation which certifies that the compressed air meets the standards for contaminant levels established by the Department of Health.

(b) Posting the certificate issued by a laboratory accredited by the American Industrial Hygiene Association or the American Association for Laboratory Accreditation in a conspicuous location where it can readily be seen by persons purchasing compressed air.

(6) The department shall adopt rules necessary to carry out the provisions of this section, which must include:

(a) Maximum allowable levels of contaminants in compressed air used for sport diving.

(b) Procedures for the submission of test results to the department.

(7) This section shall take effect January 1, 2000.

Section 201. *The Minority HIV and AIDS Task Force.—*

(1) There is created within the Department of Health the Minority HIV and AIDS Task Force to develop and provide specific recommendations to the Governor, the Legislature, and the Department of Health on ways to strengthen HIV and AIDS prevention programs and early intervention and treatment efforts in the state's black, Hispanic, and other minority communities, as well as ways to address the many needs of the state's minorities infected with AIDS and their families.

(2) The Secretary of Health shall appoint at least 15 members to the task force. The members must include, but need not be limited to, representatives from:

(a) Persons infected with the human immunodeficiency virus (HIV) or acquired immune deficiency syndrome (AIDS).

(b) Minority community-based support organizations.

(c) Minority treatment providers.

(d) The religious community within groups of persons infected with HIV or AIDS.

(e) The Department of Health.

(3) The task force shall meet as often as necessary to carry out its duties and responsibilities. Within existing resources, the Department of Health shall provide support services to the task force.

(4) The members of the task force shall serve without compensation.

(5) The task force shall prepare and submit a report of its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by February 1, 2001. The report must include:

(a) Specific strategies for reducing the risk of HIV and AIDS in the state's minority communities.

(b) A plan for establishing mentor programs and exchanging information and ideas among minority community-based organizations that provide HIV and AIDS prevention services.

(c) The needs of prevention and treatment programs within communities and the resources that are available within minority communities.

(d) Specific strategies for ensuring that minority persons who are at risk of HIV and AIDS infection seek testing.

(e) Specific strategies for ensuring that persons who test positive for HIV or AIDS are provided with access to treatment and secondary prevention services.

(f) Specific strategies to help reduce or eliminate high-risk behaviors in persons who test negative but continue to practice high-risk behaviors.

(g) A plan to evaluate the implementation of the recommendations of the task force.

(6) The task force is abolished on July 1, 2001.

Section 202. *Statewide HIV and AIDS prevention campaign.—*

(1) The Department of Health shall develop and implement a statewide HIV and AIDS prevention campaign that is directed towards minorities who are at risk of HIV infection. The campaign shall include television, radio, and outdoor advertising; public service announcements; and peer-to-peer outreach. Each campaign message and concept shall be evaluated with members of the target group to ensure its effectiveness. The campaign shall provide information on the risk of HIV and AIDS infection and strategies to follow for prevention, early detection, and treatment. The campaign shall use culturally sensitive literature and educational materials and promote the development of individual skills for behavior modification.

(2) The Department of Health shall establish four positions within the department for HIV and AIDS regional minority coordinators and one position for a statewide HIV and AIDS minority coordinator. The coordinators shall facilitate statewide efforts to implement and coordinate HIV and AIDS prevention and treatment programs. The statewide coordinator shall report directly to the chief of the Bureau of HIV and AIDS within the Department of Health.

(3) The Department of Health shall, with assistance from the Minority HIV and AIDS Task Force and the statewide coordinator, plan and conduct a statewide Black Leadership Conference on HIV and AIDS by January 2000. The conference shall provide workshops for minority organizations in building skills and improving an organization's capacity to conduct HIV and AIDS prevention and treatment programs.

Section 203. *The sum of $250,000 is appropriated from the General Revenue Fund to the Department of Health for the purpose of carrying out the provisions of sections 201 and 202 of this act during the 1999-2000 fiscal year.*

Section 204. Subsection (9) is added to section 20.41, Florida Statutes, to read:

20.41 Department of Elderly Affairs.—There is created a Department of Elderly Affairs.

(9) Area agencies on aging are subject to chapter 119, relating to public records, and, when considering any contracts requiring the expenditure of funds, are subject to ss. 286.011-286.012, relating to public meetings.

Section 205. Effective October 1, 1999, part XV of chapter 468, Florida Statutes, consisting of sections 468.821, 468.822, 468.823, 468.824, 468.825, 468.826, 468.827, and 468.828, Florida Statutes, is created to read:

468.821 Definitions.—As used in this part, the term:

(1) "Approved training program" means:

(a) A course of training conducted by a public sector or private sector educational center licensed by the Department of Education to implement the basic curriculum for nursing assistants which is approved by the Department of Education.

(b) A training program operated under s. 400.141.

(2) "Certified nursing assistant" means a person who meets the qualifications specified in this part and who is certified by the department as a certified nursing assistant.

(3) "Department" means the Department of Health.

(4) "Registry" means the listing of certified nursing assistants maintained by the department.

468.822 Duties and powers of the department.—The department shall maintain, or contract with or approve another entity to maintain, a state registry of certified nursing assistants. The registry must consist of the name of each certified nursing assistant in this state; other identifying information defined by department rule; certification status; the effective date of certification; other information required by state or federal law; information regarding any crime or any abuse, neglect, or exploitation as provided under chapter 435; and any disciplinary action taken against the certified nursing assistant. The registry shall be accessible to the public, the certificateholder, employers, and other state agencies. The department shall adopt by rule testing procedures for use in certifying nursing assistants and shall adopt rules regulating the practice of certified nursing assistants to enforce this part. The department may contract with or approve another entity or organization to provide the examination services, including the development and administration of examinations. The provider shall pay all reasonable costs and expenses incurred by the department in evaluating the provider's application and performance during the delivery of services, including examination services and procedures for maintaining the certified nursing assistant registry.

468.823 Certified nursing assistants; certification requirement.—

(1) The department shall issue a certificate to practice as a certified nursing assistant to any person who demonstrates a minimum competency to read and write and meets one of the following requirements:

(a) Has successfully completed an approved training program and achieved a minimum score, established by rule of the department, on the nursing assistant competency examination, which consists of a written portion and skills-demonstration portion approved by the department and administered at a site and by personnel approved by the department.

(b) Has achieved a minimum score, established by rule of the department, on the nursing assistant competency examination, which consists of a written portion and skills-demonstration portion, approved by the department and administered at a site and by personnel approved by the department and:

1. Has a high school diploma, or its equivalent; or

2. Is at least 18 years of age.

(c) Is currently certified in another state; is listed on that state's certified nursing assistant registry; has not been found to have committed abuse, neglect, or exploitation in that state; and has successfully completed a national nursing assistant evaluation in order to receive certification in that state.

(2) If an applicant fails to pass the nursing assistant competency examination in three attempts, the applicant is not eligible for reexamination unless the applicant completes an approved training program.

(3) An oral examination shall be administered as a substitute for the written portion of the examination upon request. The oral examination shall be administered at a site and by personnel approved by the department.

(4) The department shall adopt rules to provide for the initial certification of certified nursing assistants.

(5) A certified nursing assistant shall maintain a current address with the department in accordance with s. 455.717.

468.824 Denial, suspension, or revocation of certification; disciplinary actions.—

(1) The following acts constitute grounds for which the department may impose disciplinary sanctions as specified in subsection (2):

(a) Obtaining or attempting to obtain an exemption, or possessing or attempting to possess a letter of exemption, by bribery, misrepresentation, deceit, or through an error of the department.

(b) Intentionally violating any provision of this chapter, chapter 455, or the rules adopted by the department.

(2) When the department finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(a) Denial, suspension, or revocation of certification.

(b) Imposition of an administrative fine not to exceed $150 for each count or separate offense.

(c) Imposition of probation or restriction of certification, including conditions such as corrective actions as retraining or compliance with an approved treatment program for impaired practitioners.

(3) The department may, upon the request of a certificateholder, exempt the certificateholder from disqualification of certification or disqualification of employment in accordance with chapter 435 and issue a letter of exemption.

After January 1, 2000, the department must notify an applicant seeking an exemption from disqualification from certification or employment of its decision to approve or deny the request within 30 days after the date the department receives all required documentation.

468.825 Availability of disciplinary records and proceedings.—Pursuant to s. 455.621, any complaint or record maintained by the Department of Health pursuant to the discipline of a certified nursing assistant and any proceeding held by the department to discipline a certified nursing assistant shall remain open and available to the public.

468.826 Exemption from liability.—If an employer terminates or denies employment to a certified nursing assistant whose certification is inactive as shown on the certified nursing assistant registry or whose name appears on the central abuse registry and tracking system of the Department of Children and Family Services or on a criminal screening report of the Department of Law Enforcement, the employer is not civilly liable for such termination and a cause of action may not be brought against the employer for damages, regardless of whether the employee has filed for an exemption from the department under s. 468.824(1). There may not be any monetary liability on the part of, and a cause of action for damages may not arise against, any licensed facility, its governing board or members thereof, medical staff, disciplinary board, agents, investigators, witnesses, employees, or any other person for any action taken in good faith without intentional fraud in carrying out this section.

468.827 Penalties.—It is a misdemeanor of the first degree, punishable as provided under s. 775.082 or s. 775.083, for any person, knowingly or intentionally, to fail to disclose, by false statement, misrepresentation, impersonation, or other fraudulent means, in any application for voluntary or paid employment or licensure regulated under this part, a material fact used in making a determination as to such person's qualifications to be an employee or licensee.

468.828 Background screening information; rulemaking authority.—

(1) The Agency for Health Care Administration shall allow the department to electronically access its background screening database and records and the Department of Children and Families shall allow the department to electronically access its central abuse registry and tracking system under chapter 415.

(2) An employer, or an agent thereof, may not use criminal records, juvenile records, or information obtained from the central abuse hotline under chapter 415 for any purpose other than determining if the person meets the requirements of this part. Such records and information obtained by the department shall remain confidential and exempt from s. 119.07(1).

(3) If the requirements of the Omnibus Budget Reconciliation Act of 1987, as amended, for the certification of nursing assistants are in conflict with this part, the federal requirements shall prevail for those facilities certified to provide care under Title XVIII (Medicare) or Title XIX (Medicaid) of the Social Security Act.

(4) The department shall adopt rules to administer this part.

Section 206. *Certified nursing assistant registry.—*

(1) By October 1, 1999, and by October 1 of every year thereafter, each employer of certified nursing assistants shall submit to the Department of Health a list of the names and social security numbers of each person employed by the employer as a certified nursing assistant in a nursing-related occupation for a minimum of 8 hours for monetary compensation during the preceding 24 months. Employers may submit such information electronically through the department's Internet site.

(2) The department shall update the certified nursing assistant registry upon receipt of the lists of certified nursing assistants, and shall complete the first of such updates by December 31, 1999.

(3) Each certified nursing assistant whose name is not reported to the department under subsection (1) on October 1, 1999, shall be assigned an inactive certification on January 1, 2000. A certified nursing assistant may remove such an inactive certification by submitting documentation to the department that he or she was employed for a minimum of 8 hours for monetary compensation as a certified nursing assistant in a nursing-related occupation during the preceding 24 months.

(4) This section is repealed October 2, 2001.

Section 207. Effective October 1, 1999, section 400.211, Florida Statutes, 1998 Supplement, is amended to read:

400.211 Persons employed as nursing assistants; certification requirement.—

(1) A person must be certified *under part XV of chapter 468* ~~pursuant to this section~~, except a registered nurse or practical nurse licensed in accordance with ~~the provisions of~~ chapter 464 or an applicant for such licensure who is permitted to practice nursing in accordance with rules *adopted* ~~promulgated~~ by the Board of Nursing pursuant to chapter 464, to serve as a nursing assistant in any nursing home. ~~The Department of Health shall issue a certificate to any person who:~~

~~(a) Has successfully completed a nursing assistant program in a state-approved school and has achieved a minimum score of 75 percent on the written portion of the Florida Nursing Assistant Certification Test approved by the Department of Health and administered by state-approved test site personnel;~~

~~(b) Has achieved a minimum score of 75 percent on the written and performance portions of the Florida Nursing Assistant Certification Test approved by the Department of Health and administered by state-approved test site personnel; or~~

~~(c) Is currently certified in another state, is on that state's registry, has no findings of abuse, and has achieved a minimum score of 75 percent on the written portion of the Florida Nursing Assistant Certification Test approved by the Department of Health and administered by state-approved test site personnel.~~

~~An oral examination shall be administered upon request.~~

~~(2) The agency may deny, suspend, or revoke the certification of any person to serve as a nursing assistant, based upon written notification from a court of competent jurisdiction, law enforcement agency, or administrative agency of any finding of guilt of, regardless of adjudication, or a plea of nolo contendere or guilty to, any offense set forth in the level 1 screening standards of chapter 435 or any confirmed report of abuse of a vulnerable adult.~~

(2)~~(3)~~ The following categories of persons who are not certified as nursing assistants under this part may be employed by a nursing facility for a period of 4 months:

(a) Persons who are enrolled in a state-approved nursing assistant program; or

(b) Persons who have been positively verified by a state-approved test site as certified and on the registry in another state with no findings of abuse, but who have not completed the written examination required under this section.

The certification requirement must be met within 4 months of initial employment as a nursing assistant in a licensed nursing facility.

~~(4) A person certified under this section on or after September 30, 1990, who has not worked for pay as a nursing assistant in a nursing-related occupation for a period of time during a consecutive 24-month period must be recertified under this section to be eligible to work in a nursing facility.~~

(3)~~(5)~~ Nursing homes shall require persons seeking employment as a certified nursing assistant to submit an employment history to the facility. The facility shall verify the employment history unless, through diligent efforts, such verification is not possible. There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, a former employer who reasonably and in good faith communicates his or her honest opinion about a former employee's job performance.

~~(6) If the requirements pursuant to the Omnibus Budget Reconciliation Act of 1987, as amended, for the certification of nursing assistants are in conflict with this section, the federal requirements shall prevail for those facilities certified to provide care under Title XVIII (Medicare) or Title XIX (Medicaid) of the Social Security Act.~~

~~(7) The Department of Health may adopt such rules as are necessary to carry out this section.~~

Section 208. Subsection (36) is added to section 409.912, Florida Statutes, 1998 Supplement, to read:

409.912 Cost-effective purchasing of health care.—The agency shall purchase goods and services for Medicaid recipients in the most cost-effective manner consistent with the delivery of quality medical care. The agency shall maximize the use of prepaid per capita and prepaid aggregate fixed-sum basis services when appropriate and other alternative service delivery and reimbursement methodologies, including competitive bidding pursuant to s. 287.057, designed to facilitate the cost-effective purchase of a case-managed continuum of care. The agency shall also require providers to minimize the exposure of recipients to the need for acute inpatient, custodial, and other institutional care and the inappropriate or unnecessary use of high-cost services.

(36) The agency shall enter into agreements with not-for-profit organizations based in this state for the purpose of providing vision screening.

Section 209. Except as otherwise expressly provided in this act, this act shall take effect July 1, 1999.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to health care; providing for the issuance of Medicaid numbers to certain children; amending s. 20.43, F.S.; revising powers and the internal structure of the department; amending s. 110.205, F.S.; exempting certain positions from career service; amending s. 120.80, F.S.; exempting certain hearings within the department from the requirement of being conducted by an administrative law judge from the Division of Administrative Hearings; amending s. 154.504, F.S.; revising standards for eligibility to participate in a primary care for children and families challenge grant; amending s. 287.155, F.S.; authorizing the department to purchase vehicles and automotive equipment for county health departments; amending s. 372.6672, F.S.; deleting an obsolete reference to the Department of Health and Rehabilitative Services; amending s. 381.004, F.S.; prescribing conditions under which an HIV test may be performed without obtaining consent; amending s. 381.0051, F.S.; authorizing the Department of Health to adopt rules to implement the Comprehensive Family Planning Act; amending s. 381.006, F.S.; providing the department with rule authority relating to inspection of certain group care facilities; amending s. 381.0061, F.S.; providing the department with authority to impose certain fines; amending s. 381.0062, F.S.; redefining the term "private water system" and defining the term "multi-family water system"; providing that either type of system may include a rental residence in its service; regulating multi-family systems; amending s. 381.90, F.S.; revising membership of the Health Information Systems Council; prescribing its duties with respect to developing a review process; requiring a report; amending s. 382.003, F.S.; revising powers and duties of the department with respect to vital records; providing for forms and documents to be submitted under oath; amending s. 382.004, F.S.; restating the admissibility of copies of records; amending s. 382.008, F.S.; deleting provisions relating to restriction on disclosure of a decedent's social security number; amending s. 382.013, F.S.; revising provisions relating to who must file

a birth registration; amending s. 382.015, F.S.; revising provisions relating to issuance of new birth certificates upon determination of paternity; amending s. 382.016, F.S.; prescribing procedures for amending records; amending s. 382.019, F.S.; providing for dismissal of an application for delayed registration which is not actively pursued; amending s. 382.025, F.S.; exempting certain birth records from confidentiality requirements; amending s. 382.0255, F.S.; revising provisions relating to disposition of the additional fee imposed on certification of birth records; amending s. 383.14, F.S.; conforming a reference to the name of a program; amending s. 385.202, F.S.; deleting provisions relating to reimbursing hospitals reporting information for the statewide cancer registry; amending s. 385.203, F.S.; establishing requirements and membership for the Diabetes Advisory Council; amending s. 391.028, F.S.; revising provisions relating to administration of the Children's Medical Services program; amending s. 391.0315, F.S.; revising standards for benefits provided under the program for certain children; amending s. 392.69, F.S.; providing for an advisory board for the A. G. Holley State Hospital; amending s. 401.25, F.S.; providing qualifications for licensure as basic or advanced life support service; amending s. 401.27, F.S.; providing standards for certification of emergency medical technicians and paramedics; creating s. 401.2701, F.S.; establishing criteria for emergency medical services training programs; creating s. 401.2715, F.S.; providing for recertification training of emergency medical technicians and paramedics; providing for fees; amending s. 401.30, F.S.; providing for use and maintenance of records; amending s. 401.35, F.S.; providing rulemaking authority; amending s. 409.9126, F.S.; revising requirements for capitation payments to Children's Medical Services programs; amending s. 465.019, F.S.; revising definitions; amending s. 499.005, F.S.; revising the elements of certain offenses relating to purchase or receipt of legend drugs, recordkeeping with respect to drugs, cosmetics, and household products, and permit and registration requirements; amending s. 499.007, F.S.; revising conditions under which a drug is considered misbranded; amending s. 499.028, F.S.; providing an exemption from the prohibition against possession of a drug sample; amending s. 499.069, F.S.; providing penalties for certain violations of s. 499.005, F.S.; amending s. 742.10, F.S.; revising procedures relating to establishing paternity for children born out of wedlock; amending ss. 39.303, 385.203, 391.021, 391.221, 391.222, 391.223, F.S., to conform to the renaming of the Division of Children's Medical Services; repealing s. 381.731(3), F.S., relating to the date for submission of a report; repealing s. 383.307(5), F.S., relating to licensure of birth center staff and consultants; repealing s. 404.20(7), F.S., relating to transportation of radioactive materials; repealing s. 409.9125, F.S., relating to the study of Medicaid alternative networks; naming a certain building in Jacksonville the "Wilson T. Sowder, M.D., Building"; naming a certain building in Tampa the "William G. 'Doc' Myers, M.D., Building"; naming the department headquarters building the "Charlton E. Prather, M.D., Building"; authorizing the Department of Health to become an accrediting authority for environmental laboratory standards; providing intent and rulemaking authority for the Department of Health to implement standards of the National Environmental Laboratory Accreditation Program Accreditation Program; amending s. 381.0022, F.S.; authorizing the Department of Health to share certain information on Medicaid recipients regarding payment for services; amending s. 383.011, F.S.; amending requirements for rules relating to the Child Care Food Program; amending s. 468.304, F.S.; revising the application fees to be paid for radiologic technology certification examination; amending s. 468.306, F.S.; revising certain fees for radiologic technology certification examination; amending s. 468.309, F.S.; amending the timing of biennial certification renewal for radiologic technologists; amending ss. 455.57 and 455.565, F.S.; ensuring that an intern in a hospital is not subject to the credentialing or profiling laws; providing for clinical trials to be conducted on the use of the drug Secretin by a nonprofit provider; requiring a report; providing an appropriation; amending s. 232.435, F.S.; correcting a reference; amending s. 381.026, F.S.; providing a definition; amending s. 381.0261, F.S.; providing that the Department of Health or a regulatory board, rather than the Agency for Health Care Administration, may impose an administrative fine against any health care provider who fails to make available to patients a summary of their rights as required by law; amending s. 409.906, F.S.; authorizing the Agency for Health Care Administration to develop a certified-match program for Healthy Start services under certain circumstances; amending s. 409.910, F.S.; providing for use of Medicare standard billing formats for certain data-exchange purposes; creating s. 409.9101, F.S.; providing a short title; providing legislative intent relating to Medicaid estate recovery; requiring certain notice of administration of the estate of a deceased Medicaid recipient; providing that receipt of Medicaid benefits creates a claim and interest by the agency against an estate; specifying the right of the agency to amend the amount of its claim based on medical claims submitted by providers subsequent to the agency's initial claim calculation; providing the basis of calculation of the amount of the agency's claim; specifying a claim's class standing; providing circumstances for nonenforcement of claims; providing criteria for use in considering hardship requests; providing for recovery when estate assets result from a claim against a third party; providing for estate recovery in instances involving real property; providing agency rulemaking authority; amending s. 409.912, F.S.; eliminating a requirement that a Medicaid provider service network demonstration project be located in Orange County; amending s. 409.913, F.S.; revising provisions relating to the agency's authority to withhold Medicaid payments pending completion of certain legal proceedings; providing for disbursement of withheld Medicaid provider payments; creating s. 409.9131, F.S.; providing legislative findings and intent relating to integrity of the Medicaid program; providing definitions; authorizing onsite reviews of physician records by the agency; requiring notice for such reviews; requiring notice of due process rights in certain circumstances; specifying procedures for determinations of overpayment; requiring a study of certain statistical models used by the agency; requiring a report; amending s. 455.501, F.S.; redefining the terms "health care practitioner" and "licensee"; amending s. 455.507, F.S.; revising provisions relating to good standing of members of the Armed Forces with administrative boards to provide applicability to the department when there is no board; providing gender neutral language; amending s. 455.521, F.S.; providing powers and duties of the department for the professions, rather than boards, under its jurisdiction; amending s. 455.557, F.S.; revising the credentials collection program for health care practitioners; revising and providing definitions; providing requirements for health care practitioners and the Department of Health under the program; renaming the advisory council and abolishing it at a future date; prohibiting duplication of data available from the department; authorizing collection of certain other information; revising requirements for registration of credentials verification organizations; providing for biennial renewal of registration; providing grounds for suspension or revocation of registration; revising liability insurance requirements; revising rulemaking authority; specifying authority of the department after the council is abolished; amending s. 455.564, F.S.; prescribing the expiration date of an incomplete license application; revising the form and style of licenses; providing authority to the department when there is no board to adopt rules; revising and providing requirements relating to obtaining continuing education credit in risk management; correcting a reference; amending s. 455.5651, F.S.; prohibiting inclusion of certain information in practitioner profiles; amending s. 455.567, F.S.; defining sexual misconduct and prohibiting it in the practice of a health care profession; providing penalties; amending s. 455.574, F.S.; revising provisions relating to review of an examination after failure to pass it; amending s. 455.587, F.S.; providing authority to the department when there is no board to determine by rule the amount of license fees for the profession regulated; providing for a fee for issuance of a wall certificate to certain licensees or for a duplicate wall certificate; amending s. 455.601, F.S.; providing, for purposes of workers' compensation, a rebuttable presumption relating to blood-borne infections; amending s. 455.604, F.S.; requiring instruction on human immunodeficiency virus and acquired immune deficiency syndrome as a condition of licensure and relicensure to practice dietetics and nutrition or nutrition counseling; amending s. 455.607, F.S.; correcting a reference; amending s. 455.624, F.S.; revising and providing grounds for discipline; providing penalties; providing for assessment of certain costs; amending s. 455.664, F.S.; requiring additional health care practitioners to include a certain statement in advertisements for free or discounted services; correcting terminology; amending s. 455.667, F.S.; authorizing the department to obtain patient records, billing records, insurance information, provider contracts, and all attachments thereto under certain circumstances for purposes of disciplinary proceedings; providing for charges for making reports or records available for digital scanning; amending s. 455.687, F.S.; providing for the suspension or restriction of the license of any health care practitioner who tests positive for drugs under certain circumstances; amending s. 455.694, F.S.; providing financial responsibility requirements for midwives; creating s. 455.712, F.S.; providing requirements for active status licensure of certain business establishments; amending s. 457.102, F.S.; defining the term "prescriptive rights" with respect to acupuncture; amending s. 458.307, F.S.; correcting terminology and a reference; removing an obsolete date; amending s. 458.309, F.S.; providing for registration and inspection of certain offices performing levels 2 and 3 surgery; amending s. 458.311, F.S.; revising provisions relating to licensure as a physician by examination; eliminating an obsolete provision relating to licensure of medical students from Nicaragua and another provision relating to taking the

examination without applying for a license; amending s. 458.3115, F.S.; updating terminology; amending s. 458.313, F.S.; revising provisions relating to licensure by endorsement; repealing provisions relating to reactivation of certain licenses issued by endorsement; amending s. 458.315, F.S.; providing additional requirements for recipients of a temporary certificate for practice in areas of critical need; amending s. 458.3165, F.S.; prescribing authorized employment for holders of public psychiatry certificates; correcting a reference; amending s. 458.317, F.S.; providing for conversion of an active license to a limited license for a specified purpose; amending s. 458.319, F.S.; revising requirements for submitting fingerprints to the department for renewal of licensure as a physician; amending s. 458.331, F.S.; providing grounds for discipline; providing penalties; amending s. 458.347, F.S.; revising provisions relating to temporary licensure as a physician assistant; amending s. 459.005, F.S.; providing for registration and inspection of certain offices performing levels 2 and 3 surgery; amending s. 459.0075, F.S.; providing for conversion of an active license to a limited license for a specified purpose; amending s. 459.008, F.S.; revising requirements for submitting fingerprints to the department for renewal of licensure as an osteopathic physician; amending s. 459.015, F.S.; revising and providing grounds for discipline; providing penalties; amending s. 460.402, F.S.; providing an exemption from regulation under ch. 460, F.S., relating to chiropractic, for certain students; amending s. 460.403, F.S.; defining the term "community-based internship" for purposes of ch. 460, F.S.; redefining the terms "direct supervision" and "registered chiropractic assistant"; amending s. 460.406, F.S.; revising requirements for licensure as a chiropractic physician by examination to remove a provision relating to a training program; amending s. 460.407, F.S.; revising requirements for submitting fingerprints to the department for renewal of licensure as a chiropractic physician; amending s. 460.413, F.S.; increasing the administrative fine; conforming cross-references; amending s. 460.4165, F.S.; revising requirements for certification of chiropractic physician's assistants; providing for supervision of registered chiropractic physician's assistants; providing for biennial renewal; providing fees; providing applicability to current certificateholders; amending s. 460.4166, F.S.; authorizing registered chiropractic assistants to be under the direct supervision of a certified chiropractic physician's assistant; amending s. 461.003, F.S.; defining the term "certified podiatric X-ray assistant" and the term "direct supervision" with respect thereto; redefining the term "practice of podiatric medicine"; amending s. 461.006, F.S.; revising the residency requirement to practice podiatric medicine; amending s. 461.007, F.S.; revising requirements for renewal of license to practice podiatric medicine; revising requirements for submitting fingerprints to the department for renewal of licensure; amending s. 461.013, F.S.; revising and providing grounds for discipline; providing penalties; creating s. 461.0135, F.S.; providing requirements for operation of X-ray machines by certified podiatric X-ray assistants; amending s. 464.008, F.S.; providing for remediation upon failure to pass the examination to practice nursing a specified number of times; amending s. 464.022, F.S.; providing an exemption from regulation relating to remedial courses; amending s. 465.003, F.S.; defining the term "data communication device"; revising the definition of the term "practice of the profession of pharmacy"; amending s. 465.016, F.S.; authorizing the redispensing of unused or returned unit-dose medication by correctional facilities under certain conditions; providing a ground for which a pharmacist may be subject to discipline by the Board of Pharmacy; increasing the administrative fine; amending ss. 465.014, 465.015, 465.0196, 468.812, 499.003, F.S.; correcting cross-references, to conform; creating the Task Force for the Study of Collaborative Drug Therapy Management; providing for staff support from the department; providing for participation by specified associations and entities; providing responsibilities; requiring a report to the Legislature; amending s. 466.021, F.S.; revising requirements relating to dental work orders required of unlicensed persons; amending s. 468.1155, F.S.; revising requirements for provisional licensure to practice speech-language pathology or audiology; amending s. 468.1215, F.S.; revising requirements for certification as a speech-language pathologist or audiologist assistant; amending s. 468.307, F.S.; authorizing the issuance of subcategory certificates in the field of radiologic technology; amending s. 468.506, F.S.; correcting references; amending s. 468.701, F.S.; revising and removing definitions; amending s. 468.703, F.S.; replacing the Council of Athletic Training with a Board of Athletic Training; providing for appointment of board members and their successors; providing for staggering of terms; providing for applicability of other provisions of law relating to activities of regulatory boards; providing for the board's headquarters; amending ss. 468.705, 468.707, 468.709, 468.711, 468.719, 468.721, F.S., relating to rulemaking authority, licensure by examination, fees, continuing education, disciplinary actions, and certain regulatory transition; transferring to the board certain duties of the department relating to regulation of athletic trainers; amending s. 20.43, F.S.; placing the board under the Division of Medical Quality Assurance of the department; providing for termination of the council and the terms of council members; authorizing consideration of former council members for appointment to the board; amending s. 468.805, F.S.; revising grandfathering provisions for the practice of orthotics, prosthetics, or pedorthics; amending s. 468.806, F.S.; providing for approval of continuing education providers; amending s. 478.42, F.S.; redefining the term "electrolysis or electrology"; amending s. 483.041, F.S., redefining the terms "clinical laboratory" and "licensed practitioner" and defining the term "clinical laboratory examination"; amending s. 483.803, F.S.; redefining the terms "clinical laboratory examination" and "licensed practitioner of the healing arts"; revising a reference; amending s. 483.807, F.S.; revising provisions relating to fees for approval as a laboratory training program; amending s. 483.809, F.S.; revising requirements relating to examination of clinical laboratory personnel for licensure and to registration of clinical laboratory trainees; amending s. 483.812, F.S.; revising qualification requirements for licensure of public health laboratory scientists; amending s. 483.813, F.S.; eliminating a provision authorizing conditional licensure of clinical laboratory personnel for a specified period; amending s. 483.821, F.S.; authorizing continuing education or retraining for candidates who fail an examination a specified number of times; amending s. 483.824, F.S.; revising qualifications of clinical laboratory directors; amending s. 483.825, F.S.; revising and providing grounds for discipline; providing penalties; amending s. 483.901, F.S.; correcting a reference; eliminating a provision authorizing temporary licensure as a medical physicist; correcting the name of a trust fund; amending s. 484.007, F.S.; revising requirements for opticians who supervise apprentices; amending s. 484.0512, F.S.; requiring sellers of hearing aids to refund within a specified period all moneys required to be refunded under trial-period provisions; amending s. 484.053, F.S.; increasing the penalty applicable to prohibited acts relating to the dispensing of hearing aids; amending s. 484.056, F.S.; providing that violation of trial-period requirements is a ground for disciplinary action; providing penalties; amending ss. 486.041, 486.081, 486.103, and 486.107, F.S.; eliminating provisions authorizing issuance of a temporary permit to work as a physical therapist or physical therapist assistant; amending s. 490.005, F.S.; revising educational requirements for licensure as a psychologist by examination; changing a date, to defer certain educational requirements; amending s. 490.006, F.S.; providing additional requirements for licensure as a psychologist by endorsement; amending s. 490.0085, F.S.; correcting the name of a trust fund; amending s. 491.0045, F.S.; revising requirements for registration as a clinical social worker intern, marriage and family therapist intern, or mental health counselor intern; amending s. 491.0046, F.S.; revising requirements for provisional licensure of clinical social workers, marriage and family therapists, and mental health counselors; amending s. 491.005, F.S.; revising requirements for licensure of clinical social workers, marriage and family therapists, and mental health counselors; providing for certification of education of interns; providing rulemaking authority to implement education and experience requirements for licensure as a clinical social worker, marriage and family therapist, or mental health counselor; revising future licensure requirements for mental health counselors and providing rulemaking authority for implementation thereof; amending s. 491.006, F.S.; revising requirements for licensure or certification by endorsement; amending s. 491.0085, F.S.; requiring laws and rules courses and providing for approval thereof, including providers and programs; correcting the name of a trust fund; amending s. 491.014, F.S.; revising an exemption from regulation relating to certain temporally limited services; amending s. 499.012, F.S.; redefining the term "wholesale distribution," relating to the distribution of prescription drugs, to provide for the exclusion of certain activities; amending ss. 626.883, 641.316, F.S.; requiring payments to a health care provider by a fiscal intermediary to include an explanation of services provided; creating a Task Force on Telehealth; providing its duties; requiring a report; amending s. 468.352, F.S.; redefining the term "board"; amending s. 468.353, F.S.; conforming provision; providing for the adoption of rules; amending s. 468.354, F.S.; creating the Board of Respiratory Care; providing for membership, powers, and duties; amending s. 468.355, F.S.; providing for periodic rather than annual review of certain examinations and standards; amending s. 458.357, F.S.; conforming provisions; deleting obsolete provisions; amending s. 468.364, F.S.; deleting an examination fee; amending s. 468.365, F.S.; conforming provisions; amending s. 464.016, F.S., providing that the use of the title "nurse" without being licensed or certified is a crime; amending s. 458.3115, F.S.; revising requirements with respect to eligibility of certain foreign-licensed physicians to take and pass standardized examinations; amending s. 458.3124, F.S.; changing the date

by which application for a restricted license must be submitted; amending s. 301, ch. 98-166, Laws of Florida; prescribing fees for foreign-licensed physicians taking a certain examination; providing for a detailed study and analysis of clinical laboratory services for kidney dialysis patients; amending s. 455.651, F.S.; providing for treble damages, reasonable attorney fees, and costs for improper disclosure of confidential information; amending ss. 641.261 and 641.411, F.S.; conforming references and cross-references; amending s. 733.212, F.S.; establishing the agency as a reasonably ascertainable creditor with respect to administration of certain estates; requiring that a task force be appointed to review sources of revenue for the trust fund; providing for appointments of its members and specifying topics to be studied; providing for its staffing; providing for meetings; requiring a report and recommendations; creating s. 395.40, F.S.; declaring legislative findings and intent with respect to creation of a statewide inclusive trauma system, as defined; amending s. 395.401, F.S.; deleting the definitions of the terms "local trauma agency" and "regional trauma agency"; defining the terms "trauma agency" and "trauma alert victim"; prescribing duties of the Department of Health with respect to implementation of inclusive trauma systems and trauma agency plans; amending s. 395.402, F.S.; removing legislative findings; prescribing duties of the department with respect to assignment of counties to trauma service areas; amending s. 395.4045, F.S.; prescribing transport requirements for emergency medical services providers; creating ss. 458.351 and 459.026, F.S.; requiring reports to the Department of Health of adverse incidents in specified settings; providing for review of such incidents and initiation of disciplinary proceedings, where appropriate; authorizing department access to certain records and preserving exemption from public access thereto; providing rulemaking authority; requiring the Department of Health to establish standards for compressed air used in recreational sport diving; providing that certain persons and entities are exempt from compliance with such standards; providing for testing compressed air; requiring that test results be provided to the department; requiring that persons or entities selling compressed air post a certificate of testing in a conspicuous location; providing a penalty; authorizing rules; creating the Minority HIV and AIDS Task Force within the Department of Health; requiring the task force to develop recommendations on ways to strengthen HIV and AIDS prevention and treatment programs in minority communities; requiring the Secretary of Health to appoint the members of the task force; requiring that the task force include representatives of certain groups and organizations; providing for the members to serve without compensation; requiring a report to the Legislature; providing for the task force to be abolished on a specified date; requiring that the Department of Health develop and implement a statewide HIV and AIDS prevention campaign that is directed to minorities; providing requirements for the campaign; requiring the department to establish positions within the department for regional and statewide coordinators; requiring that the department conduct a Black Leadership Conference on HIV and AIDS by a specified date; providing an appropriation; amending s. 20.41, F.S.; providing that area agencies on aging are subject to ch. 119 and ss. 286.011-286.012, F.S., as specified; creating part XV of chapter 468, F.S.; providing definitions; requiring that the Department of Health maintain a state registry of certified nursing assistants; authorizing the department to contract for examination services; providing requirements for obtaining certification as a certified nursing assistant; requiring that the department adopt rules governing initial certification; specifying grounds for which the department may deny, suspend, or revoke a person's certification; authorizing the department to exempt an applicant or certificateholder from disqualification of certification; providing requirements for records and meetings held for disciplinary actions; exempting an employer from liability for terminating a certified nursing assistant under certain circumstances; providing penalties; providing for background screening; providing rulemaking authority; requiring persons who employ certified nursing assistants to make certain reports to the Department of Health; requiring that the department update the certified nursing assistant registry; providing for future repeal of such provisions; amending s. 400.211, F.S.; deleting obsolete provisions with respect to the regulation of certified nursing assistants; amending s. 409.912, F.S.; requiring the Agency for Health Care Administration to enter into agreements with certain organizations for purposes of providing vision screening; providing effective dates.

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

Amendment 1A (300042)—On page 61, line 30 through page 62, line 11, delete those lines

Amendment 1 as amended was adopted.

Pursuant to Rule 4.19, **HB 2125** as amended was placed on the calendar of Bills on Third Reading.

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

CS for SB 334—A bill to be entitled An act relating to child passenger restraint; amending s. 316.613, F.S.; amending an obsolete reference to the Department of Health and Rehabilitative Services; amending s. 316.614, F.S.; providing for primary enforcement of violations of child-restraint requirements; amending s. 318.18, F.S.; providing a fine for such violations; amending s. 318.21, F.S.; requiring the proceeds of the fine to be deposited into the Brain and Spinal Cord Injury Rehabilitation Trust Fund and used as specified; providing an effective date.

—which was previously considered April 27. Pending **Amendment 2** by Senator Sebesta was adopted.

Senator Cowin moved the following amendment:

Amendment 3 (892288)(with title amendment)—On page 6, between lines 19 and 20, insert:

Section 5. *(1)(a) Each school bus that is purchased after December 31, 2000, and used to transport students in grades pre-K through 12 must be equipped with safety belts or with any other restraint system approved by the Federal Government in a number sufficient to allow each student who is being transported to use a separate safety belt or restraint system. These safety belts must meet the standards required under s. 316.614, Florida Statutes. A school bus that was purchased prior to December 31, 2000, is not required to be equipped with safety belts.*

(b) As used in this section, "school bus" means a school bus that is owned, leased, operated, or contracted by a school district.

(2) Each passenger on a school bus that is equipped with safety belts or restraint system shall wear a properly adjusted and fastened safety belt at all times while the bus is in operation. The state, the county, a school district, a school employee, a bus driver, a teacher, or a volunteer is not liable for personal injury to a passenger on such a school bus which is caused by the passenger's failure to wear a safety belt.

(3) The state, the county, a school district, school bus operator under contract with a school district, or an agent or employee of a school district or operator, including a teacher or volunteer serving as a chaperone, is not liable in an action for personal injury by a school bus passenger solely because the injured party was not wearing a safety belt.

(4) The state, the county, a school district, school bus operator under contract with a school district, or an agent or employee of a school district or operator, including a teacher or volunteer serving as a chaperone, is not liable in an action for personal injury by a school bus passenger for an injury caused by another passenger's use or non-use of a safety belt or restraint system in a dangerous or unsafe manner.

(5) In implementing the provisions of this section, each school district must prioritize the allocation of buses equipped with safety belts or restraint system to ensure that elementary schools within the district receive first priority. A school district may enter into agreements to provide transportation pursuant to this section only if the point of origin or termination of the trip is within the district's boundaries.

(6) The provisions of this section shall not apply to vehicles as defined in s. 234.051(1)(b), Florida Statutes.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 13, after the semicolon (;) insert: requiring that buses purchased after a specified date and used in transporting certain students be equipped with safety belts or other restraint system that comply with specified standards; providing an exemption for certain school buses; providing a definition for "school bus" used in the section; requiring passengers to wear safety belts or restraint system; providing immunity of a school district, bus operator, and others for injuries to a passenger caused solely because the passenger was not wearing a safety belt or restraint system; providing immunity to such persons for injury

caused by a passenger's dangerous or unsafe use of a safety belt or restraint system; providing certain provisions for implementation; providing an exception to the operation of the act;

Senator Campbell moved the following amendment to **Amendment 3** which was adopted:

Amendment 3A (260956)—On page 2, delete lines 1-31 and insert: *adjusted and fastened safety belt at all times while the bus is in operation. The state, the county, a school district, school bus operator under contract with a school district, or an agent or employee of a school district or operator, including a teacher or volunteer serving as a chaperone, is not liable in an action for personal injury by a school bus passenger solely because the injured party was not wearing a safety belt.*

(3) The state, the county, a school district, school bus operator under contract with a school district, or an agent or employee of a school district or operator, including a teacher or volunteer serving as a chaperone, is not liable in an action for personal injury by a school bus passenger for an injury caused solely by another passenger's use or non-use of a safety belt or restraint system in a dangerous or unsafe manner.

(4) In implementing the provisions of this section, each school district must prioritize the allocation of buses equipped with safety belts or restraint system to ensure that elementary schools within the district receive first priority. A school district may enter into agreements to provide transportation pursuant to this section only if the point of origin or termination of the trip is within the district's boundaries.

(5) The provisions of this section shall not apply to vehicles as defined in s. 234.051(1)(b), Florida Statutes.

Amendment 3 as amended was adopted.

Pending further consideration of **CS for SB 334** as amended, on motion by Senator Sebesta, by two-thirds vote **CS for HB 1837** was withdrawn from the Committee on Judiciary.

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

CS for HB 1837—A bill to be entitled An act relating to child passenger restraint; amending s. 316.613, F.S.; removing an obsolete reference; amending s. 316.614, F.S.; providing for primary enforcement of violations of child restraint requirements; amending s. 318.18, F.S.; providing a fine for violations of child restraint requirements; amending s. 318.21, F.S.; providing for deposit and use of proceeds from fines for violation of child restraint requirements; providing an effective date.

—a companion measure, was substituted for **CS for SB 334** as amended and by two-thirds vote read the second time by title.

Senators Hargrett and Scott offered the following amendment which was moved by Senator Hargrett and adopted:

Amendment 1 (542578)(with title amendment)—On page 5, line 29 through page 6, line 17, delete those lines and renumber subsequent section.

And the title is amended as follows:

On page 1, delete lines 6-11 and insert: restraint requirements; providing an effective date.

Senator Cowin moved the following amendment:

Amendment 2 (391642)(with title amendment)—On page 6, between lines 17 and 18, insert:

Section 5. *(1)(a) Each school bus that is purchased after December 31, 2000, and used to transport students in grades pre-K through 12 must be equipped with safety belts or with any other restraint system approved by the Federal Government in a number sufficient to allow each student who is being transported to use a separate safety belt or restraint system. These safety belts must meet the standards required under s. 316.614, Florida Statutes. A school bus that was purchased prior to December 31, 2000, is not required to be equipped with safety belts.*

(b) As used in this section, "school bus" means a school bus that is owned, leased, operated, or contracted by a school district.

(2) Each passenger on a school bus that is equipped with safety belts or restraint system shall wear a properly adjusted and fastened safety belt at all times while the bus is in operation. The state, the county, a school district, a school employee, a bus driver, a teacher, or a volunteer is not liable for personal injury to a passenger on such a school bus which is caused by the passenger's failure to wear a safety belt.

(3) The state, the county, a school district, school bus operator under contract with a school district, or an agent or employee of a school district or operator, including a teacher or volunteer serving as a chaperone, is not liable in an action for personal injury by a school bus passenger solely because the injured party was not wearing a safety belt.

(4) The state, the county, a school district, school bus operator under contract with a school district, or an agent or employee of a school district or operator, including a teacher or volunteer serving as a chaperone, is not liable in an action for personal injury by a school bus passenger for an injury caused by another passenger's use or non-use of a safety belt or restraint system in a dangerous or unsafe manner.

(5) In implementing the provisions of this section, each school district must prioritize the allocation of buses equipped with safety belts or restraint system to ensure that elementary schools within the district receive first priority. A school district may enter into agreements to provide transportation pursuant to this section only if the point of origin or termination of the trip is within the district's boundaries.

(6) The provisions of this section shall not apply to vehicles as defined in s. 234.051(1)(b), Florida Statutes.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 11, after the semicolon (;) insert: requiring that buses purchased after a specified date and used in transporting certain students be equipped with safety belts or other restraint system that comply with specified standards; providing an exemption for certain school buses; providing a definition for "school bus" used in the section; requiring passengers to wear safety belts or restraint system; providing immunity of a school district, bus operator, and others for injuries to a passenger caused solely because the passenger was not wearing a safety belt or restraint system; providing immunity to such persons for injury caused by a passenger's dangerous or unsafe use of a safety belt or restraint system; providing certain provisions for implementation; providing an exception to the operation of the act;

Senators Campbell and Cowin offered the following amendment to **Amendment 2** which was moved by Senator Cowin and adopted:

Amendment 2A (884108)—On page 2, delete lines 1-31 and insert: *adjusted and fastened safety belt at all times while the bus is in operation. The state, the county, a school district, school bus operator under contract with a school district, or an agent or employee of a school district or operator, including a teacher or volunteer serving as a chaperone, is not liable in an action for personal injury by a school bus passenger solely because the injured party was not wearing a safety belt.*

(3) The state, the county, a school district, school bus operator under contract with a school district, or an agent or employee of a school district or operator, including a teacher or volunteer serving as a chaperone, is not liable in an action for personal injury by a school bus passenger for an injury caused solely by another passenger's use or non-use of a safety belt or restraint system in a dangerous or unsafe manner.

(4) In implementing the provisions of this section, each school district must prioritize the allocation of buses equipped with safety belts or restraint system to ensure that elementary schools within the district receive first priority. A school district may enter into agreements to provide transportation pursuant to this section only if the point of origin or termination of the trip is within the district's boundaries.

(5) The provisions of this section shall not apply to vehicles as defined in s. 234.051(1)(b), Florida Statutes.

Amendment 2 as amended was adopted.

Pursuant to Rule 4.19, **CS for HB 1837** as amended was placed on the calendar of Bills on Third Reading.

On motion by Senator Latvala—

CS for SB 2438—A bill to be entitled An act relating to health care; amending s. 455.654, F.S.; providing definitions; providing requirements for accepting outside referrals for diagnostic imaging; providing for disciplinary procedures against a group practice or sole provider that accepts an outside referral for diagnostic imaging services in violation of such requirements; providing a fine; requiring the Agency for Health Care Administration to study issues relating to quality care in providing diagnostic imaging services; authorizing the agency to convene a technical assistance panel; requiring a report to the Governor and Legislature; providing for registration of all group practices; prescribing registration information; authorizing group practices and sole practitioners to accept a prescribed percentage of their patients from outside referrals for a specified time; requiring the Agency for Health Care Administration in conjunction with the Medicaid Fraud Unit of the Office of the Attorney General to study certain specified business activities and arrangements of providers of clinical laboratory services for kidney dialysis; requiring a report; amending s. 4, ch. 98-192, Laws of Florida; eliminating requirement that the agency receive written confirmation from the federal Health Care Financing Administration that amendments to ss. 395.701 and 395.7015, F.S., will not adversely affect assessments or state match for the state's Medicaid program; providing an effective date.

—was read the second time by title.

An amendment was considered and adopted to conform **CS for SB 2438** to **HB 2231**.

Pending further consideration of **CS for SB 2438** as amended, on motion by Senator Latvala, by two-thirds vote **HB 2231** was withdrawn from the Committee on Health, Aging and Long-Term Care.

On motion by Senator Latvala—

HB 2231—A bill to be entitled An act relating to health care; amending s. 455.654, F.S.; providing definitions; providing requirements for accepting outside referrals for diagnostic imaging; providing for disciplinary procedures against a group practice or sole provider that accepts an outside referral for diagnostic imaging services in violation of such requirements; providing a fine; requiring the Agency for Health Care Administration to study issues relating to quality care in providing diagnostic imaging services; authorizing the agency to convene a technical assistance panel; requiring a report to the Governor and Legislature; providing for registration of all group practices; prescribing registration information; amending s. 4, ch. 98-192, Laws of Florida; eliminating requirement that the agency receive written confirmation from the federal Health Care Financing Administration that the amendment to s. 395.701, F.S., will not adversely affect assessments or state match for the state's Medicaid program; providing an effective date.

—a companion measure, was substituted for **CS for SB 2438** as amended and read the second time by title.

Senator Latvala moved the following amendment:

Amendment 1 (135304)(with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Section 455.654, Florida Statutes, 1998 Supplement, is amended to read:

455.654 Financial arrangements between referring health care providers and providers of health care services.—

(1) SHORT TITLE.—This section may be cited as the "Patient Self-Referral Act of 1992."

(2) LEGISLATIVE INTENT.—It is recognized by the Legislature that the referral of a patient by a health care provider to a provider of health care services in which the referring health care provider has an investment interest represents a potential conflict of interest. The Legislature finds these referral practices may limit or eliminate competitive alternatives in the health care services market, may result in overutilization of health care services, may increase costs to the health care system, and may adversely affect the quality of health care. The Legislature also recognizes, however, that it may be appropriate for providers to own entities providing health care services, and to refer patients to such entities, as long as certain safeguards are present in the arrangement. It is the intent of the Legislature to provide guidance to health care providers regarding prohibited patient referrals between health care providers and entities providing health care services and to protect the people of Florida from unnecessary and costly health care expenditures.

(3) DEFINITIONS.—For the purpose of this section, the word, phrase, or term:

(a) "Board" means any of the following boards relating to the respective professions: the Board of Medicine as created in s. 458.307; the Board of Osteopathic Medicine as created in s. 459.004; the Board of Chiropractic Medicine as created in s. 460.404; the Board of Podiatric Medicine as created in s. 461.004; the Board of Optometry as created in s. 463.003; the Board of Pharmacy as created in s. 465.004; and the Board of Dentistry as created in s. 466.004.

(b) "Comprehensive rehabilitation services" means services that are provided by health care professionals licensed under part I or part III of chapter 468 or chapter 486 to provide speech, occupational, or physical therapy services on an outpatient or ambulatory basis.

(c) "Designated health services" means, for purposes of this section, clinical laboratory services, physical therapy services, comprehensive rehabilitative services, diagnostic-imaging services, and radiation therapy services.

(d) "Diagnostic imaging services" means magnetic resonance imaging, nuclear medicine, angiography, arteriography, computed tomography, positron emission tomography, digital vascular imaging, bronchography, lymphangiography, splenography, ultrasound, EEG, EKG, nerve conduction studies, and evoked potentials.

(e) "Direct supervision" means supervision by a physician who is present in the office suite and immediately available to provide assistance and direction throughout the time services are being performed.

(f)~~(d)~~ "Entity" means any individual, partnership, firm, corporation, or other business entity.

(g)~~(e)~~ "Fair market value" means value in arms length transactions, consistent with the general market value, and, with respect to rentals or leases, the value of rental property for general commercial purposes, not taking into account its intended use, and, in the case of a lease of space, not adjusted to reflect the additional value the prospective lessee or lessor would attribute to the proximity or convenience to the lessor where the lessor is a potential source of patient referrals to the lessee.

(h)~~(f)~~ "Group practice" means a group of two or more health care providers legally organized as a partnership, professional corporation, or similar association:

1. In which each health care provider who is a member of the group provides substantially the full range of services which the health care provider routinely provides, including medical care, consultation, diagnosis, or treatment, through the joint use of shared office space, facilities, equipment, and personnel;

2. For which substantially all of the services of the health care providers who are members of the group are provided through the group and are billed in the name of the group and amounts so received are treated as receipts of the group; and

3. In which the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined by members of the group.

(i)~~(g)~~ "Health care provider" means any physician licensed under chapter 458, chapter 459, chapter 460, or chapter 461, or any health care provider licensed under chapter 463 or chapter 466.

(j)~~(h)~~ "Immediate family member" means a health care provider's spouse, child, child's spouse, grandchild, grandchild's spouse, parent, parent-in-law, or sibling.

(k)~~(i)~~ "Investment interest" means an equity or debt security issued by an entity, including, without limitation, shares of stock in a corporation, units or other interests in a partnership, bonds, debentures, notes, or other equity interests or debt instruments. The following investment interests shall be excepted from this definition:

1. An investment interest in an entity that is the sole provider of designated health services in a rural area;

2. An investment interest in notes, bonds, debentures, or other debt instruments issued by an entity which provides designated health services, as an integral part of a plan by such entity to acquire such investor's equity investment interest in the entity, provided that the interest rate is consistent with fair market value, and that the maturity date of the notes, bonds, debentures, or other debt instruments issued by the entity to the investor is not later than October 1, 1996.

3. An investment interest in real property resulting in a landlord-tenant relationship between the health care provider and the entity in which the equity interest is held, unless the rent is determined, in whole or in part, by the business volume or profitability of the tenant or exceeds fair market value; or

4. An investment interest in an entity which owns or leases and operates a hospital licensed under chapter 395 or a nursing home facility licensed under chapter 400.

(l)~~(j)~~ "Investor" means a person or entity owning a legal or beneficial ownership or investment interest, directly or indirectly, including, without limitation, through an immediate family member, trust, or another entity related to the investor within the meaning of 42 C.F.R... s. 413.17, in an entity.

(m) "Outside referral for diagnostic imaging services" means a referral of a patient to a group practice or sole provider for diagnostic imaging services by a physician who is not a member of the group practice or of the sole provider's practice and who does not have an investment interest in the group practice or sole provider's practice, for which the group practice or sole provider billed for both the technical and the professional fee for the patient, and the patient did not become a patient of the group practice or sole provider's practice.

(n) "Patient of a group practice" or "patient of a sole provider" means a patient who receives a physical examination, evaluation, diagnosis, and development of a treatment plan if medically necessary by a physician who is a member of the group practice or the sole provider's practice.

(o)~~(k)~~ "Referral" means any referral of a patient by a health care provider for health care services, including, without limitation:

1. The forwarding of a patient by a health care provider to another health care provider or to an entity which provides or supplies designated health services or any other health care item or service; or

2. The request or establishment of a plan of care by a health care provider, which includes the provision of designated health services or other health care item or service.

3. The following orders, recommendations, or plans of care shall not constitute a referral by a health care provider:

a. By a radiologist for diagnostic-imaging services.

b. By a physician specializing in the provision of radiation therapy services for such services.

c. By a medical oncologist for drugs and solutions to be prepared and administered intravenously to such oncologist's patient, as well as for the supplies and equipment used in connection therewith to treat such patient for cancer and the complications thereof.

d. By a cardiologist for cardiac catheterization services.

e. By a pathologist for diagnostic clinical laboratory tests and pathological examination services, if furnished by or under the supervision of such pathologist pursuant to a consultation requested by another physician.

f. By a health care provider who is the sole provider or member of a group practice for designated health services or other health care items or services that are prescribed or provided solely for such referring health care provider's or group practice's own patients, and that are provided or performed by or under the direct supervision of such referring health care provider or group practice*; provided, however, that effective July 1, 1999, a physician licensed pursuant to chapter 458, chapter 459, chapter 460, or chapter 461 may refer a patient to a sole provider or group practice for diagnostic imaging services, excluding radiation therapy services, for which the sole provider or group practice billed both the technical and the professional fee for or on behalf of the patient, if the referring physician has no investment interest in the practice. The diagnostic imaging service referred to a group practice or sole provider must be a diagnostic imaging service normally provided within the scope of practice to the patients of the group practice or sole provider. The group practice or sole provider may accept no more that 15 percent of their patients receiving diagnostic imaging services from outside referrals, excluding radiation therapy services.*

g. By a health care provider for services provided by an ambulatory surgical center licensed under chapter 395.

h. By a health care provider for diagnostic clinical laboratory services where such services are directly related to renal dialysis.

i. By a urologist for lithotripsy services.

j. By a dentist for dental services performed by an employee of or health care provider who is an independent contractor with the dentist or group practice of which the dentist is a member.

k. By a physician for infusion therapy services to a patient of that physician or a member of that physician's group practice.

l. By a nephrologist for renal dialysis services and supplies.

(p) "Present in the office suite" means that the physician is actually physically present; provided, however, that the health care provider is considered physically present during brief unexpected absences as well as during routine absences of a short duration if the absences occur during time periods in which the health care provider is otherwise scheduled and ordinarily expected to be present and the absences do not conflict with any other requirement in the Medicare program for a particular level of health care provider supervision.

(q)~~(l)~~ "Rural area" means a county with a population density of no greater than 100 persons per square mile, as defined by the United States Census.

(r) "Sole provider" means one health care provider licensed under chapter 458, chapter 459, chapter 460, or chapter 461, who maintains a separate medical office and a medical practice separate from any other health care provider and who bills for his or her services separately from the services provided by any other health care provider. A sole provider shall not share overhead expenses or professional income with any other person or group practice.

(4) REQUIREMENTS FOR ACCEPTING OUTSIDE REFERRALS FOR DIAGNOSTIC IMAGING.—

(a) A group practice or sole provider accepting outside referrals for diagnostic imaging services is required to comply with the following conditions:

1. Diagnostic imaging services must be provided exclusively by a group practice physician or by a full-time or part-time employee of the group practice or of the sole provider's practice.

2. All equity in the group practice or sole provider's practice accepting outside referrals for diagnostic imaging must be held by the physicians comprising the group practice or the sole provider's practice, each of which must provide at least 75 percent of his professional services to the group. Alternatively, the group must be incorporated under chapter 617, Florida Statutes, and must be exempt under the provisions of the Internal Revenue Code 501(c)(3) and be part of a foundation in existence prior to January 1, 1999 that is created for the purpose of patient care, medical education, and research.

3. A group practice or sole provider may not enter into, extend or renew any contract with a practice management company that provides any financial incentives, directly or indirectly, based on an increase in outside referrals for diagnostic imaging services from any group or sole provider managed by the same practice management company.

4. The group practice or sole provider accepting outside referrals for diagnostic imaging services must bill for both the professional and technical component of the service on behalf of the patient and no portion of

the payment, or any type of consideration, either directly or indirectly, may be shared with the referring physician.

5. Group practices or sole providers that have a Medicaid provider agreement with the Agency for Health Care Administration must furnish diagnostic imaging services to their Medicaid patients and may not refer a Medicaid recipient to a hospital for outpatient diagnostic imaging services unless the physician furnishes the hospital with documentation demonstrating the medical necessity for such a referral.

6. All group practices and sole providers accepting outside referrals for diagnostic imaging shall report annually to the Agency for Health Care Administration providing the number of outside referrals accepted for diagnostic imaging services and the total number of all patients receiving diagnostic imaging services.

(b) If a group practice or sole provider accepts an outside referral for diagnostic imaging services in violation of this subsection or if a group practice or sole provider accepts outside referrals for diagnostic imaging services in excess of the percentage limitation established in subparagraph (a)2. of this subsection, the group practice or the sole provider shall be subject to the penalties in subsection (5).

(c) Each managing physician member of a group practice and each sole provider who accepts outside referrals for diagnostic imaging services shall submit an annual attestation signed under oath to the Agency for Health Care Administration which shall include the annual report required under s. 455.654(4)(a)6. and which shall further confirm that each group practice or sole provider is in compliance with the percentage limitations for accepting outside referrals and the requirements for accepting outside referrals listed in s. 455.654(4)(a). The agency may verify the report submitted by group practices and sole providers.

(5)~~(4)~~ PROHIBITED REFERRALS AND CLAIMS FOR PAYMENT.—Except as provided in this section:

(a) A health care provider may not refer a patient for the provision of designated health services to an entity in which the health care provider is an investor or has an investment interest.

(b) A health care provider may not refer a patient for the provision of any other health care item or service to an entity in which the health care provider is an investor unless:

1. The provider's investment interest is in registered securities purchased on a national exchange or over-the-counter market and issued by a publicly held corporation:

a. Whose shares are traded on a national exchange or on the over-the-counter market; and

b. Whose total assets at the end of the corporation's most recent fiscal quarter exceeded $50 million; or

2. With respect to an entity other than a publicly held corporation described in subparagraph 1., and a referring provider's investment interest in such entity, each of the following requirements are met:

a. No more than 50 percent of the value of the investment interests are held by investors who are in a position to make referrals to the entity.

b. The terms under which an investment interest is offered to an investor who is in a position to make referrals to the entity are no different from the terms offered to investors who are not in a position to make such referrals.

c. The terms under which an investment interest is offered to an investor who is in a position to make referrals to the entity are not related to the previous or expected volume of referrals from that investor to the entity.

d. There is no requirement that an investor make referrals or be in a position to make referrals to the entity as a condition for becoming or remaining an investor.

3. With respect to either such entity or publicly held corporation:

a. The entity or corporation does not loan funds to or guarantee a loan for an investor who is in a position to make referrals to the entity or corporation if the investor uses any part of such loan to obtain the investment interest.

b. The amount distributed to an investor representing a return on the investment interest is directly proportional to the amount of the capital investment, including the fair market value of any preoperational services rendered, invested in the entity or corporation by that investor.

4. Each board and, in the case of hospitals, the Agency for Health Care Administration, shall encourage the use by licensees of the declaratory statement procedure to determine the applicability of this section or any rule adopted pursuant to this section as it applies solely to the licensee. Boards shall submit to the Agency for Health Care Administration the name of any entity in which a provider investment interest has been approved pursuant to this section, and the Agency for Health Care Administration shall adopt rules providing for periodic quality assurance and utilization review of such entities.

(c) No claim for payment may be presented by an entity to any individual, third-party payor, or other entity for a service furnished pursuant to a referral prohibited under this section.

(d) If an entity collects any amount that was billed in violation of this section, the entity shall refund such amount on a timely basis to the payor or individual, whichever is applicable.

(e) Any person that presents or causes to be presented a bill or a claim for service that such person knows or should know is for a service for which payment may not be made under paragraph (c), or for which a refund has not been made under paragraph (d), shall be subject to a civil penalty of not more than $15,000 for each such service to be imposed and collected by the appropriate board.

(f) Any health care provider or other entity that enters into an arrangement or scheme, such as a cross-referral arrangement, which the physician or entity knows or should know has a principal purpose of assuring referrals by the physician to a particular entity which, if the physician directly made referrals to such entity, would be in violation of this section, shall be subject to a civil penalty of not more than $100,000 for each such circumvention arrangement or scheme to be imposed and collected by the appropriate board.

(g) A violation of this section by a health care provider shall constitute grounds for disciplinary action to be taken by the applicable board pursuant to s. 458.331(2), s. 459.015(2), s. 460.413(2), s. 461.013(2), s. 463.016(2), or s. 466.028(2). Any hospital licensed under chapter 395 found in violation of this section shall be subject to the rules adopted by the Agency for Health Care Administration pursuant to s. 395.0185(2).

(h) Any hospital licensed under chapter 395 that discriminates against or otherwise penalizes a health care provider for compliance with this act.

(i) The provision of paragraph (a) shall not apply to referrals to the offices of radiation therapy centers managed by an entity or subsidiary or general partner thereof, which performed radiation therapy services at those same offices prior to April 1, 1991, and shall not apply also to referrals for radiation therapy to be performed at no more than one additional office of any entity qualifying for the foregoing exception which, prior to February 1, 1992, had a binding purchase contract on and a nonrefundable deposit paid for a linear accelerator to be used at the additional office. The physical site of the radiation treatment centers affected by this provision may be relocated as a result of the following factors: acts of God; fire; strike; accident; war; eminent domain actions by any governmental body; or refusal by the lessor to renew a lease. A relocation for the foregoing reasons is limited to relocation of an existing facility to a replacement location within the county of the existing facility upon written notification to the Office of Licensure and Certification.

(j) A health care provider who meets the requirements of paragraphs (b) and (i) must disclose his or her investment interest to his or her patients as provided in s. 455.701.

Section 2. *The agency shall require registration by all group practices providing diagnostic imaging services, regardless of ownership. Registration information must include the medical specialty of each physician; address and phone number of the group; UPIN numbers for the group*

and each group member; and Medicare, Medicaid, and commercial billing numbers for the group. The agency shall complete the registration by December 31, 1999.

Section 3. Section 4 of chapter 98-192, Laws of Florida, is amended to read:

Section 4. This act shall take effect July 1, 1998. *However, if the Agency for Health Care Administration between April 15, 1999 and November 15, 1999 receives written certification from the federal Health Care Financing Administration that the amendments enacted herein to s. 395.701, F.S. or s. 395.7015, F.S., violate federal regulations regarding permissible state health care taxes which would cause the state to be denied federal Medicaid funds, then the amendment to the individual section contained herein and so identified by the Health Care Financing Administration as violating federal law hereby stands repealed. Upon receipt of written certification from the Health Care Financing Administration, the Agency for Health Care Administration shall forward such certification to the Secretary of State, the President of the Senate and the Speaker of the House of Representatives with a letter identifying the section or sections which stand repealed consistent with this section. The Secretary of State shall delete the amendment to the section so identified in the official records of the Florida Statutes consistent with this section. The effective date of the repeal of the section contained in the federal certification shall be the date that the notice is received by the Secretary of State.*~~, except that the amendment of sections 395.701 and 395.7015, Florida Statutes, by this act shall take effect only upon the Agency for Health Care Administration receiving written confirmation from the federal Health Care Financing Administration that the changes contained in such amendments will not adversely affect the use of the remaining assessments as state match for the state's Medicaid program~~.

Section 4. *The Agency for Health Care Administration, in conjunction with other agencies as appropriate shall conduct a detailed study and analysis of clinical laboratory services for kidney dialysis patients in the State of Florida. The study shall include, but not be limited to, an analysis of the past and present utilization rates of clinical laboratory services for dialysis patients; financial arrangements among kidney dialysis centers, their medical directors, any business relationships and affiliations with clinical laboratories and any self-referral to clinical laboratories; the quality and responsiveness of clinical laboratory services for dialysis patients in Florida; and the average annual revenue for dialysis patients for clinical laboratory services for the past 10 years. The agency shall report its findings to the Legislature by February 1, 2000.*

Section 5. *Each provider of diagnostic cardiac catheterization services shall comply with the requirements of section 408.036(3)(n)2.a.-d., Florida Statutes, and rules of the Agency for Health Care Administration governing the operation of adult inpatient diagnostic cardiac catheterization programs, including the most recent guidelines of the American College of Cardiology and American Heart Association Guidelines for Cardiac Catheterization and Cardiac Catheterization Laboratories.*

Section 6. Subsections (6) and (7) of section 155.40, Florida Statutes, are added to said section, to read:

155.40 Sale or lease of county, district, or municipal hospital.—

(6) Unless otherwise expressly stated in the lease documents, the transaction involving the sale or lease of a hospital shall not be construed as:

(a) a transfer of a governmental function from the county, district, or municipality to the private purchaser or lessee;

(b) constituting a financial interest of the public lessor in the private lessee; or

(c) making a private lessee an integral part of the public lessor's decision-making process.

(7) The lessee of a hospital, pursuant to this section or any special act of the legislature, operating under a lease shall not be construed to be "acting on behalf of" the lessor as that term is used in statute, unless the lease document expressly provides to the contrary.

Section 7. Subsection (3) is added to section 455.651, Florida Statutes, 1998 Supplement, to read:

455.651 Disclosure of confidential information.—

(3) Any person injured as a result of a violation of this section shall have a civil cause of action for treble damages, reasonable attorney's fees, and costs.

Section 8. Subsections (4) and (7) of section 409.910, Florida Statutes, 1998 Supplement, are amended to read:

409.910 Responsibility for payments on behalf of Medicaid-eligible persons when other parties are liable.—

(4) After the department has provided medical assistance under the Medicaid program, it shall seek recovery of reimbursement from third-party benefits to the limit of legal liability and for the full amount of third-party benefits, but not in excess of the amount of medical assistance paid by Medicaid, as to:

(a) Claims for which the department has a waiver pursuant to federal law; or

(b) Situations in which the department learns of the existence of a liable third party or in which third-party benefits are discovered or become available after medical assistance has been provided by Medicaid. *Nothing in this subsection shall limit the authority of the state or any agency thereof to bring or maintain actions seeking recoveries in excess of the amount paid as Medicaid benefits under alternative theories of liability in conjunction with an action filed pursuant to this section.*

(7) The department shall recover the full amount of all medical assistance provided by Medicaid on behalf of the recipient to the full extent of third-party benefits.

(a) Recovery of such benefits shall be collected directly from:

1. Any third party;

2. The recipient or legal representative, if he or she has received third-party benefits;

3. The provider of a recipient's medical services if third-party benefits have been recovered by the provider; notwithstanding any provision of this section, to the contrary, however, no provider shall be required to refund or pay to the department any amount in excess of the actual third-party benefits received by the provider from a third-party payor for medical services provided to the recipient; or

4. Any person who has received the third-party benefits.

(b) Upon receipt of any recovery or other collection pursuant to this section, the department shall distribute the amount collected as follows:

1. To itself, an amount equal to the state Medicaid expenditures for the recipient plus any incentive payment made in accordance with paragraph (14)(a).

2. To the Federal Government, the federal share of the state Medicaid expenditures minus any incentive payment made in accordance with paragraph (14)(a) and federal law, and minus any other amount permitted by federal law to be deducted.

3. To the recipient, after deducting any known amounts owed to the department for any related medical assistance or to health care providers, any remaining amount. This amount shall be treated as income or resources in determining eligibility for Medicaid.

The provisions of this subsection do not apply to any proceeds received by the state, or any agency thereof, pursuant to a final order, judgment, or settlement agreement, in any matter in which the state asserts claims brought on its own behalf, and not as a subrogee of a recipient, or under other theories of liability. The provisions of this subsection do not apply to any proceeds received by the state, or an agency thereof, pursuant to a final order, judgment, or settlement agreement, in any matter in which the state asserted both claims as a subrogee and additional claims, except as to those sums specifically identified in the final order, judgment, or settlement agreement as reimbursements to the recipient as expenditures for the named recipient on the subrogation claim.

Section 9. *The amendments to section 409.910, Florida Statutes, 1998 Supplement, made by this act are intended to clarify existing law*

and are remedial in nature. As such, they are specifically made retroactive to October 1, 1990, and shall apply to all causes of action arising on or after October 1, 1990.

Section 10. This act shall take effect July 1, 1999.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to health care; amending s. 455.654, F.S.; providing definitions; providing requirements for accepting outside referrals for diagnostic imaging; providing for disciplinary procedures against a group practice or sole provider that accepts an outside referral for diagnostic imaging services in violation of such requirements; requiring the Agency for Health Care Administration to study issues relating to quality care in providing diagnostic imaging services; requiring the agency to convene a technical advisory panel; providing for registration of all group practices; prescribing registration information; providing for the technical advisory panel to submit recommendations for agency rules; requiring the agency to adopt rules; providing a date for the adoption and publication of rules; authorizing group practices and sole providers to accept a prescribed percentage of their patients from outside referrals; requiring the Agency for Health Care Administration in conjunction with the Medicaid Fraud Unit of the Office of the Attorney General to study certain specified business activities and arrangements of providers of clinical laboratory services for kidney dialysis; requiring a report; amending s. 4, ch. 98-192, Laws of Florida; eliminating requirement that the agency receive written confirmation from the federal Health Care Financing Administration that amendments to ss. 395.701 and 395.7015, F.S., will not adversely affect assessments or state match for the state's Medicaid program; providing duties for the agency and the Secretary of State; providing for a study and analysis of services for kidney dialysis patients; requiring providers of diagnostic cardiac catheterization services to comply with certain laws and rules adopted by the Agency for Health Care Administration; amending s. 155.40, F.S.; providing construction with respect to a transaction involving the sale or lease of a public hospital; providing construction with respect to specified hospital lessees; amending s. 455.651, F.S.; providing for a cause of action, damages, attorney's fees, and costs;amending s. 409.910, F.S.; clarifying that the state may recover and retain damages in excess of Medicaid payments made under certain circumstances; providing for retroactive application; providing an effective date.

Senator Latvala moved the following amendments to **Amendment 1** which were adopted:

Amendment 1A (092310)—On page 9, line 29, after the period (.) insert: *If necessary, the Agency for Health Care Administration may apply for a federal waiver to implement this subparagraph.*

Amendment 1B (035754)—On page 17, delete lines 26-31 and insert: assistance has been provided by Medicaid.

Amendment 1 as amended was adopted.

Pursuant to Rule 4.19, **HB 2231** as amended was placed on the calendar of Bills on Third Reading.

RECESS

The President declared the Senate in recess at 12:43 p.m. to reconvene at 1:45 p.m.

AFTERNOON SESSION

The Senate was called to order by the President at 2:00 p.m. A quorum present—40:

Madam President	Dawson-White	Jones	Mitchell
Bronson	Diaz-Balart	King	Myers
Brown-Waite	Dyer	Kirkpatrick	Rossin
Burt	Forman	Klein	Saunders
Campbell	Geller	Kurth	Scott
Carlton	Grant	Latvala	Sebesta
Casas	Gutman	Laurent	Silver
Childers	Hargrett	Lee	Sullivan
Clary	Holzendorf	McKay	Thomas
Cowin	Horne	Meek	Webster

CONSIDERATION OF BILL OUT OF ORDER

On motion by Senator Casas, by unanimous consent—

CS for SB 1948—A bill to be entitled An act relating to Medicaid third-party liability; amending s. 409.910, F.S.; clarifying that the state may recover and retain damages in excess of Medicaid payments made under certain circumstances; providing for retroactive application; providing an effective date.

—was taken up out of order and read the second time by title.

Senator Latvala moved the following amendment which was adopted:

Amendment 1 (540554)—On page 1, line 27 through page 2, line 2, delete those lines and insert: assistance has been provided by Medicaid.

On motion by Senator Casas, by two-thirds vote **CS for SB 1948** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—40

Madam President	Dawson-White	Jones	Mitchell
Bronson	Diaz-Balart	King	Myers
Brown-Waite	Dyer	Kirkpatrick	Rossin
Burt	Forman	Klein	Saunders
Campbell	Geller	Kurth	Scott
Carlton	Grant	Latvala	Sebesta
Casas	Gutman	Laurent	Silver
Childers	Hargrett	Lee	Sullivan
Clary	Holzendorf	McKay	Thomas
Cowin	Horne	Meek	Webster

Nays—None

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

BILLS ON THIRD READING

CS for SB 2282—A bill to be entitled An act relating to implementation of water quality standards; amending s. 403.031, F.S.; defining the term "total maximum daily load"; creating s. 403.067, F.S.; providing legislative findings and intent; requiring the Department of Environmental Protection to periodically submit to the United States Environmental Protection Agency a list of surface waters or segments for which total maximum daily load assessments will be conducted; providing that the list cannot be used in the administration or implementation of any regulatory program; providing for public comment on the list; requiring the Department of Environmental Protection to conduct total maximum daily load assessments on water bodies based on the priority ranking and schedule; requiring the Department of Environmental Protection to adopt a methodology for determining those water bodies which are impaired by rule; specifying what the rule shall set forth; providing for the adoption of a subsequent updated list of water bodies for which total maximum daily loads will be calculated under certain circumstances; providing for the removal of surface waters or segments under certain conditions; providing for the process for calculating and allocating total maximum daily loads; providing that the Department of Environmental Protection must submit a report by February 1, 2001, to the Governor, the President of the Senate, and the Speaker of the House of Representatives which contains recommendations and draft legislation for any modifications to the process for allocating total maximum daily loads; requiring that the recommendations be developed by the department in cooperation with a technical committee; providing that the total maximum daily load calculations and allocations shall be adopted by rule; providing for public workshops and public notice; providing that the Department of Environmental Protection shall be the lead agency in coordinating the implementation of the total maximum daily load allocation through water quality protection programs; authorizing the department to develop a basin plan requiring the department to cooperatively develop suitable interim measures, best management practices, or other measures necessary to achieve the level of pollution reduction established in allocations for nonagricultural nonpoint pollutant sources; requiring the Department of Agriculture and Consumer Services to de-

velop, and to adopt by rule at its discretion, certain interim measures or best management practices necessary to achieve the level of pollution reduction established in allocations of agricultural pollutant sources; authorizing the Department of Environmental Protection to adopt certain rules; prohibiting the Department of Environmental Protection from implementing, without prior legislative approval, any additional regulatory authority pursuant to the Clean Water Act; amending s. 403.805, F.S.; providing for the powers and duties of the secretary; requiring the Department of Environmental Protection, in coordination with the water management district and the Department of Agriculture and Consumer Services, to evaluate the effectiveness of the implementation of total maximum daily loads for a specific period and to report to the Governor and the Legislature; providing an effective date.

—as amended April 26 was read the third time by title.

On motion by Senator Laurent, **CS for SB 2282** as amended was passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Dawson-White	Jones	Mitchell
Bronson	Diaz-Balart	King	Myers
Brown-Waite	Dyer	Kirkpatrick	Rossin
Burt	Forman	Klein	Saunders
Campbell	Geller	Kurth	Scott
Carlton	Grant	Latvala	Sebesta
Casas	Gutman	Laurent	Silver
Childers	Hargrett	Lee	Sullivan
Clary	Holzendorf	McKay	Thomas
Cowin	Horne	Meek	Webster

Nays—None

Consideration of **CS for SB 1250**, **CS for SB 1148**, **CS for CS for SB 356** and **SB 8** was deferred.

CS for CS for HB 17—A bill to be entitled An act relating to community revitalization; creating ss. 163.2511, 163.2514, 163.2517, 163.2520, 163.2523, and 163.2526, F.S., the Growth Policy Act; providing legislative findings; providing definitions; authorizing counties and municipalities to designate urban infill and redevelopment areas based on specified criteria; providing for community and neighborhood participation; requiring preparation of a plan or designation of an existing plan and providing requirements with respect thereto; providing for amendment of the local comprehensive plan to delineate area boundaries; providing for adoption of the plan by ordinance; providing requirements for continued eligibility for economic and regulatory incentives and providing that such incentives may be rescinded if the plan is not implemented; providing that counties and municipalities that have adopted such plan may issue revenue bonds and employ tax increment financing under the Community Redevelopment Act and exercise powers granted to community redevelopment neighborhood improvement districts; requiring a report by certain state agencies; providing that such areas shall have priority in the allocation of private activity bonds; providing a program for grants to counties and municipalities with urban infill and redevelopment areas; providing for review and evaluation of the act and requiring a report; amending s. 163.3164, F.S.; revising the definition of "projects that promote public transportation" under the Local Government Comprehensive Planning and Land Development Regulation Act; amending s. 163.3177, F.S.; modifying the date by which local government comprehensive plans must comply with school siting requirements, and the consequences of failure to comply; amending s. 163.3180, F.S.; specifying that the concurrency requirement applies to transportation facilities; providing requirements with respect to measuring level of service for specified transportation modes and multimodal analysis; providing that the concurrency requirement does not apply to public transit facilities; authorizing exemptions from the transportation facilities concurrency requirement for developments located in an urban infill and redevelopment area; specifying the parties that may request certain exemptions from the transportation facilities concurrency requirement; revising requirements for establishment of level-of-service standards for certain facilities on the Florida Intrastate Highway System; providing that a multiuse development of regional impact may satisfy certain transportation concurrency requirements by payment of a proportionate-share contribution for traffic impacts under certain conditions; authorizing establishment of multimodal transportation districts in certain areas under a local comprehensive plan, providing for certain multimodal level-of-service standards, and providing requirements with respect thereto; providing for issuance of development permits; authorizing reduction of certain fees for development in such districts; amending s. 163.3187, F.S.; providing that comprehensive plan amendments to designate urban infill and redevelopment areas are not subject to statutory limits on the frequency of plan amendments; including such areas within certain limitations relating to small scale development amendments; amending s. 187.201, F.S.; including policies relating to urban policy in the State Comprehensive Plan; amending s. 380.06, F.S., relating to developments of regional impact; increasing certain numerical standards for determining a substantial deviation for projects located in certain urban infill and redevelopment areas; amending ss. 163.3220 and 163.3221, F.S.; revising legislative intent with respect to the Florida Local Government Development Agreement Act to include intent with respect to certain assurance to a developer upon receipt of a brownfield designation; amending s. 163.375, F.S.; authorizing acquisition by eminent domain of property in unincorporated enclaves surrounded by a community redevelopment area when necessary to accomplish a community development plan; amending s. 165.041, F.S.; specifying the date for submission to the Legislature of a feasibility study in connection with a proposed municipal incorporation and revising requirements for such study; amending s. 171.0413, F.S., relating to municipal annexation procedures; requiring public hearings; deleting a requirement that a separate referendum be held in the annexing municipality when the annexation exceeds a certain size and providing that the governing body may choose to hold such a referendum; providing procedures by which a county or combination of counties and the municipalities therein may develop and adopt a plan to improve the efficiency, accountability, and coordination of the delivery of local government services; providing for initiation of the process by resolution; providing requirements for the plan; requiring approval by the local governments' governing bodies and by referendum; authorizing municipal annexation through such plan; amending s. 170.201, F.S.; revising provisions which authorize a municipality to exempt property owned or occupied by certain religious or educational institutions or housing facilities from special assessments for emergency medical services; extending application of such provisions to any service; creating s. 196.1978, F.S.; providing that property used to provide housing for certain persons under ch. 420, F.S., and owned by certain nonprofit corporations is exempt from ad valorem taxation; creating ss. 220.185 and 420.5093, F.S.; creating the State Housing Tax Credit Program; providing legislative findings and policy; providing definitions; providing for a credit against the corporate income tax in an amount equal to a percentage of the eligible basis of certain housing projects; providing a limitation; providing for allocation of credits and administration by the Florida Housing Finance Corporation; providing for an annual plan; providing application procedures; providing that neither tax credits nor financing generated thereby shall be considered income for ad valorem tax purposes; providing for recognition of certain income by the property appraiser; amending s. 420.503, F.S.; providing that certain projects shall qualify as housing for the elderly for purposes of certain loans under the State Apartment Incentive Loan Program, and shall qualify as a project targeted for the elderly in connection with allocation of low-income housing tax credits and with the HOME program under certain conditions; amending s. 420.5087, F.S.; directing the Florida Housing Finance Corporation to adopt rules for the equitable distribution of certain unallocated funds under the State Apartment Incentive Loan Program; authorizing the corporation to waive a mortgage limitation under said program for projects in certain areas; creating ss. 420.630, 420.631, 420.632, 420.633, 420.634, and 420.635, F.S., the Urban Homesteading Act; providing definitions; authorizing a local government or its designee to operate a program to make foreclosed single-family housing available for purchase by qualified buyers; providing eligibility requirements; providing application procedures; providing conditions under which such property may be deeded to a qualified buyer; requiring payment of a pro rata share of certain bonded debt under certain conditions and providing for loans to buyers who are required to make such payment; amending s. 235.193, F.S.; providing that the collocation of a new educational facility with an existing educational facility or the expansion of an existing educational facility shall not be deemed inconsistent with local government comprehensive plans under certain circumstances; providing an effective date.

—as amended April 27 was read the third time by title.

RECONSIDERATION OF AMENDMENT

On motion by Senator Carlton, the Senate reconsidered the vote by which **Amendment 1** by Senator Carlton and **Amendment 1A** by Senator Latvala were adopted. **Amendment 1A** was withdrawn.

Senator Klein moved the following amendment to **Amendment 1** which was adopted by two-thirds vote:

Amendment 1C (573788)(with title amendment)—On page 41, line 31 through page 42, line 19, delete those lines and redesignate subsequent sections.

And the title is amended as follows:

On page 62, delete lines 2-5 and insert: service; creating s. 196.1978, F.S.; providing

Senator McKay moved the following amendment to **Amendment 1** which was adopted by two-thirds vote:

Amendment 1D (235958)(with title amendment)—On page 57, between lines 30 and 31, insert:

Section 28. *Before December 31, 1999, any municipality an area of which has previously received designation as an Enterprise Zone in the population category described in section 290.0065(3)(a)3., Florida Statutes, may create a satellite enterprise zone not exceeding 1.5 square miles in area outside of and, notwithstanding anything contained in section 290.0055(4), Florida Statutes, or any other law, in addition to the previously designated enterprise zone boundaries. The Office of Tourism, Trade, and Economic Development shall amend the boundaries of the areas previously designated by any such municipality as enterprise zones upon receipt of a resolution adopted by the municipality describing the satellite enterprise zone areas, as long as the additional areas are consistent with the categories, criteria, and limitations imposed by section 290.0055, Florida Statutes. However, the requirements imposed by section 290.0055(4)(d), Florida Statutes, do not apply to such satellite enterprise zone areas.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 64, line 4, after the second semicolon (;) insert: authorizing municipalities to designate satellite enterprise zones;

Amendment 1 as amended was adopted by two-thirds vote.

On motion by Senator Carlton, **CS for CS for HB 17** as amended was passed and certified to the House. The vote on passage was:

Yeas—39

Madam President	Dawson-White	King	Myers
Bronson	Diaz-Balart	Kirkpatrick	Rossin
Brown-Waite	Dyer	Klein	Saunders
Burt	Forman	Kurth	Scott
Campbell	Geller	Latvala	Sebesta
Carlton	Gutman	Laurent	Silver
Casas	Hargrett	Lee	Sullivan
Childers	Holzendorf	McKay	Thomas
Clary	Horne	Meek	Webster
Cowin	Jones	Mitchell	

Nays—None

CS for SB 682—A bill to be entitled An act relating to the tax on sales, use, and other transactions; amending s. 212.031, F.S.; providing an exemption for charges for the renting, leasing, or granting of a license for the use of certain skyboxes, luxury boxes, or other box seats during specified activities in a high-tourism-impact county under certain conditions by not-for-profit sponsoring organizations; providing that no tax imposed on such transactions and not actually paid or collected shall be due from such an organization; providing an effective date.

—was read the third time by title.

On motion by Senator Webster, **CS for SB 682** was passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Dawson-White	Jones	Mitchell
Bronson	Diaz-Balart	King	Myers
Brown-Waite	Dyer	Kirkpatrick	Rossin
Burt	Forman	Klein	Saunders
Campbell	Geller	Kurth	Scott
Carlton	Grant	Latvala	Sebesta
Casas	Gutman	Laurent	Silver
Childers	Hargrett	Lee	Sullivan
Clary	Holzendorf	McKay	Thomas
Cowin	Horne	Meek	Webster

Nays—None

Vote after roll call:

Yea to Nay—Jones

SB 290—A bill to be entitled An act relating to community contribution tax credits; amending ss. 220.183, 624.5105, F.S.; increasing the annual limitation on the amount of such credits which may be granted against the corporate income tax and insurance premium taxes; providing an effective date.

—was read the third time by title.

On motion by Senator Horne, **SB 290** was passed and certified to the House. The vote on passage was:

Yeas—38

Madam President	Diaz-Balart	Kirkpatrick	Rossin
Bronson	Dyer	Klein	Saunders
Brown-Waite	Forman	Kurth	Scott
Burt	Geller	Latvala	Sebesta
Campbell	Grant	Laurent	Silver
Carlton	Gutman	Lee	Sullivan
Casas	Hargrett	McKay	Thomas
Clary	Horne	Meek	Webster
Cowin	Jones	Mitchell	
Dawson-White	King	Myers	

Nays—1

Childers

Vote after roll call:

Yea—Holzendorf

Nay to Yea—Childers

HB 1015—A bill to be entitled An act relating to Department of Highway Safety and Motor Vehicles; repealing s. 322.142(5) and (6), F.S., relating to color photographic or digital imaged licenses; eliminating provisions permitting the Department of Highway Safety and Motor Vehicles to sell certain information related to driver's licenses and other information; amending s. 282.3091, F.S.; creating a Task Force on Privacy and Technology; providing for membership; providing for a report; providing duties; providing for funding; providing for repeal; providing an effective date.

—as amended April 27 was read the third time by title.

On motion by Senator Brown-Waite, **HB 1015** as amended was passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Casas	Dyer	Holzendorf
Bronson	Childers	Forman	Horne
Brown-Waite	Clary	Geller	Jones
Burt	Cowin	Grant	King
Campbell	Dawson-White	Gutman	Kirkpatrick
Carlton	Diaz-Balart	Hargrett	Klein

Kurth	McKay	Rossin	Silver
Latvala	Meek	Saunders	Sullivan
Laurent	Mitchell	Scott	Thomas
Lee	Myers	Sebesta	Webster

Nays—None

HB 2149—A bill to be entitled An act relating to child support; amending s. 61.052, F.S.; requiring additional information on children of the marriage and parties to a dissolution of marriage; amending s. 61.13, F.S.; requiring certain identifying information for each minor that is the subject of a child support order; amending s. 61.1301, F.S.; clarifying that child support payments paid through income deduction shall be made to the State Disbursement Unit; amending s. 61.13016, F.S.; providing a time certain for delinquency in payment which may result in suspension of driver's licenses and motor vehicle registrations; amending s. 61.14, F.S.; deleting requirement that a certified copy of the support order accompany a certified statement of delinquent support payments; amending s. 61.181, F.S.; providing for collection of a service charge on certain payments processed by the State Disbursement Unit; amending s. 61.1824, F.S.; clarifying that support payments shall be paid to the State Disbursement Unit; amending s. 61.1825, F.S.; providing conditions for placing a family violence indicator on a record in the State Case Registry; amending s. 61.1826, F.S.; revising penalty for default of a depository; providing for notice; deleting a report; amending s. 409.2558, F.S.; providing for review of distributions and disbursements of child support payments; providing for recovery of overpayments; providing for rules; amending s. 409.2561, F.S.; revising provisions relating to child support obligations when public assistance is paid; requiring deposit into the General Revenue Fund of funds retained by the state to reimburse public assistance payments made to or for the benefit of dependent children; deleting provisions relating to a cooperative agreement between the executive director of the Department of Revenue and the Insurance Commissioner; amending s. 409.2564, F.S.; revising provisions relating to subpoenas for information necessary to establish, modify, or enforce a child support order; providing for challenge of subpoenas; providing an administrative fine; providing for enforcement and award of costs and fees; providing for disposition of fines collected; providing for expedited procedures for redirecting child support payments to relative caretakers; amending s. 409.25641, F.S.; revising provisions relating to automated administrative enforcement requests; amending s. 409.25656, F.S.; providing time frame for an obligor's consent to a levy for past due child support; amending s. 409.25657, F.S.; revising procedures and requirements with respect to data exchanges with financial institutions for child support enforcement; amending s. 409.2577, F.S.; deleting duplicate language; amending s. 741.04, F.S.; modifying requirement that a social security number or other documentation be given prior to issuance of a marriage license; providing for reimbursement to certain counties from the Clerk of the Court Child Support Enforcement Collection System Trust Fund; providing appropriations; providing effective dates.

—was read the third time by title.

On motion by Senator Diaz-Balart, **HB 2149** was passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Dawson-White	Jones	Mitchell
Bronson	Diaz-Balart	King	Myers
Brown-Waite	Dyer	Kirkpatrick	Rossin
Burt	Forman	Klein	Saunders
Campbell	Geller	Kurth	Scott
Carlton	Grant	Latvala	Sebesta
Casas	Gutman	Laurent	Silver
Childers	Hargrett	Lee	Sullivan
Clary	Holzendorf	McKay	Thomas
Cowin	Horne	Meek	Webster

Nays—None

HB 2003—A bill to be entitled An act relating to mental health and substance abuse services; amending s. 394.66, F.S.; conforming references; amending s. 394.74, F.S.; authorizing the Department of Children and Family Services to use unit cost methods of payment in contracts for mental health and substance abuse services; amending s. 394.78, F.S.; requiring the department to establish certain contract, payments, and accounting standards; creating the Commission on Mental Health and Substance Abuse; providing duties; providing membership; providing for an advisory committee; providing for staff support; providing for meetings and organization; requiring reports; providing for expiration; amending s. 397.419, F.S.; providing quality assurance program requirements for substance abuse services; providing for district quality assurance coordinators, contingent upon specific appropriation; creating s. 397.92, F.S.; providing goals of the children's substance abuse services system; creating s. 397.93, F.S.; specifying target populations; creating s. 397.94, F.S.; requiring each district of the Department of Children and Family Services to develop a children's substance abuse information and referral network by a specified date; creating s. 397.95, F.S.; requiring certain service providers to comply with licensure requirements and department rules; creating s. 397.951, F.S.; providing for the integration of treatment and sanctions; creating s. 397.96, F.S.; providing for intensive case management for certain complex cases; creating s. 397.97, F.S.; creating the Children's Network of Care Demonstration Models for local delivery of substance abuse services; providing a time limitation; providing for purchase of services; providing criteria for operation; creating s. 397.98, F.S.; providing for utilization management under the demonstration models; creating s. 397.99, F.S.; providing for award of school substance abuse prevention partnership grants; providing procedures for application and review; providing criteria for funding and requirements for operation of programs funded; providing for rules; creating s. 397.997, F.S.; providing for a prevention website; creating s. 397.998, F.S.; directing the department to establish a program to provide drug-free communities support match grants, contingent upon specific appropriations; providing purposes, eligibility, and procedures; authorizing department rules; providing an appropriation; providing an effective date.

—as amended April 27 was read the third time by title.

On motion by Senator Mitchell, **HB 2003** as amended was passed and certified to the House. The vote on passage was:

Yeas—39

Madam President	Dawson-White	Jones	Mitchell
Bronson	Diaz-Balart	King	Myers
Brown-Waite	Dyer	Kirkpatrick	Rossin
Burt	Forman	Klein	Saunders
Campbell	Geller	Kurth	Scott
Carlton	Grant	Latvala	Sebesta
Casas	Gutman	Laurent	Silver
Childers	Hargrett	Lee	Sullivan
Clary	Holzendorf	McKay	Webster
Cowin	Horne	Meek	

Nays—None

SB 700—A bill to be entitled An act relating to the tax on sales, use, and other transactions; amending s. 212.08, F.S.; expanding the exemption for veterans' groups; providing an effective date.

—as amended April 27 was read the third time by title.

On motion by Senator Forman, **SB 700** as amended was passed and certified to the House. The vote on passage was:

Yeas—39

Madam President	Clary	Gutman	Latvala
Bronson	Cowin	Hargrett	Laurent
Brown-Waite	Dawson-White	Holzendorf	Lee
Burt	Diaz-Balart	Horne	McKay
Campbell	Dyer	Jones	Meek
Carlton	Forman	King	Mitchell
Casas	Geller	Klein	Myers
Childers	Grant	Kurth	Rossin

Saunders	Sebesta	Sullivan	Webster
Scott	Silver	Thomas	

Nays—None

Consideration of **CS for SB 2554** was deferred.

CS for SB 1806—A bill to be entitled An act relating to workers' compensation; amending s. 440.02, F.S.; defining the term "net direct written premium"; amending s. 440.49, F.S.; revising the method of calculating payments to the Special Disability Trust Fund; amending s. 440.51, F.S.; revising the method of determining expenses of administration; amending s. 627.914, F.S.; revising the requirements for reports of information by workers' compensation insurers; requiring a report by the Division of Workers' Compensation; providing applicability; creating the Workers' Compensation Rating Law Study Commission; providing for appointment of members; requiring the commission to make a study and recommendations; requiring the staffs of specified legislative committees to provide administrative support; authorizing the commission to contract with independent parties for certain information; entitling commission members to reimbursement for travel and expenses; providing an appropriation; providing an effective date.

—was read the third time by title.

Senators Clary and Thomas offered the following amendment which was moved by Senator Thomas and adopted by two-thirds vote:

Amendment 1 (343330)(with title amendment)—On page 9, line 20 through page 10, line 11, delete those lines and insert:

(3) Appointments must be made by June 1, 1999, and the commission's first meeting must be held by August 15, 1999. The commission shall continue to exist until December 1, 1999. The chairman shall be designated from the membership.

Section 8. *Duties and responsibilities.—The Workers' Compensation Rating Law Commission shall:*

(1) Hold a minimum of three public hearings, including at least one in Tallahassee, to receive public comment and input relative to Florida's workers' compensation rating law.

(2) Perform a study of Florida's workers' compensation rating law and other state workers' compensation rating law alternatives. The study shall include an analysis of prior approval full-rate, loss-costs, and open-competition rating laws and their impact on rates and premiums. The study shall be limited in scope to workers' compensation rating laws. The commission shall not study other aspects of the workers' compensation system under chapter 440, Florida Statutes.

(3) Make recommendations concerning the most appropriate method for establishing rates and premiums for workers' comprehensive in Florida.

(4) The study commission may contract with independent parties to provide such information to the commission as it determines is necessary to complete its study and recommendations.

And the title is amended as follows:

On page 1, delete lines 17-19 and insert: study and recommendations; authorizing the

On motion by Senator Thomas, **CS for SB 1806** as amended was passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—39

Madam President	Casas	Dyer	Holzendorf
Bronson	Childers	Forman	Horne
Brown-Waite	Clary	Geller	King
Burt	Cowin	Grant	Kirkpatrick
Campbell	Dawson-White	Gutman	Klein
Carlton	Diaz-Balart	Hargrett	Kurth
Latvala	Meek	Saunders	Sullivan
Laurent	Mitchell	Scott	Thomas
Lee	Myers	Sebesta	Webster
McKay	Rossin	Silver	

Nays—None

HB 819—A bill to be entitled An act relating to the presidential preference primary; amending s. 103.101, F.S.; changing the date of the presidential preference primary; providing that any election scheduled to be held concurrent with the presidential preference primary in the year 2000 be changed to conform; providing an effective date.

—as amended April 27 was read the third time by title.

RECONSIDERATION OF AMENDMENT

On motion by Senator Geller, the Senate reconsidered the vote by which **Amendment 1** by Senator Latvala was adopted.

Senators Geller, Latvala and Lee offered the following amendment to **Amendment 1** which was moved by Senator Geller and adopted by two-thirds vote:

Amendment 1A (755244)—On page 20, line 2, after "*mailing*" insert: *and which allocates no more than three times as much space or time to the candidate with the most space or time allocated as the amount of space or time allocated to the candidate with the least space or time allocated*

Amendment 1 as amended was adopted by two-thirds vote.

On motion by Senator Latvala, **HB 819** as amended was passed and certified to the House. The vote on passage was:

Yeas—39

Madam President	Diaz-Balart	King	Myers
Brown-Waite	Dyer	Kirkpatrick	Rossin
Burt	Forman	Klein	Saunders
Campbell	Geller	Kurth	Scott
Carlton	Grant	Latvala	Sebesta
Casas	Gutman	Laurent	Silver
Childers	Hargrett	Lee	Sullivan
Clary	Holzendorf	McKay	Thomas
Cowin	Horne	Meek	Webster
Dawson-White	Jones	Mitchell	

Nays—None

HB 537—A bill to be entitled An act relating to the tax on sales, use, and other transactions; amending s. 212.0515, F.S.; revising the calculation of taxes on beverages sold from vending machines; eliminating the requirement for a certificate; eliminating a monetary penalty; providing an effective date.

—was read the third time by title.

On motion by Senator Sullivan, **HB 537** was passed and certified to the House. The vote on passage was:

Yeas—37

Madam President	Dawson-White	Jones	Rossin
Bronson	Diaz-Balart	King	Saunders
Brown-Waite	Dyer	Klein	Scott
Burt	Forman	Latvala	Sebesta
Campbell	Geller	Laurent	Silver
Carlton	Grant	Lee	Sullivan
Casas	Gutman	McKay	Webster
Childers	Hargrett	Meek	
Clary	Holzendorf	Mitchell	
Cowin	Horne	Myers	

Nays—None

HB 1639—A bill to be entitled An act relating to ad valorem tax assessment; amending s. 193.461, F.S.; specifying requirements for the inclusion of irrigation systems when the income methodology approach is used in the assessment of property used for agricultural purposes; providing an effective date.

—was read the third time by title.

On motion by Senator Laurent, **HB 1639** was passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Dawson-White	Jones	Mitchell
Bronson	Diaz-Balart	King	Myers
Brown-Waite	Dyer	Kirkpatrick	Rossin
Burt	Forman	Klein	Saunders
Campbell	Geller	Kurth	Scott
Carlton	Grant	Latvala	Sebesta
Casas	Gutman	Laurent	Silver
Childers	Hargrett	Lee	Sullivan
Clary	Holzendorf	McKay	Thomas
Cowin	Horne	Meek	Webster

Nays—None

CS for HB 397—A bill to be entitled An act relating to tax on sales, use, and other transactions; amending s. 212.08, F.S.; revising the industries to which the exemption for electricity or steam used in certain manufacturing and related operations applies; providing an exemption for labor charges for, and parts and materials used in, the repair of machinery and equipment used to produce tangible personal property at a fixed location by specified industries; providing a schedule for implementing the exemption; providing an effective date.

—was read the third time by title.

On motion by Senator Horne, **CS for HB 397** was passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Dawson-White	Jones	Mitchell
Bronson	Diaz-Balart	King	Myers
Brown-Waite	Dyer	Kirkpatrick	Rossin
Burt	Forman	Klein	Saunders
Campbell	Geller	Kurth	Scott
Carlton	Grant	Latvala	Sebesta
Casas	Gutman	Laurent	Silver
Childers	Hargrett	Lee	Sullivan
Clary	Holzendorf	McKay	Thomas
Cowin	Horne	Meek	Webster

Nays—None

On motion by Senator Clary, by two-thirds vote **CS for HB's 1927 and 961** was withdrawn from the Committees on Health, Aging and Long-Term Care; and Fiscal Policy.

On motion by Senator Clary, the rules were waived and—

CS for HB's 1927 and 961—A bill to be entitled An act relating to managed health care; amending s. 408.05, F.S.; requiring the State Center for Health Statistics to publish health maintenance organization report cards; amending s. 408.7056, F.S.; excluding certain additional grievances from consideration by a statewide provider and subscriber assistance panel; revising panel membership; amending s. 627.6471, F.S.; requiring preferred provider organization policies which do not provide direct patient access to a dermatologist to conform to certain requirements imposed on exclusive provider organization contracts; amending s. 641.31, F.S.; providing for a point-of-service benefit rider on a health maintenance contract; providing requirements; providing restrictions; authorizing reasonable copayment and annual deductible; providing exceptions relating to subscriber liability for services received; amending s. 641.3155, F.S.; providing a process for retroactive reduction of payments of provider claims under certain circumstances; amending s. 641.51, F.S.; requiring that health maintenance organizations provide additional information to the Agency for Health Care Administration indicating quality of care; removing a requirement that organizations conduct customer satisfaction surveys; revising requirements for preventive pediatric health care provided by health maintenance organizations; amending s. 641.58, F.S.; providing for moneys in the Health Care Trust Fund to be used for additional purposes; directing the director of the Agency for Health Care Administration to establish an advisory group on the submission and payment of health claims; providing membership and duties; requiring a report; providing an appropriation; providing effective dates.

—a companion measure, was substituted for **CS for SB's 2472 and 1892** and read the second time by title.

Senator Clary moved the following amendment:

Amendment 1 (701292)(with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Paragraph (a) of subsection (5) of section 408.05, Florida Statutes, 1998 Supplement, is amended to read:

408.05 State Center for Health Statistics.—

(5) PUBLICATIONS; REPORTS; SPECIAL STUDIES.—The center shall provide for the widespread dissemination of data which it collects and analyzes. The center shall have the following publication, reporting, and special study functions:

(a) The center shall publish and make available periodically to agencies and individuals health statistics publications of general interest, *including HMO report cards;* publications providing health statistics on topical health policy issues;~~,~~ publications *that* ~~which~~ provide health status profiles of the people in this state;~~,~~ and other topical health statistics publications.

Section 2. Subsections (2) and (11) of section 408.7056, Florida Statutes, 1998 Supplement, are amended to read:

408.7056 Statewide Provider and Subscriber Assistance Program.—

(2) The agency shall adopt and implement a program to provide assistance to subscribers and providers, including those whose grievances are not resolved by the managed care entity to the satisfaction of the subscriber or provider. The program shall consist of one or more panels that meet as often as necessary to timely review, consider, and hear grievances and recommend to the agency or the department any actions that should be taken concerning individual cases heard by the panel. The panel shall hear every grievance filed by subscribers and providers on behalf of subscribers, unless the grievance:

(a) Relates to a managed care entity's refusal to accept a provider into its network of providers;

(b) Is part of *an internal grievance in a Medicare managed care entity or* a reconsideration appeal through the Medicare appeals process which does not involve a quality of care issue;

(c) Is related to a health plan not regulated by the state such as an administrative services organization, third-party administrator, or federal employee health benefit program;

(d) Is related to appeals by in-plan suppliers and providers, unless related to quality of care provided by the plan;

(e) Is part of a Medicaid fair hearing pursued under 42 C.F.R. ss. 431.220 et seq.;

(f) Is the basis for an action pending in state or federal court;

(g) Is related to an appeal by nonparticipating providers, unless related to the quality of care provided to a subscriber by the managed care entity and the provider is involved in the care provided to the subscriber;

(h) Was filed before the subscriber or provider completed the entire internal grievance procedure of the managed care entity, the managed care entity has complied with its timeframes for completing the internal grievance procedure, and the circumstances described in subsection (6) do not apply;

(i) Has been resolved to the satisfaction of the subscriber or provider who filed the grievance, unless the managed care entity's initial action is egregious or may be indicative of a pattern of inappropriate behavior;

(j) Is limited to seeking damages for pain and suffering, lost wages, or other incidental expenses, *including accrued interest on unpaid balances, court costs, and transportation costs associated with a grievance procedure*;

(k) Is limited to issues involving conduct of a health care provider or facility, staff member, or employee of a managed care entity which constitute grounds for disciplinary action by the appropriate professional licensing board and is not indicative of a pattern of inappropriate behavior, and the agency or department has reported these grievances to the appropriate professional licensing board or to the health facility regulation section of the agency for possible investigation; or

(l) Is withdrawn by the subscriber or provider. Failure of the subscriber or the provider to attend the hearing shall be considered a withdrawal of the grievance.

(11) The panel shall consist of members employed by the agency and members employed by the department, chosen by their respective agencies*; a consumer appointed by the Governor; a physician appointed by the Governor, as a standing member; and physicians who have expertise relevant to the case to be heard, on a rotating basis*. The agency may contract with a medical director and a primary care physician who shall provide additional technical expertise to the panel. The medical director shall be selected from a health maintenance organization with a current certificate of authority to operate in Florida.

Section 3. Present subsection (5) of section 627.6471, Florida Statutes, is redesignated as subsection (6) and a new subsection (5) is added to that section to read:

627.6471 Contracts for reduced rates of payment; limitations; coinsurance and deductibles.—

(5) Any policy issued under this section which does not provide direct patient access to a dermatologist must conform to the requirements of s. 627.6472(16). This subsection shall not be construed to affect the amount the insured or patient must pay as a deductible or coinsurance amount authorized under this section.

Section 4. Subsection (36) is added to section 641.31, Florida Statutes, 1998 Supplement, to read:

641.31 Health maintenance contracts.—

(36)(a) Notwithstanding any other provision of this part, a health maintenance organization that meets the requirements of paragraph (b) may, through a point-of-service rider to its contract providing comprehensive health care services, include a point-of-service benefit. Under such a rider, a subscriber or other covered person of the health maintenance organization may choose, at the time of covered service, a provider with whom the health maintenance organization does not have a health maintenance organization provider contract. The rider may not require a referral from the health maintenance organization for the point-of-service benefits.

(b) A health maintenance organization offering a point-of-service rider under this subsection must have a valid certificate of authority issued under the provisions of the chapter, must have been licensed under this chapter for a minimum of 3 years, and must at all times that it has riders in effect maintain a minimum surplus of $5 million.

(c) Premiums paid in for the point-of-service riders may not exceed 15 percent of total premiums for all health plan products sold by the health maintenance organization offering the rider. If the premiums paid for point-of-service riders exceed 15 percent, the health maintenance organization must notify the department and, once this fact is known, must immediately cease offering such a rider until it is in compliance with the rider premium cap.

(d) Notwithstanding the limitations of deductibles and copayment provisions in this part, a point-of-service rider may require the subscriber to pay a reasonable copayment for each visit for services provided by a noncontracted provider chosen at the time of the service. The copayment by the subscriber may either be a specific dollar amount or a percentage of the reimbursable provider charges covered by the contract and must be paid by the subscriber to the noncontracted provider upon receipt of covered services. The point-of-service rider may require that a reasonable annual deductible for the expenses associated with the point-of-service rider be met and may include a lifetime maximum benefit amount. The rider must include the language required by s. 627.6044 and must comply with copayment limits described in s. 627.6471. Section 641.315(2) and (3) does not apply to a point-of-service rider authorized under this subsection.

(e) The term "point of service" may not be used by a health maintenance organization except with riders permitted under this section or with forms approved by the department in which a point-of-service product is offered with an indemnity carrier.

(f) A point-of-service rider must be filed and approved under ss. 627.410 and 627.411.

Section 5. Subsection (4) is added to section 641.3155, Florida Statutes, 1998 Supplement, to read:

641.3155 Provider contracts; payment of claims.—

(4) Any retroactive reductions of payments or demands for refund of previous overpayments which are due to retroactive review-of-coverage decisions or payment levels must be reconciled to specific claims unless the parties agree to other reconciliation methods and terms. Any retroactive demands by providers for payment due to underpayments or nonpayments for covered services must be reconciled to specific claims unless the parties agree to other reconciliation methods and terms. The look-back period may be specified by the terms of the contract.

Section 6. *The Director of the Agency for Health Care Administration shall establish an advisory group composed of eight members, with three members from health maintenance organizations licensed in Florida, one representative from a not-for-profit hospital, one representative from a for-profit hospital, one representative who is a licensed physician, one representative from the Office of the Insurance Commissioner, and one representative from the Agency for Health Care Administration. The advisory group shall study and make recommendations concerning:*

(1) Trends and issues relating to legislative, regulatory, or private-sector solutions for timely and accurate submission and payment of health claims.

(2) Development of electronic billing and claims processing for providers and health care facilities that provide for electronic processing of eligibility requests; benefit verification; authorizations; precertifications; business expensing of assets, including software, used for electronic billing and claims processing; and claims status, including use of models such as those compatible with federal billing systems.

(3) The form and content of claims.

(4) Measures to reduce fraud and abuse relating to the submission and payment of claims.

The advisory group shall be appointed and convened by July 1, 1999, and shall meet in Tallahassee. Members of the advisory group shall not receive per diem or travel reimbursement. The advisory group shall submit its recommendations in a report, by January 1, 2000, to the President of the Senate and the Speaker of the House of Representatives.

Section 7. Subsections (8), (9), and (10) of section 641.51, Florida Statutes, are amended to read:

641.51 Quality assurance program; second medical opinion requirement.—

(8) Each organization shall release to the agency data *that* ~~which~~ are indicators of access and quality of care. The agency shall develop rules specifying data-reporting requirements for these indicators. The indicators shall include the following characteristics:

(a) They must relate to access and quality of care measures.

(b) They must be consistent with data collected pursuant to accreditation activities and standards.

(c) They must be consistent with frequency requirements under the accreditation process.

(d) They must include measures of the management of chronic diseases.

(e) They must include preventive health care for adults and children.

(f) They must include measures of prenatal care.

(g) They must include measures of health checkups for children.

The agency shall develop by rule a uniform format for publication of the data for the public which shall contain explanations of the data collected and the relevance of such data. The agency shall publish such data no less frequently than every 2 years.

~~(9) Each organization shall conduct a standardized customer satisfaction survey, as developed by the agency by rule, of its membership at intervals specified by the agency. The survey shall be consistent with surveys required by accrediting organizations and may contain up to 10 additional questions based on concerns specific to Florida. Survey data shall be submitted to the agency, which shall make comparative findings available to the public.~~

(9)~~(10)~~ Each organization shall adopt recommendations for preventive pediatric health care *which are* consistent with *the* ~~early periodic screening, diagnosis, and treatment~~ requirements *for health checkups for children* developed for the Medicaid program. Each organization shall establish goals to achieve 80-percent compliance by July 1, 1998, and 90-percent compliance by July 1, 1999, for their enrolled pediatric population.

Section 8. Subsection (4) of section 641.58, Florida Statutes, is amended to read:

641.58 Regulatory assessment; levy and amount; use of funds; tax returns; penalty for failure to pay.—

(4) The moneys ~~so~~ received and deposited into the Health Care Trust Fund shall be used to defray the expenses of the agency in the discharge of its administrative and regulatory powers and duties under this part, including *conducting an annual survey of the satisfaction of members of health maintenance organizations; contracting with physician consultants for the Statewide Provider and Subscriber Assistance Panel;* ~~the~~ maintaining ~~of~~ offices and necessary supplies, essential equipment, and other materials, salaries and expenses of required personnel;~~,~~ and *discharging* ~~all other legitimate expenses relating to the discharge of~~ the administrative and regulatory powers and duties imposed under *this* ~~such~~ part.

Section 9. Subsections (4) and (7) of section 409.910, Florida Statutes, 1998 Supplement, are amended to read:

409.910 Responsibility for payments on behalf of Medicaid-eligible persons when other parties are liable.—

(4) After the department has provided medical assistance under the Medicaid program, it shall seek recovery of reimbursement from third-party benefits to the limit of legal liability and for the full amount of third-party benefits, but not in excess of the amount of medical assistance paid by Medicaid, as to:

(a) Claims for which the department has a waiver pursuant to federal law; or

(b) Situations in which the department learns of the existence of a liable third party or in which third-party benefits are discovered or become available after medical assistance has been provided by Medicaid. *Nothing in this subsection shall limit the authority of the state or any agency thereof to bring or maintain actions seeking recoveries in excess of the amount paid as Medicaid benefits under alternative theories of liability in conjunction with an action filed pursuant to this section.*

(7) The department shall recover the full amount of all medical assistance provided by Medicaid on behalf of the recipient to the full extent of third-party benefits.

(a) Recovery of such benefits shall be collected directly from:

1. Any third party;

2. The recipient or legal representative, if he or she has received third-party benefits;

3. The provider of a recipient's medical services if third-party benefits have been recovered by the provider; notwithstanding any provision of this section, to the contrary, however, no provider shall be required to refund or pay to the department any amount in excess of the actual third-party benefits received by the provider from a third-party payor for medical services provided to the recipient; or

4. Any person who has received the third-party benefits.

(b) Upon receipt of any recovery or other collection pursuant to this section, the department shall distribute the amount collected as follows:

1. To itself, an amount equal to the state Medicaid expenditures for the recipient plus any incentive payment made in accordance with paragraph (14)(a).

2. To the Federal Government, the federal share of the state Medicaid expenditures minus any incentive payment made in accordance with paragraph (14)(a) and federal law, and minus any other amount permitted by federal law to be deducted.

3. To the recipient, after deducting any known amounts owed to the department for any related medical assistance or to health care providers, any remaining amount. This amount shall be treated as income or resources in determining eligibility for Medicaid.

The provisions of this subsection do not apply to any proceeds received by the state, or any agency thereof, pursuant to a final order, judgment, or settlement agreement, in any matter in which the state asserts claims brought on its own behalf, and not as a subrogee of a recipient, or under other theories of liability. The provisions of this subsection do not apply to any proceeds received by the state, or an agency thereof, pursuant to a final order, judgment, or settlement agreement, in any matter in which the state asserted both claims as a subrogee and additional claims, except as to those sums specifically identified in the final order, judgment, or settlement agreement as reimbursements to the recipient as expenditures for the named recipient on the subrogation claim.

Section 10. *The amendments to section 409.910, Florida Statutes, 1998 Supplement, made by this act are intended to clarify existing law and are remedial in nature. As such, they are specifically made retroactive to October 1, 1990, and shall apply to all causes of action arising on or after October 1, 1990.*

Section 11. Subsection (1) of section 627.6645, Florida Statutes, is amended and subsection (5) is added to that section to read:

627.6645 Notification of cancellation, expiration, nonrenewal, or change in rates.—

(1) Every insurer delivering or issuing for delivery a group health insurance policy under the provisions of this part shall give the policyholder at least 45 days' advance notice of cancellation, expiration, nonrenewal, or a change in rates. Such notice shall be mailed to the policyholder's last address as shown by the records of the insurer. However, if cancellation is for nonpayment of premium, *only* the requirements of *subsection (5)* ~~this section shall not~~ apply. Upon receipt of such notice, the policyholder shall forward, as soon as practicable, the notice of expiration, cancellation, or nonrenewal to each certificateholder covered under the policy.

(5) If cancellation is due to nonpayment of premium, the insurer may not retroactively cancel the policy to a date prior to the date that notice of cancellation was provided to the policyholder unless the insurer mails notice of cancellation to the policyholder prior to 45 days after the date the premium was due. Such notice must be mailed to the policyholder's last address as shown by the records of the insurer and may provide for a retroactive date of cancellation no earlier than midnight of the date that the premium was due.

Section 12. Section 627.6675, Florida Statutes, 1998 Supplement, is amended to read:

627.6675 Conversion on termination of eligibility.—Subject to all of the provisions of this section, a group policy delivered or issued for

delivery in this state by an insurer or nonprofit health care services plan that provides, on an expense-incurred basis, hospital, surgical, or major medical expense insurance, or any combination of these coverages, shall provide that an employee or member whose insurance under the group policy has been terminated for any reason, including discontinuance of the group policy in its entirety or with respect to an insured class, and who has been continuously insured under the group policy, and under any group policy providing similar benefits that the terminated group policy replaced, for at least 3 months immediately prior to termination, shall be entitled to have issued to him or her by the insurer a policy or certificate of health insurance, referred to in this section as a "converted policy." *A group insurer may meet the requirements of this section by contracting with another insurer, authorized in this state, to issue an individual converted policy, which policy has been approved by the department under s. 627.410.* An employee or member shall not be entitled to a converted policy if termination of his or her insurance under the group policy occurred because he or she failed to pay any required contribution, or because any discontinued group coverage was replaced by similar group coverage within 31 days after discontinuance.

(1) TIME LIMIT.—Written application for the converted policy shall be made and the first premium must be paid to the insurer, not later than 63 days after termination of the group policy. *However, if termination was the result of failure to pay any required premium or contribution and such nonpayment of premium was due to acts of an employer or policyholder other than the employee or certificateholder, written application for the converted policy must be made and the first premium must be paid to the insurer not later than 63 days after notice of termination is mailed by the insurer or the employer, whichever is earlier, to the employee's or certificateholder's last address as shown by the record of the insurer or the employer, whichever is applicable. In such case of termination due to nonpayment of premium by the employer or policyholder, the premium for the converted policy may not exceed the rate for the prior group coverage for the period of coverage under the converted policy prior to the date notice of termination is mailed to the employee or certificateholder. For the period of coverage after such date, the premium for the converted policy is subject to the requirements of subsection (3).*

(2) EVIDENCE OF INSURABILITY.—The converted policy shall be issued without evidence of insurability.

(3) CONVERSION PREMIUM; EFFECT ON PREMIUM RATES FOR GROUP COVERAGE.—

(a) The premium for the converted policy shall be determined in accordance with premium rates applicable to the age and class of risk of each person to be covered under the converted policy and to the type and amount of insurance provided. However, the premium for the converted policy may not exceed 200 percent of the standard risk rate as established by the department, pursuant to this subsection.

(b) Actual or expected experience under converted policies may be combined with such experience under group policies for the purposes of determining premium and loss experience and establishing premium rate levels for group coverage.

(c) The department shall annually determine standard risk rates, using reasonable actuarial techniques and standards adopted by the department by rule. The standard risk rates must be determined as follows:

1. Standard risk rates for individual coverage must be determined separately for indemnity policies, preferred provider/exclusive provider policies, and health maintenance organization contracts.

2. The department shall survey insurers and health maintenance organizations representing at least an 80 percent market share, based on premiums earned in the state for the most recent calendar year, for each of the categories specified in subparagraph 1.

3. Standard risk rate schedules must be determined, computed as the average rates charged by the carriers surveyed, giving appropriate weight to each carrier's statewide market share of earned premiums.

4. The rate schedule shall be determined from analysis of the one county with the largest market share in the state of all such carriers.

5. The rate for other counties must be determined by using the weighted average of each carrier's county factor relationship to the county determined in subparagraph 4.

6. The rate schedule must be determined for different age brackets and family size brackets.

(4) EFFECTIVE DATE OF COVERAGE.—The effective date of the converted policy shall be the day following the termination of insurance under the group policy.

(5) SCOPE OF COVERAGE.—The converted policy shall cover the employee or member and his or her dependents who were covered by the group policy on the date of termination of insurance. At the option of the insurer, a separate converted policy may be issued to cover any dependent.

(6) OPTIONAL COVERAGE.—The insurer shall not be required to issue a converted policy covering any person who is or could be covered by Medicare. The insurer shall not be required to issue a converted policy covering a person if paragraphs (a) and (b) apply to the person:

(a) If any of the following apply to the person:

1. The person is covered for similar benefits by another hospital, surgical, medical, or major medical expense insurance policy or hospital or medical service subscriber contract or medical practice or other prepayment plan, or by any other plan or program.

2. The person is eligible for similar benefits, whether or not actually provided coverage, under any arrangement of coverage for individuals in a group, whether on an insured or uninsured basis.

3. Similar benefits are provided for or are available to the person under any state or federal law.

(b) If the benefits provided under the sources referred to in subparagraph (a)1. or the benefits provided or available under the sources referred to in subparagraphs (a)2. and 3., together with the benefits provided by the converted policy, would result in overinsurance according to the insurer's standards. The insurer's standards must bear some reasonable relationship to actual health care costs in the area in which the insured lives at the time of conversion and must be filed with the department prior to their use in denying coverage.

(7) INFORMATION REQUESTED BY INSURER.—

(a) A converted policy may include a provision under which the insurer may request information, in advance of any premium due date, of any person covered thereunder as to whether:

1. The person is covered for similar benefits by another hospital, surgical, medical, or major medical expense insurance policy or hospital or medical service subscriber contract or medical practice or other prepayment plan or by any other plan or program.

2. The person is covered for similar benefits under any arrangement of coverage for individuals in a group, whether on an insured or uninsured basis.

3. Similar benefits are provided for or are available to the person under any state or federal law.

(b) The converted policy may provide that the insurer may refuse to renew the policy or the coverage of any person only for one or more of the following reasons:

1. Either the benefits provided under the sources referred to in subparagraphs (a)1. and 2. for the person or the benefits provided or available under the sources referred to in subparagraph (a)3. for the person, together with the benefits provided by the converted policy, would result in overinsurance according to the insurer's standards on file with the department.

2. The converted policyholder fails to provide the information requested pursuant to paragraph (a).

3. Fraud or intentional misrepresentation in applying for any benefits under the converted policy.

4. Other reasons approved by the department.

(8) BENEFITS OFFERED.—

(a) An insurer shall not be required to issue a converted policy that provides benefits in excess of those provided under the group policy from which conversion is made.

(b) An insurer shall offer the benefits specified in s. 627.668 and the benefits specified in s. 627.669 if those benefits were provided in the group plan.

(c) An insurer shall offer maternity benefits and dental benefits if those benefits were provided in the group plan.

(9) PREEXISTING CONDITION PROVISION.—The converted policy shall not exclude a preexisting condition not excluded by the group policy. However, the converted policy may provide that any hospital, surgical, or medical benefits payable under the converted policy may be reduced by the amount of any such benefits payable under the group policy after the termination of covered under the group policy. The converted policy may also provide that during the first policy year the benefits payable under the converted policy, together with the benefits payable under the group policy, shall not exceed those that would have been payable had the individual's insurance under the group policy remained in force.

(10) REQUIRED OPTION FOR MAJOR MEDICAL COVERAGE.—Subject to the provisions and conditions of this part, the employee or member shall be entitled to obtain a converted policy providing major medical coverage under a plan meeting the following requirements:

(a) A maximum benefit equal to the lesser of the policy limit of the group policy from which the individual converted or $500,000 per covered person for all covered medical expenses incurred during the covered person's lifetime.

(b) Payment of benefits at the rate of 80 percent of covered medical expenses which are in excess of the deductible, until 20 percent of such expenses in a benefit period reaches $2,000, after which benefits will be paid at the rate of 90 percent during the remainder of the contract year unless the insured is in the insurer's case management program, in which case benefits shall be paid at the rate of 100 percent during the remainder of the contract year. For the purposes of this paragraph, "case management program" means the specific supervision and management of the medical care provided or prescribed for a specific individual, which may include the use of health care providers designated by the insurer. Payment of benefits for outpatient treatment of mental illness, if provided in the converted policy, may be at a lesser rate but not less than 50 percent.

(c) A deductible for each calendar year that must be $500, $1,000, or $2,000, at the option of the policyholder.

(d) The term "covered medical expenses," as used in this subsection, shall be consistent with those customarily offered by the insurer under group or individual health insurance policies but is not required to be identical to the covered medical expenses provided in the group policy from which the individual converted.

(11) ALTERNATIVE PLANS.—The insurer shall, in addition to the option required by subsection (10), offer the standard health benefit plan, as established pursuant to s. 627.6699(12). The insurer may, at its option, also offer alternative plans for group health conversion in addition to the plans required by this section.

(12) RETIREMENT COVERAGE.—If coverage would be continued under the group policy on an employee following the employee's retirement prior to the time he or she is or could be covered by Medicare, the employee may elect, instead of such continuation of group insurance, to have the same conversion rights as would apply had his or her insurance terminated at retirement by reason or termination of employment or membership.

(13) REDUCTION OF COVERAGE DUE TO MEDICARE.—The converted policy may provide for reduction of coverage on any person upon his or her eligibility for coverage under Medicare or under any other state or federal law providing for benefits similar to those provided by the converted policy.

(14) CONVERSION PRIVILEGE ALLOWED.—The conversion privilege shall also be available to any of the following:

(a) The surviving spouse, if any, at the death of the employee or member, with respect to the spouse and the children whose coverages under the group policy terminate by reason of the death, otherwise to each surviving child whose coverage under the group policy terminates by reason of such death, or, if the group policy provides for continuation of dependents' coverages following the employee's or member's death, at the end of such continuation.

(b) The former spouse whose coverage would otherwise terminate because of annulment or dissolution of marriage, if the former spouse is dependent for financial support.

(c) The spouse of the employee or member upon termination of coverage of the spouse, while the employee or member remains insured under the group policy, by reason of ceasing to be a qualified family member under the group policy, with respect to the spouse and the children whose coverages under the group policy terminate at the same time.

(d) A child solely with respect to himself or herself upon termination of his or her coverage by reason of ceasing to be a qualified family member under the group policy, if a conversion privilege is not otherwise provided in this subsection with respect to such termination.

(15) BENEFIT LEVELS.—If the benefit levels required in subsection (10) exceed the benefit levels provided under the group policy, the conversion policy may offer benefits which are substantially similar to those provided under the group policy in lieu of those required in subsection (10).

(16) GROUP COVERAGE INSTEAD OF INDIVIDUAL COVERAGE.—The insurer may elect to provide group insurance coverage instead of issuing a converted individual policy.

(17) NOTIFICATION.—A notification of the conversion privilege shall be included in each certificate of coverage. The insurer shall mail an election and premium notice form, including an outline of coverage, on a form approved by the department, within 14 days after an individual who is eligible for a converted policy gives notice to the insurer that the individual is considering applying for the converted policy or otherwise requests such information. The outline of coverage must contain a description of the principal benefits and coverage provided by the policy and its principal exclusions and limitations, including, but not limited to, deductibles and coinsurance.

(18) OUTSIDE CONVERSIONS.—A converted policy that is delivered outside of this state must be on a form that could be delivered in the other jurisdiction as a converted policy had the group policy been issued in that jurisdiction.

(19) APPLICABILITY.—This section does not require conversion on termination of eligibility for a policy or contract that provides benefits for specified diseases, or for accidental injuries only, disability income, Medicare supplement, hospital indemnity, limited benefit, nonconventional, or excess policies.

(20) Nothing in this section or in the incorporation of it into insurance policies shall be construed to require insurers to provide benefits equal to those provided in the group policy from which the individual converted, provided, however, that comprehensive benefits are offered which shall be subject to approval by the Insurance Commissioner.

Section 13. Section 641.3108, Florida Statutes, is amended to read:

641.3108 Notice of cancellation of contract.—

(1) Except for nonpayment of premium or termination of eligibility, no health maintenance organization may cancel or otherwise terminate or fail to renew a health maintenance contract without giving the subscriber at least 45 days' notice in writing of the cancellation, termination, or nonrenewal of the contract. The written notice shall state the reason or reasons for the cancellation, termination, or nonrenewal. All health maintenance contracts shall contain a clause which requires that this notice be given.

(2) If cancellation is due to nonpayment of premium, the health maintenance organization may not retroactively cancel the contract to a date prior to the date that notice of cancellation was provided to the subscriber unless the organization mails notice of cancellation to the subscriber prior to 45 days after the date the premium was due. Such notice must

be mailed to the subscriber's last address as shown by the records of the organization and may provide for a retroactive date of cancellation no earlier than midnight of the date that the premium was due.

(3) In the case of a health maintenance contract issued to an employer or person holding the contract on behalf of the subscriber group, the health maintenance organization may make the notification through the employer or group contract holder, and, if the health maintenance organization elects to take this action through the employer or group contract holder, the organization shall be deemed to have complied with the provisions of this section upon notifying the employer or group contract holder of the requirements of this section and requesting the employer or group contract holder to forward to all subscribers the notice required herein.

Section 14. Subsection (1) of section 641.3922, Florida Statutes, 1998 Supplement, is amended to read:

641.3922 Conversion contracts; conditions.—Issuance of a converted contract shall be subject to the following conditions:

(1) TIME LIMIT.—Written application for the converted contract shall be made and the first premium paid to the health maintenance organization not later than 63 days after such termination. *However, if termination was the result of failure to pay any required premium or contribution and such nonpayment of premium was due to acts of an employer or group contract holder other than the employee or individual subscriber, written application for the contract must be made and the first premium must be paid not later than 63 days after notice of termination is mailed by the organization or the employer, whichever is earlier, to the employee's or individual's last address as shown by the record of the organization or the employer, whichever is applicable. In such case of termination due to non-payment of premium by the employer or group contract holder, the premium for the converted contract may not exceed the rate for the prior group coverage for the period of coverage under the converted contract prior to the date notice of termination is mailed to the employee or individual subscriber. For the period of coverage after such date, the premium for the converted contract is subject to the requirements of subsection (3).*

Section 15. Subsection (9) is added to section 20.41, Florida Statutes, to read:

20.41 Department of Elderly Affairs.—There is created a Department of Elderly Affairs.

(9) Area agencies on aging are subject to chapter 119, relating to public records, and, when considering any contracts requiring the expenditure of funds, are subject to ss. 286.011-286.012, relating to public meetings.

Section 16. *There is appropriated to the Agency for Health Care Administration for fiscal year 1999-2000 $1,439,000 from the Health Care Trust Fund for 12 months of funding for the purpose of implementing this act.*

Section 17. 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 governmental agencies; amending s. 20.41, F.S.; providing that area agencies on aging are subject to ch. 119 and ss. 286.011-286.012, F.S., as specified; amending s. 408.05, F.S., relating to the State Center for Health Statistics; requiring the Agency for Health Care Administration to publish health maintenance organization report cards; amending s. 408.7056, F.S.; excluding certain additional grievances from consideration by a statewide provider and subscriber assistance panel; revising the membership of the panel; amending s. 627.6471, F.S.; requiring preferred provider organization policies which do not provide direct patient access for dermatological services to conform to certain requirements imposed on exclusive provider organization contracts; amending s. 627.6645, F.S.; revising the notice requirements for cancellation or nonrenewal of a group health insurance policy; specifying conditions under which the insurer may retroactively cancel coverage due to nonpayment of premium; amending s. 627.6675, F.S.; revising the time limits for an employee or group member to apply for an individual converted policy when termination of group coverage is due to failure of the employer to pay the premium; revising the requirements for the premium for the converted policy; allowing a group insurer to contract with another insurer to issue an individual converted policy under certain conditions; amending s. 641.3108, F.S.; revising the notice requirements for cancellation or nonrenewal of a health maintenance organization contract; specifying conditions under which the organization may retroactively cancel coverage due to nonpayment of premium; amending s. 641.3922, F.S.; revising the time limits for an employee or group member to apply for a converted contract from a health maintenance organization when termination of group coverage is due to failure of the employer to pay the premium; revising the requirements for the premium for the converted contract; amending s. 641.31, F.S., relating to health maintenance contracts; providing for a point-of-service benefit rider on a health maintenance contract; providing requirements; providing restrictions; authorizing reasonable copayment and annual deductible; providing exceptions relating to subscriber liability for services received; amending s. 641.3155, F.S., relating to health maintenance organization provider contracts and payment of claims; requiring health maintenance organizations to reconcile retroactive reductions of payment to specific claims; requiring providers to reconcile retroactive demands for underpayment or nonpayment to specific claims; providing an exception; providing for the contract to specify the look-back period; providing for an advisory group established in the Agency for Health Care Administration; requiring a report; amending s. 641.51, F.S.; requiring that health maintenance organizations provide additional information to the Agency for Health Care Administration indicating quality of care; removing a requirement that organizations conduct customer satisfaction surveys; revising requirements for preventive pediatric health care provided by health maintenance organizations; amending s. 641.58, F.S.; providing for moneys in the Health Care Trust Fund to be used for additional purposes; amending s. 409.910, F.S.; clarifying that the state may recover and retain damages in excess of Medicaid payments made under certain circumstances; providing for retroactive application; providing an appropriation; providing an effective date.

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

Amendment 1A (485912)—On page 10, delete lines 10-15 and insert: assistance has been provided by Medicaid.

Amendment 1 as amended was adopted.

On motion by Senator Clary, by two-thirds vote **CS for HB's 1927 and 961** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Bronson	Diaz-Balart	King	Rossin
Brown-Waite	Dyer	Kirkpatrick	Saunders
Burt	Forman	Klein	Scott
Campbell	Geller	Kurth	Sebesta
Carlton	Grant	Latvala	Sullivan
Casas	Gutman	Laurent	Thomas
Childers	Hargrett	Lee	Webster
Clary	Holzendorf	McKay	
Cowin	Horne	Mitchell	
Dawson-White	Jones	Myers	

Nays—None

HB 269—A bill to be entitled An act relating to the lead-acid battery fee; amending ss. 403.717 and 403.7185, F.S.; specifying that the fee applies to new or remanufactured lead-acid batteries sold at retail; providing an appropriation; providing an effective date.

—as amended April 27 was read the third time by title.

RECONSIDERATION OF AMENDMENT

On motion by Senator Silver, the Senate reconsidered the vote by which **Amendment 1** by Senator Silver was adopted. **Amendment 1** was withdrawn.

On motion by Senator Silver, **HB 269** was passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Dawson-White	Jones	Mitchell
Bronson	Diaz-Balart	King	Myers
Brown-Waite	Dyer	Kirkpatrick	Rossin
Burt	Forman	Klein	Saunders
Campbell	Geller	Kurth	Scott
Carlton	Grant	Latvala	Sebesta
Casas	Gutman	Laurent	Silver
Childers	Hargrett	Lee	Sullivan
Clary	Holzendorf	McKay	Thomas
Cowin	Horne	Meek	Webster

Nays—None

CS for SB 2554—A bill to be entitled An act relating to insurance contracts; amending s. 626.022, F.S.; providing an exception from certain insurance licensing requirements for certified public accountants acting within the scope of their profession; amending s. 626.883, F.S.; requiring that certain information be included with the payments made by a fiscal intermediary to a health care provider; amending s. 641.31, F.S., relating to health maintenance contracts; requiring a health maintenance organization to provide notice prior to increasing the copayments or limiting any benefits under a group contract; requiring certain health maintenance contracts to cover persons licensed to practice massage under certain circumstances; amending s. 641.315, F.S.; providing that a contract between a health maintenance organization and a health care provider may not restrict the provider from entering into a contract with any other health maintenance organizations and may not restrict the health maintenance organization from entering into a contract with any other provider; amending s. 641.316, F.S.; requiring that certain information be included with the payments made by a fiscal intermediary to a health care provider; providing for applicability; amending s. 641.315, F.S.; prohibiting a health maintenance organization's contract from preventing a subscriber from receiving certain services; amending s. 641.31, F.S.; prohibiting a health maintenance organization's contract from preventing a subscriber from receiving certain services; amending s. 641.3155, F.S.; prohibiting a health maintenance organization from denying payment to certain physicians for inpatient hospital services; providing an effective date.

—as amended April 27 was read the third time by title.

Senator Gutman moved the following amendment which was adopted by two-thirds vote:

Amendment 1 (143194)—On page 3, line 21, after "*contract*," insert: *only*

Senator Lee moved the following amendment which was adopted by two-thirds vote:

Amendment 2 (324776)(with title amendment)—On page 6, between lines 14 and 15, insert:

Section 9. Subsection (1) of section 627.6645, Florida Statutes, is amended and subsection (5) is added to that section to read:

627.6645 Notification of cancellation, expiration, nonrenewal, or change in rates.—

(1) Every insurer delivering or issuing for delivery a group health insurance policy under the provisions of this part shall give the policyholder at least 45 days' advance notice of cancellation, expiration, nonrenewal, or a change in rates. Such notice shall be mailed to the policyholder's last address as shown by the records of the insurer. However, if cancellation is for nonpayment of premium, *only* the requirements of *subsection (5)* ~~this section shall not~~ apply. Upon receipt of such notice, the policyholder shall forward, as soon as practicable, the notice of expiration, cancellation, or nonrenewal to each certificateholder covered under the policy.

(5) If cancellation is due to nonpayment of premium, the insurer may not retroactively cancel the policy to a date prior to the date that notice of cancellation was provided to the policyholder unless the insurer mails notice of cancellation to the policyholder prior to 45 days after the date the premium was due. Such notice must be mailed to the policyholder's last address as shown by the records of the insurer and may provide for a retroactive date of cancellation no earlier than midnight of the date that the premium was due.

Section 10. Section 627.6675, Florida Statutes, 1998 Supplement, is amended to read:

627.6675 Conversion on termination of eligibility.—Subject to all of the provisions of this section, a group policy delivered or issued for delivery in this state by an insurer or nonprofit health care services plan that provides, on an expense-incurred basis, hospital, surgical, or major medical expense insurance, or any combination of these coverages, shall provide that an employee or member whose insurance under the group policy has been terminated for any reason, including discontinuance of the group policy in its entirety or with respect to an insured class, and who has been continuously insured under the group policy, and under any group policy providing similar benefits that the terminated group policy replaced, for at least 3 months immediately prior to termination, shall be entitled to have issued to him or her by the insurer a policy or certificate of health insurance, referred to in this section as a "converted policy." *A group insurer may meet the requirements of this section by contracting with another insurer, authorized in this state, to issue an individual converted policy, which policy has been approved by the department under s. 627.410.* An employee or member shall not be entitled to a converted policy if termination of his or her insurance under the group policy occurred because he or she failed to pay any required contribution, or because any discontinued group coverage was replaced by similar group coverage within 31 days after discontinuance.

(1) TIME LIMIT.—Written application for the converted policy shall be made and the first premium must be paid to the insurer, not later than 63 days after termination of the group policy. *However, if termination was the result of failure to pay any required premium or contribution and such nonpayment of premium was due to acts of an employer or policyholder other than the employee or certificateholder, written application for the converted policy must be made and the first premium must be paid to the insurer not later than 63 days after notice of termination is mailed by the insurer or the employer, whichever is earlier, to the employee's or certificateholder's last address as shown by the record of the insurer or the employer, whichever is applicable. In such case of termination due to nonpayment of premium by the employer or policyholder, the premium for the converted policy may not exceed the rate for the prior group coverage for the period of coverage under the converted policy prior to the date notice of termination is mailed to the employee or certificateholder. For the period of coverage after such date, the premium for the converted policy is subject to the requirements of subsection (3).*

(2) EVIDENCE OF INSURABILITY.—The converted policy shall be issued without evidence of insurability.

(3) CONVERSION PREMIUM; EFFECT ON PREMIUM RATES FOR GROUP COVERAGE.—

(a) The premium for the converted policy shall be determined in accordance with premium rates applicable to the age and class of risk of each person to be covered under the converted policy and to the type and amount of insurance provided. However, the premium for the converted policy may not exceed 200 percent of the standard risk rate as established by the department, pursuant to this subsection.

(b) Actual or expected experience under converted policies may be combined with such experience under group policies for the purposes of determining premium and loss experience and establishing premium rate levels for group coverage.

(c) The department shall annually determine standard risk rates, using reasonable actuarial techniques and standards adopted by the department by rule. The standard risk rates must be determined as follows:

1. Standard risk rates for individual coverage must be determined separately for indemnity policies, preferred provider/exclusive provider policies, and health maintenance organization contracts.

2. The department shall survey insurers and health maintenance organizations representing at least an 80 percent market share, based on premiums earned in the state for the most recent calendar year, for each of the categories specified in subparagraph 1.

3. Standard risk rate schedules must be determined, computed as the average rates charged by the carriers surveyed, giving appropriate weight to each carrier's statewide market share of earned premiums.

4. The rate schedule shall be determined from analysis of the one county with the largest market share in the state of all such carriers.

5. The rate for other counties must be determined by using the weighted average of each carrier's county factor relationship to the county determined in subparagraph 4.

6. The rate schedule must be determined for different age brackets and family size brackets.

(4) EFFECTIVE DATE OF COVERAGE.—The effective date of the converted policy shall be the day following the termination of insurance under the group policy.

(5) SCOPE OF COVERAGE.—The converted policy shall cover the employee or member and his or her dependents who were covered by the group policy on the date of termination of insurance. At the option of the insurer, a separate converted policy may be issued to cover any dependent.

(6) OPTIONAL COVERAGE.—The insurer shall not be required to issue a converted policy covering any person who is or could be covered by Medicare. The insurer shall not be required to issue a converted policy covering a person if paragraphs (a) and (b) apply to the person:

(a) If any of the following apply to the person:

1. The person is covered for similar benefits by another hospital, surgical, medical, or major medical expense insurance policy or hospital or medical service subscriber contract or medical practice or other prepayment plan, or by any other plan or program.

2. The person is eligible for similar benefits, whether or not actually provided coverage, under any arrangement of coverage for individuals in a group, whether on an insured or uninsured basis.

3. Similar benefits are provided for or are available to the person under any state or federal law.

(b) If the benefits provided under the sources referred to in subparagraph (a)1. or the benefits provided or available under the sources referred to in subparagraphs (a)2. and 3., together with the benefits provided by the converted policy, would result in overinsurance according to the insurer's standards. The insurer's standards must bear some reasonable relationship to actual health care costs in the area in which the insured lives at the time of conversion and must be filed with the department prior to their use in denying coverage.

(7) INFORMATION REQUESTED BY INSURER.—

(a) A converted policy may include a provision under which the insurer may request information, in advance of any premium due date, of any person covered thereunder as to whether:

1. The person is covered for similar benefits by another hospital, surgical, medical, or major medical expense insurance policy or hospital or medical service subscriber contract or medical practice or other prepayment plan or by any other plan or program.

2. The person is covered for similar benefits under any arrangement of coverage for individuals in a group, whether on an insured or uninsured basis.

3. Similar benefits are provided for or are available to the person under any state or federal law.

(b) The converted policy may provide that the insurer may refuse to renew the policy or the coverage of any person only for one or more of the following reasons:

1. Either the benefits provided under the sources referred to in subparagraphs (a)1. and 2. for the person or the benefits provided or available under the sources referred to in subparagraph (a)3. for the person, together with the benefits provided by the converted policy, would result in overinsurance according to the insurer's standards on file with the department.

2. The converted policyholder fails to provide the information requested pursuant to paragraph (a).

3. Fraud or intentional misrepresentation in applying for any benefits under the converted policy.

4. Other reasons approved by the department.

(8) BENEFITS OFFERED.—

(a) An insurer shall not be required to issue a converted policy that provides benefits in excess of those provided under the group policy from which conversion is made.

(b) An insurer shall offer the benefits specified in s. 627.668 and the benefits specified in s. 627.669 if those benefits were provided in the group plan.

(c) An insurer shall offer maternity benefits and dental benefits if those benefits were provided in the group plan.

(9) PREEXISTING CONDITION PROVISION.—The converted policy shall not exclude a preexisting condition not excluded by the group policy. However, the converted policy may provide that any hospital, surgical, or medical benefits payable under the converted policy may be reduced by the amount of any such benefits payable under the group policy after the termination of covered under the group policy. The converted policy may also provide that during the first policy year the benefits payable under the converted policy, together with the benefits payable under the group policy, shall not exceed those that would have been payable had the individual's insurance under the group policy remained in force.

(10) REQUIRED OPTION FOR MAJOR MEDICAL COVERAGE.—Subject to the provisions and conditions of this part, the employee or member shall be entitled to obtain a converted policy providing major medical coverage under a plan meeting the following requirements:

(a) A maximum benefit equal to the lesser of the policy limit of the group policy from which the individual converted or $500,000 per covered person for all covered medical expenses incurred during the covered person's lifetime.

(b) Payment of benefits at the rate of 80 percent of covered medical expenses which are in excess of the deductible, until 20 percent of such expenses in a benefit period reaches $2,000, after which benefits will be paid at the rate of 90 percent during the remainder of the contract year unless the insured is in the insurer's case management program, in which case benefits shall be paid at the rate of 100 percent during the remainder of the contract year. For the purposes of this paragraph, “case management program” means the specific supervision and management of the medical care provided or prescribed for a specific individual, which may include the use of health care providers designated by the insurer. Payment of benefits for outpatient treatment of mental illness, if provided in the converted policy, may be at a lesser rate but not less than 50 percent.

(c) A deductible for each calendar year that must be $500, $1,000, or $2,000, at the option of the policyholder.

(d) The term “covered medical expenses,” as used in this subsection, shall be consistent with those customarily offered by the insurer under group or individual health insurance policies but is not required to be identical to the covered medical expenses provided in the group policy from which the individual converted.

(11) ALTERNATIVE PLANS.—The insurer shall, in addition to the option required by subsection (10), offer the standard health benefit plan, as established pursuant to s. 627.6699(12). The insurer may, at its option, also offer alternative plans for group health conversion in addition to the plans required by this section.

(12) RETIREMENT COVERAGE.—If coverage would be continued under the group policy on an employee following the employee's retirement prior to the time he or she is or could be covered by Medicare, the employee may elect, instead of such continuation of group insurance, to have the same conversion rights as would apply had his or her insurance terminated at retirement by reason or termination of employment or membership.

(13) REDUCTION OF COVERAGE DUE TO MEDICARE.—The converted policy may provide for reduction of coverage on any person upon his or her eligibility for coverage under Medicare or under any other state or federal law providing for benefits similar to those provided by the converted policy.

(14) CONVERSION PRIVILEGE ALLOWED.—The conversion privilege shall also be available to any of the following:

(a) The surviving spouse, if any, at the death of the employee or member, with respect to the spouse and the children whose coverages under the group policy terminate by reason of the death, otherwise to each surviving child whose coverage under the group policy terminates by reason of such death, or, if the group policy provides for continuation of dependents' coverages following the employee's or member's death, at the end of such continuation.

(b) The former spouse whose coverage would otherwise terminate because of annulment or dissolution of marriage, if the former spouse is dependent for financial support.

(c) The spouse of the employee or member upon termination of coverage of the spouse, while the employee or member remains insured under the group policy, by reason of ceasing to be a qualified family member under the group policy, with respect to the spouse and the children whose coverages under the group policy terminate at the same time.

(d) A child solely with respect to himself or herself upon termination of his or her coverage by reason of ceasing to be a qualified family member under the group policy, if a conversion privilege is not otherwise provided in this subsection with respect to such termination.

(15) BENEFIT LEVELS.—If the benefit levels required in subsection (10) exceed the benefit levels provided under the group policy, the conversion policy may offer benefits which are substantially similar to those provided under the group policy in lieu of those required in subsection (10).

(16) GROUP COVERAGE INSTEAD OF INDIVIDUAL COVERAGE.—The insurer may elect to provide group insurance coverage instead of issuing a converted individual policy.

(17) NOTIFICATION.—A notification of the conversion privilege shall be included in each certificate of coverage. The insurer shall mail an election and premium notice form, including an outline of coverage, on a form approved by the department, within 14 days after an individual who is eligible for a converted policy gives notice to the insurer that the individual is considering applying for the converted policy or otherwise requests such information. The outline of coverage must contain a description of the principal benefits and coverage provided by the policy and its principal exclusions and limitations, including, but not limited to, deductibles and coinsurance.

(18) OUTSIDE CONVERSIONS.—A converted policy that is delivered outside of this state must be on a form that could be delivered in the other jurisdiction as a converted policy had the group policy been issued in that jurisdiction.

(19) APPLICABILITY.—This section does not require conversion on termination of eligibility for a policy or contract that provides benefits for specified diseases, or for accidental injuries only, disability income, Medicare supplement, hospital indemnity, limited benefit, nonconventional, or excess policies.

(20) Nothing in this section or in the incorporation of it into insurance policies shall be construed to require insurers to provide benefits equal to those provided in the group policy from which the individual converted, provided, however, that comprehensive benefits are offered which shall be subject to approval by the Insurance Commissioner.

Section 11. Section 641.3108, Florida Statutes, is amended to read:

641.3108 Notice of cancellation of contract.—

(1) Except for nonpayment of premium or termination of eligibility, no health maintenance organization may cancel or otherwise terminate or fail to renew a health maintenance contract without giving the subscriber at least 45 days' notice in writing of the cancellation, termination, or nonrenewal of the contract. The written notice shall state the reason or reasons for the cancellation, termination, or nonrenewal. All health maintenance contracts shall contain a clause which requires that this notice be given.

(2) If cancellation is due to nonpayment of premium, the health maintenance organization may not retroactively cancel the contract to a date prior to the date that notice of cancellation was provided to the subscriber unless the organization mails notice of cancellation to the subscriber prior to 45 days after the date the premium was due. Such notice must be mailed to the subscriber's last address as shown by the records of the organization and may provide for a retroactive date of cancellation no earlier than midnight of the date that the premium was due.

(3) In the case of a health maintenance contract issued to an employer or person holding the contract on behalf of the subscriber group, the health maintenance organization may make the notification through the employer or group contract holder, and, if the health maintenance organization elects to take this action through the employer or group contract holder, the organization shall be deemed to have complied with the provisions of this section upon notifying the employer or group contract holder of the requirements of this section and requesting the employer or group contract holder to forward to all subscribers the notice required herein.

Section 12. Subsection (1) of section 641.3922, Florida Statutes, 1998 Supplement, is amended to read:

641.3922 Conversion contracts; conditions.—Issuance of a converted contract shall be subject to the following conditions:

(1) TIME LIMIT.—Written application for the converted contract shall be made and the first premium paid to the health maintenance organization not later than 63 days after such termination. *However, if termination was the result of failure to pay any required premium or contribution and such nonpayment of premium was due to acts of an employer or group contract holder other than the employee or individual subscriber, written application for the contract must be made and the first premium must be paid not later than 63 days after notice of termination is mailed by the organization or the employer, whichever is earlier, to the employee's or individual's last address as shown by the record of the organization or the employer, whichever is applicable. In such case of termination due to nonpayment of premium by the employer or group contract holder, the premium for the converted contract may not exceed the rate for the prior group coverage for the period of coverage under the converted contract prior to the date notice of termination is mailed to the employee or individual subscriber. For the period of coverage after such date, the premium for the converted contract is subject to the requirements of subsection (3).*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 2, line 9, after the semicolon (;) insert: amending s. 627.6645, F.S.; revising the notice requirements for cancellation or nonrenewal of a group health insurance policy; specifying conditions under which the insurer may retroactively cancel coverage due to nonpayment of premium; amending s. 627.6675, F.S.; revising the time limits for an employee or group member to apply for an individual converted policy when termination of group coverage is due to failure of the employer to pay the premium; revising the requirements for the premium for the converted policy; allowing a group insurer to contract with another insurer to issue an individual converted policy under certain conditions; amending s. 641.3108, F.S.; revising the notice requirements for cancellation or nonrenewal of a health maintenance organization contract; specifying conditions under which the organization may retroactively cancel coverage due to nonpayment of premium; amending s. 641.3922, F.S.; revising the time limits for an employee or group member to apply for a converted contract from a health maintenance organization when termination of group coverage is due to failure of the employer to pay the premium; revising the requirements for the premium for the converted contract;

On motion by Senator King, **CS for SB 2554** as amended was passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—40

Madam President	Brown-Waite	Campbell	Casas
Bronson	Burt	Carlton	Childers

Clary	Gutman	Kurth	Rossin
Cowin	Hargrett	Latvala	Saunders
Dawson-White	Holzendorf	Laurent	Scott
Diaz-Balart	Horne	Lee	Sebesta
Dyer	Jones	McKay	Silver
Forman	King	Meek	Sullivan
Geller	Kirkpatrick	Mitchell	Thomas
Grant	Klein	Myers	Webster

Nays—None

CS for HB 253—A bill to be entitled An act relating to county and municipal jails; amending s. 951.04, F.S.; deleting provisions that require the board of county commissioners to provide a specified amount of money to a prisoner at the time of release; amending s. 951.21, F.S.; authorizing the board of county commissioners to discontinue or revise gain-time policies; deleting a provision requiring that the allowances awarded to county prisoners for good behavior be awarded according to the policy of the Department of Corrections for such awards for state prisoners; amending s. 951.23, F.S.; providing that it is a second degree misdemeanor for a prisoner to knowingly and willfully refuse to obey certain rules governing prisoner conduct; providing an effective date.

—was read the third time by title.

On motion by Senator Bronson, **CS for HB 253** was passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Dawson-White	Jones	Mitchell
Bronson	Diaz-Balart	King	Myers
Brown-Waite	Dyer	Kirkpatrick	Rossin
Burt	Forman	Klein	Saunders
Campbell	Geller	Kurth	Scott
Carlton	Grant	Latvala	Sebesta
Casas	Gutman	Laurent	Silver
Childers	Hargrett	Lee	Sullivan
Clary	Holzendorf	McKay	Thomas
Cowin	Horne	Meek	Webster

Nays—None

SB 1296—A bill to be entitled An act relating to the tax on sales, use, and other transactions; amending s. 212.06, F.S.; phasing out the indexed tax on manufactured asphalt used in a state or local government public works project; providing an effective date.

—as amended April 27 was read the third time by title.

On motion by Senator Sullivan, **SB 1296** as amended was passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Dawson-White	Jones	Mitchell
Bronson	Diaz-Balart	King	Myers
Brown-Waite	Dyer	Kirkpatrick	Rossin
Burt	Forman	Klein	Saunders
Campbell	Geller	Kurth	Scott
Carlton	Grant	Latvala	Sebesta
Casas	Gutman	Laurent	Silver
Childers	Hargrett	Lee	Sullivan
Clary	Holzendorf	McKay	Thomas
Cowin	Horne	Meek	Webster

Nays—None

Consideration of **CS for HB 1779** was deferred.

SB 1388—A bill to be entitled An act relating to the tax on sales, use, and other transactions; amending s. 212.08, F.S.; providing an exemption from the tax for certain organizations that are primarily funded by local governments and that encourage the use of certain locations as venues for sporting events; providing an effective date.

—was read the third time by title.

On motion by Senator Cowin, **SB 1388** was passed and certified to the House. The vote on passage was:

Yeas—39

Madam President	Dawson-White	Jones	Mitchell
Bronson	Diaz-Balart	King	Myers
Brown-Waite	Dyer	Kirkpatrick	Rossin
Burt	Forman	Klein	Scott
Campbell	Geller	Kurth	Sebesta
Carlton	Grant	Latvala	Silver
Casas	Gutman	Laurent	Sullivan
Childers	Hargrett	Lee	Thomas
Clary	Holzendorf	McKay	Webster
Cowin	Horne	Meek	

Nays—None

CS for HB 2147—A bill to be entitled An act relating to charter schools; amending s. 228.056, F.S.; revising the date through which a district school board must receive charter school applications; providing for interdistrict transfer to a charter school under certain circumstances; authorizing charter schools to be operated by municipalities or other public entities; providing information to be included in the charter of a charter school; providing for 15-year charters under specified circumstances; providing for one charter for municipality charter schools comprising one feeder pattern; authorizing charter school governing boards to employ or contract with skilled selected noncertified personnel as provided in ch. 231, F.S., and as provided by rule of the State Board of Education; prohibiting a charter school from hiring certain persons who have resigned in lieu of disciplinary action or have been dismissed for good cause; requiring the fingerprinting of members of the governing boards of charter schools; prescribing time limits for charter schools to receive federal funds; providing for a Charter School Review Panel; providing for membership, purpose, and duties; amending s. 228.0561, F.S.; removing references to the Public Education Capital Outlay and Debt Service Trust Fund; providing for the reversion of unencumbered funds and property to the district school board if the charter school terminates operations; revising requirements relating to charter school use of capital outlay funds; revising eligibility requirements for charter school receipt of capital outlay funds; removing obsolete provisions; amending s. 235.42, F.S., relating to educational and ancillary plant construction funds; removing a reference to charter schools; amending s. 228.057, F.S.; requiring school districts to report the number of students attending the various types of public schools according to the rules of the State Board of Education; creating s. 228.058, F.S.; establishing a charter school districts pilot program; providing requirements for charter school districts; providing for exemptions from statutes and rules; providing for a governing board; providing for charter proposals; providing for a precharter agreement; providing a time period for the pilot project; requiring an annual report; providing for rulemaking; providing for protection and indemnity of the state and charter school from certain liability; providing effective dates.

—was read the third time by title.

On motion by Senator Sullivan, **CS for HB 2147** was passed and certified to the House. The vote on passage was:

Yeas—39

Madam President	Clary	Gutman	Kurth
Bronson	Cowin	Hargrett	Latvala
Brown-Waite	Dawson-White	Holzendorf	Laurent
Burt	Diaz-Balart	Horne	Lee
Campbell	Dyer	Jones	McKay
Carlton	Forman	King	Meek
Casas	Geller	Kirkpatrick	Mitchell
Childers	Grant	Klein	Rossin

Saunders	Sebesta	Sullivan	Webster
Scott	Silver	Thomas	

Nays—None

CS for SB 1502—A bill to be entitled An act relating to the tax on sales, use, and other transactions; amending s. 212.031, F.S.; providing for exemptions from the tax on renting, leasing, letting, or granting a license for the use of real property; providing an effective date.

—was read the third time by title.

On motion by Senator Gutman, **CS for SB 1502** was passed and certified to the House. The vote on passage was:

Yeas—38

Madam President	Dawson-White	Kirkpatrick	Rossin
Bronson	Diaz-Balart	Klein	Saunders
Brown-Waite	Dyer	Kurth	Scott
Burt	Forman	Latvala	Sebesta
Campbell	Geller	Laurent	Silver
Carlton	Gutman	Lee	Sullivan
Casas	Hargrett	McKay	Thomas
Childers	Holzendorf	Meek	Webster
Clary	Horne	Mitchell	
Cowin	King	Myers	

Nays—1

Jones

SB 2350—A bill to be entitled An act relating to public records; providing an exemption from public records requirements for business records of a business owner subject to a governmental condemning authority in an eminent domain proceeding; providing an expiration date; providing a finding of public necessity; providing a contingent effective date.

—as amended April 27 was read the third time by title.

On motion by Senator Carlton, **SB 2350** as amended was passed and certified to the House. The vote on passage was:

Yeas—39

Madam President	Dawson-White	King	Myers
Bronson	Diaz-Balart	Kirkpatrick	Rossin
Brown-Waite	Dyer	Klein	Saunders
Burt	Forman	Kurth	Scott
Campbell	Geller	Latvala	Sebesta
Carlton	Gutman	Laurent	Silver
Casas	Hargrett	Lee	Sullivan
Childers	Holzendorf	McKay	Thomas
Clary	Horne	Meek	Webster
Cowin	Jones	Mitchell	

Nays—None

CS for CS for SB 1666—A bill to be entitled An act relating to child protection; amending s. 39.001, F.S., relating to purpose and intent of ch. 39, F.S.; conforming and clarifying provisions and references; creating s. 39.0014, F.S.; providing responsibilities of public agencies; amending s. 39.0015, F.S., relating to child abuse prevention training in the district school system; amending s. 39.01, F.S.; revising and conforming definitions; amending s. 39.011, F.S., relating to immunity from liability; amending s. 39.0121, F.S., relating to rulemaking authority; amending s. 39.013, F.S.; clarifying and conforming provisions relating to procedures, jurisdiction, and right to counsel; amending s. 39.0132, F.S.; reducing period the court must preserve records pertaining to a dependent child; providing for admission of termination of parental rights orders as evidence in subsequent proceedings; amending s. 39.0134, F.S.; providing for imposition and enforcement of liens for attorney's fees; amending s. 39.201, F.S.; clarifying provisions relating to mandatory reports of child abuse, abandonment, or neglect; amending s. 39.202, F.S.; revising provisions relating to confidentiality of reports and records; amending s. 39.203, F.S.; clarifying provisions relating to immunity from liability for reporting child abuse, abandonment, or neglect; amending s. 39.206, F.S., relating to imposition of administrative fines for false reporting; amending ss. 39.301 and 39.302, F.S.; revising provisions relating to initiation of protective investigation; amending s. 39.3035, F.S., relating to child advocacy centers; amending s. 39.304, F.S., relating to medical examination and treatment; amending ss. 39.311, 39.312, and 39.313, F.S., relating to the Family Builders Program; amending s. 39.395, F.S., relating to detaining a child; amending s. 39.401, F.S., relating to taking a child into custody; amending s. 39.402, F.S.; revising provisions relating to placement in a shelter; providing for parents' right to continuance of shelter hearing to obtain counsel; requiring the shelter order to require certain financial information from the parent; providing timeframe for review of shelter placement; amending s. 39.407, F.S., relating to medical and psychological examinations; amending s. 39.501, F.S., relating to petition for dependency; amending s. 39.502, F.S., relating to notice, process, and service; amending s. 39.503, F.S., relating to identifying or locating a parent; amending s. 39.504, F.S., relating to injunction pending disposition of petition; amending s. 39.506, F.S.; revising provisions relating to arraignment hearings; specifying when failure of a person to appear constitutes consent to a dependency adjudication; amending s. 39.507, F.S., relating to adjudicatory hearings; amending s. 39.508, F.S.; revising provisions relating to disposition hearings and orders; providing for permanency status of the child; specifying conditions for termination of departmental supervision and cessation of judicial reviews; amending s. 39.5085, F.S.; revising the department's authority to provide a relative caregiver benefit; amending s. 39.509, F.S., relating to grandparents' rights; amending s. 39.510, F.S., relating to appeal; amending s. 39.601, F.S.; revising and clarifying case-plan requirements; amending s. 39.602, F.S., relating to case planning for a child in out-of-home care; amending s. 39.603, F.S.; conforming timeframes relating to court approvals of case planning; amending s. 39.701, F.S.; revising and clarifying timeframes relating to judicial reviews; specifying that notice is not required for persons present at the previous hearing; providing for a parent's partial compliance with the case plan; requiring that certain updated documentation be furnished to the court; amending s. 39.702, F.S., relating to citizen review panels; amending s. 39.703, F.S., relating to initiation of proceedings to terminate parental rights; amending s. 39.704, F.S., relating to exemption from judicial review; amending s. 39.801, F.S., relating to procedures, jurisdiction, and notice for termination of parental rights; providing notice and consequences regarding failure to appear at advisory hearings; providing for service of subpoenas by agents of the department or guardian ad litem; amending s. 39.802, F.S., relating to petition for termination of parental rights; amending s. 39.805, F.S., relating to answers to petition or pleadings; amending s. 39.806, F.S.; revising grounds for termination of parental rights; revising timeframe for identification or location of parent in provisions relating to termination of parental rights; amending s. 39.807, F.S., relating to right to counsel for indigent parents; revising an exclusion; revising timeframe for provision of certain reports to all parties; amending s. 39.808, F.S., relating to advisory hearing and pretrial status conference; amending s. 39.811, F.S., relating to powers and order of disposition; amending s. 39.814, F.S., relating to oaths, records, and confidential information; amending s. 39.815, F.S., relating to appeal; amending s. 39.822, F.S., relating to appointment of guardian ad litem for abused, abandoned, or neglected child; specifying timeframe for provision of reports to all parties; amending ss. 63.0427 and 419.001, F.S.; conforming cross-references; amending s. 784.046, F.S.; revising provisions relating to petition for injunction for protection against repeat violence; amending s. 409.26731, F.S.; authorizing the Department of Children and Family Services to annually certify local funds for state match for eligible Title IV-E expenditures; requiring a report; amending s. 921.0024, F.S., requiring a sentencing multiplier to be applied when domestic violence is committed in the presence of a minor child; amending s. 901.15, F.S.; providing a preferred arrest policy in the criminal investigation of child abuse; providing immunity for law enforcement for such arrests; providing an effective date.

—as amended April 27 was read the third time by title.

Senator Forman moved the following amendment:

Amendment 1 (793818)(with title amendment)—On page 128, between lines 18 and 19, insert:

Section 58. Subsection (1) of section 39.201, Florida Statutes, 1998 Supplement, is amended to read:

39.201 Mandatory reports of child abuse, abandonment, or neglect; mandatory reports of death; central abuse hotline.—

(1) Any person, including, but not limited to, any:

(a) Physician, osteopathic physician, medical examiner, chiropractic physician, nurse, or hospital personnel engaged in the admission, examination, care, or treatment of persons;

(b) Health or mental health professional other than one listed in paragraph (a);

(c) Practitioner who relies solely on spiritual means for healing;

(d) School teacher or other school official or personnel;

(e) Social worker, day care center worker, or other professional child care, foster care, residential, or institutional worker; ~~or~~

(f) Animal control officer or other agent appointed pursuant to s. 828.03; or

(g)~~(f)~~ Law enforcement officer,

who knows, or has reasonable cause to suspect, that a child is an abused, abandoned, or neglected child shall report such knowledge or suspicion to the department in the manner prescribed in subsection (2).

Section 59. Subsection (1) of section 39.205, Florida Statutes, 1998 Supplement, reads:

39.205 Penalties relating to reporting of child abuse, abandonment, or neglect.—

(1) A person who is required to report known or suspected child abuse, abandonment, or neglect and who knowingly and willfully fails to do so, or who knowingly and willfully prevents another person from doing so, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 60. Section 39.208, Florida Statutes, is created to read:

39.208 Reports of abuse, neglect, cruelty, or abandonment of an animal required.—

(1) Any person required to report child abuse, abandonment, or neglect, and any person who in the course of investigating child abuse, abandonment or neglect knows or has reasonable cause to suspect that abuse, neglect, cruelty, or abandonment of an animal has occurred shall report such knowledge or suspicion, within 24 hours, to the local animal control officer or other agent appointed pursuant to s. 828.03. Where no such local officer or agent exists, the report shall be made to the law enforcement agency with jurisdictional responsibility.

(2) The report shall, if available, include the following information:

(a) A description of the animal.

(b) A description of any injury, cruelty, or abuse of the animal, including any evidence of prior injury, cruelty, or abuse of the animal or of other animals.

(c) Any evidence of neglect or abandonment of the animal, including any evidence of prior neglect or abandonment of the animal or of other animals.

(d) The name and address of the person or persons alleged to be responsible for causing the injury, abuse, neglect, cruelty, or abandonment of the animal.

(e) The source of the report.

(f) Any action taken by the reporting source with regard to the injury, abuse, neglect, cruelty, or abandonment of the animal.

(g) The name, address, and telephone number of the person making the report.

(3) A person who is required to report known or suspected abuse, neglect, cruelty, or abandonment of an animal and who knowingly and willfully fails to do so commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 61. Subsection (1) of section 415.1034, Florida Statutes, 1998 Supplement, is amended to read:

415.1034 Mandatory reporting of abuse, neglect, or exploitation of disabled adults or elderly persons; mandatory reports of death.—

(1) MANDATORY REPORTING.—

(a) Any person, including, but not limited to, any:

1. Physician, osteopathic physician, medical examiner, chiropractic physician, nurse, or hospital personnel engaged in the admission, examination, care, or treatment of disabled adults or elderly persons;

2. Health professional or mental health professional other than one listed in subparagraph 1.;

3. Practitioner who relies solely on spiritual means for healing;

4. Nursing home staff; assisted living facility staff; adult day care center staff; adult family-care home staff; social worker; or other professional adult care, residential, or institutional staff;

5. State, county, or municipal criminal justice employee or law enforcement officer;

6. Animal control officer or other agent appointed pursuant to s. 828.03;

7.~~6.~~ Human rights advocacy committee or long-term care ombudsman council member; or

8.~~7.~~ Bank, savings and loan, or credit union officer, trustee, or employee,

who knows, or has reasonable cause to suspect, that a disabled adult or an elderly person has been or is being abused, neglected, or exploited shall immediately report such knowledge or suspicion to the central abuse registry and tracking system on the single statewide toll-free telephone number.

Section 62. Subsection (1) of section 415.111, Florida Statutes, 1998 Supplement, reads:

415.111 Criminal penalties.—

(1) A person who knowingly and willfully fails to report a case of known or suspected abuse, neglect, or exploitation of a disabled adult or an elderly person, or who knowingly and willfully prevents another person from doing so, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 63. Section 415.1114, Florida Statutes, is created to read:

415.1114 Reports of abuse, neglect, cruelty, or abandonment of an animal required.—

(1) Any person required to report abuse, neglect, or exploitation of a disabled adult or elderly person, and any person who, in the course of investigating abuse, neglect or exploitation of a disabled adult or elderly person, knows or has reasonable cause to suspect that abuse, neglect, cruelty, or abandonment of an animal has occurred shall report such knowledge or suspicion, within 24 hours, to the local animal control officer or other agent appointed pursuant to s. 828.03. Where no such local officer or agent exists, the report shall be made to the law enforcement agency with jurisdictional responsibility.

(2) The report shall, if available, include the following information:

(a) A description of the animal.

(b) A description of any injury, cruelty, or abuse of the animal, including any evidence of prior injury, cruelty, or abuse of the animal or of other animals.

(c) Any evidence of neglect or abandonment of the animal, including any evidence of prior neglect or abandonment of the animal or of other animals.

(d) The name and address of the person or persons alleged to be responsible for causing the injury, abuse, neglect, cruelty, or abandonment of the animal.

(e) The source of the report.

(f) Any action taken by the reporting source with regard to the injury, abuse, neglect, cruelty, or abandonment of the animal.

(g) The name, address, and telephone number of the person making the report.

(3) A person who is required to report known or suspected abuse, neglect, cruelty, or abandonment of an animal and who knowingly and willfully fails to do so commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 64. Subsection (8) is added to section 828.073, Florida Statutes, to read:

828.073 Animals found in distress; when agent may take charge; hearing; disposition; sale.—

(8)(a) Any person authorized to enforce the provisions of this section who knows, or has reasonable cause to suspect, that a child is or has been a victim of abuse, abandonment, neglect, or domestic violence shall immediately report such knowledge or suspicion to the Department of Children and Family Services as provided in s. 39.201.

(b) Any person authorized to enforce the provisions of this section who knows, or has reasonable cause to suspect, that a disabled adult or an elderly person is or has been a victim of abuse, abandonment, exploitation, or domestic violence shall immediately report such knowledge or suspicion to the Department of Children and Family Services as provided in s. 415.1034.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 5, line 12, after the semicolon (;) insert: amending ss. 39.201, 415.1034, and 828.073, F.S.; requiring animal control officers or other agents appointed under s. 828.03, F.S., to report known or suspected child abuse, abandonment, or neglect or abuse, neglect, or exploitation of a disabled adult or elderly person; providing a penalty; creating s. 39.208, F.S.; requiring persons who are required to report or investigate child abuse, abandonment, or neglect under ch. 39, F.S., to report known or suspected animal abuse, neglect, cruelty, or abandonment; creating s. 415.1114, F.S.; requiring persons who are required to report or investigate abuse, neglect, or exploitation of a disabled adult or elderly person to report known or suspected animal abuse, neglect, cruelty, or abandonment; specifying information to be reported; providing a penalty;

POINT OF ORDER

Senator Thomas raised a point of order that pursuant to Rule 7.1 **Amendment 1** was not germane to the bill. **Amendment 1** was withdrawn.

Senator Mitchell moved the following amendment which was adopted by two-thirds vote:

Amendment 2 (542470)—On page 43, delete lines 30 and 31 and insert: Such examination may be performed by *any licensed physician or* an advanced registered nurse

On motion by Senator Mitchell, **CS for CS for SB 1666** as amended was passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38

Madam President	Casas	Forman	Horne
Bronson	Childers	Geller	Jones
Brown-Waite	Clary	Grant	King
Burt	Cowin	Gutman	Kirkpatrick
Campbell	Diaz-Balart	Hargrett	Klein
Carlton	Dyer	Holzendorf	Kurth
Latvala	Meek	Saunders	Thomas
Laurent	Mitchell	Scott	Webster
Lee	Myers	Silver	
McKay	Rossin	Sullivan	

Nays—1

Sebesta

CS for SB 1818—A bill to be entitled An act relating to the tax on sales, use, and other transactions; amending s. 212.08, F.S.; providing an exemption for consumer credit counseling services; providing an exemption for any sale or lease to an organization that is exempt from federal income tax and that has as its primary function raising funds for organizations that hold or qualify to hold a consumer's certificate of exemption issued by this state; providing for retroactive application; providing an effective date.

—was read the third time by title.

On motion by Senator Campbell, **CS for SB 1818** was passed and certified to the House. The vote on passage was:

Yeas—37

Madam President	Diaz-Balart	Klein	Saunders
Bronson	Dyer	Kurth	Scott
Brown-Waite	Forman	Latvala	Sebesta
Burt	Geller	Laurent	Silver
Campbell	Grant	Lee	Sullivan
Carlton	Gutman	McKay	Thomas
Casas	Hargrett	Meek	Webster
Clary	Holzendorf	Mitchell	
Cowin	Jones	Myers	
Dawson-White	King	Rossin	

Nays—None

Vote after roll call:

Yea—Horne

SB 928—A bill to be entitled An act relating to public records and meetings; creating s. 383.410, F.S.; providing that confidential information obtained by the State Child Abuse Death Review Committee, a local committee, or a panel or committee assembled by either, or by a hospital or health care practitioner from any of those entities, shall remain confidential; providing an exemption from public records and public meeting requirements for specified records and meetings of the state committee, a local committee, or a panel or committee assembled by either, relating to child fatalities; providing a penalty; providing for future review and repeal; providing a finding of public necessity; providing a contingent effective date.

—as amended April 27 was read the third time by title.

On motion by Senator Cowin, **SB 928** as amended was passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Dawson-White	Jones	Mitchell
Bronson	Diaz-Balart	King	Myers
Brown-Waite	Dyer	Kirkpatrick	Rossin
Burt	Forman	Klein	Saunders
Campbell	Geller	Kurth	Scott
Carlton	Grant	Latvala	Sebesta
Casas	Gutman	Laurent	Silver
Childers	Hargrett	Lee	Sullivan
Clary	Holzendorf	McKay	Thomas
Cowin	Horne	Meek	Webster

Nays—None

CS for SB 1406—A bill to be entitled An act relating to child deaths; creating the “Florida Child Death Review Act”; providing legislative

policy and intent; creating a Child Death Review Committee within the Department of Health; providing for membership of the committee; specifying the duties of the committee; providing for terms of office; providing for members of the committee to be reimbursed for expenses; providing for counties to establish local child death review committees; providing for membership and duties; authorizing the review committees to have access to information pertaining to the death of a child; authorizing the State Child Death Review Committee to issue subpoenas; providing immunity from liability for members of the committees and employees; requiring that the Department of Health administer the funds appropriated to operate the review committees; providing an effective date.

—was read the third time by title.

On motion by Senator Cowin, **CS for SB 1406** was passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Dawson-White	Jones	Mitchell
Bronson	Diaz-Balart	King	Myers
Brown-Waite	Dyer	Kirkpatrick	Rossin
Burt	Forman	Klein	Saunders
Campbell	Geller	Kurth	Scott
Carlton	Grant	Latvala	Sebesta
Casas	Gutman	Laurent	Silver
Childers	Hargrett	Lee	Sullivan
Clary	Holzendorf	McKay	Thomas
Cowin	Horne	Meek	Webster

Nays—None

CS for SB 1408—A bill to be entitled An act relating to public records and meetings; providing that confidential information obtained by the State Child Death Review Committee, a local committee, or a panel or committee assembled by either, or by a hospital or health care practitioner from any of those entities, shall remain confidential; providing an exemption from public records and public meeting requirements for specified records and meetings of the state committee, a local committee, or a panel or committee assembled by either, relating to child fatalities; providing a penalty; providing for future legislative review and repeal; providing a finding of public necessity; providing a contingent effective date.

—was read the third time by title.

On motion by Senator Cowin, **CS for SB 1408** was passed and certified to the House. The vote on passage was:

Yeas—38

Madam President	Dawson-White	Jones	Rossin
Bronson	Diaz-Balart	Kirkpatrick	Saunders
Brown-Waite	Dyer	Klein	Scott
Burt	Forman	Latvala	Sebesta
Campbell	Geller	Laurent	Silver
Carlton	Grant	Lee	Sullivan
Casas	Gutman	McKay	Thomas
Childers	Hargrett	Meek	Webster
Clary	Holzendorf	Mitchell	
Cowin	Horne	Myers	

Nays—None

HB 357—A bill to be entitled An act relating to hospital meetings and records; amending s. 395.3035, F.S.; defining the term "strategic plan" for purposes of provisions which provide for the confidentiality of such plans and of meetings relating thereto; providing an exemption from open meetings requirements for meetings at which such plans are modified or approved by the hospital's governing board; providing for future review and repeal; providing conditions for the early release of transcripts of meetings at which such plans are discussed; prohibiting public hospitals from taking certain specified actions at closed meetings; requiring certain notice; providing a finding of public necessity; providing an effective date.

—as amended April 27 was read the third time by title.

On motion by Senator Carlton, **HB 357** as amended was passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Dawson-White	Jones	Mitchell
Bronson	Diaz-Balart	King	Myers
Brown-Waite	Dyer	Kirkpatrick	Rossin
Burt	Forman	Klein	Saunders
Campbell	Geller	Kurth	Scott
Carlton	Grant	Latvala	Sebesta
Casas	Gutman	Laurent	Silver
Childers	Hargrett	Lee	Sullivan
Clary	Holzendorf	McKay	Thomas
Cowin	Horne	Meek	Webster

Nays—None

CS for SB 2028—A bill to be entitled An act relating to the tax on sales, use, and other transactions; amending s. 212.02, F.S.; providing that a sale for resale includes the sale of certain tangible personal property used or consumed by a government contractor in the performance of a contract with the United States Department of Defense or the National Aeronautics and Space Administration under certain conditions; providing legislative intent; amending s. 212.08, F.S.; providing an exemption for sales to or use by a government contractor of overhead materials used or consumed in the performance of such a contract under certain conditions; providing definitions; providing a schedule for implementing the exemption; providing legislative intent; providing an effective date.

—was read the third time by title.

On motion by Senator Webster, **CS for SB 2028** was passed and certified to the House. The vote on passage was:

Yeas—35

Madam President	Cowin	Horne	Myers
Bronson	Dawson-White	Jones	Rossin
Brown-Waite	Diaz-Balart	King	Saunders
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Sebesta
Carlton	Geller	Kurth	Sullivan
Casas	Gutman	McKay	Thomas
Childers	Hargrett	Meek	Webster
Clary	Holzendorf	Mitchell	

Nays—None

SB 1288—A bill to be entitled An act relating to community college distance learning education; amending s. 240.311, F.S.; authorizing the State Board of Community Colleges to develop and produce certain work products related to distance learning; authorizing fees for such materials for purposes of educational use; requiring annual postaudits; requiring the adoption of rules; requiring the submission of a report; requiring the State Board of Community Colleges to submit an annual report to the Legislature; providing an effective date.

—as amended April 27 was read the third time by title.

Senator Horne moved the following amendment which was adopted by two-thirds vote:

Amendment 1 (791474)(with title amendment)—On page 1, line 16, insert:

Section 1. Subsections (6) and (7) of section 239.117, Florida Statutes, 1998 Supplement, are amended to read:

239.117 Postsecondary student fees.—

(6)(a) The Commissioner of Education shall provide to the State Board of Education no later than December 31 of each year a schedule

of fees for workforce development education, *excluding continuing workforce education,* for school districts and community colleges. The fee schedule shall be based on the amount of student fees necessary to produce 25 percent of the prior year's average cost of a course of study leading to a certificate or diploma ~~and 50 percent of the prior year's cost of a continuing workforce education course~~. At the discretion of a school board or a community college, this fee schedule may be implemented over a 3-year period, with full implementation in the 1999-2000 school year. In years preceding that year, if fee increases are necessary for some programs or courses, the fees shall be raised in increments designed to lessen their impact upon students already enrolled. Fees for students who are not residents for tuition purposes must offset the full cost of instruction. Fee-nonexempt students enrolled in vocational-preparatory instruction shall be charged fees equal to the fees charged for certificate career education instruction. Each community college that conducts college-preparatory and vocational-preparatory instruction in the same class section may charge a single fee for both types of instruction.

(b) Fees for continuing workforce education shall be locally determined by the school board or community college. However, at least 50 percent of the expenditures for the continuing workforce education program provided by the community college or school district must be derived from fees.

(c)~~(b)~~ The State Board of Education shall adopt a fee schedule for school districts that produces the fee revenues calculated pursuant to paragraph (a). The schedule so calculated shall take effect, unless otherwise specified in the General Appropriations Act.

(d)~~(c)~~ The State Board of Education shall adopt, by rule, the definitions and procedures that school boards shall use in the calculation of cost borne by students.

(7) Each year the State Board of Community Colleges shall review and evaluate the percentage of the cost of adult programs and certificate career education programs supported through student fees. For students who are residents for tuition purposes, the schedule so adopted must produce revenues equal to 25 percent of the prior year's average program cost for college-preparatory and certificate-level workforce development programs ~~and 50 percent of the prior year's program cost for student enrollment in continuing workforce education~~. *Fees for continuing workforce education shall be locally determined by the school board or community college. However, at least 50 percent of the expenditures for the continuing workforce education program provided by the community college or school district must be derived from fees.* Fees for students who are not residents for tuition purposes must offset the full cost of instruction.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, delete lines 2 and 3 and insert: An act relating to education; amending s. 239.117, F.S.; revising requirements regarding fee schedules for workforce development education; amending s. 240.311, F.S.;

Senator Diaz-Balart moved the following amendment:

Amendment 2 (800730)(with title amendment)—On page 3, between lines 15 and 16, insert:

Section 2. Subsections (8), (9), and (16) of section 239.117, Florida Statutes, 1998 Supplement, are amended, subsections (10) through (15) of said section are renumbered as subsections (9) through (14), respectively, subsection (17) is renumbered as subsection (15), and new subsections (16), (17), and (18) are added to said section, to read:

239.117 *Workforce development* postsecondary student fees.—

(8) Each school board and community college board of trustees may *establish a separate fee* ~~collect,~~ for financial aid purposes *in*~~, up to~~ an additional *amount of up to* 10 percent of the student fees collected for workforce development programs funded through the Workforce Development Education Fund. All fees collected shall be deposited into a separate workforce development student financial aid fee trust fund of the district or community college to support students enrolled in workforce development programs. Any undisbursed balance remaining in the trust fund and interest income accruing to investments from the trust fund shall increase the total funds available for distribution to workforce development education students. Awards shall be based on student financial need and distributed in accordance with a nationally recognized system of need analysis approved by the State Board for Career Education. Fees collected pursuant to this subsection shall be allocated in an expeditious manner.

~~(9) A district school board or a community college board of trustees may charge other fees only as authorized by rule of the State Board of Education or the State Board of Community Colleges.~~

~~(16) School boards and community college boards of trustees may establish, by rule, a consumable supply fee for postsecondary students enrolled in certificate career education or supplemental courses.~~

(16) Community colleges and district school boards are not authorized to charge students enrolled in workforce development programs any fee that is not specifically authorized by statute. In addition to matriculation, tuition, financial aid, capital improvement, and technology fees, as authorized in this section, community colleges and district school boards are authorized to establish fee schedules for the following user fees and fines: laboratory fees; parking fees and fines; library fees and fines; fees and fines relating to facilities and equipment use or damage; access or identification card fees; duplicating, photocopying, binding, or microfilming fees; standardized testing fees; diploma replacement fees; transcript fees; application fees; graduation fees; and late fees related to registration and payment. Such user fees and fines shall not exceed the cost of the services provided and shall only be charged to persons receiving the service. Parking fee revenues may be pledged by a community college board of trustees as a dedicated revenue source for the repayment of debt, including lease-purchase agreements and revenue bonds with terms not exceeding 20 years and not exceeding the useful life of the asset being financed. Community colleges shall use the services of the Division of Bond Finance of the State Board of Administration to issue any revenue bonds authorized by the provisions of this subsection. Any such bonds issued by the Division of Bond Finance shall be in compliance with the provisions of the State Bond Act. Bonds issued pursuant to the State Bond Act shall be validated in the manner established in 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.

(17) Each district school board and community college district board of trustees is authorized to establish specific fees for workforce development instruction not reported for state funding purposes or for workforce development instruction not reported as state funded full-time equivalent students. District school boards and district boards of trustees are not required to charge any other fee specified in this section for this type of instruction.

(18) Each district school board and community college district board of trustees is authorized to establish a separate fee for technology, not to exceed 5 percent of the matriculation fee for resident students, and not more than 5 percent of the matriculation and tuition fee for nonresident students, or the equivalent, to be expended in accordance with technology improvement plans. The technology fee may apply only to associate degree programs and courses. Fifty percent of technology fee revenues may be pledged by a community college board of trustees as a dedicated revenue source for the repayment of debt, including lease-purchase agreements, not to exceed the useful life of the asset being financed. Revenues generated from the technology fee may not be bonded.

Section 3. Paragraph (t) of subsection (4) of section 240.319, Florida Statutes, 1998 Supplement, is amended to read:

240.319 Community college district boards of trustees; duties and powers.—

(4) Such rules, procedures, and policies for the boards of trustees include, but are not limited to, the following:

(t) Each board of trustees is authorized to borrow funds and incur debt, including *entering into lease-purchase agreements and* the issuance of revenue bonds as specifically authorized *and only for the purposes authorized* in ss. 239.117*(15) and (16)*~~(17)~~ and 240.35*(14) and (15)*~~(13), only for the new construction and equipment, renovation, or remodeling of educational facilities~~. At the option of the board of trustees, bonds may

be issued which are secured by a combination of revenues authorized to be pledged to bonds pursuant to ss. 239.117*(15)*~~(17)~~ and 240.35*(14)*~~(13)~~ *or ss. 239.117(16) and 240.35(15). Lease-purchase agreements may be secured by a combination of revenues as specifically authorized pursuant to ss. 239.117(18) and 240.35(16).*

Section 4. Subsections (6) and (7), and paragraphs (a) and (c) of subsection (11) of section 240.35, Florida Statutes, 1998 Supplement, are amended, subsection (15) is renumbered as subsection (17), and new subsections (15) and (16) are added to said section, to read:

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

(6) ~~Subject to review and final approval by the State Board of Education,~~ The State Board of Community Colleges shall adopt by December 31 of each year a resident fee schedule for the following fall for advanced and professional, associate in science degree, and college-preparatory programs that produce revenues in the amount of 25 percent of the full prior year's cost of these programs. However, the board may not adopt an annual fee increase in any program for resident students which exceeds 10 percent. Fees for courses in college-preparatory programs and associate in arts and associate in science degree programs may be established at the same level. In the absence of a provision to the contrary in an appropriations act, the fee schedule shall take effect and the colleges shall expend the funds on instruction. If the Legislature provides for an alternative fee *schedule* ~~calculation~~ in an appropriations act, the *fee schedule shall take effect the subsequent fall semester* ~~board shall establish a fee schedule that produces the fee revenue established in the appropriations act based on the assigned enrollment~~.

(7) Each community college board of trustees shall establish matriculation and tuition fees, which may vary no more than 10 percent *below and 15 percent above* ~~from~~ the fee schedule adopted by the State Board of Community Colleges, *provided that any amount from 10 to 15 percent above the fee schedule is used only to support safety and security purposes. In order to assess an additional amount for safety and security purposes, a community college board of trustees must provide written justification to the State Board of Community Colleges based on criteria approved by the local board of trustees, including but not limited to criteria such as local crime data and information, and strategies for the implementation of local safety plans. For 1999-2000, each community college is authorized to increase the sum of the matriculation fee and technology fee by not more than 5 percent of the sum of the matriculation and local safety and security fees in 1998-1999. However, no fee in 1999-2000 shall exceed the prescribed statutory limit. Should a college decide to increase the matriculation fee, the funds raised by increasing the matriculation fee must be expended solely for additional safety and security purposes and shall not supplant funding expended in the 1998-1999 budget for safety and security purposes.*

(11)(a) Each community college is authorized to *establish a separate fee* ~~collect~~ for financial aid purposes *in* an additional amount up to, but not to exceed, 5 percent of the total student tuition or matriculation fees collected. Each community college may collect up to an additional 2 percent if the amount generated by the total financial aid fee is less than $250,000. If the amount generated is less than $250,000, a community college that charges tuition and matriculation fees at least equal to the average fees established by rule may transfer from the general current fund to the scholarship fund an amount equal to the difference between $250,000 and the amount generated by the total financial aid fee assessment. No other transfer from the general current fund to the loan, endowment, or scholarship fund, by whatever name known, is authorized.

(c) Up to 25 percent or $300,000, whichever is greater, of the *financial aid* fees collected may be used to assist students who demonstrate academic merit; who participate in athletics, public service, cultural arts, and other extracurricular programs as determined by the institution; or who are identified as members of a targeted gender or ethnic minority population. The financial aid fee revenues allocated for athletic scholarships and fee exemptions provided pursuant to subsection *(17)* ~~(15)~~ for athletes shall be distributed equitably as required by s. 228.2001(3)(d). A minimum of 50 percent of the balance of these funds shall be used to provide financial aid based on absolute need, and the remainder of the funds shall be used for academic merit purposes and other purposes approved by the district boards of trustees. Such other purposes shall include the payment of child care fees for students with financial need. The State Board of Community Colleges shall develop criteria for making financial aid awards. Each college shall report annually to the Department of Education on the criteria used to make awards, the amount and number of awards for each criterion, and a delineation of the distribution of such awards. Awards which are based on financial need shall be distributed in accordance with a nationally recognized system of need analysis approved by the State Board of Community Colleges. An award for academic merit shall require a minimum overall grade point average of 3.0 on a 4.0 scale or the equivalent for both initial receipt of the award and renewal of the award.

(15) In addition to matriculation, tuition, financial aid, capital improvement, student activity and service, and technology fees authorized in this section, each board of trustees is authorized to establish fee schedules for the following user fees and fines: laboratory fees; parking fees and fines; library fees and fines; fees and fines relating to facilities and equipment use or damage; access or identification card fees; duplicating, photocopying, binding, or microfilming fees; standardized testing fees; diploma replacement fees; transcript fees; application fees; graduation fees; and late fees related to registration and payment. Such user fees and fines shall not exceed the cost of the services provided and shall only be charged to persons receiving the service. Community colleges are not authorized to charge any fee that is not specifically authorized by statute. Parking fee revenues may be pledged by a community college board of trustees as a dedicated revenue source for the repayment of debt, including lease-purchase agreements and revenue bonds with terms not exceeding 20 years and not exceeding the useful life of the asset being financed. Community colleges shall use the services of the Division of Bond Finance of the State Board of Administration to issue any revenue bonds authorized by the provisions of this subsection. Any such bonds issued by the Division of Bond Finance shall be in compliance with the provisions of the State Bond Act. Bonds issued pursuant to the State Bond Act shall be validated in the manner established in 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.

(16) Each community college district board of trustees is authorized to establish a separate fee for technology, which may not exceed 5 percent of the matriculation fee for resident students or 5 percent of the matriculation and tuition fee for nonresident students, to be expended according to technology improvement plans. The technology fee may apply to both college credit and college-preparatory instruction. Fifty percent of technology fee revenues may be pledged by a community college board of trustees as a dedicated revenue source for the repayment of debt, including lease-purchase agreements, not to exceed the useful life of the asset being financed. Revenues generated from the technology fee may not be bonded.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 10, after the semicolon (;) insert: amending s. 239.117, F.S.; revising provisions relating to financial aid fees for workforce development programs; specifying authorized fees for workforce development programs; providing for parking fees and technology fees to be pledged as dedicated funding sources for the repayment of debt; amending s. 240.319, F.S.; providing requirements for lease-purchase agreements; correcting cross references; amending s. 240.35, F.S.; revising requirements regarding fee schedules, matriculation and tuition fees, financial aid fees, and technology fees; specifying fees authorized to be established by community college boards of trustees;

Senators Burt and Diaz-Balart offered the following amendment to **Amendment 2** which was moved by Senator Burt and adopted by two-thirds vote:

Amendment 2A (371670)—On page 4, lines 1-3; and on page 9, lines 9-11, delete "*5 percent of the matriculation fee for resident students, and not more than 5 percent of the matriculation and tuition fee*" and insert: *$1.80 per credit hour or credit-hour equivalent for resident students and not more than $5.40 per credit hour or credit-hour equivalent*

Amendment 2 as amended was adopted by two-thirds vote.

On motion by Senator Horne, **SB 1288** as amended was passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—34

Madam President	Cowin	Horne	Rossin
Bronson	Dawson-White	Jones	Saunders
Brown-Waite	Diaz-Balart	King	Scott
Burt	Dyer	Kirkpatrick	Sebesta
Campbell	Forman	Klein	Sullivan
Carlton	Geller	Kurth	Thomas
Casas	Gutman	McKay	Webster
Childers	Hargrett	Meek	
Clary	Holzendorf	Mitchell	

Nays—None

CS for CS for SB 2146—A bill to be entitled An act relating to marine resources; amending s. 370.021, F.S.; providing penalties for illegal buying and selling of marine products; amending s. 370.13, F.S.; providing for the display of endorsements for the taking of stone crabs on vessels; providing a fee for a stone crab endorsement on a saltwater products license; providing a fee for trap retrieval; providing for the disposition of fees; creating s. 370.1322, F.S.; providing for a stone crab trap certificate program; providing legislative intent; providing for transferable trap certificates, trap tags, and fees; providing prohibitions and penalties; providing for trap reduction; providing for stone crab trap certificate technical, advisory, and appeals boards; providing powers and duties; providing for the disposition of fees; providing for rulemaking authority; providing appropriations and positions; amending s. 370.14, F.S.; providing for a trap retrieval fee; correcting a cross-reference; amending s. 370.142, F.S.; providing penalties for unlawful removal of trap contents; providing authority to implement additional means of trap reduction; amending s. 370.143, F.S.; waiving a fee; providing an effective date.

—as amended April 27 was read the third time by title.

On motion by Senator Bronson, **CS for CS for SB 2146** as amended was passed and certified to the House. The vote on passage was:

Yeas—35

Madam President	Cowin	Horne	Myers
Bronson	Dawson-White	Jones	Rossin
Brown-Waite	Diaz-Balart	King	Saunders
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Sebesta
Carlton	Geller	Kurth	Sullivan
Casas	Gutman	McKay	Thomas
Childers	Hargrett	Meek	Webster
Clary	Holzendorf	Mitchell	

Nays—None

HB 561—A bill to be entitled An act relating to tax on sales, use, and other transactions; amending s. 212.031, F.S.; providing an exemption for the rental, lease, sublease, or license to use certain skyboxes or other box seats during specified activities under certain conditions; providing that no tax imposed on transactions so exempt and not actually paid or collected prior to the effective date of such exemption shall be due; amending s. 212.0602, F.S., which exempts the purchase or lease of materials, equipment, and other items by specified educational entities, institutions, or organizations under certain limited circumstances; expanding the exemption to include the license in or lease of real property by, and supporting operations of, such educational institutions; amending s. 212.08, F.S.; removing a restriction on the application of the exemption for veterans' organizations and their auxiliaries; revising the definition of "veterans' organizations"; including nonprofit corporations that provide consumer credit counseling in the definition of "charitable institutions" for purposes of the exemption granted to such institutions; providing an exemption for works of art purchased or imported for the purpose of donation to an educational institution; providing requirements with respect thereto; providing an exemption for sales or leases to certain organizations that are primarily funded by local governments and that encourage the use of certain locations as venues for sporting events; providing an exemption for sales or leases to nonprofit organizations the sole or primary function of which is to raise funds for or make grants to organizations currently holding a consumer's certificate of exemption issued by the Department of Revenue; providing for retroactive application; providing an exemption for sales or leases to nonprofit corporations the sole or primary function of which is to construct, maintain, or operate a water system; providing an exemption for sales or leases to library cooperatives certified under s. 257.41, F.S.; providing for retroactive application; amending s. 257.41, F.S.; requiring the Division of Library and Information Services of the Department of State to issue certificates to library cooperatives that are eligible to receive state moneys; providing effective dates.

—was read the third time by title.

On motion by Senator Cowin, **HB 561** was passed and certified to the House. The vote on passage was:

Yeas—34

Madam President	Cowin	Jones	Rossin
Bronson	Dawson-White	King	Saunders
Brown-Waite	Diaz-Balart	Kirkpatrick	Scott
Burt	Dyer	Klein	Sebesta
Campbell	Geller	Kurth	Sullivan
Carlton	Gutman	McKay	Thomas
Casas	Hargrett	Meek	Webster
Childers	Holzendorf	Mitchell	
Clary	Horne	Myers	

Nays—None

Consideration of **HB 2163** was deferred.

CS for SB 2380—A bill to be entitled An act relating to local government comprehensive planning; amending s. 163.3187, F.S.; providing that a limitation on amendments to a local government's comprehensive plan does not apply to amendments necessary to establish public school concurrency; requiring all local government public school facilities elements within a county to be prepared and adopted on a similar time schedule; amending s. 163.3177, F.S.; revising requirements relating to inclusion of school siting elements in comprehensive plans; amending s. 235.193, F.S.; providing that certain public educational facilities are not inconsistent with local comprehensive plans under certain circumstances; amending s. 234.021, F.S.; providing criteria for district school boards and local governmental entities to consider in determining hazardous walking conditions for students; amending s. 163.362, F.S.; clarifying space requirements for certain publicly owned buildings located in community redevelopment areas; providing an effective date.

—as amended April 27 was read the third time by title.

Senator Rossin moved the following amendment which was adopted by two-thirds vote:

Amendment 1 (281722)(with title amendment)—On page 2, line 13 through page 4, line 20, delete those lines and insert:

Section 2. Paragraphs (a) and (c) of subsection (6) of section 163.3177, Florida Statutes, 1998 Supplement, are amended to read:

163.3177 Required and optional elements of comprehensive plan; studies and surveys.—

(6) In addition to the requirements of subsections (1)-(5), the comprehensive plan shall include the following elements:

(a) A future land use plan element designating proposed future general distribution, location, and extent of the uses of land for residential uses, commercial uses, industry, agriculture, recreation, conservation, education, public buildings and grounds, other public facilities, and other categories of the public and private uses of land. The future land

use plan shall include standards to be followed in the control and distribution of population densities and building and structure intensities. The proposed distribution, location, and extent of the various categories of land use shall be shown on a land use map or map series which shall be supplemented by goals, policies, and measurable objectives. Each land use category shall be defined in terms of the types of uses included and specific standards for the density or intensity of use. The future land use plan shall be based upon surveys, studies, and data regarding the area, including the amount of land required to accommodate anticipated growth; the projected population of the area; the character of undeveloped land; the availability of public services; and the need for redevelopment, including the renewal of blighted areas and the elimination of nonconforming uses which are inconsistent with the character of the community. The future land use plan may designate areas for future planned development use involving combinations of types of uses for which special regulations may be necessary to ensure development in accord with the principles and standards of the comprehensive plan and this act. The future land use plan of a county may also designate areas for possible future municipal incorporation. The land use maps or map series shall generally identify and depict historic district boundaries and shall designate historically significant properties meriting protection. The future land use element must clearly identify the land use categories in which public schools are an allowable use. When delineating the land use categories in which public schools are an allowable use, a local government shall include in the categories sufficient land proximate to residential development to meet the projected needs for schools in coordination with public school boards and may establish differing criteria for schools of different type or size. Each local government shall include lands contiguous to existing school sites, to the maximum extent possible, within the land use categories in which public schools are an allowable use. All comprehensive plans must comply with *the school siting requirements of* this paragraph no later than October 1, 1999~~, or the deadline for the local government evaluation and appraisal report, whichever occurs first~~. The failure by a local government to comply with *these school siting requirements by October 1, 1999*, ~~this requirement~~ will result in the prohibition of the local government's ability to amend the local comprehensive plan, *except for plan amendments described in paragraph 163.3187(1)(b), until the school siting requirements are met* ~~as provided by s. 163.3187(6)~~. An amendment proposed by a local government for purposes of identifying the land use categories in which public schools are an allowable use is exempt from the limitation on the frequency of plan amendments contained in s. 163.3187. The future land use element shall include criteria which encourage the location of schools proximate to urban residential areas to the extent possible and shall require that the local government seek to collocate public facilities, such as parks, libraries, and community centers, with schools to the extent possible.

(c) A general sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer recharge element correlated to principles and guidelines for future land use, indicating ways to provide for future potable water, drainage, sanitary sewer, solid waste, and aquifer recharge protection requirements for the area. The element may be a detailed engineering plan including a topographic map depicting areas of prime groundwater recharge. The element shall describe the problems and needs and the general facilities that will be required for solution of the problems and needs. The element shall also include a topographic map depicting any areas adopted by a regional water management district as prime groundwater recharge areas for the Floridan or Biscayne aquifers, pursuant to s. 373.0395. These areas shall be given special consideration when the local government is engaged in zoning or considering future land use for said designated areas. For areas served by *onsite sewage treatment and disposal systems* ~~septic tanks~~, soil surveys shall be provided ~~which indicate the suitability of soils for septic tanks~~. *The Legislature acknowledges the state land planning agency's responsibility to review and evaluate comprehensive plan amendments proposing the location, installation, or use of onsite sewage treatment and disposal systems. Except in areas of critical state concern, in reviewing comprehensive plan amendments, the state land planning agency shall not require the use of standards, conditions, or land-use restrictions that are more stringent than or have the effect of being more stringent than the applicable statutes or rules adopted by the Department of Health, the Department of Environmental Protection, or any other agency regarding or affected by the location, installation, or use of onsite sewage treatment and disposal systems.*

And the title is amended as follows:

On page 1, line 13, after the first semicolon (;) insert: providing guidelines for determining the suitability of soils for septic tanks; providing legislative intent;

On motion by Senator Rossin, **CS for SB 2380** as amended was passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—35

Madam President	Cowin	Horne	Myers
Bronson	Dawson-White	Jones	Rossin
Brown-Waite	Diaz-Balart	King	Saunders
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Sebesta
Carlton	Geller	Kurth	Sullivan
Casas	Gutman	McKay	Thomas
Childers	Hargrett	Meek	Webster
Clary	Holzendorf	Mitchell	

Nays—None

CS for SB 2496—A bill to be entitled An act relating to the tax on intangible personal property; amending s. 199.143, F.S.; revising the method of calculating the tax on future advances; amending s. 199.185, F.S.; amending the exemption that applies to certain charitable trusts; amending s. 199.185, F.S.; amending exemptions from taxes imposed under ch. 199, F.S.; providing an effective date.

—as amended April 27 was read the third time by title.

On motion by Senator Horne, **CS for SB 2496** as amended was passed and certified to the House. The vote on passage was:

Yeas—34

Madam President	Cowin	Horne	Rossin
Bronson	Dawson-White	Jones	Saunders
Brown-Waite	Diaz-Balart	King	Scott
Burt	Dyer	Klein	Sebesta
Campbell	Forman	Kurth	Sullivan
Carlton	Geller	McKay	Thomas
Casas	Gutman	Meek	Webster
Childers	Hargrett	Mitchell	
Clary	Holzendorf	Myers	

Nays—None

CS for SB 2268—A bill to be entitled An act relating to contracting; amending ss. 489.117 and 489.513, F.S.; requiring the Construction Industry Licensing Board and the Electrical Contractors' Licensing Board to establish the job scope for any licensure category registered by the respective board, for purposes of local uniformity; creating ss. 489.118 and 489.514, F.S.; providing requirements for certification of registered contractors for grandfathering purposes; requiring a study to determine the fiscal impact on local governments of a single-tier regulatory system for construction and electrical and alarm system contractors; requiring a report; amending s. 205.065, F.S.; providing for recovery of attorney's fees for a prevailing party in any action brought by a contractor challenging an unlawful occupational license levy; amending s. 468.609, F.S.; revising eligibility requirements for certification as a building inspector or plans examiner; amending s. 468.621, F.S.; providing a ground for disciplinary action relating to the issuance of a building permit without obtaining a contractor certificate or registration number, where such a certificate or registration is required; providing penalties; amending ss. 20.165, 471.045, 481.222, 489.109, and 489.519, F.S.; correcting references, to conform; amending s. 469.001, F.S.; defining the term "ASHARA"; revising terminology in a reference; amending s. 469.002, F.S.; revising references relating to training required of certain persons exempt from regulation under ch. 469, F.S., relating to asbestos abatement; amending s. 469.004, F.S.; providing for biennial renewal of licenses of asbestos consultants and asbestos contractors and providing continuing education requirements therefor; amending s. 469.005, F.S.; eliminating a course requirement for licensure as an asbestos consultant; amending s. 469.006, F.S.; revising requirements to qualify additional business organizations for licensure; amending s. 469.011, F.S.;

providing rulemaking authority for implementation of the chapter; requiring consideration of certain federal regulations in developing such rules; amending s. 469.012, F.S.; revising course requirements for onsite supervisors and asbestos abatement workers; correcting terminology; amending s. 469.013, F.S.; revising course requirements for asbestos surveyors, management planners, and project monitors, and providing course requirements for project designers; correcting terminology; creating s. 489.13, F.S.; prohibiting any person from performing any activity requiring licensure as a construction contractor under pt. I, ch. 489, F.S., unless the person holds a valid active certificate or registration to perform such activity issued under such part; providing penalties; prohibiting any local building department from issuing a building permit to any person who does not hold an active valid certificate or registration in the applicable construction category issued under such part; amending s. 489.503, F.S.; clarifying an existing utilities exemption from regulation under pt. II, ch. 489, F.S., relating to electrical and alarm system contracting; amending s. 489.511, F.S.; requiring certain work experience for an alarm system contractor I to be in certain types of fire alarm systems; revising provisions relating to designation and certification of specialty contractors; providing for the voiding of previously issued registered licenses upon issuance of certification in the same classification; amending s. 489.513, F.S., and repealing subsection (7), relating to tracking registration and discipline related thereto; revising requirements for registration as an electrical contractor, alarm system contractor I or II, or registered alarm system contractor; amending s. 489.537, F.S.; authorizing certain persons to install residential smoke or heat detectors; amending s. 489.129, F.S.; providing certain legal protection to a contractor relying on a building code interpretation rendered by certain officials; amending s. 633.061, F.S.; providing for biennial licensure of persons servicing, recharging, repairing, testing, marking, inspecting, or installing fire extinguishers and systems; providing license and permit fees; providing for prorated license fee; providing for continuing education; providing effective dates.

—as amended April 27 was read the third time by title.

On motion by Senator Clary, **CS for SB 2268** as amended was passed and certified to the House. The vote on passage was:

Yeas—35

Madam President	Cowin	Horne	Myers
Bronson	Dawson-White	Jones	Rossin
Brown-Waite	Diaz-Balart	King	Saunders
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Sebesta
Carlton	Geller	Kurth	Sullivan
Casas	Gutman	McKay	Thomas
Childers	Hargrett	Meek	Webster
Clary	Holzendorf	Mitchell	

Nays—None

CS for HB 1779—A bill to be entitled An act relating to victim assistance and compensation; amending s. 960.001, F.S.; providing for the assertion of a victim's rights as provided by law or the State Constitution; amending s. 960.03, F.S.; providing definitions; amending s. 960.05, F.S.; prescribing the purposes of the Crime Victims' Services Office in the Department of Legal Affairs; amending s. 960.065, F.S.; prescribing eligibility criteria for awards granted under ch. 960, F.S.; amending s. 960.12, F.S.; increasing the maximum amount of an emergency award; providing an additional criteria for the denial of an award; amending s. 960.13, F.S.; prescribing criteria applicable to awards; allowing the department to establish, by rule, maximum award amounts that are lower than the statutory maximums; amending s. 960.14, F.S.; specifying the circumstances in which the department may modify or rescind previous awards for victim compensation; creating s. 960.198, F.S.; allowing the department to award to a victim of domestic violence a sum of money which the victim may use for relocating; providing maximum amounts of such awards; providing prerequisites; amending s. 960.28, F.S.; increasing the limit on payment for victims' examination expenses by the office; amending s. 960.045, F.S.; authorizing the Department of Legal Affairs to perform and criminal history check on certain victims or other claimants; establishing criteria governing certain awards; providing effective dates.

—was read the third time by title.

On motion by Senator Saunders, **CS for HB 1779** was passed and certified to the House. The vote on passage was:

Yeas—35

Madam President	Cowin	Horne	Myers
Bronson	Dawson-White	Jones	Rossin
Brown-Waite	Diaz-Balart	King	Saunders
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Sebesta
Carlton	Geller	Kurth	Sullivan
Casas	Gutman	McKay	Thomas
Childers	Hargrett	Meek	Webster
Clary	Holzendorf	Mitchell	

Nays—None

SPECIAL ORDER CALENDAR, continued

On motion by Senator Meek—

CS for SB 1712—A bill to be entitled An act relating to consumer protection; amending s. 496.404, F.S.; revising definitions; amending s. 496.405, F.S.; providing additional information to be included within initial registration statements for charitable organizations and sponsors; prohibiting an employee of a charitable organization or sponsor from soliciting contributions on behalf of the charitable organization or sponsor under specified conditions; amending s. 496.409, F.S.; revising and providing additional information to be included within application for registration or renewal of registration as a professional fundraising consultant; prohibiting a person from acting as a professional fundraising consultant under specified circumstances; amending s. 496.410, F.S.; revising and providing additional information to be included within application for registration or renewal of registration as a professional solicitor; revising provisions that prohibit a person from acting as a professional solicitor; amending s. 496.420, F.S.; revising provisions relating to civil remedies and enforcement; amending s. 501.025, F.S.; clarifying provisions relating to home solicitation sale and buyer's right to cancel; amending ss. 501.604, 501.616, F.S.; prohibiting certain telephone calls by a commercial telephone seller or salesperson; amending s. 539.001, F.S.; revising license requirements under the Florida Pawnbroking Act; revising conditions of eligibility for license; requiring specified persons to file certain documentation upon application for license; requiring the submission of fingerprints with each initial application for licensure; requiring the Division of Consumer Services to submit fingerprints of each applicant for licensure to the Florida Department of Law Enforcement; requiring the Florida Department of Law Enforcement to forward the fingerprints to the Federal Bureau of Investigation; providing an additional condition under which a pawnbroker license may be suspended or revoked; amending s. 559.803, F.S.; revising provisions relating to required information contained in disclosure statements with respect to the sale or lease of business opportunities; amending s. 559.805, F.S.; requiring a seller of business opportunities to file additional information with the department; reenacting s. 559.815, F.S.; providing a penalty; amending s. 559.903, F.S.; revising the definition of "motor vehicle" for the purposes of pt. IX of ch. 559, F.S., relating to repair of motor vehicles; amending s. 559.904, F.S.; requiring the department to post a specified sign at any motor vehicle repair shop that has had its registration suspended or revoked or that has been determined to be operating without a registration; providing a second-degree misdemeanor penalty for defacing or removing such a sign, for operating without a registration, or for operating with a revoked or suspended registration; authorizing the department to impose administrative sanctions; amending s. 741.0305, F.S.; conforming a cross-reference; providing an effective date.

—was read the second time by title.

Amendments were considered and adopted to conform **CS for SB 1712** to **HB 1061**.

Pending further consideration of **CS for SB 1712** as amended, on motion by Senator Meek, by two-thirds vote **HB 1061** was withdrawn from the Committees on Agriculture and Consumer Services; Regulated Industries; and Fiscal Policy.

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

HB 1061—A bill to be entitled An act relating to consumer protection; amending s. 496.404, F.S.; revising definitions; amending s. 496.405, F.S.; providing additional information to be included within initial registration statements for charitable organizations and sponsors; prohibiting an employee of a charitable organization or sponsor from soliciting contributions on behalf of the charitable organization or sponsor under specified conditions; amending s. 496.409, F.S.; revising and providing additional information to be included within application for registration or renewal of registration as a professional fundraising consultant; prohibiting a person from acting as a professional fundraising consultant under specified circumstances; prohibiting the employment of specified persons by professional fundraising consultants; amending s. 496.410, F.S.; revising and providing additional information to be included within application for registration or renewal of registration as a professional solicitor; revising provisions which prohibit a person from acting as a professional solicitor; prohibiting the employment of specified persons by professional solicitors; amending s. 496.420, F.S.; revising provisions relating to civil remedies and enforcement; amending s. 501.025, F.S.; providing that specified mortgages do not constitute an evidence of indebtedness for purposes of a buyer's right to cancel a home solicitation sale; amending s. 501.604, F.S.; providing additional exclusions from the exemptions to pt. IV of ch. 501, F.S., the Florida Telemarketing Act; amending s. 501.616, F.S.; providing additional unlawful practices with respect to telephone solicitation; amending s. 539.001, F.S.; revising license requirements under the Florida Pawnbroking Act; revising conditions of eligibility for license; requiring specified persons to file certain documentation upon application for license; requiring the submission of fingerprints with each initial application for licensure; requiring the Division of Consumer Services to submit fingerprints of each applicant for licensure to the Florida Department of Law Enforcement; requiring the Florida Department of Law Enforcement to forward the fingerprints to the Federal Bureau of Investigation; providing an additional condition under which a pawnbroker license may be suspended or revoked; providing that specified unintentional errors in required applications, documents, or records are not subject to criminal penalties; amending s. 559.803, F.S.; revising provisions relating to required information contained in disclosure statements with respect to the sale or lease of business opportunities; amending s. 559.805, F.S.; requiring a seller of business opportunities to file additional information with the department; reenacting s. 559.815, F.S.; providing a penalty; amending s. 559.903, F.S.; revising the definition of "motor vehicle" for the purposes of pt. IX of ch. 559, F.S., relating to repair of motor vehicles; amending s. 559.904, F.S.; requiring the department to post a specified sign at any motor vehicle repair shop that has had its registration suspended or revoked or that has been determined to be operating without a registration; providing a second degree misdemeanor penalty for defacing or removing such a sign, for operating without a registration, or operating with a revoked or suspended registration; authorizing the department to impose administrative sanctions; amending s. 627.481, F.S.; prescribing conditions under which a subunit of an organized domestic or foreign nonstock corporation or an unincorporated charitable trust may enter into annuity agreements; amending s. 741.0305, F.S.; correcting a cross reference; amending s. 427.802, F.S.; providing definitions; amending s. 427.803, F.S.; requiring the manufacturer to make repairs necessary to conform the device to the warranty; providing notice of the dealer's and manufacturer's address and telephone number; providing procedures for filing claims; amending s. 427.804, F.S.; allowing consumers to submit disputes to the Department of Agriculture and Consumer Services; authorizing the department to investigate complaints; creating s. 427.8041, F.S.; providing for registration of dealers, for fees, and for application procedures; providing grounds for refusal or denial of registration; requiring dealers to allow department personnel to enter their places of business; authorizing the department to impose penalties; authorizing the department or the state attorney to bring civil actions for violations of the act; providing for fees and fines collected to be deposited into the General Inspection Trust Fund; authorizing dealers to collect a fee from the consumer at the time of sale or lease of a device; allowing consumers to bring a civil action for violation of the act; requiring recordkeeping and retention of records; providing for rulemaking; providing an appropriation; providing effective dates.

—a companion measure, was substituted for **CS for SB 1712** as amended and by two-thirds vote read the second time by title.

Pursuant to Rule 4.19, **HB 1061** was placed on the calendar of Bills on Third Reading.

Consideration of **CS for SB 260** and **CS for SB 2000** was deferred.

On motion by Senator Forman—

CS for SB 702—A bill to be entitled An act relating to guardianship; amending s. 744.369, F.S.; extending the time to review certain reports; authorizing random field audits; amending s. 744.702, F.S.; providing legislative intent to establish the Statewide Public Guardianship Office; creating s. 744.7021, F.S.; providing for the Statewide Public Guardianship Office within the Department of Elderly Affairs; providing for an executive director and oversight responsibilities; providing for the Department of Elderly Affairs to provide certain services and support; requiring submission of a guardianship plan and yearly status reports to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court; requiring the office to develop a training program and curriculum committee; authorizing fees; authorizing demonstration projects; providing for rules; amending s. 744.703, F.S.; providing for the executive director to establish offices of public guardian and to appoint or contract with public guardians; providing for transfer of oversight responsibility from the chief judge of the circuit to the office; providing for the suspension or removal of public guardians, as specified; amending s. 744.706, F.S.; providing for the preparation of the budget of the Statewide Public Guardianship Office; amending s. 744.707, F.S.; revising language with respect to procedures and rules to include reference to the Statewide Public Guardianship Office; amending s. 744.708, F.S.; revising language with respect to reports and standards; providing reference to audits by the Auditor General; amending s. 744.709, F.S.; relating to surety bond requirements for public guardians; clarifying the funding source for such bonds; amending s. 744.1085, F.S.; revising language with respect to professional guardians to include reference to the Statewide Public Guardianship Office; amending s. 744.3135, F.S., relating to credit and criminal investigations of guardians; authorizing credit and criminal investigations of nonprofessional or public guardians; deleting exemption of the spouse or child of a ward from credit and criminal investigations when appointed a guardian of the ward; providing a procedure for obtaining fingerprint cards and for maintaining the results of certain investigations; amending s. 28.241, F.S.; providing for funds for public guardians; providing for increase of court service charges and fees for support of public guardians; providing an appropriation; providing for the transfer of resources from the judicial branch to the executive branch of state government; providing an effective date.

—was read the second time by title.

Amendments were considered and adopted to conform **CS for SB 702** to **CS for HB 213**.

Pending further consideration of **CS for SB 702** as amended, on motion by Senator Forman, by two-thirds vote **CS for HB 213** was withdrawn from the Committees on Health, Aging and Long-Term Care; Judiciary; and Fiscal Policy.

On motion by Senator Forman—

CS for HB 213—A bill to be entitled An act relating to guardianship; amending s. 744.369, F.S.; extending the time to review certain reports; authorizing random field audits; amending s. 744.474, F.S.; providing certain relatives the ability to petition the court regarding removal of the guardian; amending s. 744.702, F.S.; providing legislative intent to establish the Statewide Public Guardianship Office; creating s. 744.7021, F.S.; providing for the Statewide Public Guardianship Office within the Department of Elderly Affairs; providing for an executive director and oversight responsibilities; providing for the Department of Elderly Affairs to provide certain services and support; requiring submission of a guardianship plan and yearly status reports to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court; requiring the office to develop a training program and curriculum committee; authorizing fees; authorizing demonstration projects; providing for rules; amending s. 744.703, F.S.; providing for the executive director to establish offices of public guardian and to appoint or contract with public guardians; providing for transfer of oversight responsibility from the chief judge of the circuit to the office; providing for the suspension of public guardians, as specified; amending s. 744.706, F.S.; providing for the preparation of the budget of the Statewide Public Guardianship Office; amending s. 744.707, F.S.;

revising language with respect to procedures and rules to include reference to the Statewide Public Guardianship Office; amending s. 744.708, F.S.; revising language with respect to reports and standards; providing reference to audits by the Auditor General; amending s. 744.709, F.S.; revising language with respect to surety bonds; amending s. 744.1085, F.S.; revising language with respect to professional guardians to include reference to the Statewide Public Guardianship Office; amending s. 744.3135, F.S., relating to credit and criminal investigations of guardians; authorizing credit and criminal investigations of nonprofessional or public guardians; deleting exemption of the spouse or child of a ward from credit and criminal investigations when appointed a guardian of the ward; providing a procedure for obtaining fingerprint cards and for maintaining the results of certain investigations; amending s. 28.241, F.S.; providing for funds for public guardians; providing for the transfer of resources between agencies; providing effective dates.

—a companion measure, was substituted for **CS for SB 702** as amended and read the second time by title.

Pursuant to Rule 4.19, **CS for HB 213** was placed on the calendar of Bills on Third Reading.

On motion by Senator Forman—

CS for SB 704—A bill to be entitled An act relating to public records exemptions; creating s. 744.7081, F.S.; providing an exemption from public records requirements for certain records provided to or held by the Statewide Public Guardianship Office; providing for review and repeal; providing a statement of public necessity; providing an exemption from public records requirements for certain information obtained by the Statewide Public Guardianship Office or a court; providing a statement of public necessity; providing a contingent effective date.

—was read the second time by title.

An amendment was considered and adopted to conform **CS for SB 704** to **CS for HB 219**.

Pending further consideration of **CS for SB 704** as amended, on motion by Senator Forman, by two-thirds vote **CS for HB 219** was withdrawn from the Committees on Health, Aging and Long-Term Care; and Rules and Calendar.

On motion by Senator Forman—

CS for HB 219—A bill to be entitled An act relating to public records exemptions; creating s. 744.7081, F.S.; providing an exemption from public records requirements for certain records requested by the Statewide Public Guardianship Office; providing for review and repeal; providing a statement of public necessity; providing a contingent effective date.

—a companion measure, was substituted for **CS for SB 704** as amended and read the second time by title.

Pursuant to Rule 4.19, **CS for HB 219** was placed on the calendar of Bills on Third Reading.

On motion by Senator Holzendorf, by two-thirds vote **CS for HB 903** was withdrawn from the Committees on Commerce and Economic Opportunities; and Banking and Insurance.

On motion by Senator Holzendorf—

CS for HB 903—A bill to be entitled An act relating to the Employee Health Care Access Act; amending s. 627.6699, F.S.; revising a definition; revising and updating provisions requiring small employer carriers to offer and issue certain health benefit plans; providing additional restrictions on premium rates for certain health benefit plans; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB 1294** and read the second time by title.

Senator Grant moved the following amendment which failed:

Amendment 1 (584316)(with title amendment)—On page 5, following line 31, insert:

Section 2. Subsection (1) of section 627.672, Florida Statutes, is amended to read:

627.672 Definitions.—For the purposes of ss. 627.671-627.675:

(1) A "Medicare supplement policy" is a health insurance policy or other health benefit plan offered by a private entity to individuals who are entitled to have payments for health care costs made under Medicare, Title XVIII of the Social Security Act ("Medicare"), as presently constituted and as may later be amended, which provides reimbursement for expenses incurred for services and items for which payment may be made under Medicare but which expenses are not reimbursable by reason of the applicability of deductibles, coinsurance amounts, or other limitations imposed by Medicare. *The term does not include any such policy or plan of one or more labor organizations, or of the trustees of a fund established by one or more labor organizations, or a combination thereof, for employees or former employees, or a combination thereof, or for members or former members, or a combination thereof, of the labor organizations.*

(Redesignate subsequent sections.)

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to health care; amending s. 627.672, F.S.; redefining the term "Medicare supplement policy" for purposes of the Florida Medicare Supplement Reform Act; amending s. 627.6699, F.S.; revising a definition; revising and updating provisions requiring small employer carriers to offer and issue certain health benefit plans; providing additional restrictions on premium rates for certain health benefit plans; providing an effective date.

Senator Scott moved the following amendment:

Amendment 2 (800576)(with title amendment)—On page 6, delete line 1 and insert:

Section 2. Section 408.70, Florida Statutes, is amended to read:

408.70 *Health Alliance for Small Business* ~~Community health purchasing~~; legislative ~~findings and~~ intent.—*It is the intent of the Legislature that a nonprofit corporation, to be known as the "Health Alliance for Small Business," be organized for the purpose of pooling groups of individuals employed by small employers and the dependents of such employees into larger groups in order to facilitate the purchase of affordable group health insurance coverage.*

~~(1) The Legislature finds that the current health care system in this state does not provide access to affordable health care for all persons in this state. Almost one in five persons is without health insurance. For many, entry into the health care system is through a hospital emergency room rather than a primary care setting. The availability of preventive and primary care and managed, family-based care is limited. Health insurance underwriting practices have led to the avoidance, rather than to the sharing, of insurance risks, limiting access to coverages for small-sized employer groups and high-risk populations. Spiraling premium costs have placed health insurance policies out of the reach of many small-sized and medium-sized businesses and their employees. Lack of outcome and cost information has forced individuals and businesses to make critical health care decisions with little guidance or leverage. Health care resources have not been allocated efficiently, leading to excess and unevenly distributed capacity. These factors have contributed to the high cost of health care. Rural and other medically underserved areas have too few health care resources. Comprehensive, first-dollar coverages have allowed individuals to seek care without regard to cost. Provider competition and liability concerns have led to a medical technology arms race. Rather than competing on the basis of price and patient outcome, health care providers compete for patients on the basis of service, equipping themselves with the latest and best technologies. Managed-care and group-purchasing mechanisms are not widely available to small group purchasers. Health care regulation has placed undue burdens on health care insurers and providers, driving up costs, limiting competition, and preventing market-based solutions to cost and quality problems. Health care costs have been increasing at several times the rate of general inflation, eroding employer profits and investments, increasing government revenue requirements, reducing consumer cover-~~

~~ages and purchasing power, and limiting public investments in other vital governmental services.~~

~~(2) It is the intent of the Legislature that a structured health care competition model, known as "managed competition," be implemented throughout the state to improve the efficiency of the health care markets in this state. The managed competition model will promote the pooling of purchaser and consumer buying power; ensure informed cost-conscious consumer choice of managed care plans; reward providers for high-quality, economical care; increase access to care for uninsured persons; and control the rate of inflation in health care costs.~~

~~(3) The Legislature intends that state-chartered, nonprofit private purchasing organizations, to be known as "community health purchasing alliances," be established. The community health purchasing alliances shall be responsible for assisting alliance members in securing the highest quality of health care, based on current standards, at the lowest possible prices.~~

Section 3. Section 408.701, Florida Statutes, 1998 Supplement, is amended to read:

408.701 *Health Alliance for Small Business* ~~Community health purchasing~~; definitions.—As used in *ss. 408.70-408.7045* ~~ss. 408.70-408.706~~, the term:

~~(1) "Accountable health partnership" means an organization that integrates health care providers and facilities and assumes risk, in order to provide health care services, as certified by the agency under s. 408.704.~~

(1)~~(2)~~ "Agency" means the Agency for Health Care Administration.

(2)~~(3)~~ "Alliance" means *the Health Alliance for Small Business* ~~a community health purchasing alliance~~.

(3)~~(4)~~ "Alliance member" means~~:~~

~~(a)~~ a small employer as defined in s. 627.6699 *who*~~, or~~

~~(b) The state, for the purpose of providing health benefits to state employees and their dependents through the state group insurance program and to Medicaid recipients, participants in the MedAccess program, and participants in the Medicaid buy-in program,~~

~~if such entities~~ voluntarily *elects* ~~choose~~ to join an alliance.

~~(5) "Antitrust laws" means federal and state laws intended to protect commerce from unlawful restraints, monopolies, and unfair business practices.~~

~~(6) "Associate alliance member" means any purchaser who joins an alliance for the purposes of participating on the alliance board and receiving data from the alliance at no charge as a benefit of membership.~~

~~(7) "Benefit standard" means a specified set of health services that are the minimum that must be covered under a basic health benefit plan, as defined in s. 627.6699.~~

~~(8) "Business health coalition" means a group of employers organized to share information about health services and insurance coverage, to enable the employers to obtain more cost-effective care for their employees.~~

~~(9) "Community health purchasing alliance" means a state-chartered, nonprofit organization that provides member purchasing services and detailed information to its members on comparative prices, usage, outcomes, quality, and enrollee satisfaction with accountable health partnerships.~~

~~(10) "Consumer" means an individual user of health care services.~~

~~(11) "Department" means the Department of Insurance.~~

~~(12) "Grievance procedure" means an established set of rules that specify a process for appeal of an organizational decision.~~

(4)~~(13)~~ "Health care provider" or "provider" means a state-licensed or state-authorized facility, a facility principally supported by a local government or by funds from a charitable organization that holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code, a licensed practitioner, a county health department established under part I of chapter 154, a prescribed pediatric extended care center defined in s. 400.902, a federally supported primary care program such as a migrant health center or a community health center authorized under s. 329 or s. 330 of the United States Public Health Services Act that delivers health care services to individuals, or a community facility that receives funds from the state under the Community Alcohol, Drug Abuse, and Mental Health Services Act and provides mental health services to individuals.

(5)~~(14)~~ "Health insurer" or "insurer" means *a health insurer or health maintenance organization that is issued a certificate of authority* ~~an organization licensed~~ by the Department *of Insurance* under part III of chapter 624 or part I of chapter 641.

(6)~~(15)~~ "Health plan" *or "health insurance"* means any *health insurance policy or health maintenance organization contract issued by a health insurer* ~~hospital or medical policy or contract or certificate, hospital or medical service plan contract, or health maintenance organization contract as defined in the insurance code or Health Maintenance Organization Act~~. The term does not include accident-only, specific disease, individual hospital indemnity, credit, ~~dental-only, vision-only,~~ Medicare supplement, long-term care, or disability income insurance; coverage issued as a supplement to liability insurance; workers' compensation or similar insurance; or automobile medical-payment insurance.

(7) "Regional board" means the board of directors of each region of the alliance, as established under s. 408.702(1).

(8) "State board" or "board" means the board of directors of the alliance, as established under s. 408.702(2).

~~(16) "Health status" means an assessment of an individual's mental and physical condition.~~

~~(17) "Managed care" means systems or techniques generally used by third-party payors or their agents to affect access to and control payment for health care services. Managed-care techniques most often include one or more of the following: prior, concurrent, and retrospective review of the medical necessity and appropriateness of services or site of services; contracts with selected health care providers; financial incentives or disincentives related to the use of specific providers, services, or service sites; controlled access to and coordination of services by a case manager; and payor efforts to identify treatment alternatives and modify benefit restrictions for high-cost patient care.~~

~~(18) "Managed competition" means a process by which purchasers form alliances to obtain information on, and purchase from, competing accountable health partnerships.~~

~~(19) "Medical outcome" means a change in an individual's health status after the provision of health services.~~

~~(20) "Provider network" means an affiliated group of varied health care providers that is established to provide a continuum of health care services to individuals.~~

~~(21) "Purchaser" means an individual, an organization, or the state that makes health benefit purchasing decisions on behalf of a group of individuals.~~

~~(22) "Self-funded plan" means a group health insurance plan in which the sponsoring organization assumes the financial risk of paying for all covered services provided to its enrollees.~~

~~(23) "Utilization management" means programs designed to control the overutilization of health services by reviewing their appropriateness relative to established standards or norms.~~

~~(24) "24-hour coverage" means the consolidation of such time-limited health care coverage as personal injury protection under automobile insurance into a general health insurance plan.~~

~~(25) "Agent" means a person who is licensed to sell insurance in this state pursuant to chapter 626.~~

~~(26) "Primary care physician" means a physician licensed under chapter 458 or chapter 459 who practices family medicine, general internal medicine, general pediatrics, or general obstetrics/ gynecology.~~

Section 4. Section 408.702, Florida Statutes, is amended to read:

408.702 *Health Alliance for Small Business* ~~Community health purchasing alliance~~; establishment*; state and regional boards*.—

(1) There is created the Health Alliance for Small Business, which shall operate as a nonprofit corporation organized under chapter 617. The alliance is not a state agency. The alliance shall operate subject to the supervision and approval of a board of directors composed of the chairman of each of the regional boards of the alliance or, in lieu of the chairman, a member of a regional board designated by the chairman of that board.

(2)(a) The board of directors of each community health purchasing alliance is redesignated as a regional board of the Health Alliance for Small Business. Each regional board shall operate as a nonprofit corporation organized under chapter 617. A regional board is not a state agency.

(b) The regional board replacing such community health purchasing alliance shall assume the rights and obligations of each former community health purchasing alliance as necessary to fulfill the former alliance's contractual obligations existing on the effective date of this act. Nothing in this section shall impair or otherwise affect any such contract.

(3)~~(1) There is created a community health purchasing alliance in each of the 11 health service planning districts established under s. 408.032. Each alliance must be operated as a state-chartered, nonprofit private organization organized pursuant to chapter 617.~~ There shall be no liability on the part of, and no cause of action of any nature shall arise against, any member of the board of directors of *the* ~~a community health purchasing~~ alliance *or of any regional board*, or *their* ~~its~~ employees or agents, for any action taken by *a* ~~the~~ board in the performance of its powers and duties under *ss. 408.70-408.7045* ~~ss. 408.70-408.706~~.

(4)~~(2)~~ *The number and geographical boundaries of alliance districts may be revised by the state board* ~~Three or fewer alliances located in contiguous districts that are not primarily urban may merge into a single alliance~~ upon approval of the agency based *on* ~~upon~~ a showing by the ~~alliance~~ board ~~members~~ that the members of *the* ~~each~~ alliance would be better served ~~under a combined alliance~~. *If the number or boundaries of regional alliances are revised, the members of the new regional boards for the affected regions must be representative of the members of the former regional boards of the affected regions in a method established by the state board which reasonably provides for proportionate representation of former board members.* ~~Board members of each alliance shall serve as the board of the combined alliance.~~

(5)~~(3)~~ *The* ~~An~~ alliance ~~is the only entity that is allowed to operate as an alliance in a particular district and~~ must operate for the benefit of its members who are~~:~~ small employers, as defined in s. 627.6699~~; the state on behalf of its employees and the dependents of such employees; Medicaid recipients; and associate alliance members~~. *The* ~~An~~ alliance is the exclusive entity for the oversight and coordination of alliance member purchases. Any health plan offered through *the* ~~an~~ alliance must be offered by *a health insurer* ~~an accountable health partnership~~ and *the* ~~an~~ alliance may not directly provide insurance; directly contract, for purposes of providing insurance, with a health care provider or provider network; or bear any risk, or form self-insurance plans among its members. ~~An alliance may form a network with other alliances in order to improve services provided to alliance members.~~ Nothing in *ss. 408.70-408.7045* ~~ss. 408.70-408.706~~ limits or authorizes the formation of business health coalitions; however, a person or entity that pools together or assists in purchasing health coverage for small employers, as defined in s. 627.6699, ~~state employees and their dependents, and Medicaid, Medicaid buy-in, and MedAccess recipients~~ may not discriminate in its activities based on the health status or historical or projected claims experience of such employers or recipients.

~~(4) Each alliance shall capitalize on the expertise of existing business health coalitions.~~

(6)~~(5)~~ Membership ~~or associate membership~~ in *the* ~~an~~ alliance *and participation by health insurers are* ~~is~~ voluntary.

(7) The state board of the alliance may:

(a) Negotiate with health insurers to offer health plans to alliance members in one or more regions under terms and conditions as agreed to between the board, as group policyholder, and the health insurer. The board and the insurer may negotiate and agree to health plan selection, benefit design, premium rates, and other terms of coverage, subject to the requirements of the Florida Insurance Code.

(b) Establish minimum requirements of alliance membership, consistent with the definition of the term "small employer" in s. 627.6699, including any documentation that an applicant must submit to establish eligibility for membership.

(c) Establish administrative and accounting procedures for its operation and for the operation of the regional boards, and require regional boards to submit program reports to the state board or the agency.

(d) Receive and accept grants, loans, advances, or funds from any public or private agency, and receive and accept, from any source, contributions of money, property, labor, or any other thing of value.

(e) Hire employees or contract with qualified, independent third parties for any service necessary to carry out the board's powers and duties, as authorized under ss. 408.70-408.7045. However, the board may not hire an insurance agent who engages in activities on behalf of the alliance for which an insurance agent's license is required by chapter 626.

(f) Perform any of the activities that may be performed by a regional board under subsection (6), subject to coordination with the regional boards to avoid duplication of effort.

(8) Each regional board of the alliance may:

(a) Establish conditions of alliance membership consistent with the minimum requirements established by the state board.

(b) Provide to alliance members standardized information for comparing health plans offered through the alliance.

(c) Offer health plans to alliance members, subject to the terms and conditions agreed to by the state board and participating health insurers.

(d) Market and publicize the coverage and services offered by the alliance.

(e) Collect premiums from alliance members on behalf of participating health insurers.

(f) Assist members in resolving disputes between health insurers and alliance members, consistent with grievance procedures required by law.

(g) Set reasonable fees for alliance membership, services offered by the alliance, and late payment of premiums by alliance members for which the alliance is responsible.

(h) Receive and accept grants, loans, advances, or funds from any public or private agency, and receive and accept, from any source, contributions of money, property, labor, or any other thing of value.

(i) Hire employees or contract with qualified, independent third parties for any service necessary to carry out the regional board's powers and duties as authorized under ss. 408.70-408.7045. However, a regional board may not hire an insurance agent who engages in activities on behalf of the alliance for which an insurance agent's license is required by chapter 626.

(9) No state agency may expend or provide funds to the Alliance that would subsidize the pricing of health insurance policies for its members, unless the Legislature specifically authorizes such expenditure.

~~(6) Each community health purchasing alliance has the following powers, duties, and responsibilities:~~

~~(a) Establishing the conditions of alliance membership in accordance with ss. 408.70-408.706.~~

~~(b) Providing to alliance members clear, standardized information on each accountable health partnership and each health plan offered by each accountable health partnership, including information on price, enrollee costs, quality, patient satisfaction, enrollment, and enrollee responsibilities and obligations; and providing accountable health partnership comparison sheets in accordance with agency rule to be used in providing members and their employees with information regarding

~~standard, basic, and specialized coverage that may be obtained through the accountable health partnerships.~~

~~(c) Annually offering to all alliance members all accountable health partnerships and health plans offered by the accountable health partnerships which meet the requirements of ss. 408.70-408.706, and which submit a responsive proposal as to information necessary for accountable health partnership comparison sheets, and providing assistance to alliance members in selecting and obtaining coverage through accountable health partnerships that meet those requirements.~~

~~(d) Requesting proposals for the standard and basic health plans, as defined in s. 627.6699, from all accountable health partnerships in the district; providing, in the format required by the alliance in the request for proposals, the necessary information for accountable health partnership comparison sheets; and offering to its members health plans of accountable health partnerships which meet those requirements.~~

~~(e) Requesting proposals from all accountable health partnerships in the district for specialized benefits approved by the alliance board based on input from alliance members, determining if the proposals submitted by the accountable health partnerships meet the requirements of the request for proposals, and offering them as options through riders to standard plans and basic plans. This paragraph does not limit an accountable health partnership's ability to offer other specialized benefits to alliance members.~~

~~(f) Distributing to health care purchasers, placing special emphasis on the elderly, retail price data on prescription drugs and their generic equivalents, durable medical equipment, and disposable medical supplies which is provided by the agency pursuant to s. 408.063(3) and (4).~~

~~(g) Establishing administrative and accounting procedures for the operation of the alliance and members' services, preparing an annual alliance budget, and preparing annual program and fiscal reports on alliance operations as required by the agency.~~

~~(h) Developing and implementing a marketing plan to publicize the alliance to potential members and associate members and developing and implementing methods for informing the public about the alliance and its services.~~

~~(i) Developing grievance procedures to be used in resolving disputes between members and the alliance and disputes between the accountable health partnerships and the alliance. Any member of, or accountable health partnership that serves, an alliance may appeal to the agency any grievance that is not resolved by the alliance.~~

~~(j) Ensuring that accountable health partnerships have grievance procedures to be used in resolving disputes between members and an accountable health partnership. A member may appeal to the alliance any grievance that is not resolved by the accountable health partnership. An accountable health partnership that is a health maintenance organization must follow the grievance procedures established in ss. 408.7056 and 641.31(5).~~

~~(k) Maintaining all records, reports, and other information required by the agency, ss. 408.70-408.706, or other state and local laws.~~

~~(l) Receiving and accepting grants, loans, advances, or funds from any public or private agency; and receiving and accepting contributions, from any source, of money, property, labor, or any other thing of value.~~

~~(m) Contracting, as authorized by alliance members, with a qualified, independent third party for any service necessary to carry out the powers and duties required by ss. 408.70-408.706.~~

~~(n) Developing a plan to facilitate participation of providers in the district in an accountable health partnership, placing special emphasis on ensuring participation by minority physicians in accountable health partnerships if such physicians are available. The use of the term "minority" in ss. 408.70-408.706 is consistent with the definition of "minority person" provided in s. 288.703(3).~~

~~(o) Ensuring that any health plan reasonably available within the jurisdiction of an alliance, through a preferred provider network, a point of service product, an exclusive provider organization, a health maintenance organization, or a pure indemnity product, is offered to members of the alliance. For the purposes of this paragraph, "pure indemnity product" means a health insurance policy or contract that does not provide different rates of reimbursement for a specified list of physicians and a "point of service product" means a preferred provider network or a health maintenance organization which allows members to select at a higher cost a provider outside of the network or the health maintenance organization.~~

~~(p) Petitioning the agency for a determination as to the cost-effectiveness of collecting premiums on behalf of participating accountable health partnerships. If determined by the agency to be cost-effective, the alliance may establish procedures for collecting premiums from members and distribute them to the participating accountable health partnerships. This may include the remittance of the share of the group premium paid by both an employer and an enrollee. If an alliance assumes premium collection responsibility, it shall also assume liability for uncollected premium. This liability may be collected through a bad debt surcharge on alliance members to finance the cost of uncollected premiums. The alliance shall pay participating accountable health partnerships their contracting premium amounts on a prepaid monthly basis, or as otherwise mutually agreed upon.~~

~~(7) Each alliance shall set reasonable fees for membership in the alliance which will finance all reasonable and necessary costs incurred in administering the alliance.~~

(9)~~(8)~~ Each *regional board* ~~alliance~~ shall annually report *to the state board* on the operations of the alliance *in that region*, including program and financial operations, and shall provide for annual internal and independent audits.

(10)~~(9)~~ *The alliance, the state board, and regional boards* ~~A community health purchasing alliance~~ may not engage in any activities for which an insurance agent's license is required *by chapter 626*.

(11)~~(10)~~ The powers and responsibilities of *the* ~~a community health purchasing~~ alliance with respect to purchasing *health plans* ~~services~~ from *health insurers* ~~accountable health partnerships~~ do not extend beyond those enumerated in *ss. 408.70-408.7045* ~~ss. 408.70-408.706~~.

(12) The Office of the Auditor General may audit and inspect the operations and records of the alliance.

Section 5. Section 408.703, Florida Statutes, is amended to read:

408.703 Small employer members of *the alliance* ~~community health purchasing alliances~~; eligibility requirements.—

(1) The *board* ~~agency~~ shall establish conditions of participation *in the alliance* for small employers, as defined in s. 627.6699, which must include, but need not be limited to:

(a) Assurance that the group is a valid small employer and is not formed for the purpose of securing health benefit coverage. This assurance must include requirements for sole proprietors and self-employed individuals which must be based on a specified requirement for the time that the sole proprietor or self-employed individual has been in business, required filings to verify employment status, and other requirements to ensure that the individual is working.

(b) Assurance that the individuals in the small employer group are employees and have not been added for the purpose of securing health benefit coverage.

~~(2) The agency may not require a small employer to pay any portion of premiums as a condition of participation in an alliance.~~

(2)~~(3)~~ The *board* ~~agency~~ may require a small employer seeking membership to agree to participate in the alliance for a specified minimum period of time, not to exceed 1 year.

~~(4) If a member small employer offers more than one accountable health partnership or health plan and the employer contributes to coverage of employees or dependents of the employee, the alliance shall require that the employer contribute the same dollar amount for each employee, regardless of the accountable health partnership or benefit plan chosen by the employee.~~

~~(5) An employer that employs 30 or fewer employees must offer at least 2 accountable health partnerships or health plans to its employees,~~

~~and an employer that employs 31 or more employees must offer 3 or more accountable health partnerships or health plans to its employees.~~

(3)~~(6)~~ Notwithstanding any other law, if a small employer member loses eligibility to purchase health care through *the* ~~a community health purchasing~~ alliance solely because the business of the small employer member expands to more than 50 and less than 75 eligible employees, the small employer member may, at its next renewal date, purchase coverage through the alliance for not more than 1 additional year.

Section 6. Section 408.704, Florida Statutes, 1998 Supplement, is amended to read:

408.704 Agency duties and responsibilities related to *the alliance* ~~community health purchasing alliances.—~~

(1) The agency shall *supervise the operation of the alliance.* ~~assist in developing a statewide system of community health purchasing alliances. To this end, the agency is responsible for:~~

~~(1) Initially and thereafter annually certifying that each community health purchasing alliance complies with ss. 408.70-408.706 and rules adopted pursuant to ss. 408.70-408.706. The agency may decertify any community health purchasing alliance if the alliance fails to comply with ss. 408.70-408.706 and rules adopted by the agency.~~

(2) *The agency shall conduct* ~~Providing administrative startup funds. Each contract for startup funds is limited to $275,000.~~

~~(3) Conducting~~ an annual review of the performance of *the* ~~each~~ alliance to ensure that the alliance is in compliance with *ss. 408.70-408.7045* ~~ss. 408.70-408.706~~. To assist the agency in its review, *the* ~~each~~ alliance shall submit, quarterly, data to the agency, including, but not limited to, employer enrollment by employer size, ~~industry sector,~~ previous insurance status, and count; number of total eligible employers in the alliance district participating in the alliance; number of insured lives by county and insured category, including employees, dependents, and other insured categories, represented by alliance members; profiles of potential employer membership by county; premium ranges for each *health insurer* ~~accountable health partnership~~ for alliance member categories; type and resolution of member grievances; membership fees; and alliance financial statements. A summary of this annual review shall be provided to the Legislature and to each alliance.

~~(4) Developing accountable health partnership comparison sheets to be used in providing members and their employees with information regarding the accountable health partnership.~~

~~(5) Establishing a data system for accountable health partnerships.~~

~~(a) The agency shall establish an advisory data committee comprised of the following representatives of employers, medical providers, hospitals, health maintenance organizations, and insurers:~~

~~1. Two representatives appointed by each of the following organizations: Associated Industries of Florida, the Florida Chamber of Commerce, the National Federation of Independent Businesses, and the Florida Retail Federation;~~

~~2. One representative of each of the following organizations: the Florida League of Hospitals, the Association of Voluntary Hospitals of Florida, the Florida Hospital Association, the Florida Medical Association, the Florida Osteopathic Medical Association, the Florida Chiropractic Association, the Florida Chapter of the National Medical Association, the Association of Managed Care Physicians, the Florida Insurance Council, the Florida Association of Domestic Insurers, the Florida Association of Health Maintenance Organizations; and~~

~~3. One representative of governmental health care purchasers and three consumer representatives, to be appointed by the agency.~~

~~(b) The advisory data committee shall issue a report and recommendations on each of the following subjects as each is completed. A final report covering all subjects must be included in the final Florida Health Plan to be submitted to the Legislature on December 31, 1993. The report shall include recommendations regarding:~~

~~1. Types of data to be collected. Careful consideration shall be given to other data collection projects and standards for electronic data interchanges already in process in this state and nationally, to evaluating and recommending the feasibility and cost-effectiveness of various data collection activities, and to ensuring that data reporting is necessary to support the evaluation of providers with respect to cost containment, access, quality, control of expensive technologies, and customer satisfaction analysis. Data elements to be collected from providers include prices, utilization, patient outcomes, quality, and patient satisfaction. The completion of this task is the first priority of the advisory data committee. The agency shall begin implementing these data collection activities immediately upon receipt of the recommendations, but no later than January 1, 1994. The data shall be submitted by hospitals, other licensed health care facilities, pharmacists, and group practices as defined in s. 455.654(3)(f).~~

~~2. A standard data set, a standard cost-effective format for collecting the data, and a standard methodology for reporting the data to the agency, or its designee, and to the alliances. The reporting mechanisms must be designed to minimize the administrative burden and cost to health care providers and carriers. A methodology shall be developed for aggregating data in a standardized format for making comparisons between accountable health partnerships which takes advantage of national models and activities.~~

~~3. Methods by which the agency should collect, process, analyze, and distribute the data.~~

~~4. Standards for data interpretation. The advisory data committee shall actively solicit broad input from the provider community, carriers, the business community, and the general public.~~

~~5. Structuring the data collection process to:~~

~~a. Incorporate safeguards to ensure that the health care services utilization data collected is reviewed by experienced, practicing physicians licensed to practice medicine in this state;~~

~~b. Require that carrier customer satisfaction data conclusions are validated by the agency;~~

~~c. Protect the confidentiality of medical information to protect the patient's identity and to protect the privacy of individual physicians and patients. Proprietary data submitted by insurers, providers, and purchasers are confidential pursuant to s. 408.061; and~~

~~d. Afford all interested professional medical and hospital associations and carriers a minimum of 60 days to review and comment before data is released to the public.~~

~~6. Developing a data collection implementation schedule, based on the data collection capabilities of carriers and providers.~~

~~(c) In developing data recommendations, the advisory data committee shall assess the cost-effectiveness of collecting data from individual physician providers. The initial emphasis must be placed on collecting data from those providers with whom the highest percentages of the health care dollars are spent: hospitals, large physician group practices, outpatient facilities, and pharmacies.~~

~~(d) The agency shall, to the maximum extent possible, adopt and implement the recommendations of the advisory data committee. The agency shall report all recommendations of the advisory data committee to the Legislature and submit an implementation plan.~~

~~(e) The travel expenses of the participants of the advisory data committee must be paid by the participant or by the organization that nominated the participant.~~

~~(6) Collecting, compiling, and analyzing data on accountable health partnerships and providing statistical information to alliances.~~

~~(7) Receiving appeals by members of an alliance and accountable health partnerships whose grievances were not resolved by the alliance. The agency shall review these appeals pursuant to chapter 120. Records or reports submitted as a part of a grievance proceeding conducted as provided for under this subsection are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Records or reports of patient care quality assurance proceedings obtained or made by any member of a community health purchasing alliance or any member of an accountable health partnership and received by the agency as a part of a proceeding conducted pursuant to this~~

~~subsection are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Portions of meetings held pursuant to the provisions of this subsection during which records held confidential pursuant to the provisions of this subsection are discussed are exempt from the provisions of s. 286.011 and s. 24(b), Art. I of the State Constitution. All portions of any meeting closed to the public shall be recorded by a certified court reporter. For any portion of a meeting that is closed, the reporter shall record the times of commencement and termination of the meeting, all discussion and proceedings, the names of all persons present at any time, and the names of all persons speaking. No portion of the closed meeting shall be off the record. The court reporter's notes shall be fully transcribed and given to the appropriate records custodian within a reasonable time after the meeting. A copy of the original transcript, with information otherwise confidential or exempt from public disclosure redacted, shall be made available for public inspection and copying 3 years after the date of the closed meeting.~~

Section 7. Section 408.7045, Florida Statutes, is amended to read:

408.7045 ~~Community health purchasing~~ Alliance marketing requirements.—

(1) *The* ~~Each~~ alliance shall use appropriate, efficient, and standardized means to notify members of the availability of sponsored health coverage from the alliance.

(2) *The* ~~Each~~ alliance shall make available to members marketing materials that accurately summarize the benefit plans that are offered by its *health insurer* ~~accountable health partnerships~~ and the rates, costs, and accreditation information relating to those plans.

~~(3) Annually, the alliance shall offer each member small employer all accountable health partnerships available in the alliance and provide them with the appropriate materials relating to those plans. The member small employer may choose which health benefit plans shall be offered to eligible employees and may change the selection each year. The employee may be given options with regard to health plans and the type of managed care system under which his or her benefits will be provided.~~

~~(4) An alliance may notify the agency of any marketing practices or materials that it finds are contrary to the fair and affirmative marketing requirements of the program. Upon the request of an alliance, the agency shall request the Department of Insurance to investigate the practices and the Department of Insurance may take any action authorized for a violation of the insurance code or the Health Maintenance Organization Act.~~

Section 8. Paragraph (b) of subsection (6) of section 627.6699, Florida Statutes, 1998 Supplement, is amended to read:

627.6699 Employee Health Care Access Act.—

(6) RESTRICTIONS RELATING TO PREMIUM RATES.—

(b) For all small employer health benefit plans that are subject to this section and are issued by small employer carriers on or after January 1, 1994, premium rates for health benefit plans subject to this section are subject to the following:

1. Small employer carriers must use a modified community rating methodology in which the premium for each small employer must be determined solely on the basis of the eligible employee's and eligible dependent's gender, age, family composition, tobacco use, or geographic area as determined under paragraph *(5)(j)* ~~(5)(k)~~.

2. Rating factors related to age, gender, family composition, tobacco use, or geographic location may be developed by each carrier to reflect the carrier's experience. The factors used by carriers are subject to department review and approval.

3. Small employer carriers may not modify the rate for a small employer for 12 months from the initial issue date or renewal date, unless the composition of the group changes or benefits are changed. *However, a small employer carrier may modify the rate one time prior to 12 months after the initial issue date for a small employer who enrolls under a previously issued group policy that has a common anniversary date for all employers covered under the policy, if the carrier discloses to the employer in a clear and conspicuous manner the date of the first renewal and the fact that the premium may increase on or after that date and if the insurer demonstrates to the department that efficiencies in administration are achieved and reflected in the rates charged to small employers covered under the policy.*

4. *A small employer carrier may issue a policy to a group association with rates that reflect a premium credit for expense savings attributable to administrative activities being performed by the group association, if these expense savings are specifically documented in the carrier's rate filing and are approved by the department. Any such credit may not be based on different morbidity assumptions or on any other factor related to the health status or claims experience of the group or its members.* ~~Carriers participating in the alliance program, in accordance with ss. 408.700-408.707, may apply a different community rate to business written in that program.~~

(c) For all small employer health benefit plans that are subject to this section, that are issued by small employer carriers before January 1, 1994, and that are renewed on or after January 1, 1995, renewal rates must be based on the same modified community rating standard applied to new business.

(d) Notwithstanding s. 627.401(2), this section and ss. 627.410 and 627.411 apply to any health benefit plan provided by a small employer carrier that provides coverage to one or more employees of a small employer regardless of where the policy, certificate, or contract is issued or delivered, if the health benefit plan covers employees or their covered dependents who are residents of this state.

Section 9. *Sections 408.7041, 408.7042, 408.7055, and 408.706, Florida Statutes, are repealed.*

Section 10. This act shall take effect July 1, 1999.

And the title is amended as follows:

On page 1, line 8, after the semicolon (;) insert: amending s. 627.6699, F.S.; modifying definitions; requiring small employer carriers to begin to offer and issue all small employer benefit plans on a specified date; deleting the requirement that basic and standard small employer health benefit plans be issued; providing additional requirements for determining premium rates for benefit plans; providing for applicability of the act to plans provided by small employer carriers that are insurers or health maintenance organizations notwithstanding the provisions of certain other specified statutes under specified conditions; amending s. 408.70, F.S.; providing legislative intent for the organization of a nonprofit corporation for providing affordable group health insurance; amending s. 408.701, F.S.; revising definitions; amending s. 408.702, F.S.; creating the Health Alliance for Small Business; deleting authorization for community health purchasing alliances; creating a board of governors for the alliance; specifying organizational requirements; specifying that the alliance is not a state agency; redesignating community health purchasing alliances as regional boards of the alliance; revising provisions related to liability of board members, number and boundary of alliance districts, eligibility for alliance membership, and powers of the state board and regional boards of the alliance; authorizing the Office of the Auditor General to audit and inspect the alliance; prohibiting state agencies from providing certain funds to the alliance without specific legislative approval; amending s. 408.703, F.S.; providing eligibility requirements for small employer members of the alliance; amending s. 408.704, F.S.; providing responsibilities for the Agency for Health Care Administration; amending s. 408.7045, F.S.; revising marketing requirements of the alliance; amending s. 627.6699, F.S.; revising restrictions related to premium rates for small employer health benefit plans; repealing ss. 408.7041, 408.7042, 408.7055, 408.706, F.S., relating to anti-trust protection, relating to purchasing coverage for state employees and Medicaid recipients through community health purchasing alliances, relating to the establishment of practitioner advisory groups by the Agency for Health Care Administration, and relating to requirements for accountable health partnerships;

On motion by Senator Holzendorf, further consideration of **CS for HB 903** with pending **Amendment 2** was deferred.

CS for SB 2000—A bill to be entitled An act relating to judicial nominating commissions; creating s. 43.291, F.S.; providing for the appointment of members to each judicial nominating commission; prohibiting judges from serving; restricting the appointment of members and

former members to judicial offices; providing for terms; prohibiting reappointment with certain exceptions; abolishing prior offices; providing for suspension or removal; requiring consideration of race, gender, and geographical diversity of membership; requiring consideration of county representation on circuit judicial nominating commissions; providing an appropriation; repealing s. 43.29, F.S., relating to judicial nominating commissions; providing effective dates.

—was read the second time by title.

The Committee on Governmental Oversight and Productivity recommended the following amendment which was moved by Senator Cowin:

Amendment 1 (403978)—On page 2, delete lines 5 and 6 and insert: *for a term beginning July 1 following the election of a governor and ending June 30 following the end of the term of office of the appointing Governor; and*

On motion by Senator Cowin, further consideration of **CS for SB 2000** with pending **Amendment 1** was deferred.

On motion by Senator Kirkpatrick—

CS for SB 260—A bill to be entitled An act relating to economic development in urban communities; creating 414.224, F.S.; creating the Retention Enhancing Communities Initiative; providing for the identification of communities; requiring solicitation of proposals; providing for the selection of RECI participants by the WAGES Program State Board of Directors; providing for RECI elements; requiring the Governor to designate a coordinator; establishing a center for community excellence; providing appropriations for RECI elements; providing restrictions of funds; providing for monitoring and reporting; creating s. 220.185, F.S.; creating the State Housing Tax Credit Program; providing legislative findings and policy; providing definitions; providing for a credit against the corporate income tax in an amount equal to a percentage of the eligible basis of certain housing projects; providing a limitation; amending s. 250.10, F.S.; requiring the Adjutant General to administer a life-preparation program and job-readiness services; creating s. 290.0069, F.S.; directing the Office of Tourism, Trade, and Economic Development to designate a pilot project area within an enterprise zone; providing qualifications for such area; providing that certain businesses in such area are eligible for credits against the tax on sales, use, and other transactions and corporate income tax; providing for computation of such credits; providing application procedures and requirements; providing rulemaking authority; requiring a review and report by the Office of Program Policy Analysis and Government Accountability; providing for future repeal and revocation of such designation; providing an extended period for certain businesses to claim enterprise-zone tax incentives; authorizing amendments to the boundaries of an enterprise zone in a community with a brownfield pilot project; creating s. 420.5093, F.S.; providing for allocation of state housing tax credits and administration by the Florida Housing Finance Corporation; providing for an annual plan; providing application procedures; providing that neither tax credits nor financing generated thereby may be considered income for ad valorem tax purposes; providing for recognition of certain income by the property appraiser; creating s. 420.630, F.S.; creating the Urban Homesteading Act; creating s. 420.631, F.S.; providing definitions; creating s. 420.632, F.S.; authorizing housing authorities or nonprofit community organizations appointed by the housing authority to operate a program to make foreclosed single-family housing available to purchase by certain qualified buyers; creating s. 420.633, F.S.; providing eligibility requirements for entering into a homestead agreement to acquire such housing; creating s. 420.634, F.S.; providing an application process; providing requirements for deeding the property to the qualified buyer; creating s. 420.635, F.S.; providing for the Department of Community Affairs to make loans to qualified buyers, contingent upon an appropriation; providing requirements for the loan agreement; providing an effective date.

—was read the second time by title.

The Committee on Fiscal Policy recommended the following amendment which was moved by Senator Kirkpatrick and adopted:

Amendment 1 (144404)—On page 12, line 9 through page 13, line 21, delete those lines and insert:

(a) To implement the provisions of this act, the Department of Children and Family Services is authorized to spend up to $50 million from Temporary Assistance for Needy Families (TANF) Block Grant funds pursuant to criteria adopted by the WAGES Program State Board of Directors.

The Committee on Fiscal Policy recommended the following amendment which was moved by Senator Kirkpatrick:

Amendment 2 (661644)—On page 23, lines 14 and 29, delete "*2001*" and insert: *2004*

Senator Burt moved the following substitute amendment which was adopted:

Amendment 3 (104134)(with title amendment)—On page 20, line 7 through page 24, line 3, delete those lines

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 25 through page 2, line 8, delete those lines and insert: services; providing an

The Committee on Fiscal Policy recommended the following amendments which were moved by Senator Kirkpatrick and adopted:

Amendment 4 (154836)(with title amendment)—On page 15, line 23 through page 18, line 28; and on page 24, line 26 through page 30, line 30, delete those lines.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 15 through page 3, line 9, delete those lines, and insert: amending s. 250.10, F.S.; requiring the Adjutant General to administer a life-preparation program and job-readiness services; creating s. 290.0069, F.S.; directing the Office of Tourism, Trade, and Economic Development to designate a pilot project area within an enterprise zone; providing qualifications for such area; providing that certain businesses in such area are eligible for credits against the tax on sales, use, and other transactions and corporate income tax; providing for computation of such credits; providing application procedures and requirements; providing rulemaking authority; requiring a review and report by the Office of Program Policy Analysis and Government Accountability; providing for future repeal and revocation of such designation; providing an extended period for certain businesses to claim enterprise-zone tax incentives; authorizing amendments to the boundaries of an enterprise zone in a community with a brownfield pilot project;

Amendment 5 (452012)(with title amendment)—On page 31, line 1, insert:

Section 14. *(1) The purpose of this section is to provide for the establishment of individual development accounts (IDAs) in communities targeted by the Retention Enhancing Communities Initiative (RECI) designed to provide families with limited means in these communities an opportunity to accumulate assets, to facilitate and mobilize savings, to promote education, homeownership, and microenterprise development, and to stabilize families and build communities. This section implements the provisions of s. 404(h) of the Social Security Act, as amended, 42 U.S.C. s. 604(h), related to individual development accounts. Nothing in this section is intended to conflict with the provisions of federal law.*

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

(a) "Individual development account" means an account exclusively for the purpose of paying the qualified expenses of an eligible individual or family in RECI communities. The account is a trust created or organized in this state and funded through periodic contributions by the establishing individual and matched by or through a qualified entity for a qualified purpose.

(b) "Qualified entity" means:

1. A not-for-profit organization described in s. 501(c)(3) of the Internal Revenue Code of 1986, as amended, and exempt from taxation under s. 501(a) of such code; or

2. A state or local government agency acting in cooperation with an organization described in subparagraph 1. For purposes of this section, a local WAGES coalition shall be considered a government agency.

(c) "Financial institution" means an organization authorized to do business under state or federal laws relating to financial institutions, and includes a bank, trust company, savings bank, building and loan association, savings and loan company or association, and credit union.

(d) "Eligible educational institution" means:

1. An institution described in s. 481(a)(1) or s. 1201(a) of the Higher Education Act of 1965, 20 U.S.C. s. 1088(a)(1) or s. 1141(a), as such sections are in effect on the date of the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193.

2. An area vocational education school, as defined in s. 521(4)(C) or (D) of the Carl D. Perkins Vocational and Applied Technology Education Act, 20 U.S.C. s. 2471(4), in this state, as such sections are in effect on the date of the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193.

(e) "Postsecondary educational expenses" means:

1. Tuition and fees required for the enrollment or attendance of a student at an eligible educational institution.

2. Fees, books, supplies, and equipment required for courses of instruction at an eligible educational institution.

(f) "Qualified acquisition costs" means the costs of acquiring, constructing, or reconstructing a residence. The term includes any usual or reasonable settlement, financing, or other closing costs in a RECI community.

(g) "Qualified business" means any business that does not contravene any law or public policy in a RECI community.

(h) "Qualified business capitalization expenses" means qualified expenditures for the capitalization of a qualified business pursuant to a qualified plan.

(i) "Qualified expenditures" means expenditures included in a qualified plan, including capital, plant, equipment, working capital, and inventory expenses.

(j)1. "Qualified first-time homebuyer" means a taxpayer and, if married, the taxpayer's spouse, who has no present ownership interest in a principal residence during the 3-year period ending on the date of acquisition of the principal residence.

2. "Date of acquisition" means the date on which a binding contract to acquire, construct, or reconstruct the principal residence is entered into.

(k) "Qualified plan" means a business plan or a plan to use a business asset purchased, which:

1. Is approved by a financial institution, a microenterprise development organization, or a nonprofit loan fund having demonstrated fiduciary integrity.

2. Includes a description of services or goods to be sold, a marketing plan, and projected financial statements.

3. May require the eligible individual to obtain the assistance of an experienced entrepreneurial advisor.

(l) "Qualified principal residence" means a principal residence, in a RECI community within the meaning of s. 1034 of the Internal Revenue Code of 1986, as amended, the qualified acquisition costs of which do not exceed 100 percent of the average area purchase price applicable to such residence, determined in accordance with s. 143(e)(2) and (3) of such code.

(3) The Department of Children and Families shall amend the Temporary Assistance for Needy Families State Plan which was submitted in accordance with s. 402 of the Social Security Act, as amended, 42 U.S.C. s. 602, to provide for the use of funds for individual development accounts in accordance with the provisions of this section.

(4)(a) Any family in a RECI community subject to time limits and fully complying with work requirements of the WAGES Program that enters into an agreement with an approved fiduciary organization is eligible for participation in an individual development account.

(b) Contributions to the individual development account by an individual may be derived only from earned income, as defined in s. 911(d)(2) of the Internal Revenue Code of 1986, as amended.

(c) The individual or family shall enter into an individual development account agreement with a certified fiduciary organization or community-based organization.

(d) Eligible participants may receive matching funds for contributions to the individual development account, pursuant to the WAGES State Plan and the plan of the local WAGES coalition. When not restricted to the contrary, matching funds may be paid from state and federal funds under the control of the local WAGES coalition, from local agencies, or from private donations.

(e) Eligible participants may receive bonus payments for program compliance, to the extent provided in the WAGES State Plan and the plan of the local WAGES coalition. Such bonus payments may provide for a matching proportion higher than matching funds described in paragraph (d).

(5) Individual development accounts may be available once the family no longer receives cash assistance for any of the following uses:

(a) Postsecondary educational expenses paid from an individual development account directly to an eligible educational institution;

(b) Qualified acquisition costs with respect to a qualified principal residence in a RECI community for a qualified first-time homebuyer, if paid from an individual development account directly to the persons to whom the amounts are due; or

(c) Amounts paid from an individual development account directly to a business capitalization account which is established in a federally insured financial institution and is restricted to use solely for qualified business capitalization in a RECI community.

(6) The WAGES Program State Board of Directors shall establish such policies and procedures as may be necessary to ensure that funds held in an individual development account are not withdrawn except for one or more of the qualified purposes described in this section.

(7) Fiduciary organizations shall be the local WAGES coalition or other organizations designated by the local WAGES coalition to serve as an intermediary between individual account holders and financial institutions holding accounts. Responsibilities of such fiduciary organizations may include marketing participation, soliciting matching contributions, counseling program participants, and conducting verification and compliance activities.

(8) The WAGES Program State Board of Directors shall establish penalties and procedures for enforcing compliance with such penalties for the withdrawal of moneys from individual development accounts under false pretenses or for the use of such moneys for other than approved purposes. The fiduciary organization shall make arrangements with the financial institution to impose any penalties or loss of matching funds as specified by the WAGES Program State Board of Directors on moneys withdrawn. The WAGES Program State Board of Directors may, at its discretion, specify conditions under which an account shall be closed.

(9) The fiduciary organization shall establish a grievance committee and a procedure to hear, review, and decide in writing any grievance made by a holder of an individual development account who disputes a decision of the operating organization that a withdrawal is subject to penalty.

(10) In the event of an account holder's death, the account may be transferred to the ownership of a contingent beneficiary. An account holder shall name contingent beneficiaries at the time the account is established and may change such beneficiaries at any time.

(11) Financial institutions approved by the WAGES Program State Board of Directors shall be permitted to establish individual development accounts pursuant to this section. The financial institution shall certify

to the local WAGES coalition on forms prescribed by the WAGES Program State Board of Directors and accompanied by any documentation required by the WAGES Program State Board of Directors that such accounts have been established pursuant to all provisions of this act and that deposits have been made on behalf of the account holder. A financial institution establishing an individual development account shall:

(a) Keep the account in the name of the account holder.

(b) Subject to the indicated conditions, permit deposits to be made into the account:

1. By the account holder; or

2. By means of contributions made on behalf of the account holder. Such deposits may include moneys to match the account holder's deposits.

(c) Require the account to earn the market rate of interest.

(d) Permit the account holder to withdraw moneys from the account for any of the permissible uses pursuant to procedures adopted by the WAGES Program State Board of Directors.

(12) In accordance with s. 404(h)(4) of the Social Security Act, as amended, 42 U.S.C. s. 604(h)(4), and notwithstanding any other provision of law, other than the Internal Revenue Code of 1986, as amended, funds in an individual development account, including interest accruing in such account, shall be disregarded in determining eligibility for any federal or state program. Matching contributions paid directly into such account and contributions by an individual from earnings shall similarly be disregarded in determining eligibility for any state or federal program.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 3, line 9, after the semicolon (;) insert: providing for individual development accounts in RECI communities; providing purposes; providing definitions; requiring the Department of Revenue to amend the Temporary Assistance for Needy Families State Plan to provide for use of funds for individual development accounts; specifying criteria and requirements for contributions to such accounts; specifying purposes for use of such accounts; providing for procedures for withdrawals from such accounts; specifying certain organizations to act as fiduciary organizations for certain purposes; providing for penalties for withdrawal of moneys for certain purposes; providing for resolution of certain disputes; providing for transfer of ownership of such accounts under certain circumstances; providing for establishment of such accounts by certain financial institutions under certain circumstances; providing requirements; providing that account funds and matching funds do not affect certain program eligibility;

Senator Kirkpatrick moved the following amendment which was adopted:

Amendment 6 (492136)(with title amendment)—On page 3, line 13, insert:

Section 1. Effective upon this act becoming a law, section 163.055, Florida Statutes, is created to read:

163.055 Local Government Financial Technical Assistance Program.—

(1) Among municipalities and special districts, the Legislature finds that:

(a) Florida is a state comprised of 400 municipalities and almost 1,000 special districts statewide.

(b) Of the 400 municipalities in the state, over 200 have a population under 5,000.

(c) State and federal mandates will continue to place additional funding demands on all municipalities and special districts.

(d) State government lacks the specific technical expertise or resources to effectively perform ongoing educational support and financial emergency detection or assistance.

(2) Recognizing the findings in subsection (1), the Legislature declares that:

(a) The fiscal challenges confronting various municipalities and special districts require an investment that will facilitate efforts to improve the productivity and efficiency of their financial structures and operating procedures.

(b) Current and additional revenue enhancements authorized by the Legislature should be managed and administered using appropriate management practices and expertise.

(3) The purpose of this section is to provide technical assistance to municipalities and special districts to enable them to implement workable solutions to financially related problems.

(4) The Comptroller shall enter into contracts with program providers who shall:

(a) Be a public agency or private, nonprofit corporation, association, or entity.

(b) Use existing resources, services, and information that are available from state or local agencies, universities, or the private sector.

(c) Seek and accept funding from any public or private source.

(d) Annually submit information to assist the Legislative Committee on Intergovernmental Relations in preparing a performance review that will include a analysis of the effectiveness of the program.

(e) Assist municipalities and independent special districts in developing alternative revenue sources.

(f) Provide for an annual independent financial audit of the program, if the program receives funding.

(g) Provide assistance to municipalities and special districts in the areas of financial management, accounting, investing, budgeting, and debt issuance.

(h) Develop a needs assessment to determine where assistance should be targeted, and to establish a priority system to deliver assistance to those jurisdictions most in need through the most economical means available.

(i) Provide financial emergency assistance upon direction from the Office of the Governor pursuant to s. 218.503.

(5)(a) The Comptroller shall issue a request for proposals to provide assistance to municipalities and special districts. At the request of the Comptroller, the Legislative Committee on Intergovernmental Relations shall assist in the preparation of the request for proposals.

(b) The Comptroller shall review each contract proposal submitted.

(c) The Legislative Committee on Intergovernmental Relations shall review each contract proposal and submit to the Comptroller, in writing, advisory comments and recommendations, citing with specificity the reasons for its recommendations.

(d) The Comptroller and the Legislative Committee on Intergovernmental Relations shall consider the following factors in reviewing contract proposals:

1. The demonstrated capacity of the provider to conduct needs assessments and implement the program as proposed.

2. The number of municipalities and special districts to be served under the proposal.

3. The cost of the program as specified in a proposed budget.

4. The short-term and long-term benefits of the assistance to municipalities and special districts.

5. The form and extent to which existing resources, services, and information that are available from state and local agencies, universities, and the private sector will be used by the provider under the contract.

(6) A decision of the Comptroller to award a contract under this section is final and shall be in writing with a copy provided to the Legislative Committee on Intergovernmental Relations.

(7) The Comptroller may enter into contracts and agreements with other state and local agencies and with any person, association, corporation, or entity other than the program providers, for the purpose of administering this section.

(8) The Comptroller shall provide fiscal oversight to ensure that funds expended for the program are used in accordance with the contracts entered into pursuant to subsection (4).

(9) The Legislative Committee on Intergovernmental Relations shall annually conduct a performance review of the program. The findings of the review shall be presented in a report submitted to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Comptroller by January 15 of each year.

Section 2. Effective upon this act becoming a law, paragraph (d) of subsection (7) of section 163.01, Florida Statutes, is amended to read:

163.01 Florida Interlocal Cooperation Act of 1969.—

(7)(d) Notwithstanding the provisions of paragraph (c), any separate legal entity created pursuant to this section and controlled by the municipalities or counties of this state or by one or more municipality and one or more county of this state, the membership of which consists or is to consist of municipalities only, counties only, or one or more municipality and one or more county, may, for the purpose of financing or refinancing any capital projects, exercise all powers in connection with the authorization, issuance, and sale of bonds. Notwithstanding any limitations provided in this section, all of the privileges, benefits, powers, and terms of part I of chapter 125, part II of chapter 166, and part I of chapter 159 shall be fully applicable to such entity. Bonds issued by such entity shall be deemed issued on behalf of the counties or municipalities which enter into loan agreements with such entity as provided in this paragraph. Any loan agreement executed pursuant to a program of such entity shall be governed by the provisions of part I of chapter 159 or, in the case of counties, part I of chapter 125, or in the case of municipalities and charter counties, part II of chapter 166. Proceeds of bonds issued by such entity may be loaned to counties or municipalities of this state or a combination of municipalities and counties, whether or not such counties or municipalities are also members of the entity issuing the bonds. The issuance of bonds by such entity to fund a loan program to make loans to municipalities or counties or a combination of municipalities and counties with one another for capital projects to be identified subsequent to the issuance of the bonds to fund such loan programs is deemed to be a paramount public purpose. Any entity so created may also issue bond anticipation notes, as provided by s. 215.431, in connection with the authorization, issuance, and sale of such bonds. In addition, the governing body of such legal entity may also authorize bonds to be issued and sold from time to time and may delegate, to such officer, official, or agent of such legal entity as the governing body of such legal entity may select, the power to determine the time; manner of sale, public or private; maturities; rate or rates of interest, which may be fixed or may vary at such time or times and in accordance with a specified formula or method of determination; and other terms and conditions as may be deemed appropriate by the officer, official, or agent so designated by the governing body of such legal entity. However, the amounts and maturities of such bonds and the interest rate or rates of such bonds shall be within the limits prescribed by the governing body of such legal entity and its resolution delegating to such officer, official, or agent the power to authorize the issuance and sale of such bonds. *A local government self-insurance fund established under this section may financially guarantee bonds or bond anticipation notes issued or loans made under this subsection.* Bonds issued pursuant to this paragraph may be validated as provided in chapter 75. The complaint in any action to validate such bonds shall be filed only in the Circuit Court for Leon County. The notice required to be published by s. 75.06 shall be published only in Leon County, and the complaint and order of the circuit court shall be served only on the State Attorney of the Second Judicial Circuit and on the state attorney of each circuit in each county where the public agencies which were initially a party to the agreement are located. Notice of such proceedings shall be published in the manner and the time required by s. 75.06 in Leon County and in each county where the public agencies which were initially a party to the agreement are located. Obligations of any county or municipality pursuant to a loan agreement as described in this paragraph may be validated as provided in chapter 75.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, delete lines 2 and 3 and insert: An act relating to economic development; creating s. 163.055, F.S.; creating the Local Government Financial Technical Assistance Program; providing legislative findings and declaration; requiring the Comptroller to enter into certain contracts; providing for review of contract proposals; providing for fiscal oversight by the Comptroller; providing for an annual performance review; providing for a report; amending s. 163.01, F.S.; allowing local government self-insurance reserves to be used to guarantee local government obligations under certain circumstances; creating s. 414.224, F.S.;

Senator Hargrett moved the following amendment which was adopted:

Amendment 7 (062462)(with title amendment)—On page 4, line 24, after the period (.) insert: *The Governor shall appoint a liaison from a state agency to assist with each proposal and their implementation. These liaisons shall have the full assistance of the Executive Office of the Governor, the agencies of state government, and their employees. If a state employee is not able to assist a liaison because of state law or regulation, the liaison shall notify the Governor, the Office of Urban Opportunity, and the Office of Program Policy Analysis and Government Accountability concerning the impasse and prepare proposals to resolve them. Upon a written request of a liaison, the Governor may by executive order or emergency rule address regulatory or procedural impasses to enable prompt implementation of a community's proposal. Any federal TANF funding appropriated by the state to benefit WAGES participants, to assist needy families, or to promote job placement and employment retention of WAGES participants that is in excess of revenues necessary to fulfill the appropriated purpose may, upon a written request of a liaison, be redirected, notwithstanding any other statute, with the approval of the Office of Urban Opportunity, the WAGES Program State Board of Directors, and the Governor, to support an approved project in a RECI community.*

And the title is amended as follows:

On page 1, line 9, after the first semicolon (;) insert: providing for the appointment of liaisons; authorizing the Governor to address barriers to implementation of RECI proposals; providing for the redirection of certain funds;

Senator McKay moved the following amendment which was adopted:

Amendment 8 (863206)(with title amendment)—On page 30, line 31, insert:

Section 14. *Before December 31, 1999, any municipality an area of which has previously received designation as an Enterprise Zone in the population category described in section 290.0065(3)(a)3., Florida Statutes, may create a satellite enterprise zone not exceeding 1.5 square miles in area outside of and, notwithstanding anything contained in section 290.0055(4), Florida Statutes, or any other law, in addition to the previously designated enterprise zone boundaries. The Office of Tourism, Trade, and Economic Development shall amend the boundaries of the areas previously designated by any such municipality as enterprise zones upon receipt of a resolution adopted by the municipality describing the satellite enterprise zone areas, as long as the additional areas are consistent with the categories, criteria, and limitations imposed by section 290.0055, Florida Statutes. However, the requirements imposed by section 290.0055(4)(d), Florida Statutes, do not apply to such satellite enterprise zone areas.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 3, line 9, after the semicolon (;) insert: authorizing municipalities to designate satellite enterprise zones;

Senators Silver and Gutman offered the following amendment which was moved by Senator Silver and adopted:

Amendment 9 (730126)(with title amendment)—On page 31, before line 1, insert:

Section 14. Subsection (5) is added to section 218.503, Florida Statutes, to read:

218.503 Determination of financial emergency.—

(5)(a) The governing authority of any municipality with a resident population of 300,000 or more on April 1, 1999, and which has been declared in a state of financial emergency pursuant to this section within the previous 2 fiscal years may impose a discretionary per-vehicle surcharge of up to 20 percent on the gross revenues of the sale, lease, or rental of space at parking facilities within the municipality that are open for use to the general public.

(b) A municipal governing authority that imposes the surcharge authorized by this subsection may use the proceeds of such surcharge for the following purposes only:

1. No more than 80 percent of the surcharge proceeds shall be used by the governing authority to reduce its ad valorem tax millage rate or to reduce or eliminate non-ad valorem assessments.

2. A portion of the balance of the surcharge proceeds shall be used by the governing authority to increase its budget reserves; however, the governing authority shall not reduce the amount it allocates for budget reserves from other sources below the amount allocated for reserves in the fiscal year prior to the year in which the surcharge is initially imposed. When a 15 percent budget reserve is achieved, based on the average gross revenue for the most recent 3 prior fiscal years, the remaining proceeds from this subparagraph shall be used for the payment of annual debt service related to outstanding obligations backed or secured by a covenant to budget and appropriate from non-ad valorem revenues.

(c) This subsection is repealed on June 30, 2006.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 3, line 9, after the semicolon (;) insert: amending s. 218.503, F.S.; authorizing certain municipalities to impose a discretionary per-vehicle surcharge on the gross revenues of the sale, lease, or rental of space at parking facilities within the municipality that are open for use to the public; providing for use of surcharge proceeds;

Pursuant to Rule 4.19, **CS for SB 260** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Diaz-Balart, by two-thirds vote **HB 2151** was withdrawn from the Committees on Natural Resources and Fiscal Policy.

On motion by Senator Diaz-Balart—

HB 2151—A bill to be entitled An act relating to petroleum contamination site rehabilitation; amending s. 376.3071, F.S.; revising authority and procedures relating to source removal and site cleanup activities funded from the Inland Protection Trust Fund; providing an annual funding limitation for certain source removal activities; providing a time limit for negotiation of site rehabilitation and cost-sharing agreements; authorizing the Department of Environmental Protection to terminate negotiations and revoke funding eligibility and liability protections, if time limits are not met; eliminating funding ineligibility for persons who knowingly acquire title to contaminated property; amending s. 376.30711, F.S.; requiring the department to select five sites for restoration funding under an innovative technology pilot program; providing selection criteria; providing for use of certain innovative products and processes, based on competitive bid; amending s. 376.30713, F.S.; removing repeal of the preapproved advanced cleanup program; rescheduling legislative review; creating s. 376.30714, F.S.; authorizing the department to negotiate site rehabilitation agreements at certain sites with new discharges; providing legislative findings; providing definitions; providing application procedures; providing for apportionment of funding responsibilities; specifying excluded new discharges; providing negotiation procedures and timeframe; providing liability protections covered by such agreements; providing retroactive effect of the section; providing an effective date.

—a companion measure, was substituted for **CS for SB 2536** and read the second time by title.

Pursuant to Rule 4.19, **HB 2151** was placed on the calendar of Bills on Third Reading.

On motion by Senator Dawson-White, by two-thirds vote **HB 811** was withdrawn from the Committees on Health, Aging and Long-Term Care; and Fiscal Policy.

On motion by Senator Dawson-White—

HB 811—A bill to be entitled An act relating to child protective team services; amending s. 39.202, F.S.; authorizing the sharing of otherwise confidential information with health plan payors for purposes of reimbursement for child protection team services; providing an effective date.

—a companion measure, was substituted for **CS for SB 2118** and read the second time by title.

Pursuant to Rule 4.19, **HB 811** was placed on the calendar of Bills on Third Reading.

On motion by Senator Brown-Waite—

CS for SB 1742—A bill to be entitled An act relating to corrections; amending s. 20.315, F.S.; revising department goals; revising the organization of the state correctional system; authorizing the Secretary of Corrections to appoint assistant secretaries, directors, and other persons in specified areas of program responsibility; providing for the administration of department operations through regions; deleting requirements that the regions follow judicial circuits; deleting provisions authorizing the appointment of regional directors; revising requirements for the annual department budget; amending ss. 944.31, 944.331, F.S.; providing for the department's office of general counsel rather than the inspector general to oversee inmate grievances; amending s. 944.10, F.S.; limiting the services that may be provided by the department when contracting with governmental entities for planning and designing buildings, parks, roads, and other projects; amending s. 944.40, F.S.; providing that it is a second-degree felony to escape or attempt to escape from a private correctional facility or other correctional facility operated by a governmental entity or under contract with a governmental entity; providing an effective date.

—was read the second time by title.

The Committee on Fiscal Policy recommended the following amendments which were moved by Senator Brown-Waite and adopted:

Amendment 1 (124190)(with title amendment)—On page 16, line 31, insert:

Section 6. Subsection (8) of section 957.04, Florida Statutes, is amended to read:

957.04 Contract requirements.—

(8) ~~For the 1996-1997 fiscal year only, the Correctional Privatization Commission may expend appropriated funds to assist in defraying impact costs that are incurred by a municipality or county and are associated with the opening and operating of a facility under the authority of the commission and within that municipality or county. The amount that may be paid under this subsection for any facility may not exceed 1 percent of the facility construction cost, less any building and construction impact fees imposed during the permitting process for the facility. This subsection applies only to facilities contracted under the authority of the 1996-1997 General Appropriations Act. This subsection is repealed on July 1, 1997.~~ *Buildings and other improvements to real property which are financed under paragraph (2)(a) and which are leased to the Correctional Privatization Commission are considered to be owned by the Correctional Privatization Commission for the purposes of this section whereby the terms of the lease, the buildings, and other improvements will become the property of the state at the expiration of the lease. For any facility that is bid and built under the authority of requests for proposals made by the Correctional Privatization Commission between December 1993 and October 1994 and that is operated by a private vendor, a payment in lieu of taxes, from funds appropriated for the Correctional Privatization Commission, shall be paid until the expiration of the lease to local taxing authorities in the local government in which the facility is located in an amount equal to the ad valorem taxes assessed by counties, municipalities, school districts, and special districts.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 28, after the semicolon (;) insert: amending s. 957.04, F.S.; providing for the status of specified property and leases of the Correctional Privatization Commission; providing for payment in lieu of taxes from appropriated funds;

Amendment 2 (242130)(with title amendment)—On page 16, line 31, insert:

Section 6. *The Division of Statutory Revision is requested to prepare a reviser's bill that changes the term "superintendent" to "warden" wherever it appears in sections 110.205, 112.531, 121.0515(2)(c), 790.001, 922.052, 922.11, 922.12, and 922.15, and chapters 944, 945, 946, and 947, Florida Statutes, and the term "superintendent" in section 112.3145(1)(b)4., Florida Statutes, as it related to corrections, training, treatment, or rehabilitation.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 28, following the semicolon (;) insert: providing for preparation of a reviser's bill to change the term "superintendent" to "warden";

Amendment 3 (083816)(with title amendment)—On page 16, line 31, insert:

Section 6. Subsection (7) is added to section 944.09, Florida Statutes, 1998 Supplement, to read:

944.09 Rules of the department; offenders, probationers, and parolees.—

(7) The department may take a digitized photograph of any inmate or offender under its supervision.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 28, following the semicolon (;) insert: amending s. 944.09, F.S.; authorizing the department to take digitized photographs of inmates or offenders under its supervision;

Amendment 4 (985960)(with title amendment)—On page 16, line 31, insert:

Section 6. Paragraph (r) is added to subsection (1) of section 944.09, Florida Statutes, 1998 Supplement, to read:

944.09 Rules of the department; offenders, probationers, and parolees.—

(1) The department has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement its statutory authority. The rules must include rules relating to:

(r) The function and duties of employees working in the area of community corrections and the operations of probation field and administrative offices.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 28, following the semicolon (;) insert: amending s. 944.09, F.S.; providing the department authority to make rules relating to community corrections;

The Committee on Fiscal Policy recommended the following amendment which was moved by Senator Brown-Waite and failed:

Amendment 5 (861612)(with title amendment)—On page 16, line 31, insert:

Section 6. Paragraph (b) of subsection (4) of section 944.275, Florida Statutes, is amended to read:

944.275 Gain-time.—

(4)

(b) For each month in which an inmate works diligently, participates in training, uses time constructively, or otherwise engages in positive activities, the department may grant incentive gain-time in accordance with this paragraph. The rate of incentive gain-time in effect on the date the inmate committed the offense which resulted in his or her incarceration shall be the inmate's rate of eligibility to earn incentive gain-time throughout the period of incarceration and shall not be altered by a subsequent change in the severity level of the offense for which the inmate was sentenced.

1. For sentences imposed for offenses committed prior to January 1, 1994, up to 20 days of incentive gain-time may be granted. If granted, such gain-time shall be credited and applied monthly.

2. For sentences imposed for offenses committed on or after January 1, 1994, and before October 1, 1995:

a. For offenses ranked in offense severity levels 1 through 7, under s. 921.0012 or s. 921.0013, up to 25 days of incentive gain-time may be granted. If granted, such gain-time shall be credited and applied monthly.

b. For offenses ranked in offense severity levels 8, 9, and 10, under s. 921.0012 or s. 921.0013, up to 20 days of incentive gain-time may be granted. If granted, such gain-time shall be credited and applied monthly.

3. For sentences imposed for offenses committed on or after October 1, 1995, the department may grant up to 10 days per month of incentive gain-time, except that no prisoner is eligible to earn any type of gain-time in an amount that would cause a sentence to expire, end, or terminate, or that would result in a prisoner's release, prior to serving a minimum of 85 percent of the sentence imposed. *When determining whether this section applies to sentences imposed for offenses with continuing or indeterminate offense dates, the department shall use the beginning date of the offense as charged in the indictment or information.* For purposes of this subparagraph, credits awarded by the court for time physically incarcerated shall be credited toward satisfaction of 85 percent of the sentence imposed. Except as provided by this section, a prisoner shall not accumulate further gain-time awards at any point when the tentative release date is the same as that date at which the prisoner will have served 85 percent of the sentence imposed. State prisoners sentenced to life imprisonment shall be incarcerated for the rest of their natural lives, unless granted pardon or clemency.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 28, following the semicolon (;) insert: amending s. 944.275, F.S.; prescribing guidelines for determining grants of gain-time;

The Committee on Fiscal Policy recommended the following amendment which was moved by Senator Brown-Waite and adopted:

Amendment 6 (292396)(with title amendment)—On page 16, line 31, insert:

Section 6. Paragraph (l) of subsection (2) of section 110.205, Florida Statutes, is amended to read:

110.205 Career service; exemptions.—

(2) EXEMPT POSITIONS.—The exempt positions which are not covered by this part include the following, provided that no position, except for positions established for a limited period of time pursuant to paragraph (h), shall be exempted if the position reports to a position in the career service:

(l) All assistant division director, deputy division director, and bureau chief positions in any department, and those positions determined by the department to have managerial responsibilities comparable to such positions, which positions include, but are not limited to, positions in the Department of *Children and Family* ~~Health and Rehabilitative~~ Services and the Department of Corrections that are assigned primary

duties of serving as the superintendent *or assistant superintendent* of an institution*; positions in the Department of Corrections that are assigned primary duties of serving as the circuit administrator or deputy circuit administrator;*; positions in the Department of Transportation that are assigned primary duties of serving as regional toll managers and managers of offices as defined in s. 20.23(3)(d)3. and (4)(d); positions in the Department of Environmental Protection that are assigned the duty of an Environmental Administrator or program administrator; and positions in the Department of Health and Rehabilitative Services that are assigned the duty of an Environmental Administrator. Unless otherwise fixed by law, the department shall set the salary and benefits of these positions in accordance with the rules established for the Selected Exempt Service.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 28, following the semicolon (;) insert: amending s. 110.205, F.S.; exempting certain positions in the Department of Corrections and the Department of Children and Family Services from membership in the Career Service System;

Senator Brown-Waite moved the following amendments which were adopted:

Amendment 7 (315690)(with title amendment)—On page 16, line 31, insert:

Section 6. *(1) The Office of Program Policy Analysis and Government Accountability shall conduct a performance review of the Department of Corrections' reorganization efforts pursuant to the passage of HB 2161 or any similar legislation passed in the 1999 Legislative session.*

(2) The review shall describe the methods and goals of the department's reorganization efforts and determine immediate and long term effects of such efforts upon department personnel and, to the extent possible, the operational effectiveness and accountability of the department anticipated by reorganization efforts.

(3) The Office of Program Policy Analysis and Governmental Accountability shall conduct the review in consultation with staff from the Governor's Office of Planning and Budgeting, the Florida Corrections Commission, the Correctional Medical Authority, and appropriate substantive and fiscal committees of the Senate and House of Representatives.

(4) The Office of Program Policy Analysis and Governmental Accountability shall submit a report to the Governor, the President of the Senate and the Speaker of the House of Representatives with findings and recommendations no later than December 31, 2000.

Section 7. *(1) In implementing the reorganization of the Department of Corrections pursuant to HB 2161 or any similar legislation passed in the 1999 legislative session, it is the intent of the Legislature that, to the extent possible, no employee of the department shall lose their job as a result of the realignment of job functions anticipated by the reorganization plan.*

(2) Furthermore, although no employee of the department will be required to change job locations due to reorganization efforts, employees of the department may choose to be reassigned to another position at their current job location or accept other opportunities at other locations with the department.

(3) No employee of the department shall receive a reduction in salary as a result of reorganization efforts and all personnel actions made as a result of reorganization efforts shall be in accordance with career service rules and regulations.

Section 8. Section 944.8031, Florida Statutes, is created to read:

944.8031 Inmate's family visitation; legislative intent; minimum services provided to visitors; budget requests.—

(1) The Legislature finds that maintaining an inmate's family and community relationships through enhancing visitor services and programs and increasing the frequency and quality of the visits is an underutilized correctional resource that can improve an inmate's behavior in the correctional facility and, upon an inmate's release from a correctional facility, will help to reduce recidivism.

(2) The department shall provide, at a minimum, the following services at designated visiting areas for approved visitors in state correctional facilities:

(a) Information relating to applicable visiting regulations, dress codes, and visiting procedures.

(b) A sheltered area, outside the security perimeter, for visitors waiting before and after visiting inmates.

(c) Food services with food choices which are nutritious and acceptable for children and youth visitors.

(d) Minimal equipment and supplies which assist staff and visitors in managing and occupying the time and meeting the needs of children and youth visitors.

(3) Upon determining any deficiencies and barriers to the effective and efficient operation of the department's visitation program and services, the secretary shall submit annual budget requests identifying capital improvements, staffing, and programmatic needs necessary to improve the quality and frequency of family visits and the visitation program and services.

Section 9. Paragraphs (a), (b), and (c) of subsection (1) of section 945.215, Florida Statutes, 1998 Supplement, are amended to read:

945.215 Inmate welfare and employee benefit trust funds.—

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

(a) The Inmate Welfare Trust Fund constitutes a trust held by the department for the benefit and welfare of inmates incarcerated in correctional facilities operated directly by the department *and for visitation and family programs and services in such correctional facilities*. Funds shall be credited to the trust fund as follows:

1. All funds held in any auxiliary, canteen, welfare, or similar fund in any correctional facility operated directly by the department.

2. All net proceeds from operating inmate canteens, vending machines used primarily by inmates *and visitors*, hobby shops, and other such facilities; however, funds necessary to purchase items for resale at inmate canteens and vending machines must be deposited into local bank accounts designated by the department.

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

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

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

c. The department receives the contracted telephone commissions.

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

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

6. All proceeds from:

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

b. Disciplinary fines imposed against inmates;

c. Forfeitures of inmate earnings; and

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

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

(b) Funds in the Inmate Welfare Trust Fund must be used exclusively for the following purposes at correctional facilities operated directly by the department:

1. To operate inmate canteens and vending machines, including purchasing items for resale at inmate canteens and vending machines; employing personnel and inmates to manage, supervise, and operate inmate canteens and vending machines; and covering other operating and fixed capital outlay expenses associated with operating inmate canteens and vending machines;

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

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

4. To provide literacy programs, vocational training programs, and educational programs that comply with standards of the Department of Education, including employing personnel and covering other operating and fixed capital outlay expenses associated with providing such programs;

5. To operate inmate chapels, faith-based programs, visiting pavilions, *visiting services and programs, family services and programs,* libraries, and law libraries, including employing personnel and covering other operating and fixed capital outlay expenses associated with operating inmate chapels, faith-based programs, visiting pavilions, *visiting services and programs, family services and programs,* libraries, and law libraries;

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

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

8. To provide inmate substance abuse treatment programs and transition and life skills training programs, including employing personnel and covering other operating and fixed capital outlay expenses associated with providing such programs.

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

Section 10. *No later than July 1, 1999, the Gadsden Correctional Institution, currently operated under a contract between the Department of Corrections and the Corrections Corporation of America pursuant to sections 944.710-944.72, Florida Statutes, shall be transferred to the Correctional Privatization Commission created in chapter 957, Florida Statutes, to be the sole contract manager and monitor for that facility.*

And the title is amended as follows:

On page 1, line 28, after the semicolon (;) insert: requiring the Office of Program Policy Analysis and Government Accountability to conduct a performance review of the Department of Corrections' reorganization efforts; requiring a report; providing legislative intent regarding the reorganization of the Department of Corrections; creating s. 944.8031, F.S.; relating to inmate's family visitation services and programs; providing legislative intent; requiring the department to provide certain minimum services and programs for persons visiting inmates; requiring the secretary to submit legislative budget requests necessary to improve the quality and frequency of family visits and improve visitation services and programs; amending s. 945.215, F.S., relating to the Inmate Welfare Trust Fund; requiring such funds to be used for visitation and family programs and services; requiring funds from vending machines used by visitors to go into the fund; transferring the contract for the Gadsden Correctional Institution from the Department of Corrections to the Correctional Privatization Commission;

Amendment 8 (855000)(with title amendment)—On page 16, line 31, insert:

Section 6. Section 944.115, Florida Statutes, is created to read:

944.115 Smoking prohibited inside state correctional facilities.—

(1) The purpose of this section is to protect the health, comfort, and environment of employees of the Department of Corrections, employees of privately operated correctional facilities, employees of the Correctional Privatization Commission, and inmates by prohibiting inmates from using tobacco products inside any office or building within state correctional facilities, and by ensuring that employees and visitors do not use tobacco products inside any office or building within state correctional facilities. Scientific evidence links the use of tobacco products with numerous significant health risks. The use of tobacco products by inmates, employees, or visitors is contrary to efforts by the Department of Corrections to reduce the cost of inmate health care and to limit unnecessary litigation. The Department of Corrections and the private vendors operating correctional facilities shall make smoking-cessation assistance available to inmates in order to implement this section. The Department of Corrections and the private vendors operating correctional facilities shall implement this section as soon as possible, and all provisions of this section must be fully implemented by January 1, 2000.

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

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

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

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

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

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

(f) "Prohibited areas" means any indoor areas of any building, portable, or other enclosed structure within a state correctional facility. The secretary of the department may, by rule, designate other areas, including vehicles, as "prohibited areas" to be regulated under this section. Neither employee housing on the grounds of a state correctional facility nor maximum security inmate housing areas may be designated as prohibited areas under this section.

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

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

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

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

(5) The department may adopt rules and the private vendors operating correctional facilities may adopt policies and procedures for the implementation of this section, the designation of prohibited areas and smoking areas, and for the imposition of the following penalties:

(a) Inmates who violate this section will be subject to disciplinary action as provided by rule and in accordance with this section.

(b) Employees who violate this section will be subject to disciplinary action as provided by rule.

(c) Visitors who violate this section will be subject to removal of authorization to enter a correctional facility as provided by rule.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 28, after the semicolon (;) insert: creating s. 944.115, F.S.; providing legislative intent; requiring the Department of Corrections and private vendors operating state correctional facilities to make smoking-cessation assistance available to inmates; requiring full implementation of the act by a specified date; providing definitions; prohibiting an inmate within a state correctional facility from using tobacco products in prohibited areas; prohibiting employees or visitors from using tobacco products in prohibited areas; providing penalties; authorizing the department to adopt rules;

Pursuant to Rule 4.19, **CS for SB 1742** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

Consideration of **SB 1526** was deferred.

On motion by Senator Meek—

SB 1534—A bill to be entitled An act relating to local government; amending s. 125.35, F.S.; authorizing counties to sell properties when they are of an insufficient size and shape to be issued permits or are valued less than a specified amount; amending s. 197.482, F.S.; reducing the time before which tax certificates become void; amending s. 197.502, F.S.; reducing the time within which the holder of a tax certificate other than a county may apply for a tax deed and within which land escheats to the county; providing time in which a county must apply for a tax deed; providing for cancellation of owed taxes when the county or other governmental unit purchases land for its own use or for infill housing; amending s. 197.592, F.S.; conforming provisions; providing an effective date.

—was read the second time by title.

The Committee on Comprehensive Planning, Local and Military Affairs recommended the following amendments which were moved by Senator Meek and adopted:

Amendment 1 (765770)—On page 1, line 31, delete *$10,000* and insert: *$15,000*

Amendment 2 (111382)—On page 6, delete line 15 and insert: certificates issued after July 1, 1999.

The Committee on Fiscal Resource recommended the following amendment which was moved by Senator Meek:

Amendment 3 (370954)(with title amendment)—On page 1, line 22, insert:

Section 1. Subsection (1) of section 125.35, Florida Statutes, is amended to read:

125.35 County authorized to sell real and personal property and to lease real property.—

(1)(a) The board of county commissioners is expressly authorized to sell and convey any real or personal property, and to lease real property, belonging to the county, whenever the board determines that it is to the best interest of the county to do so, to the highest and best bidder for the particular use the board deems to be the highest and best ~~or, alternatively, in the case of an airport or seaport operation or facility lease, or a modification of an existing lease of real property, or a new extension thereof for an additional term not to exceed 25 years, where the improved leasehold has an appraised value in excess of $20 million, after negotiation~~, for such length of term and such conditions as the governing body may in its discretion determine.

(b) Notwithstanding the provisions of paragraph (a) the Board of County Commissioners is expressly authorized to*:*

(1) negotiate the lease of an airport or sea port facility;

(2) modify or extend an existing lease of sea property for an additional term not to exceed 25 years, where the improved value of the lease has an appraised value in excess of $20 million; or

3. Lease a professional sports franchise facility financed by revenues received pursuant to s. 125.0104 or s. 212.20;

under such terms and conditions as negotiated by the board. ~~lease a professional sports franchise facility financed by revenues received pursuant to s. 125.0104 or s. 212.20, under such terms and conditions as negotiated by the board. In the case of a seaport, however, leased space may not be negotiated for a hotel; retail establishment; or an office complex except for port users in excess of 25,000 square feet, and any leased space for an office complex except for port users of less than 25,000 square feet must be reasonable and necessary for the operation of the port and must be physically located within the jurisdiction of the port authority.~~

(c)~~(b)~~ No sale of any real property shall be made unless notice thereof is published once a week for at least 2 weeks in some newspaper of general circulation published in the county, calling for bids for the purchase of the real estate so advertised to be sold. In the case of a sale, the bid of the highest bidder complying with the terms and conditions set forth in such notice shall be accepted, unless the board of county commissioners rejects all bids because they are too low. The board of county commissioners may require a deposit to be made or a surety bond to be given, in such form or in such amount as the board determines, with each bid submitted.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 3, after the semicolon (;) insert: clarifying that counties are authorized to negotiate leases with airport and seaport facilities;

Senator Meek moved the following amendment to **Amendment 3** which was adopted:

Amendment 3A (183330)—On page 2, delete lines 6-8 and insert:

1. Negotiate the lease of an airport or seaport facility;

2. Modify or extend an existing lease of real property

Amendment 3 as amended was adopted.

The Committee on Fiscal Resource recommended the following amendment which was moved by Senator Meek and adopted:

Amendment 4 (480950)—On page 2, line 15 through page 4, line 7, delete those lines and redesignate subsequent sections.

Senator Kurth moved the following amendment which was adopted:

Amendment 5 (694120)(with title amendment)—On page 6, between lines 12 and 13, insert:

Section 9. *Refund of taxes upon destruction or damage related to forest fires, hurricanes, tropical storms, sinkholes, or tornadoes.—*

(1) If the destruction or damage of a house or other residential building or structure on land occurred before May 1, 1999, and is related to a forest fire, hurricane, tropical storm, sinkhole, or tornado, and such house or other residential building or structure is not capable of being used and occupied, upon application filed with the property appraiser, taxes may be partially refunded in the following manner:

(a) Application must be filed by the owner with the property appraiser before August 15, 1999, for destruction or damage occurring in 1998, and

before June 1, 2000, for destruction or damage occurring between January 1, 1999, and April 30, 1999. Failure to file such application before the date specified in this paragraph constitutes a waiver of any claim for partial refund under this section.

(b) The application must identify the property destroyed or damaged and specify the date the destruction or damage occurred and the number of months of loss of use and occupancy.

(c) The application must be verified under oath under penalty of perjury.

(d) Upon receipt of the application, the property appraiser shall investigate the statements contained therein to determine whether the applicant is entitled to a partial refund under this section. If the property appraiser determines that the applicant is entitled to a partial refund, he or she shall issue an official written statement to the tax collector which contains:

1. The number of months that the building or structure was not capable of use and occupancy. In calculating the number of months, the property appraiser shall consider each 30-day period as a month. Partial periods of 15 days or less shall not be considered, but partial periods of 16 days to 29 days shall be calculated as a 30-day period.

2. The value of the building or structure before the damage or destruction, as determined by the property appraiser.

3. Total taxes due on the building or structure as reduced, based on the ratio that the number of months of loss of use and occupancy bears to 12.

4. The amount of refund in taxes.

(e) Upon receipt of the written statement from the property appraiser, the tax collector shall refund taxes on the property shown on the tax collection roll in the amount of refund shown by the property appraiser.

(f) By September 1 the tax collector shall notify the board of county commissioners and the Department of Revenue of the total reduction in taxes for all property that received a partial refund of taxes under this section for the preceding tax year.

(g) As used in this section:

1. "Loss of use and occupancy" means that the building or structure, or some self-sufficient unit within it, cannot be used for the purpose for which it was constructed during a period of 60 days or more.

2. "House or other residential building or structure" does not include amenities not essential to use and occupancy, such as detached utility buildings, bulkheads, fences, detached carports, swimming pools, or other similar items or property.

(2) This section expires October 1, 2000.

And the title is amended as follows:

On page 1, line 18, after the semicolon (;) insert: providing for a partial refund of taxes levied in 1998 and 1999 on residential property destroyed or damaged by forest fire, hurricane, tropical storm, sinkhole, or tornado; providing procedures and requirements; providing for retroactive application and expiration;

Pursuant to Rule 4.19, **SB 1534** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

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

BILLS ON THIRD READING

HB 2163—A bill to be entitled An act relating to judicial selection; amending s. 34.021, F.S.; authorizing retention of county court judges; amending s. 105.031, F.S.; providing requirements to qualify for election or retention to judicial office; amending s. 105.041, F.S.; providing form of ballot for retention votes on county and circuit court judges; amending s. 105.051, F.S.; providing for determination of retention for county and circuit court judges; amending s. 105.061, F.S.; authorizing electors to vote for retention of circuit and county court judges; amending s. 105.08, F.S.; providing for campaign contribution and expense reporting for circuit and county court judges subject to vote of retention; amending s. 106.011, F.S.; redefining the term "unopposed candidate"; amending s. 106.08, F.S.; providing contribution limits for election and retention of circuit and county court judges; providing penalties; providing for petitions and certification of ballot position; establishing deadlines; amending s. 101.161, F.S.; placing the issue of the method of selection of judges on the general election ballot in the year 2000; establishing manner for placing judicial selection initiatives on subsequent general election ballots; providing ballot language; providing for impact on sitting judges; repealing s. 25.021, F.S.; deleting terms of elected Supreme Court justices; amending s. 35.06, F.S.; deleting terms of elected district court of appeal judges; amending s. 101.151, F.S.; conforming provisions; providing an effective date.

—was read the third time by title.

On motion by Senator Grant, **HB 2163** was passed and certified to the House. The vote on passage was:

Yeas—38

Madam President	Diaz-Balart	Kirkpatrick	Rossin
Bronson	Dyer	Klein	Saunders
Brown-Waite	Forman	Kurth	Scott
Burt	Geller	Latvala	Sebesta
Campbell	Grant	Laurent	Silver
Carlton	Gutman	Lee	Sullivan
Childers	Hargrett	McKay	Thomas
Clary	Horne	Meek	Webster
Cowin	Jones	Mitchell	
Dawson-White	King	Myers	

Nays—None

SPECIAL ORDER CALENDAR, continued

The Senate resumed consideration of—

CS for SB 228—A bill to be entitled An act relating to state finances; amending s. 186.022, F.S.; requiring each state agency annual performance report to include an assessment of performance measures approved by the Legislature and established in the General Appropriations Act or implementing legislation for the General Appropriations Act for the previous fiscal year and a summary of all moneys that were expended or encumbered by the agency, or for which the agency is otherwise responsible, during the preceding fiscal year and an estimate of such moneys for the current fiscal year; providing requirements for the reporting of such information; providing for a reduction in funding for failure to submit the required state agency annual performance report; amending s. 216.0235, F.S.; requiring instructions with respect to such information to be included in the performance-based legislative program budget instructions; requiring the Florida Financial Management Information System Coordinating Council to submit to the Governor and Legislature a report, with recommendations, relating to the reporting of such information; providing an effective date.

—which was previously considered this day.

Pending further consideration of **CS for SB 228** as amended, on motion by Senator Webster, by two-thirds vote **CS for HB 1** was withdrawn from the Committees on Fiscal Policy; and Rules and Calendar.

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

CS for HB 1—A bill to be entitled An act relating to state finances; amending s. 186.022, F.S.; requiring each state agency annual performance report to include an assessment of performance measures approved by the Legislature and established in the General Appropriations Act or implementing legislation for the General Appropriations Act for the previous fiscal year and a summary of all moneys that were expended or encumbered by the agency, or for which the agency is otherwise responsible, during the preceding fiscal year and an estimate of such moneys for the current fiscal year; providing requirements for the reporting of such information; providing for a reduction in funding for failure to submit the required state agency annual performance report;

amending s. 216.0235, F.S.; requiring instructions with respect to such information to be included in the performance-based legislative program budget instructions; requiring the Florida Financial Management Information System Coordinating Council to submit to the Governor and Legislature a report, with recommendations, relating to the reporting of such information; amending s. 216.241, F.S.; prohibiting the expenditure of revenues generated by any tax or fee imposed pursuant to amendment to the State Constitution after a specified date except pursuant to legislative appropriation; amending s. 216.023, F.S.; revising the date for submission of final legislative budget requests; amending ss. 216.0166, 216.0172, 216.0235, 240.2601, and 240.383, F.S., to conform; amending s. 216.131, F.S.; making certain public hearings on legislative budget requests by the Governor and Chief Justice optional; amending s. 216.181, F.S.; revising requirements for approval of amendments to original approved operating budgets involving certain information resources management projects or initiatives; amending s. 216.192, F.S.; revising requirements relating to release of appropriations; amending s. 216.231, F.S.; revising requirements relating to release of funds for emergencies or deficiencies; removing a public hearing requirement; amending s. 216.262, F.S.; revising requirements for adding or deleting authorized positions; removing public hearing requirements; amending s. 216.292, F.S.; revising requirements relating to transfer of funds between agencies; providing for appropriation of federal funds for fixed capital outlay projects for the Department of Military Affairs; providing for redistribution of the approved operating budget for the special category of risk management; amending s. 255.25, F.S.; providing requirements for a replacement lease of space in privately owned buildings; providing an effective date.

—a companion measure, was substituted for **CS for SB 228** as amended and by two-thirds vote read the second time by title.

Senator McKay moved the following amendment which was adopted:

Amendment 1 (624520)(with title amendment)—On page 5, between lines 11 and 12, insert:

Section 5. Subsection (9) is added to section 20.41, Florida Statutes, to read:

20.41 Department of Elderly Affairs.—There is created a Department of Elderly Affairs.

(9) Area agencies on aging are subject to chapter 119, relating to public records, and, when considering any contracts requiring the expenditure of funds, are subject to ss. 286.011-286.012, relating to public meetings.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, delete line 2 and insert: An act relating to governmental agencies; amending s. 20.41, F.S.; providing that area agencies on aging are subject to ch. 119 and ss. 286.011-286.012, F.S., as specified; amending s.

Senator Webster moved the following amendment which was adopted:

Amendment 2 (515232)(with title amendment)—On page 6, line 10 through page 20, line 23, delete those lines and redesignate subsequent section.

And the title is amended as follows:

On page 1, line 31 through page 2, line 30, delete those lines and insert: legislative appropriation; providing an effective date.

Pursuant to Rule 4.19, **CS for HB 1** as amended was placed on the calendar of Bills on Third Reading.

SENATOR MCKAY PRESIDING

On motion by Senator Sebesta—

SB 1526—A bill to be entitled An act relating to license plates; amending ss. 320.08056 and 320.08058, F.S.; creating a Choose Life license plate; providing for the distribution of annual use fees received from the sale of such plates; providing certain limitations on the use of such funds; providing a contingent effective date.

—was read the second time by title.

Senator Dawson-White moved the following amendment which failed:

Amendment 1 (163838)(with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Paragraph (z) is added to subsection (4) of section 320.08056, Florida Statutes, 1998 Supplement, to read:

320.08056 Specialty license plates.—

(4) The following license plate annual use fees shall be collected for the appropriate specialty license plates:

(z) Lift Every Voice and Sing license plate, $20.

Section 2. Subsection (26) is added to section 320.08058, Florida Statutes, 1998 Supplement, to read:

320.08058 Specialty license plates.—

(26) LIFT EVERY VOICE AND SING.—

(a) The department shall develop a Lift Every Voice and Sing license plate as provided in this section. The word "Florida" must appear at the bottom of the plate, and the words "Lift Every Voice and Sing" must appear at the top of the plate.

(b) The annual use fees shall be distributed annually to each county in the ratio that the annual use fees collected by each county bears to the total fees collected for the plates within the state. Each county shall distribute the funds to nongovernmental, not-for-profit agencies within the county, which agencies' have, as a part of their services, a program which teaches abstinence from premarital sex to African-American Youth.

1. Agencies that receive the funds must use the funds for programmatic costs directly and exclusively related to the program or programs that teach abstinence from premarital sex to African-American Youth. However, such funds shall not be used for legal expenses or capital expenditures and a maximum of 10 percent shall be used for administrative expenses.

2. Each agency that receives such funds must submit an annual audit, prepared by a certified public accountant, to the county. The county may conduct a consolidated audit in lieu of the annual audit. The Office of Program Policy Analysis and Government Accountability shall review the expenditure of funds every 3 years to ensure that funds are expended in accordance with this subsection. Any unused funds that exceed 10 percent of the funds received by an agency during its fiscal year must be returned to the county, which shall distribute them to other qualified agencies.

Section 3. This act shall take effect July 1, 1999.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to license plates; amending ss. 320.08056 and 320.08058, F.S.; creating a Lift Every Voice and Sing license plate; providing for the distribution of annual use fees received from the sale of such plates; providing certain limitations on the use of such funds; providing a contingent effective date.

Senator Klein moved the following amendment which failed:

Amendment 2 (151302)(with title amendment)—On page 1, delete lines 17-24 and insert:

(z) Adopt a Child license plate, $20.

Section 2. Subsection (26) is added to section 320.08058, Florida Statutes, 1998 Supplement, to read:

320.08058 Specialty license plates.—

(26) ADOPT A CHILD LICENSE PLATES.—

(a) The department shall develop an Adopt a Child license plate as provided in this section. The word "Florida" must appear at the bottom of the plate, and the words "Adopt a Child"

And the title is amended as follows:

On page 1, line 4, delete "Choose Life" and insert: Adopt a Child

The vote was:

Yeas—14

Campbell	Geller	Klein	Rossin
Dawson-White	Hargrett	Kurth	Silver
Dyer	Holzendorf	Meek	
Forman	Jones	Mitchell	

Nays—25

Madam President	Clary	Kirkpatrick	Scott
Bronson	Cowin	Latvala	Sebesta
Brown-Waite	Diaz-Balart	Laurent	Sullivan
Burt	Grant	Lee	Webster
Carlton	Gutman	McKay	
Casas	Horne	Myers	
Childers	King	Saunders	

Senator Sebesta moved the following amendment which was adopted:

Amendment 3 (522540)—On page 2, delete lines 22-25 and insert: *lieu of the annual audit. Any unused funds*

Senator Silver moved the following amendment which failed:

Amendment 4 (264742)(with title amendment)—On page 2, between lines 28 and 29, insert:

Section 3. Paragraph (z) is added to subsection (4) of section 320.08056, Florida Statutes, 1998 Supplement, to read:

320.08056 Specialty license plates.—

(4) The following license plate annual use fees shall be collected for the appropriate specialty license plates:

(z) Pro Choice license plate, $20.

Section 4. Subsection (26) is added to section 320.08058, Florida Statutes, 1998 Supplement, to read:

320.08058 Specialty license plates.—

(26) PRO CHOICE LICENSE PLATES.—

(a) The department shall develop a Pro Choice license plate as provided in this section. The word "Florida" must appear at the bottom of the plate, and the words "Pro Choice" must appear at the top of the plate.

(b) The annual use fees shall be distributed annually to each county in the ratio that the annual use fees collected by each county bears to the total fees collected for the plates within the state. Each county shall distribute the funds to nongovernmental, not-for-profit agencies within the county, which agencies' services are limited to counseling and meeting the physical needs of pregnant women who are committed to placing their children for adoption. Funds may be distributed to any agency that is involved or associated with abortion activities, including counseling for or referrals to abortion clinics, providing medical abortion-related procedures, or pro-abortion advertising, and funds may be distributed to any agency that charges women for services received.

1. Agencies that receive the funds must use at least 70 percent of the funds to provide for the material needs of pregnant women who are committed to placing their children for adoption, including clothing, housing, medical care, food, utilities, and transportation. Such funds may also be expended on infants awaiting placement with adoptive parents.

2. The remaining funds may be used for adoption, counseling, training, or advertising, but may not be used for administrative expenses, legal expenses, or capital expenditures.

3. Each agency that receives such funds must submit an annual audit, prepared by a certified public accountant, to the county. The county may conduct a consolidated audit in lieu of the annual audit. The Office of Program Policy Analysis and Government Accountability shall review the expenditure of funds every 3 years to ensure that funds are expended in accordance with this subsection. Any unused funds that exceed 10 percent of the funds received by an agency during its fiscal year must be returned to the county, which shall distribute them to other qualified agencies.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 7, after the semicolon (;) insert: amending ss. 320.08056 and 320.08058, F.S.; creating a Pro Choice license plate; providing for the distribution of annual use fees received from the sale of such plates; providing certain limitations on the use of such funds;

The vote was:

Yeas—14

Campbell	Geller	King	Rossin
Dawson-White	Hargrett	Klein	Silver
Dyer	Holzendorf	Kurth	
Forman	Jones	Meek	

Nays—23

Madam President	Clary	Kirkpatrick	Saunders
Bronson	Cowin	Laurent	Scott
Brown-Waite	Diaz-Balart	Lee	Sebesta
Burt	Grant	McKay	Sullivan
Carlton	Gutman	Mitchell	Webster
Childers	Horne	Myers	

MOTION

On motion by Senator King, the rules were waived and time of recess was extended until completion of **SB 1526** and motions and announcements.

Pursuant to Rule 4.19, **SB 1526** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

THE PRESIDENT PRESIDING

MOTIONS

On motion by Senator McKay, by two-thirds vote all bills remaining on the Special Order Calendar this day were placed on the Special Order Calendar for Thursday, April 29.

On motion by Senator Clary, by two-thirds vote the rules were waived and **CS for CS for SB's 834, 1140 and 1612** which passed April 23 was not immediately certified to the House.

REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Special Order Calendar for Wednesday, April 28, 1999: CS for CS for SB 972, CS for SB 1314, CS for SB 2220, CS for SB 228, CS for SB 2296, CS for SB 2438, CS for SB 264, CS for SB 1564, CS for SB 1746, CS for SB 334, CS for SB 1712, CS for SB 260, CS for SB 2000, CS for SB 702, CS for SB 704, CS for CS for SB 1294, CS for SB 2536, CS for SB 2118, CS for SB 1742, SB 1526, SB 1534, CS for SB 202, CS for CS for CS for SB 80, CS for CS for SB 2228, CS for CS for SB 1516, CS for SB 268, CS for SB 1944, CS for SB 672, SB 1500, CS for SB 970, CS for CS for SB 88, CS for SB 1498, SB 1108, CS for SB 2414, CS for SB 1496, CS for SB 1504, CS for SB 2360, CS for SB 2300, SB 966, CS for SB 1200, CS for SB 1352, CS for SB 90, CS for SB 1598, CS for SB 1596, CS for SB 1932, SB 2244, CS for SB 2348, CS for SB 74, CS for SB 1286, CS for SB 1316, CS for SB 690, SB 878, SB 960, CS for SB 880, CS for SB 994, CS for CS for SB 1470, CS for CS for SB 1594, CS for SB 1588, SB 2234, CS for SB 1656, CS for SB 2092, CS for SB 2250, CS for SB 1982, SB 1894, CS for SB 1910, CS for SB 1934, SB 2070, CS for SB 1676, CS for SB 1698, CS for SB 1552, CS for SB 1600, CS for SB 1260,

CS for SB 1290, CS for SB 1440, CS for CS for SB 1478, CS for SB 1068, SB 732, CS for SB 1028, CS for SB 984, CS for SB 734, CS for SB 946, SB 1586, CS for SB 1034, CS for SB 190, CS for CS for SB 294, CS for SB 2264, CS for SB 2516, SB 668, CS for SB 2636, CS for SB 958, SB 898, CS for CS for SB 1254, SB 1682, SB 16

Respectfully submitted,
John McKay, Chairman

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

FIRST READING

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for HB 495, CS for HB 1021, HB 1737, CS for HB 1795, HB 1987; has passed as amended CS for HB 1, CS for HB 121, HB 195, CS for HB 231, HB 349, HB 369, CS for HB 381, HB 477, HB 509, HB 591, CS for HB 727, HB 841, HB 953, HB 1005, HB 1061, HB 1103, HB 1451, HB 1471, HB 1507, HB 1531, CS for HB 1697, HB 1723, HB 1759, CS for HB 1837, CS for HB 2067, HB 2073, HB 2087, HB 2125, HB 2185, HB 2247; has passed by the required Constitutional three-fifths vote of the membership HB 2279; has passed as amended by the required Constitutional three-fifths vote of the membership HB 1885 and requests the concurrence of the Senate.

John B. Phelps, Clerk

By the Committee on Education/K-12 and Representative Boyd and others—

CS for HB 495—A bill to be entitled An act relating to education; amending s. 232.425, F.S., relating to student standards for participation in interscholastic extracurricular student activities; providing that the participation of nonpublic school students in interscholastic extracurricular activities at public schools and the participation of public school students in interscholastic extracurricular activities at nonpublic schools is not mandatory; revising provisions relating to the grade point average required for participation in interscholastic extracurricular student activities; requiring a contract to be executed upon a student's falling below a certain cumulative grade point average; amending s. 232.61, F.S., relating to bylaws relating to student eligibility adopted by the governing organization for athletics; providing an effective date.

—was referred to the Committee on Education.

By the Committee on Transportation and Representative Spratt and others—

CS for HB 1021—A bill to be entitled An act relating to small county road assistance; creating s. 339.2816, F.S.; creating the Small County Road Assistance Program within the Department of Transportation; providing a definition; providing for county eligibility; providing for project prioritization criteria; authorizing the Department of Transportation to administer program contracts on behalf of counties; requiring that program projects be included in the Department of Transportation's work program; amending s. 339.08, F.S.; authorizing the expenditure of State Transportation Trust Fund moneys for the Small County Road Assistance Program; providing an effective date.

—was referred to the Committees on Transportation and Fiscal Policy.

By Representative Brummer and others—

HB 1737—A bill to be entitled An act relating to ad valorem taxation; amending s. 193.063, F.S.; requiring, rather than authorizing, the property appraiser to grant an extension for filing a tangible personal property tax return upon request for a specified period; authorizing an additional discretionary extension; revising requirements relating to requests for extension; providing an effective date.

—was referred to the Committees on Comprehensive Planning, Local and Military Affairs; and Fiscal Resource.

By the Committee on Elder Affairs and Long-Term Care; and Representative Sobel and others—

CS for HB 1795—A bill to be entitled An act relating to nursing homes and assisted living facilities; amending ss. 400.23 and 400.441, F.S.; requiring rules adopted by the Agency for Health Care Administration and the Department of Elderly Affairs to include provisions governing cooling of facilities; providing an effective date.

—was referred to the Committees on Children and Families; and Fiscal Policy.

By Representative Cantens—

HB 1987—A bill to be entitled An act relating to auctioneering; amending s. 468.385, F.S.; revising requirements relating to the conduct, administration, approval, and scope of the examination for licensure as an auctioneer; amending s. 468.388, F.S.; deleting exceptions from a requirement that auctions be conducted pursuant to a written agreement; amending s. 468.389, F.S.; providing for disciplinary action against licensees who fail to account for certain property; providing penalties; reenacting ss. 468.385(3)(b) and 468.391, F.S., relating to licensure as an auctioneer and to a criminal penalty, respectively, to incorporate the amendment to s. 468.389, F.S., in references thereto; amending s. 468.395, F.S.; revising conditions of recovery from the Auctioneer Recovery Fund; providing for recovery from the fund pursuant to an order issued by the Florida Board of Auctioneers; deleting a requirement that notice be given to the board at the time action is commenced; providing limitations on bringing claims for certain acts; providing subrogation rights for the fund; amending s. 468.397, F.S., relating to payment of claim; correcting language; providing an effective date.

—was referred to the Committees on Regulated Industries and Fiscal Policy.

By the Committee on Governmental Operations and Representative Posey and others—

CS for HB 1—A bill to be entitled An act relating to state finances; amending s. 186.022, F.S.; requiring each state agency annual performance report to include an assessment of performance measures approved by the Legislature and established in the General Appropriations Act or implementing legislation for the General Appropriations Act for the previous fiscal year and a summary of all moneys that were expended or encumbered by the agency, or for which the agency is otherwise responsible, during the preceding fiscal year and an estimate of such moneys for the current fiscal year; providing requirements for the reporting of such information; providing for a reduction in funding for failure to submit the required state agency annual performance report; amending s. 216.0235, F.S.; requiring instructions with respect to such information to be included in the performance-based legislative program budget instructions; requiring the Florida Financial Management Information System Coordinating Council to submit to the Governor and Legislature a report, with recommendations, relating to the reporting of such information; amending s. 216.241, F.S.; prohibiting the expenditure of revenues generated by any tax or fee imposed pursuant to amendment to the State Constitution after a specified date except pursuant to legislative appropriation; amending s. 216.023, F.S.; revising the date for submission of final legislative budget requests; amending ss. 216.0166, 216.0172, 216.0235, 240.2601, and 240.383, F.S., to conform; amending s. 216.131, F.S.; making certain public hearings on legislative budget requests by the Governor and Chief Justice optional; amending s. 216.181, F.S.; revising requirements for approval of amendments to original approved operating budgets involving certain information resources management projects or initiatives; amending s. 216.192, F.S.; revising requirements relating to release of appropriations; amending s. 216.231, F.S.; revising requirements relating to release of funds for

emergencies or deficiencies; removing a public hearing requirement; amending s. 216.262, F.S.; revising requirements for adding or deleting authorized positions; removing public hearing requirements; amending s. 216.292, F.S.; revising requirements relating to transfer of funds between agencies; providing for appropriation of federal funds for fixed capital outlay projects for the Department of Military Affairs; providing for redistribution of the approved operating budget for the special category of risk management; amending s. 255.25, F.S.; providing requirements for a replacement lease of space in privately owned buildings; providing an effective date.

—was referred to the Committees on Fiscal Policy; and Rules and Calendar.

By the Committee on Corrections and Representative Crist and others—

CS for HB 121—A bill to be entitled An act relating to sentencing; creating the "Three-Strike Violent Felony Offender Act"; amending s. 775.082, F.S.; redefining the term "prison releasee reoffender"; revising legislative intent; amending s. 775.084, F.S., relating to sentencing of habitual felony offenders, habitual violent felony offenders, and violent career criminals; redefining the terms "habitual felony offender" and "habitual violent felony offender"; revising the alternative time periods within which the habitual felony offender or habitual violent felony offender could have committed the felony to be sentenced; providing that the felony to be sentenced could have been committed either while the defendant was serving a prison sentence or other sentence, or within 5 years of the defendant's release from a prison sentence, probation, community control, or other sentence, under specified circumstances when the sentence was imposed as a result of a prior conviction for a felony, enumerated felony, or other qualified offense; removing certain references to "commitment" and otherwise conforming terminology; providing that the placing of a person on probation without an adjudication of guilt shall be treated as a prior conviction regardless of when the subsequent offense was committed; removing certain requirements that, in order to be counted as a prior qualifying felony, for purposes of designation as an habitual felony offender, the felony must have resulted in a prior conviction sentenced separately from any other felony conviction counted as a prior felony; defining "three-time violent felony offender"; requiring conviction as an adult of a felony in at least 2 separate and distinct incidents and sentencing events; providing a category of enumerated felony offenses within the definition; requiring the court to sentence a defendant as a three-time violent felony offender and impose certain mandatory minimum terms of imprisonment under specified circumstances when the defendant is to be sentenced for committing or attempting to commit, any of the enumerated felony offenses and the defendant has previously been convicted of committing or attempting to commit, any two of the enumerated felony offenses; providing penalties; providing procedures and criteria for court determination if the defendant is a three-time violent felony offender; providing for sentencing as a three-time violent felony offender; providing mandatory term of imprisonment for life when the three-time violent felony offense for which the defendant is to be sentenced is a felony punishable by life; providing mandatory prison term of 30 years when the three-time violent felony offense is a first degree felony; providing mandatory prison term of 15 years when the three-time violent felony offense is a second degree felony; providing mandatory prison term of 5 years when the three-time violent felony offense is a third degree felony; providing for construction; providing that certain sentences imposed before July 1, 1999, are not subject to s. 921.002, F.S., relating to the Criminal Punishment Code; providing for ineligibility of a three-time violent felony offender for parole, control release, or early release; amending ss. 784.07 and 784.08, F.S.; providing minimum terms of imprisonment for persons convicted of aggravated assault or aggravated battery of a law enforcement officer or a person 65 years of age or older; amending s. 790.235, F.S., relating to prohibitions against, and penalties for, unlawful possession or other unlawful acts involving firearm, electric weapon or device, or concealed weapon by a violent career criminal; conforming cross references to changes made by the act; creating s. 794.0115, F.S.; defining "repeat sexual batterer"; providing within the definition a category of enumerated felony offenses in violation of s. 794.011, F.S., relating to sexual battery; requiring the court to sentence a defendant as a repeat sexual batterer and impose a 10-year mandatory minimum term of imprisonment under specified circumstances when the defendant is to be sentenced for committing or attempting to commit, any of the enumerated felony violations of s. 794.011, F.S., and the defendant has previously been convicted of committing or attempting to commit, any one of certain enumerated felony offenses involving sexual battery; providing penalties; providing procedures and criteria for court determination if the defendant is a repeat sexual batterer; providing for sentencing as a repeat sexual batterer; providing for construction; amending s. 794.011, F.S., to conform references to changes made by the act; amending s. 893.135, F.S.; redefining the offense of trafficking in cannabis to include unlawful sale, purchase, manufacture, delivery, bringing into the state, or possession of cannabis in excess of 25 pounds or 300 cannabis plants; providing mandatory minimum prison terms and mandatory fine amounts for trafficking in specified quantities of cannabis, cocaine, or illegal drugs; providing for sentencing pursuant to the Criminal Punishment Code of offenders convicted of trafficking in specified quantities of cannabis; providing penalties; reenacting s. 397.451(7), F.S., relating to the prohibition against dissemination of state funds to service providers convicted of certain offenses, s. 782.04(4)(a), F.S., relating to murder, s. 893.1351(1), F.S., relating to lease or rent for the purpose of trafficking in a controlled substance, s. 903.133, F.S., relating to the prohibition against bail on appeal for certain felony convictions, s. 907.041(4)(b), F.S., relating to pretrial detention and release, s. 921.0022(3)(g), (h), and (i), F.S., relating to the Criminal Punishment Code offense severity ranking chart, s. 921.0024(1)(b), F.S., relating to the Criminal Punishment Code worksheet computations and scoresheets, s. 921.142(2), F.S., relating to sentencing for capital drug trafficking felonies, s. 943.0585, F.S., relating to court-ordered expunction of criminal history records, and s. 943.059, F.S., relating to court-ordered sealing of criminal history records, to incorporate said amendment in references; amending s. 943.0535, F.S., relating to aliens and criminal records; requiring clerk of the courts to furnish criminal records to United States immigration officers; requiring state attorney to assist clerk of the courts in determining which defendants are aliens; requiring the Governor to place public service announcements explaining the provisions of this act; providing an effective date.

—was referred to the Committees on Criminal Justice and Fiscal Policy.

By Representative Gay and others—

HB 195—A bill to be entitled An act relating to housing; creating s. 196.1978, F.S.; providing that property used to provide housing for certain persons under ch. 420, F.S., and owned by certain nonprofit corporations is exempt from ad valorem taxation; creating ss. 220.185 and 420.5093, F.S.; creating the State Housing Tax Credit Program; providing legislative findings and policy; providing definitions; providing for a credit against the corporate income tax in an amount equal to a percentage of the eligible basis of certain housing projects; providing a limitation; providing for allocation of credits and administration by the Florida Housing Finance Corporation; providing for an annual plan; providing application procedures; providing that neither tax credits nor financing generated thereby shall be considered income for ad valorem tax purposes; providing for recognition of certain income by the property appraiser; amending s. 420.503, F.S.; providing that certain projects shall qualify as housing for the elderly for purposes of certain loans under the State Apartment Incentive Loan Program, and shall qualify as a project targeted for the elderly in connection with allocation of low-income housing tax credits and with the HOME program under certain conditions; amending s. 420.5087, F.S.; directing the Florida Housing Finance Corporation to adopt rules for the equitable distribution of certain unallocated funds under the State Apartment Incentive Loan Program; authorizing the corporation to waive a mortgage limitation under said program for projects in certain areas; providing an effective date.

—was referred to the Committees on Comprehensive Planning, Local and Military Affairs; and Fiscal Resource.

By the Committee on Community Affairs and Representative Johnson and others—

CS for HB 231—A bill to be entitled An act relating to ad valorem taxation; providing for a partial refund of taxes levied in 1998 and 1999 on residential property destroyed or damaged by forest fire, hurricane, tropical storm, sinkhole, or tornado; providing procedures and require-

ments; providing for retroactive application and expiration; providing an effective date.

—was referred to the Committees on Comprehensive Planning, Local and Military Affairs; and Fiscal Resource.

By the Committee on Law Enforcement and Crime Prevention; and Representative Futch and others—

HB 349—A bill to be entitled An act relating to weapons and firearms; amending s. 790.22, F.S.; relating to certain offenses involving use or possession of a firearm by a minor or offenses during the commission of which the minor possessed a firearm; authorizing secure detention for a first offense of possession of a firearm by a minor, providing that possession of a firearm by a minor for a second or subsequent offense constitutes a felony of the third degree instead of a misdemeanor of the first degree; authorizing secure detention for a specified period; providing or revising penalties for specified offenses; requiring secure detention for specified periods, or increasing detention periods imposed, for commission of specified initial, second, or subsequent offenses; providing for performance of community service in a manner involving a hospital emergency room or other medical environment dealing on a regular basis with trauma patients and gunshot wounds; providing that the minor offender may not receive credit for time served before adjudication of certain offenses; amending ss. 943.051(3)(b); and 985.212(1)(b), F.S., relating to criminal justice information and fingerprinting; amending s. 790.115, F.S.; prohibiting the possession or dischanging firearms at a school-sponsored event, requiring a minor charged with certain activities to be detained in secure detention; requiring a hearing within a time certain; authorizing a court to order continued secure detention for a certain period; providing requirements for such detention; amending s. 985.215, F.S.; requiring secure detention care placement for a child charged with certain activities; authorizing a court to continue detaining a child charged with certain activities; amending s. 985.227, F.S.; providing for discretionary direct file for the offense of possessing or discharging firearms on school property; providing an effective date.

—was referred to the Committees on Criminal Justice and Fiscal Policy.

By the Committee on Health Care Services and Representative Peaden and others—

HB 369—A bill to be entitled An act relating to health care; establishing the Women and Heart Disease Task Force; providing for membership; specifying responsibilities; requiring a report; providing for future repeal; providing an appropriation; requiring certain education activities; providing an effective date.

—was referred to the Committees on Health, Aging and Long-Term Care; and Fiscal Policy.

By the Committee on Crime and Punishment; and Representative J. Miller and others—

CS for HB 381—A bill to be entitled An act relating to the criminal defense of insanity; creating s. 775.027, F.S.; providing requirements for establishment of insanity defense; defining "mental infirmity, disease, or defect"; specifying conditions that do not constitute legal insanity; providing that the defendant has the burden of proving the insanity defense by clear and convincing evidence; providing an effective date.

—was referred to the Committees on Criminal Justice and Fiscal Policy.

By the Committee on Education Innovation and Representative Melvin and others—

HB 477—A bill to be entitled An act relating to instructional technology; amending s. 229.603, F.S.; providing requirements for school technology plans; requiring district technology plans; requiring the Department of Education to develop technology capability thresholds; revising requirements relating to the distribution and use of technology funding; eliminating provisions relating to technology grants and grant administration; revising the content of an annual report; creating s. 229.604, F.S., relating to access to technology tools; requiring the Department of Education to develop a plan to increase student access to technology; amending s. 229.8041, F.S.; revising Department of Education actions regarding educational computing to include conducting evaluations regarding the achievement of technology thresholds; providing an effective date.

—was referred to the Committees on Education and Fiscal Policy.

By Representative Kilmer and others—

HB 509—A bill to be entitled An act relating to license plates; amending ss. 320.08056 and 320.08058, F.S.; creating a Choose Life license plate; providing for the distribution of annual use fees received from the sale of such plates; providing certain limitations on the use of such funds; providing effective date.

—was referred to the Committee on Transportation.

By the Committee on Transportation and Representative K. Smith—

HB 591—A bill to be entitled An act relating to the Department of Transportation; amending s. 20.23, F.S.; providing reference to seaport programs; providing for an organizational unit to administer said programs; deleting reference to the Office of Construction and including reference to the Office of Highway Operations within the Department of Transportation; amending s. 206.46, F.S.; increasing a percentage amount of revenues in the State Transportation Trust Fund to be transferred to the Right-of-Way Acquistion and Bridge Construction Trust Fund annually; increasing the dollar amount which may be so transferred; creating s. 215.615, F.S.; providing for state bonds for federal-aid highways construction; creating s. 215.616, F.S.; providing for the issuance of certain revenue bonds for fixed-guideway transportation systems; providing for an audit of the Florida Seaport Development Program; creating s. 316.0815, F.S.; providing for a duty to yield for public transit vehicles; providing penalties; amending s. 316.302, F.S.; revising obsolete dates and statutory references with respect to commercial motor vehicles; amending s. 316.3025, F.S.; correcting a cross reference; amending s. 316.545, F.S.; providing a maximum penalty for operating a commercial motor vehicle when the registration or license plate has not been expired for more than 90 days; prohibiting the department from seizing certain vehicles; amending s. 316.555, F.S.; providing for an exemption from locally imposed weight limits under certain circumstances; amending s. 320.0715, F.S.; providing an exemption from the International Registration Plan; amending s. 334.035, F.S.; revising language with respect to the purpose of the Florida Transportation Code; amending s. 334.0445, F.S.; continuing the operation of the model career service classification and compensation plan within the Department of Transportation for a certain time period; amending s. 334.046, F.S.; revising Department of Transportation program objectives; creating s. 334.071, F.S.; providing for the legislative designation of transportation facilities; amending s. 334.351, F.S.; deleting language with respect to the total amount of youth work experience program contracts; amending s. 335.0415, F.S.; revising a date with respect to public road jurisdiction; amending s. 335.093, F.S.; authorizing the department to designate public roads as scenic highways; amending s. 337.025, F.S.; increasing the annual cap on transportation project contracts that use innovative construction and financing techniques; amending s. 337.11, F.S.; providing for contracts without advertising and competitive bids; repealing authority for owner controlled insurance plans in the Department of Transportation; amending s. 337.16, F.S.; revising language with respect to contractors who are delinquent with respect to contracts with the department; amending s. 337.162, F.S.; revising language with respect to professional services; amending s. 337.18, F.S.; revising language with respect to certain surety bonds; providing for bonds payable to the department rather than to the Governor; amending s. 337.185, F.S.; increasing claim limits with respect to certain contractual claims governed by the State Arbitration Board; revising language with respect to hearings on certain disputes; increasing certain fees; amending s. 337.19, F.S.; revising language with respect to suits at law and in equity

brought by or against the department with respect to breach of an express provision or an implied covenant of a written agreement or a written directive issued by the department pursuant to the written agreement; providing for rights and obligations; prohibiting liability under certain circumstances; providing exceptions with respect to liability; providing for applicability; amending s. 337.25, F.S.; authorizing the department to purchase, lease, exchange, or otherwise acquire property interests; amending s. 337.251, F.S.; authorizing a fixed-guideway transportation system operating within the department's right-of-way to operate at any safe speed; amending s. 337.403, F.S.; authorizing the department to participate in the cost of certain clearing and grubbing with respect to utility improvement relocation; amending s. 338.223, F.S.; revising language with respect to proposed turnpike projects to provide that certain requirements do not apply to hardship and protective purchases by the department of advance right-of-way; providing definitions; amending s. 338.229, F.S.; providing additional rights of the department with respect to certain bondholders; amending s. 339.135, F.S.; providing for allocation of certain new highway funds; amending s. 339.155, F.S.; revising language with respect to transportation planning; amending s. 339.175, F.S.; revising language with respect to metropolitan planning organizations; amending s. 341.031, F.S.; correcting cross references to conform to the act; amending s. 341.041, F.S.; directing the department to create and maintain a common self-retention insurance fund to support fixed-guideway projects throughout the state; amending s. 341.051, F.S.; deleting provisions which require the department to develop a specified investment policy; amending s. 341.053, F.S.; providing for development of an intermodal development plan; amending s. 341.302, F.S.; revising language with respect to the responsibilities of the department concerning the rail program; amending ss. 348.9401, 348.941, 348.942, and 348.943, F.S.; renaming the St. Lucie County Expressway Authority as the St. Lucie County Expressway and Bridge Authority and including the Indian River Lagoon Bridge as part of the expressway and bridge system; revising power of the authority to borrow money to conform to new provisions authorizing the issuance of certain bonds; amending s. 348.944, F.S.; authorizing the authority to issue its own bonds and providing requirements therefor; creating s. 348.9495, F.S.; providing exemption from taxation; amending s. 338.251, F.S.; providing that funds repaid by the authority to the Toll Facilities Revolving Trust Fund are to be loaned back to the authority for specified purposes; amending s. 373.4137, F.S.; revising language with respect to mitigation requirements; amending s. 479.01, F.S.; revising definitions; amending s. 479.07, F.S.; revising language with respect to sign permits; amending s. 479.16, F.S.; revising language with respect to signs for which permits are not required; repealing ss. 341.3201-341.386, F.S.; eliminating the Florida High-Speed Rail Transportation Act; amending s. 348.0004, F.S.; authorizing certain boards of county commissioners to alter expressway tolls; providing additional membership for Metropolitan Planning Organizations; amending s. 212.055, F.S.; revising the application of the charter county transit system surtax; amending ss. 20.23, 206.46, 288.9607, 337.29, 337.407, 338.22, 338.221, 338.223, 338.225, 338.227, 338.228, 338.229, 338.231, 338.232, 338.239, 339.08, 339.175, 339.241, 341.3333, 348.0005, 348.0009, 348.248, 348.948, 349.05, and 479.01, F.S.; correcting cross references; repealing s. 234.112, F.S., relating to school bus stops; repealing s. 335.165, F.S., relating to welcome stations; repealing section 137 of chapter 96-320, Laws of Florida, relating to certain uncollectible debts owned by a local government for utility relocation cost reimbursements; repealing s. 339.091, F.S., relating to a declaration of legislative intent; repealing s. 339.145, F.S., relating to certain expenditures in the Working Capital Trust Fund; repealing s. 339.147, F.S., relating to certain audits by the Auditor General; amending ss. 311.09, 331.303, 331.305, 331.308, 331.331, 334.03, 335.074, 335.182, 335.188, 336.044, 337.015, 337.139, 339.2405, 341.051, 341.352, 343.64, 343.74, 378.411, 427.012, 427.013, and 951.05, F.S.; deleting obsolete language, and, where appropriate, replacing such language with updated text; reenacting ss. 336.01, 338.222, 339.135(7)(e), and 341.321(1), F.S., relating to designation of county road system, acquisition or construction or operation of turnpike projects, amendment of the adopted work program, and legislative findings and intent regarding development of high-speed rail transportation system; amending s. 73.015, F.S.; requiring presuit negotiation before an action in eminent domain may be initiated under ch. 73 or ch. 74, F.S.; providing requirements for the condemning authority; requiring the condemning authority to give specified notices; requiring a written offer of purchase and appraisal and specifying the time period during which the owner may respond to the offer before a condemnation lawsuit may be filed; providing procedures; allowing a business owner to claim business damage within a specified time period; providing circumstances under which the court must strike a business-damage defense; providing procedures for business-damage claims; providing for nonbinding mediation; requiring the condemning authority to pay reasonable costs and attorney's fees of a property owner; allowing the property owner to file a complaint in circuit court to recover attorney's fees and costs, if the parties cannot agree on the amount; providing that certain evidence is inadmissible in specified proceedings; amending s. 73.071, F.S.; modifying eligibility requirements for business owners to claim business damages; providing for future repeal; amending s. 73.091, F.S.; providing that no prejudgment interest shall be paid on costs or attorney's fees in eminent domain; amending s. 73.092, F.S.; revising provisions relating to attorney's fees for business-damage claims; amending ss. 127.01 and 166.401, F.S.; restricting the exercise by counties and municipalities of specified eminent domain powers granted to the Department of Transportation; repealing ss. 337.27(2), 337.271, 348.0008(2), 348.759(2), 348.957(2), F.S., relating to limiting the acquisition cost of lands and property acquired through eminent domain proceedings by the Department of Transportation, the Orlando-Orange County Expressway Authority, or the Seminole County Expressway Authority, or under the Florida Expressway Authority Act, and relating to the notice that the Department of Transportation must give to a fee owner at the inception of negotiations to acquire land; amending s. 479.15, F.S.; prescribing duties and responsibilities of the Department of Transportation and local governments with respect to relocation of certain signs pursuant to acquisition of land; providing for application; providing effective dates.

—was referred to the Committee on Transportation.

By the Committee on Judiciary and Representative Byrd and others—

CS for HB 727—A bill to be entitled An act relating to state contracts with religious organizations; providing a definition; authorizing certain agencies to contract with religious organizations under certain programs or allow religious organizations to accept certificates, warrants, or other forms of disbursement under certain programs; specifying eligibility of religious organizations; providing certain protections for religious organizations; requiring certain agencies to prepare implementation plans and submit the plans to the Governor and the Legislature; providing an effective date.

—was referred to the Committees on Governmental Oversight and Productivity; and Children and Families.

By Representative Lawson and others—

HB 841—A bill to be entitled An act relating to insurance; creating s. 627.5015, F.S.; prohibiting delivery or issuance of industrial life insurance policies after a certain date; providing application; requiring disclosure of certain information to policyholders or premium payors; providing an effective date.

—was referred to the Committee on Banking and Insurance.

By Representative Sanderson and others—

HB 953—A bill to be entitled An act relating to access to obstetrical and gynecological service; amending ss. 627.6472 and 641.51, F.S.; requiring exclusive provider organizations and health maintenance organizations to provide direct patient access to certain obstetrical or gynecological services; providing an effective date.

—was referred to the Committees on Banking and Insurance; and Fiscal Policy.

By Representative Greenstein—

HB 1005—A bill to be entitled An act relating to enforcement of money judgments; amending s. 162.09, F.S.; authorizing code enforcement boards to sue to recover the amount of a money judgment on a lien plus interest; authorizing certain counties or municipalities to adopt

ordinances granting code enforcement boards or special masters authority to impose certain fines in excess of those authorized by law; specifying limitations; providing requirements; amending s. 162.10, F.S.; providing for a prevailing party to recover all costs, including attorney's fees, in an action for a money judgment on a lien; amending s. 162.12, F. S.; authorizing posting of notices at county governmental centers; providing an effective date.

—was referred to the Committee on Comprehensive Planning, Local and Military Affairs.

By the Committee on Business Regulation and Consumer Affairs; and Representative Ogles and others—

HB 1061—A bill to be entitled An act relating to consumer protection; amending s. 496.404, F.S.; revising definitions; amending s. 496.405, F.S.; providing additional information to be included within initial registration statements for charitable organizations and sponsors; prohibiting an employee of a charitable organization or sponsor from soliciting contributions on behalf of the charitable organization or sponsor under specified conditions; amending s. 496.409, F.S.; revising and providing additional information to be included within application for registration or renewal of registration as a professional fundraising consultant; prohibiting a person from acting as a professional fundraising consultant under specified circumstances; prohibiting the employment of specified persons by professional fundraising consultants; amending s. 496.410, F.S.; revising and providing additional information to be included within application for registration or renewal of registration as a professional solicitor; revising provisions which prohibit a person from acting as a professional solicitor; prohibiting the employment of specified persons by professional solicitors; amending s. 496.420, F.S.; revising provisions relating to civil remedies and enforcement; amending s. 501.025, F.S.; providing that specified mortgages do not constitute an evidence of indebtedness for purposes of a buyer's right to cancel a home solicitation sale; amending s. 501.604, F.S.; providing additional exclusions from the exemptions to pt. IV of ch. 501, F.S., the Florida Telemarketing Act; amending s. 501.616, F.S.; providing additional unlawful practices with respect to telephone solicitation; amending s. 539.001, F.S.; revising license requirements under the Florida Pawnbroking Act; revising conditions of eligibility for license; requiring specified persons to file certain documentation upon application for license; requiring the submission of fingerprints with each initial application for licensure; requiring the Division of Consumer Services to submit fingerprints of each applicant for licensure to the Florida Department of Law Enforcement; requiring the Florida Department of Law Enforcement to forward the fingerprints to the Federal Bureau of Investigation; providing an additional condition under which a pawnbroker license may be suspended or revoked; providing that specified unintentional errors in required applications, documents, or records are not subject to criminal penalties; amending s. 559.803, F.S.; revising provisions relating to required information contained in disclosure statements with respect to the sale or lease of business opportunities; amending s. 559.805, F.S.; requiring a seller of business opportunities to file additional information with the department; reenacting s. 559.815, F.S.; providing a penalty; amending s. 559.903, F.S.; revising the definition of "motor vehicle" for the purposes of pt. IX of ch. 559, F.S., relating to repair of motor vehicles; amending s. 559.904, F.S.; requiring the department to post a specified sign at any motor vehicle repair shop that has had its registration suspended or revoked or that has been determined to be operating without a registration; providing a second degree misdemeanor penalty for defacing or removing such a sign, for operating without a registration, or operating with a revoked or suspended registration; authorizing the department to impose administrative sanctions; amending s. 627.481, F.S.; prescribing conditions under which a subunit of an organized domestic or foreign nonstock corporation or an unincorporated charitable trust may enter into annuity agreements; amending s. 741.0305, F.S.; correcting a cross reference; amending s. 427.802, F.S.; providing definitions; amending s. 427.803, F.S.; requiring the manufacturer to make repairs necessary to conform the device to the warranty; providing notice of the dealer's and manufacturer's address and telephone number; providing procedures for filing claims; amending s. 427.804, F.S.; allowing consumers to submit disputes to the Department of Agriculture and Consumer Services; authorizing the department to investigate complaints; creating s. 427.8041, F.S.; providing for registration of dealers, for fees, and for application procedures; providing grounds for refusal or denial of registration; requiring dealers to allow department personnel to enter their places of business; authorizing the department to impose penalties; authorizing the department or the state attorney to bring civil actions for violations of the act; providing for fees and fines collected to be deposited into the General Inspection Trust Fund; authorizing dealers to collect a fee from the consumer at the time of sale or lease of a device; allowing consumers to bring a civil action for violation of the act; requiring recordkeeping and retention of records; providing for rulemaking; providing an appropriation; providing effective dates.

—was referred to the Committees on Agriculture and Consumer Services; Regulated Industries; and Fiscal Policy.

By Representative Wiles—

HB 1103—A bill to be entitled An act relating to Flagler County; creating the City of Palm Coast Charter; providing a short title; providing legislative intent; providing for incorporation; providing for a council-manager form of government and its powers and duties; providing for a city council and its membership, including mayor and vice mayor, qualifications and terms of office, powers and duties, compensation and expenses, and prescribed procedures relating to vacancies, including forfeiture of office, suspension, and recall; providing for meetings; providing for recordkeeping; providing certain restrictions; providing for charter officers and their appointment, removal, and compensation, filling of vacancies, qualifications, residency requirements, and powers and duties; establishing a fiscal year; providing for a budget, appropriations, amendments, and limitations; providing limitations to council's contracting authority; providing for elections and matters relating thereto; defining boundaries of the city and its districts; providing for dissolution of Palm Coast Area Municipal Service District; specifying general provisions relating to charter review and amendment, adjustment of districts, and standards of conduct; providing for severability; providing for a referendum, initial election of council members, transition services and compensation, first-year expenses, specified transitional matters, and state shared and gas tax revenues; providing effective dates.

Proof of publication of the required notice was attached.

—was referred to the Committees on Comprehensive Planning, Local and Military Affairs; and Rules and Calendar.

By Representative Johnson—

HB 1451—A bill to be entitled An act relating to law enforcement officers; creating the Law Enforcement Protection Act of 1999; amending s. 776.06, F.S.; revising a definition; defining "less lethal munitions"; limiting liability for certain actions; providing an effective date.

—was referred to the Committee on Criminal Justice.

By Representative Merchant—

HB 1471—A bill to be entitled An act relating to the City of West Palm Beach, Palm Beach County; amending chapter 24981, Laws of Florida, 1947, as amended, relating to the West Palm Beach Firefighters Pension Fund; revising definitions; revising provisions relating to service pensions, supplemental pension distribution, DROP, and lump sum payments of small retirement income; providing for rollovers from qualified plans; providing for actuarial assumptions; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Brown and others—

HB 1507—A bill to be entitled An act relating to elections; amending s. 97.071, F.S.; deleting procedures for mailing voter registration identification cards; repealing s. 97.056, F.S.; relating to registration by mail and persons required to vote in person; amending s. 101.64, F.S.; modifying absentee ballot certificates; amending s. 97.021, F.S.; modifying definition of absent elector, to conform; amending s. 101.65, F.S.; modifying

instructions to absent electors; amending s. 101.68, F.S.; modifying information that must be included on an absentee ballot; amending s. 101.647, F.S.; prescribing information that an absent elector's designee must include with an absentee ballot; amending s. 104.047, F.S.; prohibiting the receipt of a fee or benefit for witnessing an absentee ballot; providing a criminal penalty; amending s. 104.31, F.S.; prohibiting use of public facilities for the purpose of promoting a candidate or issue; providing exceptions; amending s. 105.031, F.S.; providing that filing fees paid by judicial candidates shall be deposited in the Elections Commission Trust Fund; providing that filing fees paid by school board candidates be deposited in the Elections Commission Trust Fund; amending s. 106.011, F.S.; redefining the term "contribution"; amending s. 106.071, F.S.; reducing the amount of allowable contribution for an independent expenditure; amending s. 106.15, F.S.; prohibiting candidates from using county, municipality, school board, or special district employees in their campaigns during working hours; amending s. 106.17, F.S.; prohibiting state agencies from soliciting pledges or authorizing or conducting polls or surveys relating to candidacies for public office; exempting polls or surveys conducted by institutions of higher learning for research purposes; providing effective dates.

—was referred to the Committees on Ethics and Elections; and Fiscal Resource.

By Representative Dockery—

HB 1531—A bill to be entitled An act relating to public records; creating s. 240.554, F.S.; providing an exemption from public records requirements for account information associated with the Florida College Savings Program; authorizing the release of such information to community colleges, colleges, and universities under certain circumstances; requiring that such institutions maintain the confidentiality of the information; providing for future legislative review and repeal; providing a finding of public necessity; providing an effective date.

—was referred to the Committees on Education; and Rules and Calendar.

By the Committee on Education Appropriations and Representative Betancourt and others—

CS for HB 1697—A bill to be entitled An act relating to postsecondary student fees; amending s. 239.117, F.S.; revising provisions relating to financial aid fees for workforce development programs; specifying authorized fees for workforce development programs; providing for parking fees and technology fees to be pledged as dedicated funding sources for the repayment of debt; amending s. 240.319, F.S.; providing requirements for lease-purchase agreements; correcting cross references; amending s. 240.35, F.S.; revising requirements regarding fee schedules, matriculation and tuition fees, financial aid fees, and technology fees; specifying fees authorized to be established by community college boards of trustees; providing an effective date.

—was referred to the Committees on Education and Fiscal Policy.

By Representative Constantine—

HB 1723—A bill to be entitled An act relating to the Florida Building Code; amending s. 161.56, F.S.; making a technical correction; amending s. 468.607, F.S.; providing for continuing validation of certifications of certain building inspectors and plans examiners for a certain period of time; amending s. 468.609, F.S.; clarifying the qualifications of persons eligible to take the certain certification examinations; providing nothing prohibits school boards, community colleges, or universities from entering into contracts; amending ss. 489.115, 497.255, 553.06, 553.73, 553.74, 553.141, 553.503, 553.506, and 553.512; changing references from the Board of Building Codes and Standards to the Florida Building Commission; amending s. 62 of ch. 98-287, Laws of Florida; recognizing that the rule adopting the Florida Building Code may not become final by the 2000 Legislative Session if challenged pursuant to s. 120.56(2); specifying effectiveness; amending s. 553.19, F.S.; correcting an obsolete agency reference for certain purposes; amending s. 553.73, F.S.; clarifying the effect on local governments of adopting and updating the Florida Building Code; specifying that amendments to certain standards or criteria are effective statewide only upon adoption by the commission; providing for immediate effect of certain amendments to the Florida Building Code under certain circumstances; revising criteria for commission approval of technical amendments to the Florida Building Code; prohibiting persons who participate in the passage of a local amendment from sitting on a countywide compliance review board; providing for application of a certain edition of the Florida Building Code under certain circumstances; amending s. 553.77, F.S.; revising the powers of the commission; correcting a cross-reference; amending s. 553.781, F.S.; clarifying that the Department of Business and Professional Regulation conduct disciplinary investigations and take disciplinary actions; amending s. 553.80, F.S.; deleting a cross-reference; amending s. 553.842, F.S.; clarifying certain provisions relating to product evaluation and approval; amending ss. 633.01, 633.0215, and 633.025; replacing Department of Insurance language with State Fire Marshal; amending s. 633.025, F.S.; clarifying certain provisions relating to smoke detector requirements in residential buildings; amending s. 68 of ch. 98-287, Laws of Florida, to revise a future repeal of certain sections of the Florida Statutes; amending 553.841; providing the State Fire Marshal is consulted on building code training program; authorizing a certain select committee to continue its investigations; continuing committee appointment authority; allocating certain moneys from the Insurance Commissioner's Regulatory Trust Fund to the State Fire Marshal for certain pursposes; requiring the State Fire Marshal's Office to cause the review of a certain code for educational facilities for certain purposes; repealing s. 471.017(3) and 489.513(7); providing effective dates.

—was referred to the Committees on Comprehensive Planning, Local and Military Affairs; Regulated Industries; and Fiscal Policy.

By Representative Patterson and others—

HB 1759—A bill to be entitled An act relating to unemployment compensation; creating 443.1716, F.S.; requiring the Department of Labor and Employment Security to contract with consumer-reporting agencies to provide creditors with secured electronic access to employer-provided information relating to the quarterly wages reports; providing conditions; requiring consent from the credit applicant; prescribing information that must be included in the written consent; providing for confidentiality; limiting use of the information released; providing for termination of contracts under certain circumstances; defining the term "creditor"; requiring the department to establish minimum audit, security, net worth, and liability insurance standards and other requirements it considers necessary; providing that any revenues generated from a contract with a consumer reporting agency must be used to pay the entire cost of providing access to the information; providing that any additional revenues generated must be paid into the department's trust fund for the administration of the unemployment compensation system; providing restrictions on the release of information under the act; defining the term "consumer-reporting" agency; providing an effective date.

—was referred to the Committees on Commerce and Economic Opportunities; Governmental Oversight and Productivity; and Fiscal Policy.

By the Committee on Judiciary and Representative Bilirakis and others—

CS for HB 1837—A bill to be entitled An act relating to child passenger restraint; amending s. 316.613, F.S.; removing an obsolete reference; amending s. 316.614, F.S.; providing for primary enforcement of violations of child restraint requirements; amending s. 318.18, F.S.; providing a fine for violations of child restraint requirements; amending s. 318.21, F.S.; providing for deposit and use of proceeds from fines for violation of child restraint requirements; providing an effective date.

—was referred to the Committee on Judiciary.

By the Committees on General Government Appropriations; Water and Resource Management; and Representative Alexander and others—

CS for HB 2067—A bill to be entitled An act relating to water resource management; amending s. 373.4145, F.S.; postponing scheduled

July 1, 1999, repeal of certain provisions of the interim wetlands permitting program for the Northwest Florida Water Management District; directing the Northwest Florida Water Management District and the Department of Environmental Protection to develop a plan to implement an environmental resource permitting program within the jurisdiction of the district by a specified date; requiring reports to the Legislature on the progress of the planning efforts; providing that certain jurisdictional declaratory statements shall not expire until a specified date; amending s. 252.937, F.S.; renaming the Division of Water Facilities of the department as the Division of Water Resource Management; amending ss. 378.901 and 403.021, F.S.; deleting references to the Division of Environmental Resource Permitting; amending s. 86 of ch. 93-213, Laws of Florida; eliminating repayment of funds appropriated for administering the state NPDES program; requiring reinstitution of certain suspended payments in lieu of taxes; amending subsection (2) of section 373.136, F.S.; allowing the prevailing party to recover attorney's fees and costs; amending s. 403.031, F.S.; defining the term "total maximum daily load"; creating s. 403.067, F.S.; authorizing the Department of Environmental Protection to adopt a process of listing surface waters not meeting water quality standards and for the process of establishing, allocating, and implementing total maximum daily loads applicable to such listed waters; providing specific authority for the department to implement s. 1313, 33 U.S.C.; providing legislative findings and intent; providing for a listing of surface waters; providing for an assessment; providing for an adopted list; providing for removal from the list; providing for calculation of total maximum daily load; providing for implementation; providing for rules; providing for application; providing for construction; providing for evaluation; amending s. 403.805, F.S.; revising language with respect to the powers and duties of the Secretary of the Department of Environmental Protection; providing authorization for the Secretary of the Department of Environmental Protection to reorganize the department under certain conditions; providing an effective date.

—was referred to the Committees on Natural Resources and Fiscal Policy.

By Representative Byrd—

HB 2073—A bill to be entitled An act relating to the television broadcasting industry; creating the "21st Century Digital Television and Education Act"; providing legislative findings and intent; creating the 21st Century Digital Television and Education Task Force; providing membership; providing duties; providing for a report; amending s. 212.08, F.S.; providing an exemption from the tax on sales, use, and other transactions for personal or real property purchased or leased for use in the operation of a television broadcasting station that meets specified criteria; requiring return of tax refunds plus interest and penalties if certain criteria are not met; providing limitations; providing an effective date.

—was referred to the Committees on Commerce and Economic Opportunities; Governmental Oversight and Productivity; and Fiscal Policy.

By the Committee on Children and Families; and Representative Murman—

HB 2087—A bill to be entitled An act relating to Medicaid managed health care; amending s. 409.912, F.S.; authorizing the Agency for Health Care Administration to contract with entities providing behavioral health care services to certain Medicaid recipients in certain counties under certain circumstances; providing requirements; providing limitations; providing definitions; providing an effective date.

—was referred to the Committees on Health, Aging and Long-Term Care; and Fiscal Policy.

By the Committee on Health Care Services and Representative Peaden and others—

HB 2125—A bill to be entitled An act relating to the Department of Health; amending s. 20.43, F.S.; providing the department with authority for certain divisions; revising certain division names; revising language with respect to the use of certain funds; amending s. 39.303, F.S.; conforming titles relating to Children's Medical Services; amending s. 110.205, F.S.; conforming language relating to exempt positions with respect to the career service; amending s. 120.80, F.S.; providing the department with contract authority for certain administrative hearings; amending s. 154.504, F.S.; providing requirements for provider contracts; amending s. 287.155, F.S.; providing certain authority to purchase automotive equipment; amending s. 372.6672, F.S.; removing responsibility regarding alligator management and trapping from the Department of Health and Rehabilitative Services; amending s. 381.0022, F.S.; allowing the department to share certain confidential information relating to Medicaid recipients for certain payment purposes; amending s. 381.004, F.S.; revising requirements relating to HIV tests on deceased persons; amending s. 381.0051, F.S.; providing the department with certain rulemaking authority; amending s. 381.006, F.S.; providing the department with rulemaking authority relating to inspection of certain group care facilities under the environmental health program; amending s. 381.0061, F.S.; providing the department with authority to impose certain fines; amending s. 381.0062, F.S.; revising definitions to clarify differences in regulatory requirements for drinking water systems; amending s. 381.90, F.S.; revising membership and duties of the Health Information Systems Council; requiring a report; amending s. 382.003, F.S.; removing unnecessary language; providing for certain rules; amending s. 382.004, F.S.; revising language with respect to reproduction and destruction of certain records; amending s. 382.008, F.S.; removing language conflicting with federal law; amending s. 382.013, F.S.; providing certain requirements relating to birth registration; amending s. 382.015, F.S.; providing for technical changes with respect to certificates of live birth; amending s. 382.016, F.S.; providing for administrative procedures for acknowledging paternity; amending s. 382.019, F.S.; establishing certain requirements and rulemaking authority for registration; amending s. 382.025, F.S.; setting requirements for certain data; amending s. 382.0255, F.S.; revising requirements for fee transfer; amending s. 383.011, F.S.; clarifying Department of Health rulemaking authority relating to the Child Care Food Program; amending s. 383.14, F.S.; correcting the name of the WIC program to conform to federal law; amending s. 385.202, F.S.; removing certain department reimbursement requirements; amending s. 385.203, F.S.; revising requirements and membership for the Diabetes Advisory Council; amending s. 391.021, F.S.; conforming references to Children's Medical Services; amending s. 391.028, F.S.; providing the Director of Children's Medical Services with certain appointment authority; amending s. 391.0315, F.S.; providing requirements for benefits to children with special health care needs; amending ss. 391.221, 391.222, and 391.223, F.S.; conforming references to Children's Medical Services; amending s. 392.69, F.S.; authorizing the department to use certain excess money for improvements to facilities and establishing an advisory board for the A.G. Holley State Hospital; amending s. 409.912, F.S.; requiring the Agency for Health Care Administration to enter into certain agreements; amending s. 409.9126, F.S.; revising date requirements for certain capitation payments to Children's Medical Services; amending s. 455.564, F.S.; authorizing certain boards to require continuing education hours in certain areas; providing construction; authorizing certain boards within the Division of Medical Quality Assurance to adopt rules granting continuing education hours for certain activities; amending s. 455.5651, F.S.; prohibiting certain information from being included in practitioner profiles; amending s. 465.019, F.S.; authorizing certain nursing homes to purchase medical oxygen; amending ss. 468.304 and 468.306, F.S.; permitting the department to increase certain examination costs; amending s. 468.309, F.S.; providing the department with rulemaking authority for establishing expirations for radiologic technologists' certificates; amending s. 499.005, F.S.; requiring and clarifying certain prohibitions relating to sales of prescription drugs and legend devices; amending s. 499.007, F.S.; conforming prescription statement requirements to federal language; amending s. 499.028, F.S.; authorizing certain federal, state, or local government employees to possess drug samples; amending ss. 499.069 and 742.10, F.S.; conforming cross references; naming the Wilson T. Sowder, M.D., Building, the William G. "Doc" Myers, M.D., Building, and the E. Charlton Prather, M.D., Building; directing the Department of Children and Family Services and the Agency for Health Care Administration to develop a system for newborn Medicaid identification; repealing s. 381.731(3), F.S., relating to submission of the Healthy Communities, Healthy People Plan; repealing s. 383.307(5), F.S., relating to consultations between birth centers and the Department of Health; repealing s. 404.20(7), F.S., relating to obsolete radioactive monitoring systems; repealing s. 409.9125, F.S., relating to Medicaid alternative service networks; authorizing the Department of Health to become an accrediting authority for environmental laboratory standards; providing

intent and rulemaking authority for the department to implement standards of the National Environmental Laboratory Accreditation Program; providing an effective date.

—was referred to the Committees on Health, Aging and Long-Term Care; Governmental Oversight and Productivity; and Fiscal Policy.

By the Committee on Judiciary and Representative Byrd and others—

HB 2185—A bill to be entitled An act relating to medical negligence actions; amending s. 766.102, F.S.; providing requirements for expert witness testimony in actions based on medical negligence; providing a definition; amending s. 766.106, F.S.; providing requirements with respect to notice before filing action for medical malpractice; regulating unsworn statements of treating physicians; amending s. 766.207, F.S.; revising language with respect to voluntary binding arbitration of medical malpractice claims; providing for the effect of an offer to submit to voluntary binding arbitration with respect to allegations contained in the claimant's notice of intent letter; amending section 455.651; providing for treble damages and attorney fees for improper disclosure of confidential information; amending s. 455.667, F.S.; permitting unsworn statements of treating physicians without written authorization; providing effective dates.

—was referred to the Committees on Judiciary; and Rules and Calendar.

By Representative Tullis—

HB 2247—A bill to be entitled An act relating to mutual insurance holding companies; amending s. 628.715, F.S.; authorizing a mutual insurance holding company to merge or consolidate with, or acquire the assets of, a foreign mutual insurance company under certain circumstances; providing for the use of consultants; amending ss. 628.231 and 628.723, F.S.; authorizing directors of domestic insurers and mutual insurance holding companies to consider certain factors while taking corporate action in discharging their duties; amending s. 628.729, F.S.; revising the qualification period; providing an effective date.

—was referred to the Committee on Banking and Insurance.

By the Committee on General Government Appropriations and Representative Sembler—

HB 2279—A bill to be entitled An act relating to trust funds; creating s. 403.0611, F.S.; creating the Environmental Law Enforcement Trust Fund within the Department of Environmental Protection; providing purpose and source of funds; providing for future review and termination or re-creation of the trust fund; providing an effective date.

—was referred to the Committee on Fiscal Policy.

By Representative Maygarden and others—

HB 1885—A bill to be entitled An act relating to trust funds; creating s. 215.5601, F.S.; creating the Lawton Chiles Endowment Fund for Children and Elders; providing definitions; providing legislative intent; specifying the purposes and uses of endowment funds; providing for administration of the endowment by the State Board of Administration; providing for the availability of endowment funds; providing appropriations; providing for management of moneys in the endowment as an annuity; amending s. 215.52, F.S.; providing rulemaking authority; providing an effective date.

—was referred to the Committee on Fiscal Policy.

RETURNING MESSAGES—FINAL ACTION

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 276, SB 674, SB 816, SB 1182, CS for SB 1510, CS for SB's 1604 and 1618, CS for SB 1606, CS for SB 1706, SB 1832, CS for SB 1870, CS for CS for SB 2426, SB 2568 and SB 2576.

John B. Phelps, Clerk

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 1648, CS for SB 1650 and SB 1970 by the required Constitutional three-fifths vote of the membership of the House.

John B. Phelps, Clerk

The bills contained in the foregoing messages were ordered enrolled.

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has accepted the Conference Committee Report in its entirety and passed CS for CS for SB's 366 and 382 and SB 708 as amended by the Conference Committee Report.

John B. Phelps, Clerk

The bill contained in the foregoing message was ordered engrossed and then enrolled.

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate amendment(s) and passed CS for CS for HB 9, CS for HB 107, HB 295, CS for CS for HB 301, HB 391, HB 621 and HB 1559, as amended.

John B. Phelps, Clerk

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate amendment(s) and passed as amended by the required Constitutional three-fifths vote of the membership of the House HB 1279, HB 1301, HB 1353, HB 1365 and HB 1401.

John B. Phelps, Clerk

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has accepted the Conference Committee Report in its entirety and passed CS for HB's 751, 753 and 755, as amended by the Conference Committee Report.

John B. Phelps, Clerk

ENROLLING REPORTS

CS for SB 60, SB 72, SB 134, CS for CS for SB 150, CS for SB 156, CS for SB 198, SB 248, SB 326, CS for SB 714, CS for SB 716, CS for SB 728, CS for SB 892, CS for SB 990, SB 996, CS for SB 1264, SB 1396, CS for SB 1424 and SB 1794 have been enrolled, signed by the required Constitutional Officers and presented to the Governor on April 28, 1999.

Faye W. Blanton, Secretary

CORRECTION AND APPROVAL OF JOURNAL

The Journal of April 27 was corrected and approved.

CO-SPONSORS

Senators Forman—CS for CS for SB's 366 and 382 and SB 708; Hargrett—CS for CS for SB's 366 and 382 and SB 708

RECESS

On motion by Senator McKay, the Senate recessed at 6:17 p.m. to reconvene at 9:30 a.m., Thursday, April 29.